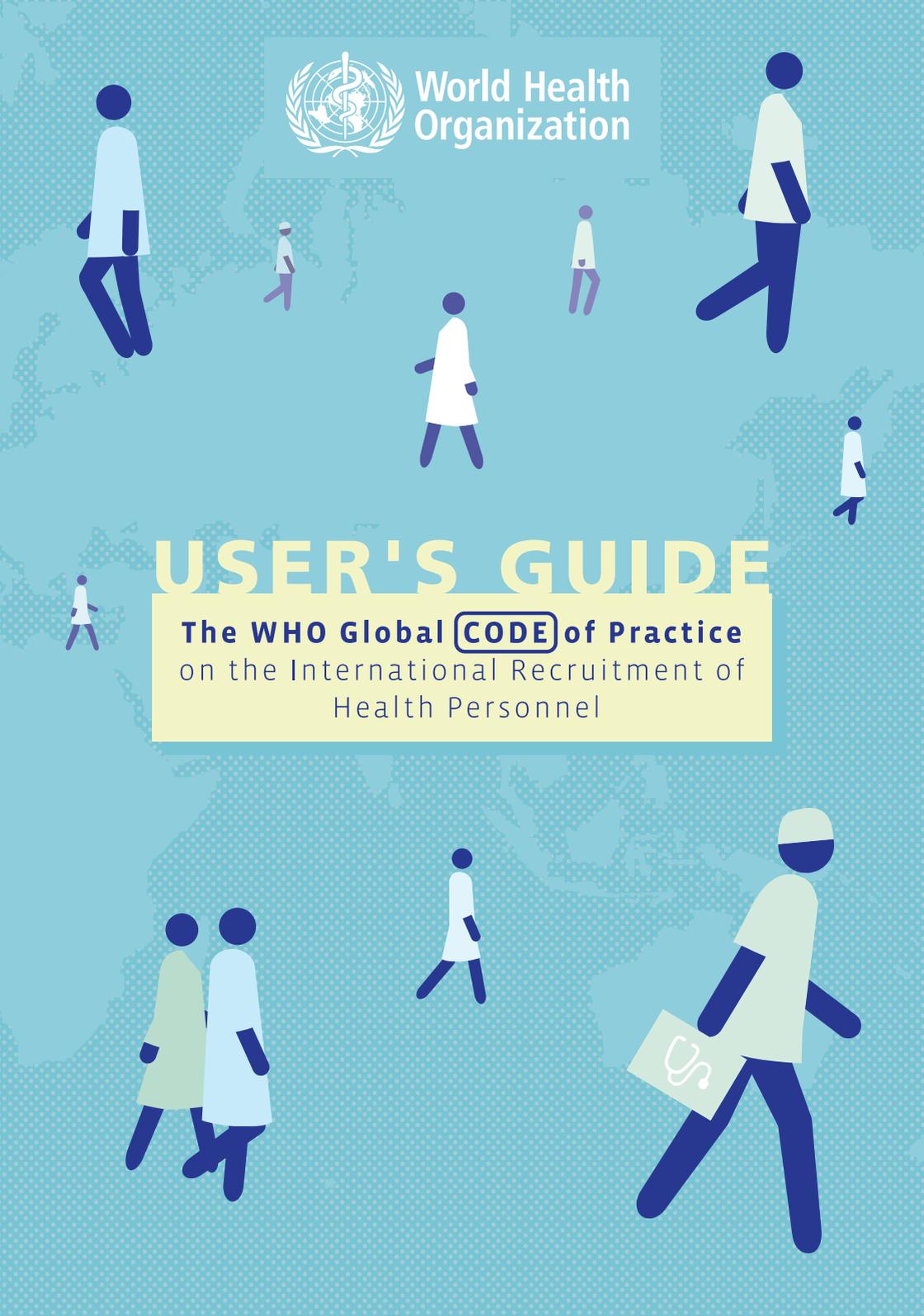




World Health
Organization

USER'S GUIDE

The WHO Global **CODE** of Practice
on the International Recruitment of
Health Personnel



**User's Guide to the WHO Global
Code of Practice on the International
Recruitment of Health Personnel**

Content

The WHO Global Code of Practice on the International Recruitment of Health Personnel at a glance	1
Introduction	3
Guiding principles and main recommendations – the spirit of the WHO Code	7
1. Ethical international recruitment	8
2. Health workforce development and health systems sustainability	9
3. Fair treatment of migrant health personnel	10
4. International cooperation	11
5. Support to developing countries	11
6. Data gathering	12
7. Information exchange	12
Key questions about the WHO Code	13
- What are codes of practice?.....	13
- Why a WHO Code?.....	14
- What is the political and legal significance of the WHO Code?....	14
- What are the benefits of the WHO Code?	14
- How will the WHO Code be implemented and by whom?.....	16
- How is the implementation of the WHO Code monitored?.....	19
- What is the objective of the guidelines for minimum data sets, information exchange and reporting on the implementation of the WHO Code?.....	20
- Can the WHO Code be revised?	20
Further reading	21
Annex - World Health Assembly resolution WHA63.16 and the adopted WHO Global Code of Practice on the International Recruitment of Health Personnel	22
Contacts for further information	34

