

## Talking Points

### Re: US Position on the Global Code of Practice on the International Recruitment of Health Personnel

Realizing Rights/Global Health and Development, Aspen Institute

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Over the last few years, the magnitude of the global health workforce crisis and its impact on health globally has gained increasing recognition at the global stage.

We are greatly encouraged by the opening sentence in the US response on the Global Code of Practice on the International Recruitment of Health Personnel that points to the fact that all WHO Member States have a “mutual interest” in alleviating the international shortage of health workers and that by “working together” we can achieve progress in this area.

We applaud the United States’ leadership in seeking to address the international shortage of health workers through the commitment to train an additional 140,000 health workers, with particular focus on doctors and nurses. The United States efforts in supporting the necessary human resources for health management systems, information systems, as well as associated retention efforts deserve additional praise.

However, one aspect of international human resources for health --- that of health worker migration as linked to our own reliance on foreign health workers --- continues to be neglected. This neglect not only jeopardizes ‘our’ own investments in global health, but also repeatedly at the national and global level undermines credibility of the global health aid that ‘we’ do provide. Others, including states such as France, Norway, and even Bahrain, are increasingly linking their own reliance on foreign health workers with the human resources for health support they provide.

President Obama’s statement in Ghana last year additionally points to the need to link our own domestic reliance on foreign health workers with the support that we provide towards strengthening health systems. President Obama’s statement reads as follows:

*When children are being killed by a mosquito bite, and mothers are dying in childbirth, then we know that more progress must be made.*

*Yet because of incentives – often provided by donor nations – many African doctors and nurses understandably go overseas, or work for programs that focus on a specific disease. This creates gaps in primary care and basic prevention.*

The Global Code of Practice on the International Recruitment of Health Personnel that is to come before the 63<sup>rd</sup> World Health Assembly is an important step towards acknowledging and tackling an issue that has been raised as a concern by developing countries for the last four decades and will remain so into the foreseeable future.

We recognize that there is much in the draft Code of Practice that requires improvement, including as related to improved consistency in language and definition.

We ask simply that the US support, in a constructive manner, the development of a meaningful ‘Code of Practice’ as opposed to the formulation of simply “Guiding Principles”. Articles five and six of the draft Code of Practice, as well as its reporting procedures, are central to the integrity of the Code of Practice and should not be compromised. Similarly, both the right to health and the freedom of migration are highly relevant to the issue of health worker migration. They should, and indeed can, both be honored.

Finally, the link between domestic reliance on foreign health workers and support for health systems is one without which the Code of Practice loses its purpose. It is important that the United States, like others and as called for by President Obama, begin to link ‘our’ work in supporting the international health workforce with ‘our’ own reliance on foreign health workers.

In the end, the Global Code of Practice on the International Recruitment of Health Personnel is a voluntary instrument. Its adoption, while an important expression of global consensus, will mean little unless the United States, the largest global employer of foreign health workers, supports the process and cause that the Code is attempting to advance. We very much believe that the United States is in a position to do so and to fully take leadership in supporting health systems around the world.

### *Points of Agreement*

- Agree with the US opening statement that WHO Member States have a “mutual interest” in alleviating the international shortage of health workers and that by “working together” that we can achieve progress in this area.
- Agree generally that the WHO Code of Practice text can be improved, including through consistency in language and improved definition, as expressed in our own Memorandum to the WHO Director General.
- **US Point 1:** Endorse inclusion of new Article 6.5 that calls for strengthening health systems in source countries.
  - Particularly appreciate reference to PEPFAR’s mandate to train 140,000 health workers, with a focus on scaling up doctors and nurses.

- **US Point 2:** Agree with the point that nothing in the Code should impinge on the human right to freedom of movement. As such we think that article 3.4 can be shortened.
  - However the right to health component still needs to be captured elsewhere in the text, recognizing that donor incentives can negatively affect progress towards realization of this right.
  
- **US Point 3:** Agree that language can be made more consistent with the voluntary nature of the code, particularly with regard to articles 7 and 8.
  - Caution however that overemphasis of “voluntary” language would dilute the intended impact of the effort –
  - The COP, if adopted, deserves treatment as an important item of reference rather than simply an additional resource; compliance with and implementation of this instrument of reference is important and such language should not be deleted.
  
