

People's Health Movement (PHM) and Democratising Global Health (DGH) Comment on the Decisions of the Special Session of the Executive Board of the WHO in November 2011

WHO is in crisis. It is a crisis of funding, of governance and of management. These crises contribute to and derive from a further crisis: a crisis of legitimacy, a crisis of trust. Meanwhile the world faces a global health crisis; with widening economic inequalities matched by a widening health gap. The recovery of WHO and a return to its constitutional mandate are critically necessary if the global health crisis is to be addressed. A thorough analysis of the nature and origins of WHO's crises is urgently needed as a condition for successful reform.

WHO Reform has been the subject of intense discussion and debate since early 2010. Following decisions taken at the May 2011 meeting of the Executive Board (EB) of the WHO, a special session of the EB was held from November 1-3, 2011. The [agenda of the Special Session of the Executive Board \(EBSS\)](#) was structured around the chapters of the Director-General's report '[Reforms for a Healthy Future](#)' (of October 15) with three agenda items corresponding to the three chapters of her paper: programs and priority setting, governance and management. This comment on the [Decisions of the EBSS](#) has been developed through the People's Health Movement (PHM) and the wider Democratising Global Health (DGH) constituency and reflects the concerns of the public interest civil society organisations listed below.

A number of positive features of the EBSS Decisions offer some promise and these we highlight below. However, some areas have not been sufficiently addressed:

- The WHO reform process is an important opportunity for the organization to rethink and reassert itself as the leading actor in global health, but **the rationale for the reform has yet to be established, based on a solid, in-depth situation analysis**. The reform was introduced through considerations on financial difficulties and prospects for future financing of the agency. As of today, not one single document has been made available by the Secretariat on the root causes of the current situation associated with WHO's financing, i.e. present constraints, limitations of the system, opportunities for potential savings and ideas for future sustainable funding. Such financing challenge represents both a symptom and a consequence of the crisis in global health, and its multilateral governance.
- **WHO's financial crisis has been underplayed in these Decisions**. The regime of earmarked funding is destroying WHO. Member states must return to adequate untied funding of WHO including an increase in assessed contributions and the conversion of tied donor funds into untied donations. The Secretariat's proposal for 'collective financing' appears to carry a high risk of entrenching donor control of the Organisation's agenda.
- **The organisational structure of WHO** – characterised by wide autonomy for clusters and regions and neglect of country offices - **must be reformed** so that the resources of WHO can be most effectively harnessed to address the global health crisis.
- **The accountability of WHO** – the Secretariat, the Governing Bodies and the member states - **must be strengthened**. If WHO is to exercise the leadership and regulatory role envisaged in its Constitution, it will need to recover the trust of the people it is committed to serve. Critical to this recovery of trust will be a more open and collaborative engagement with public interest civil society, at the country, regional and global levels.
- **The global health crisis is one face of a wider crisis affecting the global economy, food security, global warming and development**. The roots of this wider crisis are deeply embedded in the contemporary regime of economic globalisation including the ascendancy of neoliberal ideology and the unregulated self-interest of transnational corporations. Health is a right and not a commodity; WHO must confront the challenges to health arising in this environment.

Programs and priority setting

We welcome the commitment of the EB to ensuring that WHO priority setting is member state-driven. In addition, we urge that decisions about priority setting start with [Article 2 of WHO's constitution](#), which provides the ultimate mandate regarding WHO's role. The paper requested from the Secretariat on priority setting should include a detailed analysis of the extent to which the current programs and priorities are directed to the realization of WHO's constitutional mission and should identify the programmatic restructures needed to better achieve its constitutional mandate.

We have reservations about the proposal for a formalized priority setting process because of its implications for WHO's work at the country level. Countries face different problems in different circumstances and WHO needs to have a full capacity to address the different needs of countries in relation to all aspects of health development, health security and health systems. We acknowledge the reference to bottom-up as well as top-down prioritisation in the Decisions of the EBSS on this matter. However, the ideal of country-focused priority setting is nullified by the proliferation of vertical disease-focused programs, driven by global public private partnerships (many involving WHO) which distort resource allocation within country offices and within country health systems (where they fragment primary health care programs and can lead to disruptive internal brain-drain).

