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Scoping Exercise for Conflict of Interest in the SUN Movement

Executive Summary of the Research Report

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Supporting the Scaling Up Nutrition Movement



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Introduction

The Scaling Up Nutrition (SUN) Movement is a country-led movement that brings together the authorities of countries burdened by under-nutrition, a broad range of stakeholders from multiple sectors in-country and a global coalition of partners to contribute to significant and sustained reductions in under-nutrition and improvements in the health and prosperity of future generations. Where different groups of actors come together, even around common goals and objectives, the potential for conflicts of interest is inevitable. The SUN Movement is no exception. The Movement's Lead Group recognizes this, and the importance of addressing the issue in an open and transparent manner.

The Global Social Observatory (GSO), an independent forum for multi-stakeholder dialogue established in 2004, has been invited to provide a neutral setting for discussion among SUN Movement stakeholders on conflict of interest. GSO is undertaking a consultation process that aims to bring representatives of all stakeholder groups together to agree on a clear understanding of what conflict of interest means within the context of the SUN Movement and to agree on guidance for the Movement.

In preparation for the discussion sessions, the GSO has undertaken a scoping exercise and has presented the results in the form of a research paper. The paper starts with an overview of standard definitions of the term "conflict of interest", including both individual and institutional contexts. This is followed by a commentary on how conflict of interest might arise among each stakeholder group in the SUN Movement. The next sections contain a representative survey of how conflict of interest is being interpreted and implemented by the UN for each of these stakeholder groups, as well as in several illustrative multi-stakeholder settings. Next, the stakeholder groups themselves have also developed conflict of interest policies and risk management strategies, and a few of these are highlighted for useful reference. This is then followed by an assessment of divergent stakeholder interests and their implications for going forward. A final section of the paper presents a menu of the possible elements from which participants in the first consultation event will be invited to develop a template for drafting a guidance note on conflict of interest for the SUN Movement.

Conflict of Interest Definitions

Individual conflict of interest (COI) is typically defined as "a conflict between the private interests and the official responsibilities of a person in a position of trust." Other variations of this definition are presented in the main research paper. Most importantly for this exercise, conflict of interest can be defined in the context of divergent organizational, financial, social or political interests, which may lead to COI at an institutional level. A typical definition of institutional or organizational conflict of interest refers to when an individual in a position of responsibility in one organization may also be



in a position to benefit the financial position or otherwise enhance the advantages of another organization with which the individual is associated. The institutional approach is especially important in the complexity of multi-stakeholder collaboration.

Mapping the Points of Possible or Potential Conflict of Interest Issues within Each Stakeholder Group of the SUN Movement

Governments have the primary responsibility for ensuring the nutritional health and wellbeing of women and children in their countries. For governments, the instances in which individual conflict of interest may arise are typically addressed in public and often sector-specific codes of conduct. An institutional conflict of interest is also possible, such as when government officials perform dual functions, for example, as both a regulator and as a service provider. Another hypothetical illustration is a situation in which a government official owns an interest in a manufacturing facility for infant formula while that official is also charged with promoting a public policy of exclusive breastfeeding.

The role of civil society organizations (CSOs) in the SUN Movement is to mobilize individuals and groups concerned about undernutrition, and to catalyse political and institutional change in nutrition governance and accountability. CSOs at the national level are called upon to align their strategies, efforts and resources with country plans, to help build capacity and to maximize resources. The Global SUN CSO Network is strengthening the capacities of country level Civil Society Alliances to participate in national and global dialogue through multi-stakeholder platforms and on the international stage. Conflicts of interest may arise when personal favoritism influences where services are to be provided or where the activities of the CSO are not aligned with the country level plan or the common results framework.

A survey of outreach to the business community in SUN countries suggests that the main engagement is with locally owned or managed businesses for the fortification of locally produced staples. The SUN Business Network (SBN) aims to support the overall objective of SUN Movement by providing a platform for business to align behind Government plans and support scaling up nutrition. Conflict of interest may arise if a business is partnering with a government or civil society groups to deliver one evidence-based nutritional product that is compatible with SUN principles but then benefits from an expanded market for another product that is not compatible. Partnering purely for commercial profit may be another example. Many critics of private sector engagement are influenced by the uneven power relationship of a large business catering to its profit-driven shareholders in a market where both consumers and other competitors are at a power disadvantage.

