Working Paper GSO-SUN-4

First Consultation on Conflict of Interest
in the Scaling Up Nutrition (SUN) Movement

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Introduction

On 13 June 2013, the Global Social Observatory (GSO) hosted the first of a series of three consultations, the results of which will be used to draft a Guidance Note on conflict of interest (COI) for the Scaling Up Nutrition (SUN) Movement. Participants were invited through nominations from the five SUN Movement Networks: Civil Society, Donors, UN, Business, and Governments. The consultation featured round table participatory discussions in the form of interactive "*Café Politiques*" on selected questions relating to COI. Participants rotated in small groups among three tables where they spent approximately 20 minutes at each rotation. There was a GSO facilitator at each table. For Round One, participants discussed aspects of real, perceived and potential COI (3 rotations). In Round 2, participants rotated among the tables to discuss three different case studies. The discussions on the case studies produced a lot of material. For Session 3, participants stayed with one table and engaged in a facilitated discussion on potential elements that could be included in the guidance note on COI. What follows is a summary of the opening plenary, the three *café politique* sessions, and a closing plenary. The GSO will incorporate the results from this consultation in the preparation of a template for the second consultation event on 25 July.

Morning Plenary

Katherine Hagen, the GSO Project Director, welcomed the participants to the beginning of an extended journey. She explained that the GSO has received a grant from the Bill and Melinda Gates Foundation to provide a neutral and open space for this journey, a space for inclusive and participatory dialogue in search of a consensus guidance note on COI. The participants should see themselves as the core group for launching the journey, to be joined by others as they travel forward together with the goal of reaching the final destination with a guidance note, a map, for handling COI within the SUN Movement. At this preliminary consultation, participants were being invited to explore what is meant by COI, look at case studies to see how COI might be addressed and identify the elements for a template on COI guidance. Participants will receive a draft of a template drawn from their contributions today and will reconvene on 25 July to revise this draft. This will be followed by a third consultation on 16 October to finalize the guidance note. Katherine encouraged all participants to engage in the continuing consultations. Katherine also referred to an executive summary of a background paper on existing COI policies and practices that all participants had received in advance of the first consultation event. The full background paper has been posted on the GSO website, and the paper will be treated as a fluid document integrating additional information on COI practices as the project progresses.

Following the introduction of participants, Katherine invited David Nabarro, the Special Representative of the Secretary General on Food Security and Nutrition and the head of the SUN Secretariat to present a short background on how the SUN Movement was initiated at the High-Level Summit in September 2010 and an update on the growing membership of the SUN Movement of 40 countries to date and soon to reach 50. He emphasized that the SUN Movement brings many stakeholder groups together, with national governments at the centre. Conflicts over policy are inevitable in any multi-stakeholder partnership, and the challenge is to understand where this becomes a COI. This is why guidance is needed for all stakeholders in the Movement.

The opening plenary also included a brief presentation from Francesco Branca, Director of WHO's Department of Nutrition for Health and Development and the Executive Secretary of the UN System Standing Committee on Nutrition (UNSCN). Dr Branca welcomed the initiative of the SUN Movement to organize this consultation process on COI. As Dr Branca is also the UNSCN Executive Secretary, he informed participants that the UNSCN had published end of 2011, the SCN News 39 publication on Nutrition and Business - How to engage aiming to contribute to the much needed discussion on engagement with private entities. Dr Branca also acknowledged that all nutrition stakeholders face the risk of COI. Dr Branca informed participants that the WHA of 2012 had endorsed a resolution asking WHO "to develop risk assessment, disclosure and management tools to safeguard against possible COI in policy development and implementation of nutrition programmes consistent with WHO's overall policy and practice" as laid out in the 2012 World Health Assembly Resolution WHA 65.6. He appreciated the outreach by the GSO for an inclusive process regarding COI in the SUN Movement and reiterated that the WHO is here to learn and listen. Dr Branca mentioned that WHO's governance reform includes looking at WHO's engagement with non-state actors and had identified four principles applicable to all interactions: 1) no decision-making privileges of engagment with WHO and UNICEF; 2) development of norms, standards, policies and strategies based on evidence and protected from influence from vested interests; 3) transparency is key; and 4) management of real or perceived COI. Katherine also recognized Daniel Lopez-Acuna who is working on an overall WHO policy for relations with civil society and the private sector. Daniel explained that he would be participating throughout the day's *café politique* exercises in order to learn about COI practices and experiences.