Boxes

Box n°1: Health workforce migration and the global health workforce crisis

Box n°2: History of the WHO Code

Box n°3: WHO global policy recommendations on increasing access to health workers in remote and rural areas through improved retention

Box n°4: Review of some existing codes of practice on the migration of health personnel

Box n°5: Timeline for reporting by Member States and by the Director-General

The WHO Global Code of Practice on the International Recruitment of Health Personnel¹ at a glance

1. Objectives

The Code aims to establish and promote voluntary principles and practices for the ethical international recruitment of health personnel and to serve as a reference for all Member States.

2. Scope

The Code is global in scope, and sets out to guide governments of all Member States and interested stakeholders in matters relating to the international recruitment of health personnel.

3. Ethical international recruitment

The Code discourages the active recruitment of health personnel from developing countries facing critical shortages of health personnel.

4. Fair treatment of migrant health personnel

The Code emphasizes the importance of equal treatment for migrant health workers and the domestically trained health workforce. All health personnel should have the opportunity to assess the benefits and risks associated with different employment positions.

5. Health personnel development and health systems sustainability

Countries should implement effective health workforce planning, education, training and retention strategies to sustain a health workforce that is appropriate for the specific conditions of each country and to reduce the need to recruit migrant health personnel.

6. International cooperation

The Code encourages collaboration between destination and source countries so that both can derive benefits from the international migration of health personnel.

¹ The WHO Global Code of Practice on the International Recruitment of Health Personnel shall hereafter be referred to as either the “WHO Code” or “the Code”.

7. Support to developing countries

Member States are encouraged to provide technical assistance and financial support to developing countries or countries with economies in transition that are experiencing a critical health workforce shortage.

8. Data gathering

Member States are encouraged to strengthen or establish health personnel information systems, including information on health personnel migration, in order to collect, analyse and translate data into effective health workforce policies and plans.

9. Information exchange

Member States should periodically collect and report to the WHO Secretariat data on laws and regulations related to health personnel recruitment and migration, as well as data from health personnel information systems. Member States are encouraged to promote information exchange on international health personnel migration and health systems both nationally and internationally.

10. The Code's implementation

For purposes of international communication, each Member State should, as appropriate, designate a national authority responsible for the exchange of information regarding health personnel migration and the implementation of the Code.

11. Monitoring of the Code's implementation

Member States are encouraged to implement the Code in collaboration with all stakeholders. All parties should strive to work individually and collectively to achieve the objectives of the Code.

12. Monitoring the implementation process

With regard to implementing the Code, Member States should periodically report measures taken, results achieved, difficulties encountered and lessons learnt to the WHO Secretariat. The WHO Director-General will subsequently report to the World Health Assembly on the effectiveness of the Code in achieving its stated objectives and make suggestions for improvement.

Introduction

Reaching the health-related Millennium Development Goals will be impossible without strong and adequately staffed national health systems.

Nevertheless, 57 countries still experience critical shortages of appropriately trained health personnel. One reason for these shortages is that health personnel continue to leave their homes in search of better career opportunities and living conditions elsewhere. Sometimes this means leaving remote and rural areas for urban ones. Sometimes it means travelling abroad. Indeed, the numbers of migrating health personnel have significantly increased in recent years and patterns of migration have become increasingly complicated and involve more countries (see Box 1 below). While all countries can be affected by the international and national migration of their health workforce, it is particularly challenging for those with already fragile health systems.

BOX N° 1

Health workforce migration and the global health workforce crisis

Numbers of migrating health personnel have increased significantly in recent decades. Patterns of migration have also become more complicated and involve more countries. Migration between developed countries is well established and migration between developing countries is increasing. But it is migration from developing to developed countries that dominates global attention. This is because of the numbers of health personnel involved, and because of the impact on the health systems in the countries from which they have migrated.

Increasingly inequitable access to health care can result from these movements. The World Health Report 2006 highlighted a global shortage of almost 4.3 million health personnel and identified 57 countries, most of them in Africa and Asia, facing a severe shortage of health personnel. Increased migration adds to these shortages.

