Technical consultation: Addressing and managing conflicts of interest in the
planning and delivery of nutrition programmes at country level

8-9 October 2015
Salle IX, International Labour Organization (ILO), Geneva

Draft report of the meeting¹:

1. Introduction
The Sixty-fifth World Health Assembly (WHA 65) ² in 2012 indicated that global efforts to
improve nutrition should focus on six global nutrition targets to be achieved by 2025 and
endorsed a Comprehensive implementation plan on maternal, infant and young child
nutrition (CIP).³

The CIP recommends the creation of “a supportive environment for the implementation of
comprehensive food and nutrition policies” and calls for Member States to “establish a
dialogue with relevant national and international parties and form alliances and
partnerships to expand nutrition actions with the establishment of adequate mechanisms to
safeguard against potential conflicts of interest”.³ In this light, Member States, through
resolution WHA65.6, requested the Director-General to “develop risk assessment, disclosure
and management tools to safeguard against possible conflicts of interest in policy
development and implementation of nutrition programmes consistent with WHO’s overall
policy and practice [...].⁴

In response to this request, the Department of Nutrition for Health and Development (NHD)
of the World Health Organization (WHO), in collaboration with internal partners, established
a work stream to analyse definitions and relevant issues for further discussion by Member
States and reported to the Sixty-seventh World Health Assembly (WHA67). The WHA67,
held in Geneva in May2014, requested the Director-General “[...] to convene informal
consultations with Member States to complete the work, before the end of 2015, on risk

¹ The opinions expressed during the consultation are personal views of the experts invited and do not represent the official
position of WHO.
³ Comprehensive implementation plan on maternal, infant and young child nutrition (CIP)
assessment and management tools for conflicts of interest in nutrition, for consideration by Member States at the Sixty-ninth World Health Assembly”.  

In response to this request, a technical consultation was convened on 8-9 October 2015. Participants included experts in the area of risk assessment, due diligence, management of conflicts of interest and other areas of expertise. Participants had been invited because of their understanding of relevant issues or their practical experience in dealing with conflicts of interest. Member States were invited to participate as observers. This is separate, but in parallel to, the ongoing broader discussions to develop a framework for WHO’s engagement with non-State actors (FENSA). The main difference between the two pieces of work is that the present consultation is focused on generating advice to Member States for their policy development and implementation in the area of nutrition, while the FENSA discussions concentrate on the work of the Secretariat for managing risks in engagement between WHO and non-State actors.

The objectives of the meeting were to:

1. identify conflicts of interest areas associated with the planning, implementation, monitoring and evaluation of nutrition programmes in public health;
2. describe the current assessment and management tools already applied by some countries;
3. present examples of country case studies surrounding conflicts of interest in nutrition from high-, middle- and low-income countries.

The expected outcomes were:

1. definitions, criteria, and indicators to help identify conflicts of interest in the development and implementation of policies advocated by the CIP at country level;
2. examples of situations in which the development and implementation of policies advocated by the CIP involve interactions between governments and non-State actors (mainly private sector) which may lead to conflicts of interest;
3. examples of tools, methodologies and approaches that may help identify and manage conflicts of interest.

The programme of the consultation started with the presentation of a background paper, intended to kick-start discussion of definitions, indicators and examples of potential tools. This was followed by three sessions organized around particular nutrition policy issues – promotion, protection and support of breastfeeding, fortification and reformulation of food products, and prevention of childhood overweight – where presentation of WHO recommended interventions and specific case studies fed working group discussions to

---

6 See Annex I for full list of participants.
identify actual and perceived conflicts of interest and to identify tools, methodologies and approaches to prevent and manage such conflicts.

No conflicts of interest were declared by participants and previously completed declaration of interest forms had already been reviewed and cleared by the Secretariat. In addition, publication of participants’ resumés online had not prompted any comments that would discourage any individual’s inclusion.

This document is a report of the meeting and does not contain any recommendations or final agreements amongst the participants.

2. Background paper

A background paper prepared by prof. Andrew Stark was presented to introduce the discussion.

The paper proposed a number of definitions. The first one defines a conflict of interest as “a set of conditions in which professional judgement concerning a primary interest [...] tends to be unduly influenced by a secondary interest [...].” According to the author of the background paper, this definition applies equally to both individuals and to institutions. It is important to note that, with this definition, the judgement of an official or institution does not actually have to be influenced by an undue secondary interest for there to be a conflict, there simply has to be the potential for undue influence to occur. The definition covers both actual and perceived conflicts of interest. It also specifies that a conflict arises when a private interest has the potential to unduly influence judgement – in other words, by introducing factors other than those concerning the public interest.

The paper also proposed some more specific definitions:

1. An actual conflict of interest arises when a vested interest has the potential to unduly influence official or agency judgement/action through the monetary or material benefits it confers on the official or agency.

2. A perceived conflict of interest arises when a vested interest has the potential to unduly influence official or agency judgement/action through non-monetary or nonmaterial influences it exerts on the official or agency.

3. An outcome-based conflict of interest arises when a vested interest, involved in the policy-making or policy-implementation process, seeks outcomes that are inconsistent with the demonstrable public interest. This applies to issues where there is consensus on the public interest and where a particular interest, by the nature of their mission, pursues goals that are in contradiction to that interest.

---

The background document presented all conflicts of interest which were conceptualized as posed by financial interests, whether directly by for-profit companies or indirectly through the mediating structures of academic or civil society organizations. The paper suggested, however, that conflicts of interest that arise from for-profit private-sector interests require tighter management than those that arise purely from other non-State actors.

Three risk indicators were proposed in the background paper for actual conflicts of interest:

- High-Risk Indicator (1): The private interest’s capacity to benefit the official/agency is significant.
- High-Risk Indicator (2): The official/agency’s capacity to affect the private interest is significant.
- High-risk Indicator (3): The private interest’s stake in the outcome is critical to its survival or success.

Four risk indicators are proposed for perceived conflict of interest:

- High-Risk Indicator (1): a private interest is sufficiently powerful within the country’s economy that the official/agency might accede to its wishes even if they do not believe that doing so is in the public interest.
- High-Risk Indicator (2): a private interest is sufficiently powerful within the country’s public-decision-making apparatus that it begins to occupy not simply a private but a quasi-public role.
- High-Risk Indicator (3): an official/agency’s endorsement of a private company or its products is sufficiently significant that public trust and credibility is at stake.
- High-Risk Indicator (4): an official/agency’s support for a private company amounts to undue preference or favouritism, an undue advantage in the private market place.

A high-risk of an outcome-based conflict of interest was said to exist when a private sector entity’s involvement, whether or not an actual or perceived conflict of interest exists, would be inconsistent with the public interest as indicated by:

- High-Risk Indicator (1): the normative importance of the nutrition policy goal in question in terms of its universally agreed upon impact and urgency.
- High-Risk Indicator (2): the existence of empirical standards such as research protocols, evidence-based policy-making and best practices in implementation.

Finally, the paper presents a number of examples of potential tools for preventing or managing conflicts of interest. Example approaches for identifying and preventing conflicts of interest include:

- **Disclosure and transparency**, involving complete transparency at the individual and institutional levels.
- **Divestment**, whereby the individual or institution gets rid of any interest which might impede judgement (e.g., sells share, donates any gifts received).
- **Screening** of officials with conflicting interests to keep them separate from relevant regulatory or policy areas of work.
- **Recusal and prohibition** apply when divestment is not possible and involves officials removing themselves, or being prohibited from participating, particular regulatory or policy decisions.

In order to manage conflicts of interest, in the cases where it is not possible to prevent them, the available approaches to manage or mitigate conflicts of interest include:

- **Pluralism and diversity**, where as a wide a range of interests as possible are represented to dilute the influence of private actors influence, or ensuring a number of agencies or officials are involved in decisions.
- **Sanctions** for violation of conflict of interest guidelines are important for their enforcement. These can include reprimands, fines or dismissal.
- **A conflict of interest Unit** can be established to assess interests, thus ensuring that the responsibility for assessing whether there is a conflict does not rest with the individual concerned.

### 2.1 Discussion of the background paper

#### 2.1.1 Definitions

There was considerable discussion of the proposed definitions. There was some concern that the general definitions proposed were not sufficiently precise and that the specific definitions in the background paper were not conform with the standard legal practice. It was suggested that it might be preferable to define individual and institutional conflicts of interest separately\(^9\) and to draw on other existing definitions\(^10\). Some concern was expressed that the definitions as proposed in the background paper leave a lot of room for interpretation and that, whilst they are necessarily subjective, it would be useful to make them more categorical and, where possible, introduce a quantitative element (e.g., relative

---

\(^9\) As has been done in Lo, B. and M. Field, editors. Institute of Medicine (US) Committee on Conflict of Interest in Medical Research, Education and Practice, Eds. (2009). Conflict of interest in medical research, education and practice. Washington DC, National Academics Press.

contribution of funding from a particular source, how important the products in question are for a particular company’s business).