The role of donors is to support government-led national nutrition plans through the provision of external resources, whether from governments or multilateral financial institutions – and presumably also from nongovernmental sources where appropriate (foundations, civil society





groups or the private sector). As government officials, they are subject to the same kinds of ethics rules governing conflict of interest as any other government officials. Institutional conflicts of interest may arise when donors promote interventions that are inappropriate for scaling up nutrition or are not wanted by national governments.

As a source of intergovernmental global governance, the UN system delivers both policy and norm setting at the global level and direct interventions in SUN member countries (e.g. capacity development). They are subject to the same concerns about private or other competing interests potentially compromising public policy as any of the other public officials. The UN System Network coordinates the UN-wide dialogue on Scaling Up Nutrition and seeks to harmonize the effort with coherent policy and technical guidance. Institutional conflicts of interest may arise when representatives of UN agencies advocate different policies and/or operate in competition with other UN agencies.

As yet, there is no global SUN network for research organizations, and there is no plan to include a separate stakeholder group in the GSO consultation sessions, but it should be noted that research organizations are encouraged, where appropriate, to contribute better knowledge about nutrition and changing practices to support better nutrition. Many research institutions have developed detailed policies on ethical conduct and avoiding conflict of interest.

Issues Associated with Conflict of Interest

With the overview of responsibilities identified in the previous section, one can take a look at developing a list of the issues that might be associated with conflict of interest for the SUN Movement. These are placed into three categories – where there may be significant risks of divergence of interests but no conflict of interest has occurred, where there are actual divergent interests but these divergences are not necessarily harmful, and where there may be an actual conflict of interest that has harmful effects. These are listed here to provide some possible avenues to explore in the consultation process. At the first session on 13 June 2013, the interactive dialogue will be structured around illustrative issues as the building blocks for a guidance note on conflict of interest.

Significant risk of divergence but no conflict has occurred

- Different sectoral interests within governments may exist for reasons unrelated to harming the effort to combat undernutrition
- Differences among institutional mandates of civil society organizations
- Profit versus non-profit activities of private sector enterprises
- Research oriented to nutrition but unrelated to undernutrition
- Donors cutting financial resources because of a change in political priorities UN System



Actual divergence of interest, not necessarily harmful

- Public policy interests are not aligned (e.g. sustainable agriculture without nutritional improvements) but do not interfere with main objectives
- Farmers producing cash crops to enhance their incomes rather than producing local food products
- Banks operating in financing of manufacturing facilities rather than agriculture
- Governments diverting revenues for military purposes
- Governments promoting counter-productive food options

Actual conflict of interest and harmful

- Civil society organizations protecting their own activities rather than delegating and empowering local organizations to work toward SUN Movement objectives
- Governments cutting resources for nutrition for specific groups in a discriminatory way.
- Researchers or teachers promoting the financial interests of their funders rather than maintaining academic objectivity
- Businesses promoting products that are harmful or over-priced for reasonable access to intended customers
- Business providing poor quality complementary feeding options or engaging in risky production processes
- Government officials, civil society workers, or business representatives diverting SUN Movement and other nutrition focused assets for personal use

How conflict of interest operates in the UN system

Different parts of the United Nations have adopted policies for relations with different global actors, including policies to guide the interpretation of conflict of interest as it applies to these diverse stakeholders. These policies are useful to review for their applicability to relations among diverse stakeholders in the Scaling Up Nutrition Movement.

Although governments are sovereign states with the leading responsibility for creating the political framework for scaling up nutrition in their countries, they are also Member States of the United Nations. For that reason, we start here with taking note of the standards applicable to governments and then consider how the UN has developed its relations with other non-state actors in a couple of illustrative multi-stakeholder initiatives before looking at policy in selected UN agencies towards specific non-state stakeholder groups. Specific codes of conduct and principles of engagement are also reviewed in the private sector and among civil society groups. In all instances, the GSO has prepared appendices with illustrative lists.