Health personnel migrate for the same reasons other workers migrate: they leave to seek better employment opportunities and living conditions. Developing countries lose many qualified health personnel through migration due to “push factors” such as unsatisfactory working conditions, poor salaries, few career prospects, safety concerns, and lack of management and support. According to the Organisation for Economic Co-operation and Development (OECD), in some developing countries, more than 50% of highly trained health personnel choose to leave for better job opportunities abroad.

At the same time, developed countries are struggling to meet the demands of ageing populations and changing health needs, notably an increased need for chronic care. With high numbers of job vacancies and domestic production levels lower than required in numerous countries, these developed countries need ever increasing numbers of migrant health personnel to deliver the services their populations require. Within member countries of the OECD, around 20% of physicians are foreign-born.

However, health workforce migration can also have positive effects. For example, migration can offer new professional opportunities for health personnel. Health personnel who return to their home country bring the skills and expertise they acquired while abroad. Migration can also generate significant remittances (the money sent back to home countries by migrant workers) to some developing countries and can therefore be associated with a decline in poverty for migrating health personnel’s families.

Nevertheless, the negative effects of health workforce migration have predominated in recent years, especially in those countries with the most vulnerable health systems.

In order to provide a global response to health workforce migration concerns, the 2004 World Health Assembly requested WHO to develop a code of

practice on the international recruitment of health personnel². In response, the WHO Secretariat initiated a programme of work and a global consultation process in order to produce a draft code. Following discussions in numerous international and national fora, and commentary received via web-based public hearings, the WHO Global Code of Practice on the International Recruitment of Health Personnel was adopted by the 193 Member States of the Sixty-third World Health Assembly on 21 May 2010 (Box 2 provides more details). This was the second time in the Organization's history that WHO Member States have used the constitutional authority of the Organization to develop a code; the only other code to be agreed upon was the International Code of Marketing of Breast-milk Substitutes in 1981.

The Code aims to establish and promote voluntary principles and practices for the ethical international recruitment of health personnel and to facilitate the strengthening of health systems. It was designed by Member States to serve as a continuous and dynamic framework for global dialogue and cooperation.

This User's Guide aims to provide a concise overview of the Code and to help readers understand its content. It explains the context in which it has been developed and teases out its main messages. It targets all stakeholders concerned with or interested in the international recruitment of health personnel. The Guide provides a simple introduction; readers are encouraged to refer to the Code itself annexed to this document for a fuller understanding of its recommendations.

“You reached agreement on some very important items that are a real gift to public health, everywhere. Thanks to some all night efforts, we now have a Code of Practice on the International Recruitment of Health Personnel.”

Dr Margaret Chan, WHO Director-General, closing remarks to Member States at the Sixty-third World Health Assembly, 21 May 2010.

² Resolution WHA 57.19 on the international migration of health personnel, endorsed by the Fifty-seventh World Health Assembly in 2004, states: «It is understood that, within the United Nations system, the expression ‘code of practice’ refers to instruments that are not legally binding.»

BOX N° 2

History of the WHO Code

In May 2004, the World Health Assembly adopted resolution WHA57.19, requesting WHO to develop, in consultation with Member States and all relevant partners, a code of practice on the international recruitment of health personnel. The WHO Secretariat responded by developing a comprehensive programme on the issue of health worker migration and launching a global consultation process to produce a draft code of practice.

The first draft of the code was completed in August 2008. It was based on inputs received during several global fora, including the First Global Forum on Human Resources for Health held in Kampala, Uganda in March 2008 and the G8 Summit held in Toyako, Japan in July 2008. In September 2008, the Secretariat launched a five-week, global web-based public hearing on the first draft of the code. The Secretariat then prepared a revised draft code of practice, taking into consideration the comments received during the hearings.

The WHO Secretariat presented this draft code of practice and a progress report to the 124th Executive Board session in January 2009. The Board agreed that more consultations and effective participation by Member States were essential to finalize and adopt a code. A series of national, regional and international meetings were held to discuss issues related to the code in preparation for WHO Regional Committee sessions in the autumn of that year. Meanwhile, G8 countries meeting in L'Aquila, Italy and the Ministerial Declaration of the 2009 meeting of the United Nations Economic and Social Council urged WHO to finalize the code of practice.

In January 2010 the 126th Executive Board agreed to submit the most recent draft of the code for consultation at the World Health Assembly. The WHO Global Code of Practice on the International Recruitment of Health Personnel was finally adopted by all 193 Member States of the Sixty-third World Health Assembly on 21 May 2010.

“The World Health Assembly’s approval of the Code of Practice is a historic step forward both in protecting migrant health workers’ rights and in tackling the catastrophic shortage of trained health professionals in the developing world.”