There were three particular areas of concern:

- **Perceived and actual conflicts of interest**: there was concern about the Prof. Stark defining actual conflicts of interest as being those of monetary or material value while perceived conflicts of interest as being non-monetary. It was suggested that many non-pecuniary conflicts of interest are ‘actual’ rather than ‘perceived’. The legal experts present at the consultation also pointed out that many of the conflicts of interest presented as ‘perceived’ in the background paper, would be considered as ‘actual’ conflicts of interest in current conceptualizations of conflicts of interest.

- **Outcome-based conflicts of interest**: there were comments that this proposed definition – which has not been previously described in the literature and was counter the legal practice – is highly problematic. The scientific definition was criticized by legal experts as being incompatible with commonly accepted ideas on conflicts of interest. A number of participants felt this concept should not be introduced. One reason is that it is not always possible to know the outcome in advance. Another is that it is possible to have conflicts of interest that do not conflict with the public interest. The author of the background paper responded that this definition was intended to supplement, rather than replace, the existing set of definitions for particular situations.

It was also suggested that the definitions should be expanded to ensure that they incorporate indirect conflicts of interest. One example could be the membership of an advisory committee representing a professional association that receives funding from a private interest.

It was also added that it would be useful to give a definition of intellectual bias.

**2.1.2 Indicators**

There was some concern that a detailed discussion of the proposed indicators would be premature given that no final agreement had been reached on the definitions. It was argued that these indicators were intended to help Member States in the process of risk assessment by describing different types of risk. Participants were asked to consider whether it is possible to identify critical points in the policymaking and implementation processes where identification and handling of conflicts of interest would be most important.

There was some concern that elaboration of indicators implies that conflicts of interest will only be managed or mitigated, while the primary focus should be on avoiding such conflicts through prevention. The importance of linking identification of conflicts of interest to options for their prevention and management was highlighted.

On the one hand, it was suggested that the proposed indicators are too subjective and entirely qualitative. On the other hand, it was pointed out that to some extent this is
inevitable, and that decisions on conflicts of interest would always involve a subjective judgement. However, inclusion of some quantitative elements wherever possible was proposed. Once again, it was suggested that the guidance to Member States should include a list with examples of types of conflict of interest and an assessment of their seriousness.

A specific example from Brazil was mentioned. The National Cancer Institute has defined a method to assess private sector entities regarding the divergence or opposition of their products, policies and practices (the 3P assessment) from public authorities’ principles, missions, goals, policies, recommendations in the public interest. This is used to give a formal response to proposals of support or engagement with the private sector, rejecting the proposals if any product, policy (including goals, missions, visions) or practice of the commercial entity diverge or oppose authorities’.

2.1.3 Methodologies and tools for prevention or management of conflicts of interest

Disclosure of financial interests was recognized as being necessary for identifying conflicts of interest, but disclosure was seen as insufficient to manage conflicts of interest and unable to eliminate it.

There was discussion of one aspect of the strategy of divestment already in use by, for example, government leaders which lies on donating gifts received to charities in order to avoid perceived conflicts of interest. There was concern that this could still create conflicts of interest and it was recognized that refusal of any gift is the preferred option.

There was considerable discussion about the relative merits of pluralism as a strategy. A key area of concern is the imbalance of power and capacity that exists between private sector actors and those in the public sector, civil society or academia. Several participants noted that involving many private sector parties—“pluralizing” influence—actually magnifies the size of private influence over government decisions, rather than diffusing it. The “pluralizing” technique would only effectively reduce preferential treatment of firms in countries where there is a small number of companies which can be included in a national committee or can afford to make comparable financial contributions to joint funds.

It should be recognized that involving private sector actors in a pluralistic process makes it much more likely that the proposed solutions will be non-threatening to industry interests. Furthermore, representing multiple interests in decision-making process can ensure that the process represents the various interests but would not cure or manage conflicts of interest.

Many participants felt that the rise of corporate and venture philanthropy funding, of public-private hybrid organisations as well as the presence of industry front organisations—have made it more difficult for Member States to discern what are truly independent civil society organizations and academia and to clearly distinguish between business-interest non-governmental organizations (BINGOs) and public interest non-governmental organizations (PINGOs).
An important issue to emerge was the ‘revolving doors’ practice that enable people to move from government to the private sector and vice versa. In this light, it was suggested that post employment policies should be a key aspect of any conflict of interest approach.

2.1.4 General comments

It was emphasized that the guidance to Member States should include a clear explanation of why it is important to address conflicts of interest, as well as setting out fundamental principles and a detailed list of examples of types of conflicts of interest. Although non-exhaustive, such a list will help Member States to understand the different types of conflicts of interest and the risks these may pose to nutrition programmes.

Another point that emerged strongly was the need to put the emphasis on prevention of conflicts of interest, rather than management. It is important to identify conflicts of interest at the outset and then to take steps to avoid them. This should always be the preferred option.

It was noted that the private sector includes more than food and beverage companies, pharmaceutical and medical technology companies—all of which benefit from weak nutrition regulations or high levels of nutrition-related illness, products or services. Venture philanthropists, for example, are private interests and may have financial interest in nutrition.

There was recognition that the aim is to address the issue in different contexts—from situations where there is undue influence over individual health professionals, or their associations, to those where there is undue influence over government policy. It was suggested that this latter type of influence—over policy—is actually lobbying and exertion of political power and would need to be explicitly exposed as such. There was some concern expressed about the way lobbying had been presented as a legitimate activity in the background paper.

There is a need to explain clearly the differences between ‘conflicts of interest’ and what some conflict of interest experts have suggested to rather call “conflicting” or ‘diverging interests’\(^{11}\). Conflicts of interest refer to conflicts ‘within’ a person or institution—that is, between their primary interest and other secondary interest- and not to conflicts between actors who have diverging interests or fiduciary duties. There is also a need to recognize that there are often diverging ideas about the public interest, and that assessment of the public interest needs to take a long-term view and look beyond a narrow, standard use of term or definition. It was emphasized that corporations employ strategies of influence and that we should make clear to Member States that the regulation of conflicts of interest was an essential but not the only component in the strategies governments should employ to address this influence. Governments need comprehensive strategies to address industry influence in order to protect their independence, integrity, and credibility.

\(^{11}\) A Peters, L Handschin eds. Conflicts of interest in global, public and corporate governance. Cambridge University Press. 2012
It is important to note that conflicts of interest can affect government- and intergovernmental agencies as a whole, and not only individual officials. It was proposed that the priority should be on assessing and addressing institutional conflicts of interest. There was considerable discussion about the increasing dependence on public private partnerships (PPP), reflecting the economic and political context of recent decades. These partnerships – can be considered to have inherent conflicts of interest. The interactions within these partnerships may undermine integrity and public trust, not through any coercion but through a series of subtle reciprocity. These interactions not only undermine integrity and public trust, they can also have an important impact on government’s agency’s public health and priorities. There was a proposal that a legal framework for such partnerships is needed.

There was recognition of the real challenges on the ground. Policymakers trying to help poorer communities face a real dilemma when they receive offers of support from food or pharmaceutical industry. In addition, while the focus was on conflicts of interest within the health sector, in reality, many policy decisions are cross-government. Interference from other Ministries – who do not have the same concerns in relation to a particular topic – can occur.

It was suggested that, in the advice to Member States, the language should be more neutral by referring to ‘interests’, ‘personal interests’ or ‘financial interests’ rather than ‘vested interests’ – since the negative connotation associated with ‘vested’ is not helpful when debating the issue and setting on conflict of interest policies. Moreover, the generally accepted way of analysing conflicts of interest does not employ the term “vested interest”.

However, it was also emphasized that Member States should not be distracted by debates about the language of conflicts of interest from addressing the core concerns that the concept is intended to address.

3. Potential conflict of interest area no. 1: breastfeeding

The second session of the consultation focused on conflicts of interest that may arise in relation to the promotion, protection and support of breastfeeding.

3.1 WHO expert presentation

To set the context, Lawrence Grummer-Strawn, WHO Department Nutrition for Health and Development, presented WHO’s recommended interventions for the protection, promotion and support of breastfeeding.

One of the global nutrition targets is to increase the rate of exclusive breastfeeding in the first six months up to at least 50%. This is an important goal for health, economic and sustainability reasons.
The key priorities are set out in a WHO policy brief on breastfeeding to\(^\text{12}\):

- Significantly limit the aggressive and inappropriate marketing of breast-milk substitutes;
- Strengthen, revitalize and institutionalize Baby-Friendly practices\(^\text{13}\) in health facilities providing maternity care services;
- Enact six months of mandatory paid maternity leave and policies that encourage women to breastfeed in the workplace;
- Home visits, support groups and prenatal and postpartum contact;
- Communication strategies to increase awareness and support for exclusive breastfeeding.

All of the above strategies need to be backed up with leadership and advocacy, through, for example, high-level champions or national breastfeeding committees. In order to track progress towards the nutrition targets – including breastfeeding – a Global Monitoring Framework for Maternal, Infant and Young Child Nutrition\(^\text{14}\) has been established. Specifically in relation to breastfeeding, indicators have been included on births in baby-friendly hospitals, breastfeeding counselling, regulation of marketing of breastmilk substitutes and maternity protection.

### 3.2 External expert presentation

Lida Lhotska gave an overview of some of the issues around conflicts of interest in protection, promotion and support of breastfeeding.