Conflict of Interest applicable to the Member States

Member States are bound to comply with certain standards under the UN Charter “to promote social progress and better standards of life in larger freedom”. Most importantly, the International Covenant on Economic, Social and Cultural Rights includes a commitment for the “progressive realization” of an “adequate standard of living, adequate food, clothing and housing” and for all people to be “free from hunger” by improving methods of production, conservation and distribution of food, dissemination of principles of nutrition and developing an agrarian system.

The Human Rights Council is where the UN oversees the extent to which governments are complying with the progressive realization of the right to adequate food. The system of Universal Periodic Review of all member states regarding their compliance with all human rights standards includes assessments of how governments are implementing their human rights obligations, including this provision on the progressive realization of the right to adequate food. Recent Universal Periodic Reviews of several countries have included an assessment of this provision.

Governments are also, as noted above, sovereign states with their own legal jurisprudence on conflict of interest. Some form of Codes of Conduct related to Conflict of Interest have been established by most but not all SUN Movement countries. The focus and nature of codes established by individual countries varies greatly, with some adopting codes for all civil servants, and others for specific roles and functions, such as members of parliament or election officials. Many countries have multiple codes of conduct, guidelines, or principles of engagement. While these codes tend to emphasize the circumstances for managing individual conflicts of interest as opposed to institutional conflicts of interest, they are useful to include here as important reference points for all stakeholders operating at the national level.

UN-Sponsored Multi-Stakeholder Arrangements

There are a variety of multi-stakeholder initiatives where the UN facilitates a plurality of constituencies. For example, Every Woman Every Child was launched by Secretary-General Ban Ki-moon in September 2010 to mobilize \$40 billion for accelerating progress on achieving the global targets for the Millennium Development Goals on maternal, infant and child health. The *Global Strategy for Women’s and Children’s Health* is a “roadmap” for enhancing momentum towards the health MDGs. The targeted Key principles underpinning the work are partnership, independence, transparency, credibility and efficiency. As facilitator of the Global Strategy, the Partnership for Maternal, Newborn and Child Health provides the platform on which all the key stakeholders collaborate in these processes. It adopted specific policy recommendations for guidance on conflict of interest with the private sector, but the Board of the Partnership agreed that the conflict of interest policy should apply to all stakeholders and not just the private sector. The policy includes





detailed assessments for strategic alignment with the Partnership, clear value added, independence and impartiality, no endorsement and no exclusivity, and transparency.

The GAVI Alliance is another example of a highly successful multi-stakeholder partnership. The GAVI Alliance works with developing country governments, which determine their needs and agree to a proportion of cost-sharing in order to receive additional coordinated financial support for strengthening their health and immunization systems and for vaccine purchases. The GAVI Alliance has an evolving network of constituencies, recognizing the importance of representatives from these constituencies having both a duty to act in line with the GAVI mission but also a duty not to act in a way that is contrary to their own organizations. To implement this balancing approach, the GAVI Board has a well developed policy on conflict of interest and a parallel policy on ethics. The policies rest on the importance of managing reputational risk for GAVI, given its multi-stakeholder membership. They also distinguish between organizational and financial/personal interests of covered officials, but they lay out a common set of rules on employment, donations, gifts and procurements or contracts and a duty to report.

The UN Network for the SUN Movement

Some UN agencies have developed or are developing their own policies that build on the UN-wide policies defining principles and conflict of interest guidance for relations with non-state actors. Of particular interest to the SUN Movement are the policies of UNICEF, FAO and WHO. UNICEF policies are well advanced regarding a risk management approach to multiple categories of partnerships. The FAO Council has recently approved two new distinct policies for relations with civil society and the private sector. At its most recent meeting on 29 to 30 May 2013, the WHO Executive Board has authorized a consultation process for developing its own dual approach to NGOs and the private sector. As with the multi-stakeholder initiatives, these sources are also useful for gathering possible elements for a template to develop guidance on conflict of interest in the SUN Movement.

The United Nations Global Compact and the Human Rights Council

The UN Global Compact, established in 2001, is the main illustration of the framework that is UN-wide for defining the partnering relationship with the private sector. In 2009, the UN General Assembly passed a resolution laying out the Guidelines on Cooperation between the United Nations and the Business Sector that incorporated this framework and further defined the official policies for UN relations with the private sector.