Any outcome of this consultation event, will not be reflective of official positions as it relates to either WHO or UNICEF. Flexibility is needed in order to adapt to national standards, but recognize the complementary point about the importance of having international normative guidance and of following universal principles.

Round One: Discussion on Real, Perceived and Potential Conflict of Interest

In this first *café politique* session, participants rotated around three tables to discuss what real, perceived, and potential COI means to them, what each looks like and shared examples from their experiences.

Real Conflict of Interest

In general, all agreed that *real* COI occurs when the secondary interests of a party take precedence over the primary interests of a country being able to achieve its SUN Movement-related goals. It also can occur when personal interests override the collective interest and when circumstances create a risk of one's judgment being affected by a third party. However, it was recognized that it is normal for stakeholders to have secondary interests as long as they don't displace the primary interests of the project. Discussants agreed that all parties, including governments, have the potential for real COI to occur and that there will be instances where real COI is deemed to exist by some, while others might view the situation merely as "divergence of policies."

Potential Conflict of Interest

Participants clarified that *potential* COI may not be happening at the moment, but that there was at least a reasonable possibility that it could occur in the future. For example, a real COI may not exist in the beginning, but may arise over time as circumstances, situations and engagement of various actors evolve to raise or activate those secondary interests. COI is not a static issue. It can also vary depending on the sector or the activity. In a multi-stakeholder setting, there usually are different primary interests for each stakeholder even as they all are participating with a common overall objective. The key is to openly identify these interests and perhaps also to assess the degree of risk to the project for each of these interests.

Participants also observed that the degree of risk is an important factor in assessing and managing COI. Potential COI may be associated with marginal risks that won't affect the project; those that might affect the project but are manageable; those that are concerning and advice must be sought, and those that will cause damage.

Perceived Conflict of Interest

Perceived COI may or may not have basis in reality. For perceived COI, someone can think there is a COI, while another doesn't. Perceived COI may be based on the personal lens through which another person views the situation, and often depends on the context. An outsider looking in at a situation without having enough information might also perceive a COI. It may even occur within an organization when there is not adequate transparency, information, or communication or when there is no procedure for separating the perceived COI from the functioning of the organization. There is also the risk that someone can knowingly put out disinformation about others, leading to perceived COI.

We also need to take into account that some participants may believe that any time a private entity is involved in policy decisions this may be perceived by others as a COI.   In addition, some people don't understand why intergovernmental organizations are involved with the SUN Business Network, and may perceive this as a COI. However, participants observed that the inherent potential for COI with other organizations such as NGOs, is not as clear-cut. It is also less clear-cut with business-interest NGOs. Participants noted that everyone can ultimately be perceived as having a COI, if only through the fact that they earn a salary from work related to the SUN Movement that means they want to protect their salary.

Possible Examples of Conflict of Interest in the SUN Movement

Discussants noted some examples of real, perceived, or potential COI:

- Government agencies with potentially conflicting policies (e.g., promoting cultivation of high-income export crops vs. nutritious but lower income crops for domestic consumption). This might also be considered by some as a "divergence of policies."
- Private sector engagement in a SUN country platform to create markets for its products
- NGOs advocating for specific government policies that could benefit their organization
- Funders pushing a specific agenda regardless of the potential benefit to the SUN country.
- Social entrepreneurs advocating a product that enhances their reputation/revenue stream.

Any form of COI, even perceived, can be very damaging and must be managed well. One NGO shared an example where there was a perceived COI concerning someone chosen as head of country office. Although the NGO determined there was no real COI, they determined that the perception was so strong that it would ultimately interfere with the goals of the NGO. Based on this, the person was not given this new posting.

Round Two: Case Studies of Perceived, Actual and Potential Conflict of Interest

Participants discussed three hypothetical case studies from private sector, civil society and government perspectives in order to explore issues related to COI. Discussions focused on the particulars of each case, primarily to identify specific mechanisms that can be put in place to determine whether COI actually exists, and if so, how to manage it.

The Private Sector Perspective

This case discussed the relationships between multi-national and local industries and government, as well as the role of corporate foundations and grant making to NGOs. Participants found it hard to discern where there was real COI due to the many layers of partnerships and interconnectedness among stakeholders but agreed that there certainly existed numerous perceived and potential COI. More information would be needed to draw any conclusions, especially where there might be divergent interests but not necessarily conflicting ones. The participants further agreed that COI certainly did exist under certain circumstances and alluded to several real-life examples to illustrate this. Disclosure and external evaluation of interests might also be useful for addressing these complexities.