One of the key tools for preventing conflicts of interest is the International Code of Marketing of Breast-milk Substitutes (the Code)\(^\text{15}\), adopted in 1981, and related subsequent World Health Assembly Resolutions. The Code is a minimum standard, which applies to all breastmilk substitutes in all countries, regardless of whether it has been transposed into national law, and is binding on countries and manufacturers. Nonetheless, evidence that companies break the rules and that corporate strategies constantly evolve to resist legally binding measures is widespread\(^\text{16}\).

In relation to infant and young child feeding, conflicts of interest should be avoided at multiple levels such as health professionals, their associations, government officials and

---


\(^{13}\) Hospital Initiative, [http://www.who.int/nutrition/topics/bfhi/en/](http://www.who.int/nutrition/topics/bfhi/en/) (accessed 18 Dec 2015)


their departments. Interactions with baby food manufacturers could lead to the loss of independence, integrity, trustworthiness and credibility.

Both the Code (as amended by the subsequent WHA Resolutions)\textsuperscript{17} and the Global Strategy on Infant and Young Child Feeding\textsuperscript{18} contain provisions on conflicts of interest. Importantly, paragraph 44 of the Global Strategy sets out two appropriate roles for baby food companies.

Analysis commissioned by the International Baby Food Action Network (IBFAN)\textsuperscript{19} and the Geneva Infant Feeding Association (GIFA)\textsuperscript{20} identified that individuals tend to think they are immune to conflicts of interest and ‘\textit{underestimate the extent to which it affects their judgement and behaviour.}’\textsuperscript{21}

There are concerns that the changing landscape, with many multi-stakeholder initiatives all of which have by the nature of their configuration conflicts on interest built in – such as the Scaling Up Nutrition (SUN) movement\textsuperscript{22} – blurs the lines between public and private interests and the understanding of appropriate roles for each actor. Moreover, SUN’s recent project on Conflicts of interest resulted in redefinition of accepted conflicts of interest theory thus justifying the multistakeholder model instead of questioning the role of industry on decision-making boards. Codex Alimentarius\textsuperscript{23} also plays an important role in setting standards relevant to infant and young child feeding, and there are concerns about the lack of conflict of interest safeguards. Corporate actors attend Codex meetings in large numbers, represented on government delegations and as NGOs, which raises questions about the degree to which Codex is independent and consumer protection-oriented.

In conclusion, the rudimentary conflicts of interest safeguards that exist in the infant and young child feeding area are not well known and are not respected or enforced at all levels, from international through national to local or professional associations. There are concerns about mission drift which means that the two appropriate roles for baby food manufacturers are not enforced, efforts focus mainly on \textit{promoting} breastfeeding – and mainly up to six months – that \textit{protection} of breastfeeding is now seen as confrontational and that public private partnerships and multistakeholder initiatives are being imposed as the sole model.

\textsuperscript{17} WHA resolutions 49.15, 58.32 and 61.20.
\textsuperscript{19} http://www.ibfan.org/ (Accessed 18 Dec 2015)
\textsuperscript{21} Richter J. Conflicts of interest and policy implementation – Reflections from the fields of health and infant feeding. IBFAN-GIFA.
\textsuperscript{22} http://scalingupnutrition.org/ (Accessed 18 Dec 2015)
\textsuperscript{23} http://www.codexalimentarius.org/ (Accessed 18 Dec 2015)
3.3 Discussion

There was further discussion of the nature of the SUN movement and the nature of its multi-stakeholder arrangement. There was clarification that breastmilk substitute manufacturers are not part of the movement.

The marketing of so-called ‘growing up milks’ – which enables marketing of infant formula brands – was identified as a key problem area in recent years as it seriously undermines appropriate infant and young child feeding and often gives rise to conflicts of interest.

In relation to the binding nature of the Code, as described in the presentation, comments in the discussion highlighted that there is a great difference and imbalance between the ‘hard law’ of World Trade Organization (WTO) rules, which can be enforced, and the ‘soft law’/human rights frameworks to which the compliance with the provision of the Code is strongly linked.

There was clarification that the ‘aggressive’ marketing practices referred to in the WHO breastfeeding policy brief includes any kind of violations of the Code (and not only any particularly aggressive cases).

3.4 Country case studies

Short case studies were presented to give an overview of dealing with conflicts of interest in relation to breastfeeding protection, promotion and support in two countries – Bahrain and Philippines.

Bahrain (Nadia Ghareeb)

Bahrain’s infant food legislation has recently been reviewed and updated and is currently in the process of Ministerial approval. Most infant foods are imported, and legislation and standards have, therefore, also been harmonized across the Region.

Nonetheless, examples of conflicts of interest can be found. These include: breast-milk substitute manufacturer funding of, and participation in, a conference for health professionals in Bahrain’s main hospital; donation of baby food branded equipment and communication materials to hospitals; displays of infant formula in private paediatric clinics, hospitals and pharmacies; provision of goody bags containing products samples during vaccination sessions; provision of free gifts to health workers; and retail promotions. These are all activities that contravene the international Code.

One of the conclusions of the presentation was that responsibility for tackling conflicts of interest should be shared, therefore, between all actors, and the compliance of the Code should be monitored.

Philippines (Maria-Bernardita Flores)

Philippine legislation – the ‘Milk Code’– enacted in 1981 to protect, support and promote infant and young feeding practices is strong, but there is a need for better enforcement,
monitoring and application of sanctions. Violations of the code are still prevalent, and there is concern about conflicts of interest inherent in partnerships — examples include funding from a baby food industry organization for a school gardening project run by the Department of Education and a government research agency partnership with a breast-milk substitute manufacturer.

A number of initiatives and instruments have been introduced to help address conflicts of interest. One development has been the use of social media to monitor and report violations of the Code. Another development is the establishment of a legal contract setting out the rules of engagement with private sector, as part of the DOH-National Nutrition Council’s partnership with media. These rules prohibit the media partners from having partnership with the manufacturers of breast-milk substitutes, soft drinks, alcohol and cigarettes. A Code of Conduct and Ethical Standards for Public Officials and Employees requires officials to resign or divest themselves of shareholdings where there is a conflict of interest and prohibits acceptance of gifts. The Revised Rules and Regulations of the Milk Code also contains a number of provisions to prevent conflicts of interest (e.g., prohibits companies from engaging with the health system, ensuring research is free from commercial influence, excludes companies from policy and decision-making, etc.). Another instrument is the policy on public-private partnerships, which places great emphasis on transparency, accountability and good governance and sets out standards of practice. Finally, a transparency seal has been introduced as a mechanism for shifting towards openness and accountability in government.

The lessons learned in the Philippines include that good understanding of the legislation is needed for its correct interpretation and stronger implementation. The involvement of a breastfeeding champion helps reduce conflicts of interest. Requiring companies to seek prior written consent for their marketing activities has been shown to be effective when companies adhere to the requirement. And finally, monitoring conflicts of interest relies on the honesty and integrity of individuals.

3.5 Working groups session 1: breastfeeding

For the first working group session, four working groups were asked to identify potential conflicts of interest associated with promotion, protection and support of breastfeeding and to describe existing and potential prevention and management tools. They were also asked to present examples of additional country case studies surrounding conflicts of interest in nutrition from high-, middle- and low-income countries. The combined conclusions of the four groups are synthesized below.

3.5.1 Identification of perceived conflicts of interest

- Conflicts of interest can exist at all levels – international, and national—, in academia and policy-making, in institutions and individuals.
Industry sponsorship occurs at different levels of the health system: for medical education (including paediatrics and other specialities); for the operation of professional associations; for the front-line health workers; for health facilities (renovation, equipment, supplies).

Industry is often involved in policy and standard setting: participation in committees setting standards and government advisory bodies; participation as part of national delegations to Codex; influence over the setting of the policy agenda; involvement of eminent experts on industry advisory bodies.

Whitewashing/greenwashing are strategies that the private sector applies through funding of public goods, donations, corporate social responsibility, etc.

Other forms of industry sponsorship are done through: sports/education programmes; religious pilgrimages; mothers’ clubs; government researchers; educational materials and events in schools.

Industry obtains product endorsement by professional associations.

Industry captures of other groups (e.g., community organizations).

3.5.2 Existing and potential prevention and management tools

The working groups described a variety of existing and potential tools, and generated the following suggestions:

- Develop a legal framework with regulatory monitoring, binding rules and sanctions.
- Develop a written policy on conflicts of interest and a code of conduct (for experts, professionals, scientific community) that sets norms for behaviours. The policy would require experts in committees to declare interests and would consider allowing industry participation in committees as a technical observer with recusal from particular discussions.
- To use media exposure to raise awareness and establish a culture that stigmatizes corporate tactics to exert undue influence.
- Promote discussion at regional and global fora.
- Use risk assessment and management to ensure accountability.
- Provide education on conflicts of interest in health professional training.
- Foster social participation by increasing the ratio of civil society and academia representation in any multi-stakeholder body. Establish criteria for civil society representatives (e.g., particularly vulnerable groups).
- Integrate baby-friendly certification process into public health insurance accreditation process.
- Use and/or learn from existing instruments and tools (e.g., Global Strategy on Infant and Young Child Feeding, the International Code of Marketing of Breast-Milk Substitutes, the Framework Convention on Tobacco Control).
- Ensure good whistle-blower protection and introduce post-employment rules to address ‘revolving doors’ between government and industry.
• Promote capacity building to enhance Member States’ understanding and ability to monitor and enforce regulations.
• Increase public funding for research and policy development.