Another important source is the Guiding Principles on Business and Human Rights adopted by the UN Human Rights Council in June 2011. The Guidelines are based on the three pillars of the duty of states to protect human rights, the duty of business to respect human rights and the need for suitable remedies where human rights have been violated by business. The Global Compact has endorsed the Guiding Principles as they apply to the human rights principles in the Global Compact.





Emphasis is on new thinking about the responsibility of business to respect human rights through a comprehensive due diligence approach throughout their business operations.

Examples from the Private Sector and Conflict of Interest

One should observe that the SUN Business Network has developed its own approach to addressing conflict of interest. In addition to the influence of the Global Compact and the Guiding Principles on Business and Human Rights as multi-sectoral approaches to business responsibility, the SUN Business Network offers a comingling of traditional conflict of interest policies with social responsibility into a Strategic and Operational Plan for the SUN Business Network.

As a co-facilitator of the SUN Business Network, GAIN is another place to look at conflict of interest and its links to social responsibility. GAIN has a set of Engagement Principles that includes examples of conflict of interest that are fairly traditional, such as the misrepresentation of research information and sources of funding. It goes on to state that “The private sector can and should produce goods that reach communities in need and help improve the nutrition of the most vulnerable.” Individual companies have also joined with others in various CSR initiatives and have developed their own ethics policies addressing conflict of interest.

Civil Society Networks and Conflict of Interest

Under UN Secretary-General Kofi Annan, there were a few efforts around 2004 to 2006 to define new terms for UN relations with NGOs, including a framework for accountability. While policies did change to open up many of the deliberative and operational processes of the UN to include NGOs and/or various categories of civil society, the proposals for establishing accountability policies for non-state actors did not receive enough support from the governments. As a result, some of the leading global NGO networks determined that voluntary accountability standards were needed. The most significant of these is the INGO Accountability Charter, but there are also others that have been developed. In addition to these multi-NGO accountability standards, the policies adopted by specific NGOs that are active in the SUN Movement are useful to serve as guides for what might be included in a SUN Movement guidance note on conflict of interest.

Assessing conflict of interest issues for the SUN Movement from several perspectives

In the commentary above, it has been discussed that there are many approaches to multi-stakeholder partnering and policies to define and manage conflicts of interests among the stakeholders. The challenge for the GSO is to facilitate a dialogue on developing a guidance note on conflict of interest within the context of the Principles of Engagement for the SUN Movement and applicable to its various stakeholders. This is to be done through a series of consultation sessions.





The approaches that have been reviewed in this scoping exercise need to be linked to the circumstances of the SUN Movement. There are varying perspectives that need to be addressed.

The perspective that engagement is essential, effective and constructive

Some participants may start from the premise that engagement of all stakeholders is essential and that it can be both effective and constructive, and that engagement should include private sector as well as civil society groups of varying types. Pooling of resources, complementary skills and experiences are seen to offer the potential for enhanced efficiency and coordinated action.

The Ideological perspective that views multi-stakeholder engagement as inevitably damaging

Others have concluded that their own experiences are not compatible with inclusive partnering. A particularly significant example can be seen in the tensions regarding the policy strongly affirmed by the WHO and others in the UN system that exclusive breastfeeding for the first 6 months of an infant's life and only complementary feeding with breastfeeding beyond that for a fixed additional period of the child's life, in contrast to the interests of those who produce and market infant formula. However, there are others in the business world who oppose the idea of ignoring business obligations or undercutting their competitive edge.

A middle and ambivalent perspective, not wishing to see multistakeholder participation as damaging, but still wary of an open engagement process.

Internal debates have been mentioned as ongoing in many civil society organizations. Some members do not trust governments or the private sector to be reliable in the long run and fear being co-opted and then deserted. Others question the evidence on enhanced efficiency, especially where the cooperation is directed to something like the distribution of complementary processed foods where locally produced natural foods should be given a priority. Governments themselves might not be comfortable with private sector interests of multinational companies or the religious or cultural preferences of various civil society groups.