We warn against the mantra: 'WHO should focus on what it does best'. Its unstated corollary is that as new organisations emerge which do some of the things WHO does, WHO should withdraw. In fact, the proliferation of specialised, vertical and disease-focussed global public private partnerships has significant costs associated with health system fragmentation and donor incoordination. It is imperative that WHO maintains an informed oversight across the breadth of its constitutional mandate.

We recognise that there are serious imbalances in the allocation of staff and expenditures across WHO's work program. The rational use of medicines is a good example of a priority area that continues to be neglected. It is also a good example of the way in which donor-driven priority setting can distort the Organisation's agenda. The success of any new mechanisms for prioritisation will depend upon addressing the distortions of resource allocation arising from tied donor funding. The Secretariat's proposals for 'collective financing' (discussed further below) appear to carry a serious risk of entrenching donor-driven priority setting. The only financing strategy that would be consistent with a member state driven WHO, committed to its constitutional mandate, would demand a substantial increase in assessed contributions and untied contributions.

Governance

We support the need for tighter and more disciplined chairing of discussions at the EB and Assembly. We support also the commitment to provide more assistance as needed for member states to prepare for governing body meetings.

We note the decision to expand the role of PBAC rather than creating new bodies or requiring additional meetings. However, with this expanded role should come more transparency and the opening up of PBAC meetings to observers.

We have reservations about the EB exercising a gatekeeper role with respect to resolutions coming to the Assembly because of the potential for restricting the democratic spirit of the Organisation. We urge member states to watch closely how this role is exercised.

The closer integration of regional committees into the work of the EB and the Assembly has a clear potential to improve coherence and accountability across the organization, and it is welcome in this regard. Regional committees and regional directorates should be accountable through the global governing bodies for their use of resources, ways of working and outcomes. There is a need for more detailed benchmarking regarding regional practice among the RCs and regional directorates. This may not necessarily lead to standardisation or 'harmonisation', but should be directed towards enhanced accountability, efficiency and effectiveness.

The decision regarding strengthened collaboration with 'other stakeholders' is a source of concern. The continued reluctance of the Secretariat and governing bodies to acknowledge the difference between public

interest NGOs and business interest NGOs is reflected in the ambiguous use of the term 'other stakeholders'. The lobbying objectives of industry peak bodies (i.e. the commercial advantage of their members) are very different from those of public interest NGOs including many whose objectives are closely aligned with the mandate of WHO. The further analysis commissioned from the Secretariat will have to clearly address these issues.

The WHO reform process offers a good opportunity for member states to review, revise and re-launch the 2001 Civil Society Initiative with a view to deepening dialogue and cooperation with public interest NGOs at all levels of WHO's operations; country and regional as well as headquarters. The criteria and processes for organisations entering into official relations with the WHO should also be reviewed including a clear distinction between public interest NGOs and business-interest NGOs.

The EBSS Decisions spell out a number of principles concerning WHO role in global governance for health. These include: affirmation of WHO as an intergovernmental body, respect for evidence, protection from influence by vested interests and building on existing mechanisms. If realised in practice, they will increase trust in the organization and contribute to restoring WHO's authority and legitimacy.

The Decisions also include affirmation of WHO's responsibility to engage with and, where appropriate, take a leadership role across the UN system and with other international agencies "on issues that impact health". We look forward to WHO exercising a stronger leadership role with respect to health development globally. We point out at the same time that leadership depends on trust and respect to a large degree. These should be key outcomes of the current reform program.

The affirmation of WHO's responsibilities regarding "decisions which impact health" is stronger than the reference to "policy and priority setting for health" in the DG's October paper (EBSS/2/2). The new wording clearly encompasses the health impacts of trade and finance, as well as the activities of transnational corporations (TNCs) that are powerful determinants of population health. As previously pointed out, the survey of 'challenges and opportunities' in the DG's October paper overlooked the challenge of regulating TNCs for public policy purposes. This is a major issue for global health governance and should be prioritized. WHO needs to confront directly the governance challenge of regulating the TNCs' impact on health.