In addition, participants raised the issue of power dynamics when there are numerous stakeholders with different levels of perceived and real power. Participants suggested that a mechanism of "power and process" mapping could possibly illuminate potential COI. This interconnection of various stakeholders with different levels of power or even of capabilities raised the related issue of accountability. How and who was responsible for holding partners accountable with such widespread and complex partnerships? Furthermore, discussants noted that attention is required on the question of to what extent might the relationship between the SUN Movement itself and individual countries lead to COI.

The Government Perspective

The second case study addressed issues of donor conditionality and the multiple roles of government officials with linkages to academic institutions and NGOs as well as the private sector. Participants agreed that many of these examples were related to the issue of diverging policies rather than COI. Generally, the sentiment among participants was that any COI mechanism needs to differentiate between COI and "divergence" of interest, policies, priorities, and agendas. For example, the case study involved a donor requiring the purchase of food aid from its own country as a condition of the grant. Participants determined that this might be considered a COI or merely a "divergence of policies."   When a government offers funds with "strings attached" this also exemplifies a power relationship, and puts recipient governments in a "take it or leave it" situation. Participants noted the importance of transparency and reporting linkages as a means to manage COI.

Additional topics that were raised during the discussions included consideration of whether a conflict actually exists if there is no harm being done to overall government objectives. For example, in situation where an individual works for the government but is also a consultant to an NGO that works on similar issues, participants stated that there might not actually be a COI, even though some might perceive there to be a risk. Participants also discussed the case where a professor who was invited to a conference on hunger also sits on the board of an NGO that distributes emergency food relief. Again, it was agreed that there is at least a risk of COI, but this can be minimized if interests are declared in advance and if a wide range of opinions are invited on the conference programme. Overall, the participants noted that COI is often an issue of perception and is very much dependent on the "motivations" of the stakeholders involved in a given situation.

The NGO Perspective

The final case study involved NGO interaction among partners or prospective partners and the extent to which funding sources influence NGOs and competition among NGOs. This was illustrated in the hypothetical case whereby two NGOs threatened to withdraw from a SUN country platform due to two different issues related to private sector engagement. Participants noted that while the issue was complex, this behaviour could be seen to be inconsistent with the SUN Principles of Engagement to "be inclusive." The discussion centred on how the SUN Movement could monitor

stakeholder behaviours, and whether this should/could be done on a case by case basis at the national level or whether this needed a frame of reference at the international level. The participants noted that it was hard to determine where the COI was and whether it even existed in this case.

Furthermore, the issue of how SUN partners should balance their own views about COI against the goals of the government and the Movement. This led once again to a discussion on diverging interests versus COI and what mechanisms can be put in place to address this.

Lessons Learned

After completion of the rotations between all three case studies, there was a general agreement among participants that there needs to be mechanisms in place to distinguish between COI and diverging interest within the various partnerships. Participants also realized that the cases had a range of complexities and layers, which made the distinction between real, perceived and potential COI rather difficult.

There was also acknowledgement that most cases of COI need to be interpreted and implemented at the local/national level and not dictated by a supra-national set of policies and procedures. While guidance on basic principles of engagement was desirable, there needed to be flexibility to adapt the guidance to local circumstances.   Further, countries need to have the capacity to <u>manage</u> the potential risk posed by COI – which will always exist – but that trying to <u>eliminate</u> all risk will lead to inaction, if not paralysis. Responsibility resides with the country governments to ensure there is no unfair advantage given or undue policy influence allowed to specific stakeholders within or outside of the SUN platform.

Finally, the case studies brought forward the following additional key elements regarding the mechanisms/processes to address COI issues:

- What is the COI process within a country? How is potential/perceived/real COI evaluated and managed?
- How to develop and implement a transparency process, potentially including "disclosure of interests" that is relevant for all stakeholders including governments? How specific should it be?
- Is "recusal" a necessary or useful component of the process, or does it risk removing key voices from important discussions and decisions?

- What is the role of the SUN Movement in helping countries develop the institutional capacity to address COI issues? What does that capacity building role look like?

Round 3: Tools and Methods for Preventing, Addressing and Monitoring

Developing a Preliminary Checklist

The groups agreed that several tools and mechanisms should be considered as building blocks for a COI guidance note:

- Expansion of Principles of Engagement to incorporate risk assessment
- Transparency/full disclosure/disclosure statements
- An index of commitments or a system of public documentation of COI
- Encourage/assist countries in developing policies, legislation and sustainable mechanisms to manage COI (training and capacity development)
- Independent monitoring
- Ethics training
- Dialogues and discussions to identify COI among stakeholders
- Checklist of preventive steps

The participants emphasized that these elements need to be adaptable to fit the needs of various stakeholders/specific countries and their perspective contexts. Participants also mentioned a need to keep rules and guidelines general enough so as not to exclude local companies or civil society actors from joining the SUN Movement.