- **US Point 4:** Agree that Article 11.4 (calling for voluntary financial mechanisms) is unclear and needs improved definition.
  
- **US Point 5:** Agree that human rights should never be balanced but rather should be honored. Language calling for balancing of rights should be amended, particularly as for the most part the two respective rights are not in conflict. Agree also that Member States interests should also be recognized, including recognition of the impact of one failed health system on all others.
  - Article 5.3 should not be deleted; rather it may be modified to specifically refer to those Member States who recruit directly from another member state. The term “active recruitment” requires improved definition.
  - Discussion of Member State “interests” should not take away from identification of rights and responsibilities.
  - The term ethical should be deleted as it gives the instrument moral power. Again, a non-stigmatizing definition of the term could be useful.
  
- **US Point 6:** Recognize and agree with US perspective that the Code does not adequately address the concerns of Member States where recruitment is decentralized and/or done through the private sector. We believe that more narrowly crafted language can address such concerns. No issue with Article 4.7 (no recruitment fees) being deleted.
  - However, do not think that article 6.2 (strengthening educational institutions) should be deleted, as we believe this is an important part of the effort to address the issue at hand and Member States can support such efforts.
  
- **US Point 7:** Agree that voluntary nature of the code could be further stressed with respect to article 8 (data gathering).

- However, do not believe that this should lead to deleting references to periodic reporting as called for in 8.2 and 10.1. Also, WHO role in supporting implementation through the development of guidelines is an important and 10.3 should not be deleted.

### *Areas of Disagreement / Conceptual Way Forward*

- **US Point 2:** If article 3.4 is shortened to emphasize the rights of health workers to leave their country; another articles needs to be added to incorporate the importance of the respecting the right to health in source countries.
  - Way Forward: Potentially stating something to recognition of the fact that donor incentives can negatively affect progress towards realization of the right to health in source nations.
- **US Point 3:** Do not agree that the instrument should be structured as “a set of guiding principles”. The WHA Resolutions, G8 communication, and the Kampala Declaration, all specifically call for the development of a “Code of Practice” rather than of principles or recommendations. Additionally, the COP is seen as by the above documents important part of the effort to address the negative effects of HWM; as such it should serve as an important instrument of reference and not simply an additional resource. Furthermore, language of compliance and implementation is just as important for the code of practice as it would be for a stronger legal instrument and should not be deleted. Similarly, while the Code might perhaps stray too far in article 9.4 to point to the shared responsibility of private actors, this should not result in deletion of the entire article (which also points to the role of Member States with respect to observation and implementation of code articles).
- **US Point 4:** Recruitment of/Reliance on foreign health workers has to be linked to health system strengthening efforts otherwise there is no point of the Code. As such Article 5.2 should not be replaced by new Article 6.5.
  - Way Forward: Incorporate article 6.5 and modify article 5.2 to take into consideration particular US context, and delete the term “net” from benefit (as per EU suggestion).
- **US Point 5:** As mentioned earlier, an additional article on the right to health will be necessary if article 3.4 is shortened to focus simply on the right to freedom of movement. Additionally, article 5.3 is of particular importance for the European context and should not be deleted.
  - Way Forward: New article on the right to health in source countries (linked perhaps to donor incentives); further clarification of article 5.3 to make it more sensitive to US context.

- **US Point 6:** Article 6.2 statement on strengthening educational institutions should not be deleted. It is to be noted that federal funding supports public and private educational programs in the U.S..
  - Way Forward: Linguistic changes can again allay US concerns and capture US specificity.
  
- **US Point 7:** Reference to periodic reporting requirements in 8.2, 10.1 should not be deleted. There will be a need to develop global guidelines with respect to implementation of the Code, as suggested by 10.3 b, WHO is in a good place to do so.
  - Way Forward: Perhaps if data gathering and information sharing is less burdensome this might not be as objectionable. Alternatively the time period for reporting could be made five years (as per EU suggestion).