In its November Decisions, the EB has commissioned the Secretariat to develop for the January EB meeting further analysis on ways to improve member states' involvement with, and oversight of, partnerships. We take such analysis to refer to the plethora of global public and private partnerships WHO has engaged with in the last decade. We do not agree that responsibility with respect to WHO's partnerships should be given to the Standing Committee on NGOs, as proposed in the October paper. WHO's role in relation to partnerships needs to be regularly reviewed in the Board and in the Assembly as a matter concerning the strategic directions of the Organisation, thus it should not be reduced to bureaucratic protocol.

The NGO Standing Committee is not a strategic body: its accepting business-interest NGOs into official relations with the WHO has already blurred the lines between public-interest and business-interest organizations. Having the same Committee oversee partnerships would further worsen this already bleak scenario. WHO adopted in 2010 a [partnership policy](#). Such policy makes it clear that WHO's participation in partnerships is an issue of strategic direction. The 2010 policy makes no reference to the NGO Standing Committee.

The EB Decisions recognise the need for managing conflicts of interest (COI) more effectively and protecting the normative functions of the Organisation from conflict of interest situations. WHO's agenda must indeed be member state-driven and not distorted by tied funding, including resources provided by organizations with commercial interests. WHO needs a clear policy on *institutional* as well as *personal* conflicts of interest and a formal process for assessing the COI implications of existing and proposed policies, programmes and fundraising activities involving relations with the private sector, including corporations, peak bodies and philanthropies. The safeguards against COI listed by the legal adviser during the EB are grossly inadequate.

Management Reform

We recognize the need for the Secretariat to work on the management issues listed in the EB Decisions. However, very limited guidance has been given with respect to direction and strategy in this field. We urge

the EB to closely monitor these reforms to ensure that they are fully consistent with the broad directions mandated by the Constitution and the member states. We urge the Secretariat to create opportunities for civil society consultation as part of testing and strengthening future proposals for change.

The need for caution – urged by several member states during the EB in relation to the proposal for the ‘strategic relocation’ of staff, resources, programmes and operations – is unquestionable. Strategic relocation, whether directed at improving program delivery or taking advantage of lower infrastructure costs, must generally follow rather than precede the review of organisational priorities and structures. The EB demand for caution in relation to the proposal for an annual “budget re-costing mechanism” to protect against currency fluctuations is a sensible one. This is a difficult area, and as such it requires clarity rather than jargon.

The decisions taken by the EBSS commit to a two-stage evaluation strategy; the formulation of the Decisions paper on this matter requires careful reading in order to well understand the proposed process and related implications. Stage I will comprise a “review of financing, staffing and governance” and provide a “road map” for the second stage of the evaluation, which is to focus on “the coherence between, and functioning of, the Organization’s three levels”. Ideally, stage one should be completed in time for the WHA in May 2012. The DG will ‘identify’ (appoint?) the appropriate entity for the first stage of the evaluation and suggest an approach to the two-stage evaluation (in consultation with the member states, the Joint Inspection Unit, the External Auditor and the Independent Expert Oversight Advisory Committee (IEOAC)). Such proposal will be presented to the EB in January 2012 for consideration. It will bear a lot of weight, both in terms of the entity identified and the approach suggested.

Indeed, developing the road map for the second stage is part of Stage I. The way in which the first phase of the evaluation is undertaken, and by whom, is of utmost importance, since it is the first stage that will condition the scope and the orientation of the second one. The focus of Stage II on the functioning and coherence of the three levels of the Organisation is quite critical to the WHO reform process. That is why transparent criteria for the identification of people in charge of the first stage evaluation are critical. If this is to be a robust independent evaluation, undertaken with due respect for WHO’s constitutional mandate, we urge member states to secure an independent expert evaluation team with a range of backgrounds and expertise in areas of relevance to the work of WHO and the major problems identified so far.