3.5.3 Examples of additional country case studies
Two additional country examples were noted:
• Introduction of a module on professionalism, including conflicts of interest, in all specialist medical education in Sri Lanka.
• The development of criteria for assessing company’s products, policies and practices and their divergence from the public interest and public health authorities’ missions, policies, practices and recommendations by the Brazilian cancer institute.

4. Potential Conflict of Interest area no.2: fortification and reformulation
The third session explored conflicts of interest through the issues of micronutrient fortification and reformulation of foods to reduce levels of fat, sugars or salt.

4.1 WHO expert presentation no.1
Juan Pablo Peña-Rosas, WHO Department of Nutrition for Health and Development, gave an overview of WHO’s role in the implementation of guidelines on food fortification. It is important to distinguish food fortification, as discussed here, from home (point-of-use) fortification with micronutrient powders and biofortification of staple crops.

WHO collects data on prevalence and distribution of vitamin and mineral deficiencies. All calculations for national prevalence estimates have to be approved by the Member State concerned.

WHO provides evidence-informed guidelines on nutrition interventions, including food fortification, to help Member States and their partners make informed decisions. Fortification of foods is regulated in most countries and includes the fortification of staple foods and non-staple foods, beverages and condiments. The fortification process must occur with due assessments of risks and benefits. In addition to scientific evidence, trade agreements play an important role in fortification regulations, and Codex standards help with harmonization of fortification among countries.

It was clarified that donors who have provided financial support for this work, do not fund specific guidelines and do not participate in any decision related to the guideline development process.
4.2 External expert presentation

Greg S. Garrett outlined some of the potential conflicts of interest and their implications for food fortification programmes.

The varied nature of the food fortification industry – which comprises small artisanal producers as well as large refineries – means that it can be difficult to regulate. There are a number of particular steps along the fortification process where conflicts of interest may arise. In general, the food industry wants to purchase minimal fortification inputs (e.g. equipment, fortificants) in order to keep costs down. There may be conflicts of interest between different government ministries, for example on the levels of taxes to levy on imported pre-mixes. Often, the ministry of finance wins the argument on taxation and high levels of taxation increase the costs of fortification.

There are several reasons why conflicts of interest can occur, including, insufficiently compelling arguments on cost-benefit of fortification, return-on-investment not being returned directly to those who need to make the investment for fortification, the low profit margins on staple foods and a lack of clear demand. Furthermore, officials who push legislation on fortification risk being seen as raising staple food prices for vulnerable groups in their constituencies. Also, because of political risk associated with enforcing mandatory legislation, there is inconsistent follow-through and underwhelming use of enforcement strategies to mitigate non-compliance of the food industry.

The adverse outcomes that might result from conflicts of interest include industry challenge or resistance to mandatory fortification, fraudulent labelling while product does not meet fortification standards, governments not bringing industry to the table to discuss changes, government not fining companies for non-compliance, government reluctance to tighten regulation and a missed opportunity to leverage delivery channels. For voluntary fortification, the risks are that fortification is used primarily as an approach for making profit from wealthier consumers, bypassing poorer groups most at risk of micronutrient deficiencies. There is also a risk of private companies seeking to benefit from a ‘halo effect’ from public organizations of technical agencies providing their endorsement. A series of potential options for prevention and management of conflicts of interest in fortification programmes was outlined.

4.3 WHO expert presentation no.2

Bente Mikkelsen, WHO Global Coordination Mechanism (GCM) on the prevention and control of non-communicable diseases (NCDs), presented preliminary findings from the GCM working group on How to realize governments’ commitment to engage with the private sector for the prevention and control of NCDs.²⁴

²⁴ GCM/NCD, How to realize governments’ commitment to engage with the private sector for the prevention and control of NCDs http://www.who.int/global-coordination-mechanism/working-groups/wg-3-1-private-sector/en/ (Accessed 18 Dec 2015)
The Global Coordination Mechanism is a Member State-led mechanism that aims to facilitate and enhance coordination of activities, multi-stakeholder engagement and action in order to implement the WHO Global NCD Action Plan.\(^{25}\)

A working group was established on *How to realize governments’ commitments to engage with the private sector* to implement the action plan. The focus is on advice for national governments.

The key findings of the working group are yet to be finalized, but are likely to point to the need to be clear about the contribution of different private entities and to be much more discerning about their roles. The need for governments to safeguard public health interests from undue influence is also likely to emerge as a key message, along with recognition that many private sector entities have no direct conflict in being involved in NCD prevention. A number of essential pre-requisites have to be in place prior to any engagement with the private sector, including a mechanism to deal with conflicts of interest. The draft overarching recommendations recognize that governments must protect policies from undue influence by any form of vested interest. Draft overarching recommendations in relation to nutrition specify that governments should elicit clear time-bound commitments from food supply actors to reformulate processed foods to reduce salt, sugar, saturated fats and trans fats.

### 4.4 Discussion

A broader concern expressed was about the impact of conflicts of interest on the governance architecture for global health, particularly through the involvement of multi-stakeholder partnerships.

In relation to reformulation, the limited progress reported in the most recent Global NCD Status report\(^{26}\) was noted. Are there any signs of a move towards a regulatory approach, rather than voluntary, so that all of industry is required to move forward at the same pace? There was clarification that regulation is highlighted as the most important action for Member States to take.

There was serious concern that fortification strategies have not always lived up to their promise and lack of government capacity to implement, monitor and enforce is a major problem, for both fortification and reformulation programmes. Policies are meaningless without implementation capacity, and this is linked to the need to strengthen and invest in human resources for health capacity in countries to be able to hold players to account. A further potential issue is that mandatory fortification programmes could disadvantage small local producers and local food economies.


In relation to the GCM, the issue of whether the working group had considered a recommendation on producers of local foods to increase dietary diversity, to reduce reliance on processed foods high in fat, sugar or salt (HFSS) was raised. It was clarified that the working group’s mandate was to focus on HFSS foods, so the important issue of dietary diversity and local foods had not really been considered.

There was clarification that there are no industry representatives involved in the GCM working groups.

4.5 Country case studies

Short case studies were presented to give an overview of the experience of three countries - Vietnam, Canada and France on conflicts of interest in relation to fortification and reformulation.

Vietnam (Mai Bach Le)

Food fortification is one of the strategies to address micronutrient deficiencies in Vietnam. On the market there are some products voluntarily fortified with vitamin A, iodized salt and multi-micronutrient fortified complementary foods. Iron fortification of fish sauce used to be very prevalent but is now less common after free provision of pre-mix to manufacturers ceased. The National Institute of Nutrition markets is doing research on some fortified products (biscuits and soy milk). In addition, since 1998 imported flour must be fortified with zinc and B group vitamins. Manufacturers of other products, such as soft drinks, use vitamin and mineral fortification in order to make health claims.

There are a number of points about conflicts of interests – conflict between big and small and medium sized industries, conflict between population’s health and interests of the industries, conflicts between social development and quality standards- including the lack of, or poor, facilities and technology required for quality assurance- favouring large industries, and finally, the quality of fortified products and capacity building of industries.

The technical regulations covering iodized salt and wheat flour fortification were ratified in 2011. Currently, there is no government decree mandating food fortification and iodized salt, or any regulations to handle violation of the technical fortification regulations, but there are plans to strengthen the legislation. One of the challenges is that there are many small and medium size industries, and they do not all have the necessary facilities and technology for quality assurance. Another issue is that most factories are not yet ready for fortification, and there is a lack of information on flour fortification. Efforts to improve external monitoring and enhance surveillance are underway, as well as proposals for information/education, advocacy, market and situation analyses and reactivation of the National Steering Committee.

In conclusion, food fortification is a good approach to address existing micronutrient deficiencies in Vietnam, but conflicts of interest do exist. Legislation, monitoring and information, education and communication activities will be important for addressing conflicts of interest.
Canada (Mary L’Abbe)

Experience from a recent working group on sodium reduction in Canada was presented as a case study. There are numerous stages in such a process where conflicts of interest can be addressed.

1. Sound scientific basis for action – conflicts of interest can be minimized by clearly establishing the scientific and health case on the basis of scientific reviews and/or expert scientific panels without the involvement of industry.

2. Mandate for action – can be reinforced by the use of key champions (e.g., strong public health advocates and some industry representatives) and a coalescing of different interests that can prompt political commitments.

3. Moving from Knowledge to Action Phase – Developing the Strategy
   a) Manage conflicts of interest by engaging key players effectively by, for example, ensuring involvement of decision makers (CEOs, vice-presidents, Directors);
   b) Balanced representation between industry and non-industry representations;
   c) Clear terms of reference, with a clear mandate, goal and measure are required. It is helpful if these are pre-defined and are not up for re-negotiation;
   d) Administrative supports, such as an experienced facilitator and clear rules of behaviour for participants;
   e) Clear phases of work (preparatory, assessment, strategy development and implementation). In the Canadian experience, the working group had not been allowed to consider legally binding solutions and was disbanded by political leaders before the implementation phase could begin.