Possible Elements for a Template for Guidance on Conflict of Interest in the SUN Movement

All partnerships will have risks and this process is meant to not only anticipate risk in order to prevent it, but also to manage risk, rather than to avoid it. Our objective is to harness partnering together at the level of a common goal, with an inclusive and open dialogue on the issues that need to be addressed for managing conflicts of interest in the SUN Movement. The first consultation session on 13 June 2013 may wish to explore case studies or hypothetical examples describing the challenges to stakeholder cooperation in the SUN Movement and then consider the possible



elements for a template to develop a guidance note on conflict of interest within the context of the SUN Principles of Engagement. Keeping in mind the seven Principles of Engagement for the SUN Movement:

- Be transparent about impact
- Be inclusive
- Be rights-based
- Be willing to negotiate
- Be mutually accountable
- Be cost-effective
- Be continuously communicative

The following are some possible elements to consider for **developing a template**:

- Definition of individual and organizational conflicts of interest;
- Disclosure of all actual, perceived or potential conflicts of interest;
- Alignment and compliance with UN guidelines and international agreements;
- Conformity with the SUN Movement's mission, mandate, objectives and work programme;
- SUN Movement goals take precedence over interests of any individual organization or group;
- Common objectives, mutual benefits and added value;
- Due diligence to address:
 - Potential for interference with standards or norms
 - Active/affirmative advocacy of common objectives
- Assessment of business or development opportunities;
- Prospects for provision of goods or services;
- Expectations from commercial or other sector for any public recognition;
- Non-exclusivity with no preferential treatment, unfair advantage or endorsement for any product or entity;
- No limitation for negotiating similar arrangements with other partners;
- No special consideration in SUN Movement recruitment, procurement or contracting procedure or giving the appearance of any such favourable treatment;
- Neutrality and integrity:
 - Explicit declarations of interests for policy, normative, knowledge production and dissemination work included in the partnership agreement;
- Accountability of all parties with clear and agreed responsibilities;
- Transparency on all relevant organizational, personal/financial interests;
- Transparency on agreed activities and reporting on their progress;
- Sustainability of activities to reduce undernutrition;
- Outcomes oriented to measurable results;



- Optimum use of each partner's resources;
- A mutually agreed process for the monitoring and evaluation of participating groups;
- Trust based on equity, mutual benefit and transparency – shared decision-making and agreement among participants as equals
- Due diligence in risk assessment
- Scientific credibility and innovation: Partnership activities should be defensible in terms of objective scientific judgment. The SUN Movement may need to further develop this principle to ensure that scientific credibility is protected.
- Mechanism for addressing concerns and potential disputes
- Shared values and principles on specific issues
 - Human rights, labour, environment and anti-corruption – the basic Global Compact principles
 - Gender equality
 - Corporate social responsibility – positive evidence of voluntary commitments by the private sector partner to engage affirmatively in the advancement of basic human rights

Conclusion

This executive summary has given highlights of the full report of the scoping exercise on conflict of interest definitions, an overview of each stakeholder group and how conflict of interest might arise among each group and how conflict of interest is actually being interpreted within the UN system for each of these stakeholder groups as well as several illustrative multi-stakeholder settings. Specific stakeholder initiatives dealing with conflict of interest have also been covered, followed by an assessment of divergent stakeholder interests and their implications for going forward. Each of these sections is more fully developed in the research paper. Further supplements are provided in the form of appendices listing and briefly summarizing illustrative codes of conduct covering ethics and conflicts of interest.

For ease of reference, this executive summary does include the full list of possible elements from which participants in the first consultation event on 13 June 2013 will be invited to develop a template for drafting a guidance note on conflict of interest for the SUN Movement. This first event will be an opportunity for participants to explore hypothetical cases in an interactive “café politique” format and to discuss the various elements for a template to guide the preparation of a guidance note. This will be followed by a second consultation event on 25 July 2013 to review a first draft of a guidance for conflict of interest in the context of the SUN Movement and its Principles of Engagement. A third consultation event on 16 October 2013 will aim to finalize the guidance note. In 2014, the GSO will facilitate a series of “enhanced learning exercises” to test the usefulness of the guidance note.