In addition, the Decisions state that “as one input into the reform, this evaluation will proceed in parallel to other aspects of the reform”. This raises serious questions in terms of the quality and impact of the process. From an initial focus on financing mechanisms, the WHO reform discussion has evolved into the much wider canvas now being considered. One consequence of this dynamic has been the illogical sequencing with the implementation of management reforms running in parallel with a formal evaluation. We urge that the EB defer the more problematic reforms, such as formalised priority setting, EB gate-keeping and the proposal for ‘collective financing’, until the results of the evaluation are available.

The DG’s Report (*WHO reforms for a healthy future*, EBSS/2/2) proposed a ‘collective financing approach’ and ‘multi-year framework agreements’ in order to achieve more predictable funding (including longer term predictability). Donors (member states, development banks, foundations, etc) will be invited to a ‘financing dialogue’, with a view to negotiating longer-term commitments and collective agreements regarding who will fund what. Donors will be urged to increase the flexibility of their donations either through untying their donations entirely or tying their donations to higher-level strategic components of the programme budget.

The DG emphasises that the financing dialogue will take place after an inclusive process of member state priority setting after priorities are agreed and cost for, and after the programme budget has been agreed upon. It is implied that this sequencing will protect member states’ sovereignty and reduce donor control of the agenda. However, the act of inviting donors to a conference where they can pick and choose what they will support potentially creates a new and very powerful governing body. It is a very risky strategy.

The EB has not explicitly accepted or rejected ‘collective financing’. Rather, it commissioned the Secretariat to develop “a detailed proposal for mechanisms to increase predictability of financing and flexibility of income, which supports priorities set by member states and report to the Executive Board at its 130th session in January 2012”. In previous discussions of financing, many high-income member states have spoken against increasing assessed contributions on the grounds of their distrust of the efficiency and effectiveness of the WHO. We urge member states to take advantage of the WHO reform process to shape the agency into one

that they would trust. They need to acknowledge that the only financing strategy that would be consistent with a member state-driven WHO, committed to its constitutional mandate, demands a substantial increase in assessed contributions and untied contributions.

It is unfortunate that the urgent need to move to a much higher proportion of completely untied funding, voluntary and assessed contributions, was not acknowledged by the EBSS Decisions. The use by donor countries of other multilateral agencies to channel tied funds to WHO instead of increasing core funding directly is having a very damaging effect on WHO for which these member states should be accountable.

In addition, because of insufficient cost-recovery within programmes financed by voluntary contributions, WHO is obliged to cross-subsidize these costs from an already shrinking core budget. This undermines the autonomy of the organisation in allocating funding according to real priorities (and further promotes a donor-driven agenda).

The word ‘accountability’ is mentioned several times in the DG’s October paper but mainly in terms of WHO’s accountability towards its donors. Accountability is a network function. It includes the accountability of the Secretariat to the member states; of regional committees to the EB and WHA; of country offices to the people of the countries those offices are supposedly serving. It also includes the accountability of member states to each other and to the wider global community. Good governance for health starts at home. The richer member states need to be accountable for their funding policies with respect to WHO, including the damage to WHO consequent on their directing funds for WHO through development banks and tied grants. All countries need to be accountable for their domestic health spending and health development policies and for the contradictions between the policies they support through WHO and policies advanced in other multilateral platforms or in trade agreements. Member states need to be accountable for the quality of their contribution to WHO governing body deliberations, including WHO reform. Ultimately the network of players which constitutes the WHO should be accountable to the people whom WHO is supposed to serve. In many respects, the project of WHO reform is a project of getting these accountabilities right.

Public interest civil society organisations have a significant contribution to make to WHO accountability and it is lamentable that both the WHO Secretariat and member states have shown ambivalence when engaging with civil society around the work of the WHO. Far from undermining the prerogatives of member states or the Secretariat, public interest groups’ watching, analysing, criticising and participating in the public debate on global health enriches the political dialogue and provides member states with the citizens’ view they need to make proper decisions. This contribution needs to be promoted at all levels: national, regional and global.



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