4. Levers for action and implementation can be important – international comparisons, for example, can be useful to establish a clear understanding of where the problem lies (which foods, which sectors).

5. Instrument(s) of choice – government actions include regulatory actions, non-regulatory actions that require collaboration, procurement policies and different provincial standards that can lead to common standards.

6. Joint government and industry initiatives, such as social marketing, campaigns, and publication of reports to document the experience.

7. Science, media and politics – conflicts of interest need to be recognized and managed in all three areas.

8. Transparent monitoring, and sustaining progress – publication of results can be effective in motivating change and ensuring that progress is sustained.
France (Michel Chauliac)

As one element of the French national nutrition policy, the reformulation strategy aims to decrease intakes of salt, sugars, fat, saturated fatty acids, and trans fatty acids. At the same time the aim is to increase intakes of fibre, carbohydrates and omega 3 fatty acids. This approach differs from other reformulation strategies that have, in general, focused more on a single nutrient or ingredient.

The approach chosen was for the French government to set the rules for reformulation, which the private sector can then choose to participate in. The joint initiative by the Ministries of Health, Agriculture and Economy established charters of commitments to nutritional improvements. The public sector proposed and controlled the commitments, through a standard reference document for the voluntary charters.

Important elements to note include the fact that the government has to approve industry proposed commitments. The proposed improvements have to include at least two-thirds of the volume of the company’s improvable production. Annual evaluations are carried out by an independent third party. A committee of experts from the public sector only assess proposals and examine annual evaluations.

Participating companies are allowed to use a particular declaration (“company engaged in a process of nutritional improvement encouraged by the State (PNNS)”) on some company materials.

After eight years, only 35 commitments have been signed. However, these commitments represent major manufacturers with a progress made in terms of amounts of salt, sugars and fats removed from the food supply. This initiative had no negative impact on consumers or company results. Although the public health outcomes remain inadequate, the benefits are spread across the social gradient.

4.6. Discussion

A clear message emerged once again that prevention is preferable to management of conflicts of interest. This is particularly important at certain stages of the policy process – especially when norms and standards are being set. Prevention and management should be seen as separate steps, and management should only be an option in particular circumstances along with penalties and sanctions when prevention is not possible.

It was suggested that the term ‘stakeholder’ should be replaced by ‘actor’, which leaves room to decide whether there is a place for a private sector actor in the process. It should be made clear to Member States that a commitment to inclusiveness does not mean that all non-State actors should be involved in all policy areas. It was suggested, conversely, that there is a case for presumption against engagement with the private sector unless there is a compelling public interest case to justify such engagement. Where that is the case, clear rules to protect against conflict of interest are, therefore, needed.
It is important to take time to build capacity and improve understanding of conflicts of interest in Member States. There are good practices to draw on – in Brazil, France - through tools such as the WHO Framework Convention on Tobacco Control\(^{27}\). There was some concern that nutrition is moving towards a very pharmaceutical model or biomedical approach, potentially at the expense of other approaches. It is also important to recognize the role of systemic corruption in exerting undue influence over public servants and recognizing that many countries have no regulations on financial contributions to political candidates, political parties, and elected offices holders.

**4.7 Working group session 2: Fortification and reformulation**

The second working group session asked the four working groups to identify potential conflicts of interest associated with fortification and/or reformulation, to describe existing and potential prevention or management tools, and to present examples of additional country case studies. The combined conclusions of the four groups are synthesized below.

**4.7.1 Identification of potential conflicts of interest**

- There is an influence of the private sector over the political framing of the problem and the selection of appropriate policy response (at international and national level): heavy reliance on private money; research investment and prioritization; underlying assumptions; selection of experts, advisors and researchers; partnerships or donors pushing for fortification when it is not needed; de-prioritization of medium and long-term solutions; private foundations brokering and encouraging self-regulatory approach.
- There is an influence from the private sector on the government decision-making and the global political climate. The lack of independence of advisers on fortification can undermine trust and integrity. Independence of research is important since decisions should be based on evidence.
- Codex Alimentarius – conflicts of interest in Codex decision-making.
- At-risk areas: standard setting, gaps assessments (e.g., determining the need for country-wide fortification), evaluating options (e.g., fortification versus other nutrition interventions).
- Fortification of unhealthy and highly-processed foods – illustrating the intertwined relationship between fortification and reformulation, given the multiple burden of malnutrition.

---

4.7.2 Existing and potential prevention and management tools

The working groups described a variety of existing and potential tools, and generated the following suggestions:

- Focus on strategies for prevention, rather than management of conflicts of interest.
- Adapt strategy for prevention of conflicts of interest to national political context (e.g., stress a regulatory approach or deregulatory tendencies).
- Establish a process which protects government policy-making from private sector interference; by ensuring that governments are responsible for setting the rules (including penalties) and that there is no multi-stakeholder participation in norms setting process. In situations where multi-stakeholder approach is required, ensure favourable balance of power for public interest representatives (e.g., ensuring that industry representatives are unable to vote or otherwise disrupt consensus). Industry-influenced institutions and private foundations with investments in products and services regulated by governments should not provide funding or participate in standard setting, priority setting or programme delivery. The government should establish clear rules for expert committees to ensure public interest.
- Provide guidance to, and build capacity of, Member States in relation to both (i) on the interpretation of scientific evidence and (ii) addressing conflicts of interest and industry influence more broadly. Build an enabling environment based on research, evidence-based assessments and implementation of WHO guidelines.
- Enforce advocacy and awareness-raising.
- Establish monitoring and enforcement by building country capacity to monitor and enforce policies; introduce accountability mechanisms to monitor industry compliance and ensuring penalties and disincentives for non-compliance.
- Establish clear performance indicators, clear guidelines and requirements from government. Establish an independent body to set such requirements with authority. Introduce certification processes that are verified, independent and non-conflicted.
- Use public praising and ‘naming and shaming’ as accountability mechanisms.
- Establish clear engagement frameworks and practical guidelines when engaging the public and private sectors (whether and how to engage; agreement on goals beforehand required).
- Use transparency tools such as mandatory lobbying registries for private lobbyists to register and log details about their communications with government’s officials; require transparency on all industry-government interactions and use online systems for transactions (e.g., applications and processing of product registration, public consultations, meetings, official comment records, publish verbatim transcripts of meetings between government officials and non-state actors, webcast and video-archive multi-stakeholder consultations session, etc.).
4.7.3 Examples of additional country case studies

The following two examples were highlighted:

- Philippines: Introduction of a certification seal for industry compliance for both voluntary and mandatory (for staples rice, wheat flour, cooking oil and sugar) fortification.
- Brazil: The advisory committee on fortification does not include supplement manufacturers. Government also requires official recorded transcripts of all private meetings between government and industry representatives.

5. Potential Conflict of Interest area no. 3: childhood overweight

The fourth session explored conflicts of interest involved in the prevention of childhood overweight.

5.1 WHO expert presentation

Chizuru Nishida, WHO Department of Nutrition for Health and Development, gave an overview of WHO recommended interventions for preventing childhood overweight and obesity. The recommendations were drawn from the Childhood Overweight Policy Brief28.

The policy brief prioritizes five actions:

- Developing coherent public policies, from production to consumption and across relevant sectors, to ensure healthy diets throughout the life-course.
- Ensuring the availability of nationally approved authoritative Food-Based Dietary Guidelines (FBDGs) for all age groups.
- Taking measures to address early life exposures to improve nutritional status and growth patterns (improving understanding of appropriate child growth, enhancing the food system to support healthy dietary practices throughout the life-course, regulating the marketing of food and non-alcoholic beverages to children, and regulating the marketing of complementary foods.
- Supporting research on root causes of overweight and obesity, including changes in the food system, availability of healthy foods, and strategies to ensure the provision of year-round access to food that meets people’s nutritional needs and promotes safe and diversified healthy diets.
- Creating an enabling environment that promotes public actions and prevents sedentary lifestyle from the early stages of life.

Examples of actions to ensure early life exposure to nutritional wellbeing include provision of targeted subsidies for nutritious foods to disadvantaged vulnerable women prior to,

---

28 WHO Childhood Overweight Policy Brief
during or after pregnancy, and improving infant and young child feeding practices (e.g. through implementation of the Code). Actions to improve the school environment include the implementation of food standards and health-promoting meal-subsidies for all schools, removing incentives for unhealthy dietary practices (e.g., vending machines), provision of fresh drinking water and regulation to control the availability of fast food outlets near schools. The many actions to improve the community environment and social norms include, among others, the development of FBDGs, improving consumer information, regulating marketing to children and imposition of taxes on HFSS foods and sugar-sweetened beverages.

5.2 External expert presentation

Michele Simon provided an overview of US experience in engaging with the food industry, specifically in relation to food reformulation and marketing to children.