Models, Matrixes and Risk Assessment Mechanisms

Participants felt it was important to utilize existing mechanisms, processes and resources of each country to evaluate or assess COI. Again, models and evidence-based practices should be used as a foundation for developing evaluation or assessment processes within countries. Monitoring processes were also identified as important components of a COI policy, along with ensuring that COI disputes were dealt with in a timely and equitable manner.

Participants also discussed the use of a matrix to identify and evaluate COI. Clearly defined criteria of what COI looks like in each specific organization would be an important indicator for COI. Discussants also noted that publicly available documentation of COI was important in ensuring transparency in the identification and evaluation process. It was recognized that an overarching COI guidance note may not be able to address all the COIs in the Movement, but attempts should be made to create policies to identify and evaluate COIs among the various stakeholders within each specific context, and to create a forum for discussion.

Participants identified risk assessment as a key component of addressing COI. It was discussed that any assessment mechanism would likely be handled at the national level, with the SUN Movement providing guidelines and tools for countries and possibly playing a monitoring role.. Recommendations were given for independent and external-monitoring agencies in effectively assessing COIs.

Participants emphasized that COIs not handled properly could pose serious risks to the SUN Movement, and stressed accountability mechanisms to reduce these risks. The Movement also needs mechanisms to hold partners accountable, such as dis-inviting members and/or having them recluse themselves from certain decision-making processes. Local examples of COI could also be brought into international discussions to help deal with power dynamics and reduce imbalances.

Broader Issues

A number of broader issues need to be considered relating to the identification and management of COI and the role of SUN in that process, including:

- No "one-size-fits-all" COI process; the guidance note should be aspirational and encouraging, without being overly prescriptive.
- Safeguards can be put in place, but often it comes down to trust and integrity.
- SUN Movement could help governments develop capacity to ensure that they are not overly influenced by powerful stakeholders.
- It is also important to ensure that the SUN Movement does not come across as "paternalistic" which can be seen as COI in itself.
- SUN Movement should encourage countries to convene all stakeholders in discussions of defining real, perceived and potential COI in their own contexts and keep them engaged throughout the COI policy-making process.

Afternoon Plenary

The three facilitators reported back on the *café politique* sessions to the full group, and their reports are reflected in the above summaries of each session. In this closing plenary, participants were impressed with how much was accomplished during the discussions and the active involvement by all. Katherine then invited David Nabarro to reflect on the day's results. He agreed that COI is very complex and appreciated that the issues are less "black and white" than they appeared at the beginning. With so many stakeholders in the SUN Movement, he observed, there are bound to be differences of opinion as well as COI, and it is important to distinguish between these. We want to ensure that we do no harm in either the short-term or the long-term. So the focus in this consultation process needs to be on COI where there is the potential for harm, rather than where there are policy differences. Second, he noted that concerns were raised about imbalances of power and agreed that these need to be recognized and taken into account. This does mean that at a minimum, one needs to ensure transparency. On a third point, David observed that the SUN Movement should ultimately be open to all responsible actors as there is more to be gained by being inclusive.   We need to engage with parties even when there is divergence of opinions, but we also need to address such issues as how to deal with "violators."   Finally, it is good that participants also recognized that the management of COI is largely at the country level, so it is important to understand the policies and processes that national governments have in place and the SUN Movement should support countries by providing tools/guidelines and supporting capacity building for management of COI..

Additional comments from participants included interest in clarity regarding what is meant by "improved nutrition" and "nutrition-sensitive policies", taking advantage of and drawing upon the experiences of other organizations who have started a dialogue on COI (such as the Standing Committee on Nutrition); and the need for country-level participants in the GSO consultation process. On this latter point, it was understood that timing and unanticipated scheduling conflicts with other major events in London and Washington, DC were limiting factors for arranging national government and civil society participation for this occasion. The UN Network will organize a meeting end of August and country representatives of SUN countries will be invited. The UNSCN offered that a product of this consultation could be shared at that meeting. Katherine assured the group that steps were in place to ensure greater country participation at the next consultation.   She also confirmed that GSO will take on the next phase of work towards a template with potential elements for a COI Guidance Note, based on the outcome of this first consultation event. This will be shared with participants in advance of the next consultation on 25 July 2013.