Voluntary industry changes (industry wide or individual companies), private foundation partnerships and public-private partnerships are among the approaches to nutrition policy in the US. All of these have little or no oversight, with the exception of public-private partnerships. Federal government regulations for nutrition policy are almost non-existent. Industry-wide voluntary action has taken place on reducing HFSS food marketing to children, and has been ineffective. Industry-wide efforts have also been made to remove calories from the food supply. In addition, individual companies have also made pledges to reformulate. Some private sector actions are brokered by private foundations, such as the Alliance for a Healthier Generation, brokering of a pledge by McDonalds on marketing to children. Another example is the first lady’s Let’s Move programme, under the auspices of the White House, which founded an offshoot (Partnership for a Healthier America) to broker industry commitments. This raises a number of questions about transparency and accountability.

An attempt by several government agencies to jointly introduce voluntary self-regulation of marketing to children did not succeed. There is evidence, however, that exposing conflicts of interests can have an effect. Media coverage of the endorsement of a children’s cheese product by the Academy of Nutrition and Dietetics resulted in the Academy withdrawing the endorsement. There has also been a backlash as a result of media exposure, amplified by social media, of Coca Cola funding of scientists that shift the blame for obesity away from diet. In this way, public shaming and social media can counter the negative impacts of conflicts of interest.

5.3 Country case studies

Short case studies were presented to give an overview of dealing with conflicts of interest in relation to prevention of childhood overweight in two countries – Brazil and Mexico.
**Brazil (Fabio Gomes)**

Overweight can be an expression of malnutrition resulting from unhealthy and unsustainable food systems. The key to Brazil’s approach to preventing conflicts of interest in relation to prevention of overweight is social participation. Since 1998 social participation has been enshrined in the constitution and since 2014 an expanded national policy on social participation was introduced.

In Brazil, the right to food is considered part of the right to education. If a state is not providing food to children it is failing to provide education. Since 2001, at least 70% of core foods in the school food programme have to be local agro-foods and since 2009 the legislation has been extended to the entire public schools network, which includes adult education. At least 30% of the food has to come from small local or family farmers, with priority to maroons, indigenous people and landless settlements. More than 5,000 school food councils have been established, free from private interests. Nonetheless, there have been attempts by the private sector to get into schools. Parents and civil society organizations have been counter-acting denouncing, for example, shows by Ronald McDonald in schools – a practice which is no longer allowed in most States and Municipalities and continues to be banned throughout the country's public schools network.

The National Food and Nutrition Security Council is made up of elected members from civil society (two-thirds) and government (one-third), and is presided by a civil society representative. The Council is required to report back to the national conference every four years and to declare any planned changes.

A Code of Conduct for the High Level Federal Administration also exists and high level officials are required to be accompanied by at least one other public civil servant in any meeting with private sector and a record must be kept of the meeting.

The Food, Nutrition and Cancer Institute has developed criteria to evaluate a company’s products, practices and policies (including goals, visions, missions) when any proposal for engagement with a private company is received. When any of such products, practices or policies diverge or oppose public health authorities’ policies, missions, practices, recommendations proposals are rejected. An assessment of the top ten largest food and beverage companies using those criteria will be published soon in Portuguese and English. The criteria have also been adopted by nutrition and health professional’s organizations, civil society networks and other organizations in the public interest in Brazil and Latin-America.

**Mexico (Lucero Rodriguez Cabrera)**

Mexico has a strategy in place for the prevention and control of overweight, obesity and diabetes. The three main areas of the strategy are public health interventions, medical interventions and policy (including fiscal measures).
Conflicts of interest have been encountered since the beginning of the policy process – at the policy design, implementation and evaluation stages. The Ministry was offered private sector funding to establish an education programme, but refused the funding.

Statutory school food guidelines are in place and private interests have attempted to exert influence. There have been efforts by the sugary beverage industry to provide water in schools. Advocacy has been carried out towards school authorities to encourage them to reject any funding, gifts or donations from the food or beverage industry. The school community needs to be empowered to reject the participation of industry in healthy feeding decisions in schools, and sanctions should be implemented for educational authorities that do not comply.

The strategy also includes improvements to food labelling, with statutory front-of-pack labelling and introduction of an optional quality nutritional seal for low- and medium calorie-dense foods that meet nutritional standards. Of 532 applications for the quality seal only 32 have been accepted. The seal is designed to encourage reformulation, although some categories – sodas, chocolates, confectionery and snacks – can never obtain the seal.

A further measure is the introduction of statutory restrictions on advertising food and beverages to children on television and in cinemas. The challenges of Internet, social network and cable television marketing remain along with marketing in adult spaces and shows that are also child friendly (e.g., soap operas, sports events, etc.).

The final element to highlight is the tax on sugar-sweetened beverages, energy drinks and high-calorie non-staple foods introduced in 2014. Preliminary results suggest an average decline of 6% in purchases of taxed beverages over 2014 compared to pre-tax trends and this might have accelerated to as much as 12% by December 2014, and even up to 17% in lower socio-economic households. The tax faced strong opposition from the food and beverage industry and there was a great deal of lobbying of in the national congress and interference with the legislative process.

A number of approaches are being used to handle conflicts of interest. Among others, these include independent evaluation by the Mexican Observatory of Noncommunicable Diseases (OMNET) and channelling all interaction with industry though industry associations or chambers of commerce. Other elements that help are a close relationship with academia and parliamentary groups and the Ministry of Health’s refusal of sponsorship by any food industry. The policies and governmental bodies/processes are transparent and open to public consultation. It was emphasized that the integrity is key and that any undermining of integrity may be seen as a conflict of interest and have an impact on the credibility of the public institution.

5.4 Discussion

There was some discussion of the sponsorship of the Olympics by food and beverage companies. Host countries are not really able to challenge these sponsorship decisions at later stages, but Brazil will try to promote local agro-ecological foods during the Rio games.
The Nutrition 4 Growth Initiative\textsuperscript{29} will meet in Rio in 2016, to coincide with the Olympics and the organizing committee is keen to avoid sponsorship from multi-national food and beverage companies.

5.5 Working group session 3: childhood overweight

The third working group session asked the four working groups to identify potential conflicts of interest associated with prevention of childhood overweight and obesity, to describe existing and potential prevention or management tools, and to present examples of additional country case studies. The combined conclusions of the four groups are synthesized below.

5.5.1 Identification of potential conflicts of interest

- There is an undesirable potential for industry-oriented or industry-funded philanthropic foundations and/or private sector to influence priorities and choice of policy approaches.
- Trade liberalization driven by business interests versus weakened governments.
- Private sector reframes the issue: this can include influencing the agenda and/or priority setting, shifting blame (e.g. from food to physical activity), shifting responsibility (from institutions to individuals), or shifting proof to one single factor of potential factor effect.
- Interference with legislative processes: lobbying at international (Codex, etc.) and national (parliamentary, ministerial, official) levels to delay or derail regulation; pushing a culture of self-regulation, fostering partnerships that promote a voluntary approach.
- Private sector sponsorship and participation in schools.
- Imbalance of available resources: decreasing levels of public funding means increasing reliance on private finance.
- Decentralized government decision-making on policy increases opportunities for industry influence.
- Revolving door policies between government and private sector that, for instance, enable senior industry executives to enter priority-setting, law-making, or enforcement roles in governments, and allow senior government regulators to get into industry positions to shape commercial lobbying and marketing practices.

5.5.2 Existing and potential prevention and management tools

The working groups described a variety of existing and potential tools, and generated the following suggestions, though there was no consensus on the net benefit of each measure:

\textsuperscript{29}Nutrition 4 Growth Initiative, \url{http://nutrition4growth.org/} (Accessed 18 Dec 2015)
• Include social participation in national constitutions.
• Build a bottom-up, public interest social movement.
• Define some exclusion criteria for partnerships involved in public policy.
• Develop tools to distinguish public interest NGOs (PINGOs) from business-interest NGOs (BINGOs) and business front groups. Establish criteria for people with public health interest to be involved.
• Enforce capacity building for Member States in fiscal and regulatory policy development, implementation and enforcement; for health policy makers in relation to food systems, trade negotiations and health impact assessment tools as well as on how to protect and maintain public policy space in trade negotiations.
• Progress the human resources for health agenda to address shortage of health workers.
• Set funding eligibility criteria that prohibit recipients to accept co-funding from a source with conflicts of interest.
• Raise awareness within the food and agriculture system on their impact on health system.
• Use WHO nutrient profiling tool\(^\text{30}\) to help identify priorities for fiscal policies. Establish government-developed and supported nutrient profiles to ensure clarity.
• Include social movements within WHO forums (e.g., World Health Assembly) as part of WHO reforms.
• Conduct health impact assessments on global trade agreements.
• Implement ICN2 Framework for Action\(^\text{31}\).
• Establish a neutral foundation, with public sector governance, to act as a pool for industry funding to finance research and actions.
• Introduce statutory regulation to control marketing to children and establish rules to ensure that the private sector does not go into schools.
• Reinforce strategies for accountability (naming and shaming, threat of regulation, use of international comparisons).
• Monitor how industry practices evolve and use social media to expose conflicts of interests and undesirable practices.
• Strengthen promotion of diverse, locally-produced food.
• Use arguments other than health (e.g., costs and economic productivity) to make case for policies and regulations.
• Establish whistle-blower safeguards to ensure that government officials are not penalized for holding their employers and senior staff to account for failing to follow institutional or individual conflict of interest policies.
• Ensure that the fact, date and content of oral and written communications between industry and government officials are publicly and proactively disclosed in a publicly accessible Internet-based resource.
• Establish post-employment policies, including defining a ‘cooling-off’ period.

\(^{30}\) WHO nutrient profiling, \text{http://www.who.int/nutrition/topics/profiling/en/} (Accessed 18 Dec 2015)

5.5.3 Examples of additional country case studies
The following two examples were highlighted:

- India – pressure exerted on free school meals scheme to introduce processed foods.
- Brazil – increased community participation in decision-making.

6. Final plenary discussions
The final plenary discussion session reinforced many of the points made earlier, such as the need to focus on prevention of undue influence and conflicts of interest.

While there may still be the need for more discussions to better distinguish between identification of risks from undue influence and conflicts of interest of individuals and institutions, it was highlighted that the ultimate aim of all these measures was the preservation of institutional integrity, independence, credibility and public trust.

The role of strong, organized civil society was emphasized.

There was a request to refer to corporate tactics to undermine public health as exactly that and not to sanitize them by referring to conflicts of interest.

Legal experts emphasized that ‘inclusiveness’ of the private sector as a principle was not adequate to address conflicts of interest.

It is clear from the discussions that a whole range of tools needs to be developed. The importance of capacity building to equip national policymakers to recognize, understand and tackle conflicts of interest was again stressed.

Methodologies for assessing the health implications of entering trade agreements would be helpful for health ministers when negotiating with other ministerial colleagues. Human rights impact assessment was mentioned as one possible useful tool to help countries address conflicts of interest.

7. Summary outcomes and next steps
In relation to definitions, there had been a useful debate and some important concepts had been highlighted. Namely, that participants are concerned about undue influence by secondary interests on their primary interest(s) (intra-personal and intra-institutional), either actual or perceived. This is linked to integrity, independence and public trust, and can be monetary or non-monetary, and direct or indirect.

It was stressed that the concept of conflicts of interest should not be confused with “conflicting” or “diverging” interests between different actors in society.

The discussion on the specific nutrition topics provided useful information regarding the context in which conflicts of interest can arise and how they can affect nutritional policy.

Conflicts of interest need to be examined at several stages in the policy process:
a) Initially, when governments decide whether to establish a policy;
b) Second, when governments establish a policy and/ or set up a programme;
c) Third, when implementing policies;
d) Fourth, when monitoring government programs and evaluating public policies.

The first three stages are where there is the greatest possibility of engagement with the private sector, and in each of these stages there should be an explicit assessment to determine whether there are conflicts of interest and if so, how they should be addressed.

Initially, to identify whether a conflict of interest exists, individuals conducting an assessment need to understand the missions, obligations and activities of organizations as well as their primary and secondary interests. If the initial assessment identifies the presence of conflicts of interest then there should be an assessment to determine how important the conflicts of interest are, based on the potential risks to public policy and the outcomes that might result from the conflict of interest. Next, there should be an assessment of various options to avoid the conflict of interest or to cope with it through employment of some management strategy. This assessment should consider the cost and benefits of alternative approaches to avoid or manage conflicts of interest.

There are several tools that are used to manage conflicts of interest. Legislative tools are one way to avoid or mitigate conflicts of interest – the more you regulate the easier it is to effectively avoid and adequately address serious conflicts of interest.

Policies that mandate the declarations of financial interest are necessary to identify conflicts of interest and to provide information needed to assess them. Once conflicts of interest of individuals have been identified they can sometimes be resolved through divestment financial interests or recusal from participation in decisions that can affect their financial interest.

Governmental and private organizations sometimes require as a condition of employment that after individuals terminates their employment they cannot work in certain kinds of organization for several years so that they cannot betray their obligations or be loyal to their former employers.

There is a need for guidelines for public officials and, possibly, professional codes of conduct and sponsorship policies.

There has been a lot of debate about partnerships. Several participants emphasized that partnership should not be the paradigm or default mechanism for public health interventions. However, if the decision has been made to enter into such a partnership, there are a number of things that can be done to ensure that the partnership serves the interest of public health.

Before Member States enter into a partnership or joint venture or engage in any form with private sector actors, they should analyze whether there are conflicts of interest. If conflicts of interest exist, then there is a need to consider whether or not they should enter into the
partnership. If it has been determined that a conflict of interest can be adequately managed and a government enters into a partnership with a private sector actor, then there are several strategies that can be employed depending on the circumstances.

It can also help to define and limit the roles of various actors that participate in a partnership, establish rules that restrict or regulate any private sector financial sponsorship, and establish rules that specify appropriate governance structures and membership in governance bodies.

To help reduce the risk of improper conduct being hidden there should be transparency regarding the sources and content of data used to make decisions and regarding the decision-making process. To guide policy it will help to specify certain public health goals and existing policies that must be respected, such as the International Code of Marketing of Breast-milk Substitutes, or the Global Strategy on Infant and Young Child Feeding. The goals of the partnership and activities that they will perform should be specified and so should the stages of the partnership’s work.

It will also help to establish a means for independent monitoring of the activities of the partnership, with strong civil society institutions, protection for whistleblowers, and engagement of independent consumer groups in the policy process and registration of lobbyists and limits on lobbying.

The outcomes of this consultation will inform the WHO Secretariat report to be presented to the 138th Executive Board meeting in January 2016.
## ANNEX I: List of participants

### External participants

<table>
<thead>
<tr>
<th>Name</th>
<th>Position/Institution</th>
<th>Contact Details</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>BRINSDEN Hannah</strong></td>
<td>Head of Advocacy &amp; Public Affairs World Obesity Federation (Formerly IASO) London, UK</td>
<td>Tel: + 44 2076852589 Email: <a href="mailto:hbrinsden@worldobesity.org">hbrinsden@worldobesity.org</a></td>
</tr>
<tr>
<td><strong>CHAULIAC Michel</strong></td>
<td>Responsable Programme national nutrition santé Direction générale de la santé Paris, France</td>
<td>Tel: + 33 1 40 56 41 24 Email: <a href="mailto:michel.chauliac@sante.gouv.fr">michel.chauliac@sante.gouv.fr</a></td>
</tr>
<tr>
<td><strong>DAVIES Susan</strong></td>
<td>Chief Policy Adviser Which? London, UK</td>
<td>Tel: + 44 (0) 207 770 7274 Email: <a href="mailto:Sue.Davies@which.co.uk">Sue.Davies@which.co.uk</a></td>
</tr>
<tr>
<td><strong>DENTICO Nicoletta</strong></td>
<td>Co-Director Health Innovation in Practice (HIP) Geneva, Switzerland</td>
<td>Tel: + 39 338 534 68 53 Email: <a href="mailto:nicolettadentico@libero.it">nicolettadentico@libero.it</a></td>
</tr>
<tr>
<td><strong>FLORES Maria-Bernardita T.</strong></td>
<td>Assistant Secretary of Health and Executive Director IV National Nutrition Council Manila, Philippines</td>
<td>Tel: +632 818 73 98 Email: <a href="mailto:bernie.flores@nnc.gov.ph">bernie.flores@nnc.gov.ph</a></td>
</tr>
<tr>
<td><strong>GARRETT Greg</strong></td>
<td>Director Food Fortification Global Alliance for Improved Nutrition (GAIN) Geneva, Switzerland</td>
<td>Tel: +41 (0) 22 749 17 66 Email: <a href="mailto:ggarrett@gainhealth.org">ggarrett@gainhealth.org</a></td>
</tr>
<tr>
<td><strong>GAVIN-SMITH Breda</strong></td>
<td>Consultant Public Health Nutritionist Scaling-Up Nutrition (SUN) Movement Secretariat Geneva, Switzerland</td>
<td>Tel: +33 7 86 27 74 95 Email: <a href="mailto:breda.gavinsmith@undp.org">breda.gavinsmith@undp.org</a></td>
</tr>
<tr>
<td><strong>GHAREEB Nadia</strong></td>
<td>Chief Public Health Directorate Ministry of Health Manama, Bahrein</td>
<td>Tel: +973 17 28 22 18 Email: <a href="mailto:NMohammed@health.gov.bh">NMohammed@health.gov.bh</a></td>
</tr>
<tr>
<td>Name</td>
<td>Position/Title</td>
<td>Organization/Location</td>
</tr>
<tr>
<td>---------------------</td>
<td>-----------------------------------------------------</td>
<td>-----------------------------------------------</td>
</tr>
<tr>
<td>GOMES Fabio</td>
<td>Officer</td>
<td>Ministry of Health Brasilia, Brazil</td>
</tr>
<tr>
<td>JEFFERY Bill</td>
<td>National Coordinator</td>
<td>Centre for Science in the Public Interest Canada (CSPI) Executive Director, Centre for Health Science and Law (CHSL) Ottawa, Canada</td>
</tr>
<tr>
<td>KAPPOORI Gopakumar M.</td>
<td>Legal Advisor &amp; Senior Researcher Third World Network New Delhi, India</td>
<td>Tel: +1 613 565 21 40</td>
</tr>
<tr>
<td>KRAAK Vivica</td>
<td>Assistant Professor</td>
<td>Food and Nutrition Policy Virginia Tech Blacksburg, USA</td>
</tr>
<tr>
<td>L’ABBE Mary</td>
<td>Earle W. McHenry Professor, and Chair Department of Nutritional Sciences Faculty of Medicine University of Toronto Toronto, Canada</td>
<td>Tel: +1 416 978 2422</td>
</tr>
<tr>
<td>LE Bach Mai</td>
<td>Deputy Director</td>
<td>National Institute of Nutrition Hanoi, Vietnam</td>
</tr>
<tr>
<td>LHOTSKA Ludmila</td>
<td>Consultant</td>
<td>Prague, Czech Republic</td>
</tr>
<tr>
<td>MARKS Jonathan</td>
<td>Director</td>
<td>Bioethics Program Pennsylvania State University Pennsylvania, USA</td>
</tr>
<tr>
<td>MWATSAMA Modi</td>
<td>Director</td>
<td>Global Health</td>
</tr>
</tbody>
</table>


<table>
<thead>
<tr>
<th>Name</th>
<th>Position/Role</th>
<th>Contact Information</th>
</tr>
</thead>
<tbody>
<tr>
<td>RICHTER Judith</td>
<td>Associate Senior Research Fellow</td>
<td>Tel: + 420 702 191 822</td>
</tr>
<tr>
<td></td>
<td>Institute of Biomedical Ethics and History of Medicine</td>
<td>Email: <a href="mailto:judith.richter@ethik.uzh.ch">judith.richter@ethik.uzh.ch</a>,</td>
</tr>
<tr>
<td></td>
<td>Zurich University</td>
<td><a href="mailto:judith.richter@bluewin.ch">judith.richter@bluewin.ch</a></td>
</tr>
<tr>
<td>RODRIGUEZ CABRERA Lucero</td>
<td>Director</td>
<td>Tel: + 52 55 52 12 01 23</td>
</tr>
<tr>
<td></td>
<td>Direction General of Health Promotion</td>
<td>Email: <a href="mailto:lucero.rodriguez@salud.gob.mx">lucero.rodriguez@salud.gob.mx</a></td>
</tr>
<tr>
<td>RODWIN Marc</td>
<td>Professor of Law</td>
<td>Tel: +1 617 354 45 51</td>
</tr>
<tr>
<td></td>
<td>Suffolk University Law School</td>
<td>Email: marcrอด<a href="mailto:win@gmail.com">win@gmail.com</a></td>
</tr>
<tr>
<td>SANDERS David</td>
<td>Emeritus Professor</td>
<td>Tel: +27 21 959 21 32</td>
</tr>
<tr>
<td></td>
<td>School of Public Health</td>
<td>Email: <a href="mailto:sandersday5845@gmail.com">sandersday5845@gmail.com</a></td>
</tr>
<tr>
<td>SIMON Michele</td>
<td>President</td>
<td>Tel: +1 510 465 03 22</td>
</tr>
<tr>
<td></td>
<td>Eat Drink Politics</td>
<td>Email: <a href="mailto:michele@eatdrinkpolitics.com">michele@eatdrinkpolitics.com</a></td>
</tr>
<tr>
<td>STARK Andrew</td>
<td>Professor of Strategic Management and Public Policy</td>
<td>Tel: + 647 286 83 99</td>
</tr>
<tr>
<td></td>
<td>University of Toronto</td>
<td>Email: <a href="mailto:stark@rotman.utoronto.ca">stark@rotman.utoronto.ca</a></td>
</tr>
<tr>
<td>TAGUNICAR Luz</td>
<td>Supervising Health Program Officer</td>
<td>Tel: +632 948 76 55</td>
</tr>
<tr>
<td></td>
<td>Department of Health</td>
<td>Email: <a href="mailto:lbtagunicar@doh.gov.ph">lbtagunicar@doh.gov.ph</a></td>
</tr>
<tr>
<td>WARNASURIYA Narada</td>
<td>Senior Professor</td>
<td>Tel: +11 271 78 37</td>
</tr>
<tr>
<td></td>
<td>Kotelawela Defence University</td>
<td>Email: <a href="mailto:naradadw@gmail.com">naradadw@gmail.com</a></td>
</tr>
<tr>
<td>Name</td>
<td>Title</td>
<td>Organization</td>
</tr>
<tr>
<td>-----------------------</td>
<td>--------------------------------------------</td>
<td>---------------------------------------</td>
</tr>
<tr>
<td>ALIC Alma</td>
<td>Technical Officer</td>
<td>World Health Organization (WHO)</td>
</tr>
<tr>
<td></td>
<td>Compliance, risk assessment and ethics</td>
<td></td>
</tr>
<tr>
<td></td>
<td>World Health Organization (WHO)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Geneva, Switzerland</td>
<td></td>
</tr>
<tr>
<td>BOUKERDANNA Hala</td>
<td>Consultant</td>
<td>World Health Organization (WHO)</td>
</tr>
<tr>
<td></td>
<td>Nutrition for Health and Development</td>
<td></td>
</tr>
<tr>
<td></td>
<td>World Health Organization (WHO)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Geneva, Switzerland</td>
<td></td>
</tr>
<tr>
<td>BRANCA Francesco</td>
<td>Director</td>
<td>World Health Organization (WHO)</td>
</tr>
<tr>
<td></td>
<td>Nutrition for Health and Development</td>
<td></td>
</tr>
<tr>
<td></td>
<td>World Health Organization (WHO)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Geneva, Switzerland</td>
<td></td>
</tr>
<tr>
<td>DE OLIVEIRA GRANHEIM</td>
<td>Consultant, Nutrition Unit</td>
<td>World Health Organization (WHO)</td>
</tr>
<tr>
<td>Sabrina</td>
<td>Consultant, Nutrition Unit</td>
<td>Western Pacific Region (WPRO)</td>
</tr>
<tr>
<td></td>
<td>World Health Organization (WHO)</td>
<td>Eidsvoll, Norway</td>
</tr>
<tr>
<td>DIMANCESCO Deirdre</td>
<td>Technical Officer</td>
<td>World Health Organization (WHO)</td>
</tr>
<tr>
<td></td>
<td>Policy, Access and Use</td>
<td>Geneva, Switzerland</td>
</tr>
<tr>
<td>GRUMMER STRAWN Laurence</td>
<td>Technical Officer</td>
<td>World Health Organization (WHO)</td>
</tr>
<tr>
<td></td>
<td>Nutrition for Health and Development</td>
<td>Geneva, Switzerland</td>
</tr>
<tr>
<td>MAHY Lina</td>
<td>Technical Officer</td>
<td>Standing Committee on Nutrition (SCN)</td>
</tr>
<tr>
<td></td>
<td>World Health Organization (WHO)</td>
<td>Geneva, Switzerland</td>
</tr>
<tr>
<td>MIKKELSEN Bente</td>
<td>Senior Adviser</td>
<td>Global Coordination Mechanism Secretariat for NCDs</td>
</tr>
<tr>
<td></td>
<td>World Health Organization (WHO)</td>
<td>Geneva, Switzerland</td>
</tr>
<tr>
<td>Name</td>
<td>Position</td>
<td>Organization</td>
</tr>
<tr>
<td>--------------------------</td>
<td>-----------------------------------------------</td>
<td>----------------------------------------------------</td>
</tr>
<tr>
<td>MONTEZ Jason</td>
<td>Technical Officer</td>
<td>Nutrition for Health and Development</td>
</tr>
<tr>
<td>NISHIDA Chizuru</td>
<td>Coordinator</td>
<td>Nutrition for Health and Development</td>
</tr>
<tr>
<td>ONYANGO Adelheid</td>
<td>Regional Advisor for Nutrition</td>
<td>World Health Organization (WHO)</td>
</tr>
<tr>
<td>OSEI Jude</td>
<td>Technical Officer</td>
<td>Surveillance and Population-based Prevention</td>
</tr>
<tr>
<td>PEÑA-ROSAS Juan Pablo</td>
<td>Coordinator</td>
<td>Nutrition for Health and Development</td>
</tr>
<tr>
<td>ROGERS Lisa</td>
<td>Technical Officer</td>
<td>Nutrition for Health and Development</td>
</tr>
<tr>
<td>SOLON Maria Pura</td>
<td>Technical Officer</td>
<td>Nutrition for Health and Development</td>
</tr>
<tr>
<td>STAHLOHERF, Mr Marcus</td>
<td>Technical Officer</td>
<td>Maternal, Newborn, Child and Adolescent Health</td>
</tr>
<tr>
<td>ZAMORA MONGE Gerardo</td>
<td>Tel: +41 22 791 1814</td>
<td></td>
</tr>
<tr>
<td>--------------------------------------</td>
<td>----------------------</td>
<td></td>
</tr>
<tr>
<td>Technical Officer</td>
<td>Email: <a href="mailto:zamorag@who.int">zamorag@who.int</a></td>
<td></td>
</tr>
<tr>
<td>Nutrition for Health and Development</td>
<td></td>
<td></td>
</tr>
<tr>
<td>World Health Organization (WHO)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Geneva, Switzerland</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>