*Mary Robinson, President of Realizing Rights: The Ethical Globalization Initiative
and Co-Chair of the Health Worker Migration Global Policy Advisory Council*

Guiding principles and main recommendations – the spirit of the WHO Code

This section provides an overview of the Code’s main recommendations for Member States and other concerned stakeholders. It focuses on the content and concepts of these recommendations. Information on implementation and monitoring appears in the subsequent sections. Readers who wish to familiarize themselves with the recommendations in their entirety are encouraged to refer to the full text of the Code, which has more detailed information on what is outlined here.

Recommendations found in the Code are based upon some key principles that are useful to bear in mind when reading this document.

First, the Code is based on the right of all people to the highest attainable standard of health³. In this regard, the presence of, and equitable access to, health personnel can be considered central to the full realization of the right to health, both in destination and source countries.

Second, it honours the right for any individual, including health personnel, to leave any country⁴ and to migrate to any other country that wishes to admit and employ them. This means that the Code does not aim to stop migration, but rather tries to address some of the aspects of health workforce migration that may have

³ Preamble of the WHO Constitution and Article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR).

⁴ Article 13 of the Universal Declaration of Human Rights and Article 12 of the International Covenant on Civil and Political Rights.

a detrimental impact upon countries, and particularly source countries. It has been suggested that the international migration of health personnel can make a sound contribution to the development and strengthening of health systems globally if recruitment is properly and ethically managed. Managing migration should aim to mitigate the negative effects and maximize the positive effects of migration on health systems, particularly within source countries.

Third, the Code adopts a comprehensive approach, addressing some of the underlying causes of migration as well as issues relating to health system sustainability.

Finally, the Code considers the specific needs and special circumstances of countries, especially developing countries and countries with economies in transition, which are particularly vulnerable to fluctuations in health workforce numbers. The Code makes some distinct provisions for health personnel recruitment in these vulnerable countries.

Some of the main recommendations of the Code are highlighted in the following seven points.

1. Ethical international recruitment

Recruitment of health personnel from developing countries facing shortages of health personnel reduces access to health care in those countries, and exacerbates inequities between rich and poor and between urban and rural populations. The Code therefore sets forth recommendations on the international ethical recruitment of health personnel. In particular, it suggests that active international recruitment of health personnel from developing countries facing critical shortages of health personnel should be discouraged (Article 5.1⁵) and that the outstanding legal responsibility of health personnel to the health system of their own country should be considered when recruiting (Article 4.2).

⁵ All references to articles made in this document refer to articles within the WHO Global Code of Practice on the International Recruitment of Health Personnel. The Code accompanies this User's Guide as an annex.

These recommendations for ethical international recruitment are intended both for policy-makers who can supervise international recruitment and for any stakeholder involved in recruitment activities, such as employers and recruitment agencies.

2. Health workforce development and health systems sustainability

The Code also aims to address some underlying causes of migration with recommendations related to health workforce development and health systems sustainability. In particular, the Code states that an appropriate health workforce should be educated, retained and sustained for the specific conditions of each country, including areas of greatest needs, and that all Member States should strive to meet their health personnel requirements with their own human resources for health (Article 5.4). Expanding education and training, improving retention and reducing geographic maldistribution are therefore encouraged as key intervention areas for a sustainable health system (see Box 3). Overall, the Code values health personnel and recognizes their centrality to sustainable health systems.

BOX N° 3

WHO global policy recommendations on increasing access to health workers in remote and rural areas through improved retention

One of the most complex challenges for policy-makers is to ensure that people living in rural and remote locations have access to trained health workers. Although approximately half the global population currently lives in rural areas, these areas are served by only 38% of the total nursing workforce and by less than one quarter of the total physician workforce⁶.

In 2004 and 2006, the WHO resolutions on migration (WHA57.19) and rapid scaling up of health workers (WHA59.23) requested Member States to put in place mechanisms that aim to improve the retention of health workers. In 2008, the Kampala Declaration and Agenda for Global Action

⁶ *The World Health Report 2006: working together for health*. Geneva, World Health Organization, 2006; *World urbanization prospects: The 2007 revision population database*. New York, NY, United Nations Department of Economic and Social Affairs, 2008 (<http://esa.un.org/unup>).

called on governments to “assure adequate incentives and an enabling and safe working environment for effective retention and equitable distribution of the health workforce”.

In July 2010, WHO issued a set of Global Policy Recommendations with a number of actions related to education, regulation, financial incentives, and personal and professional support. Based on available evidence and country experiences, the recommended interventions include refining the way students are selected and educated to include a more rural focus, producing different categories of health workers, and creating better working and living conditions. The document also includes a guide to help policy-makers choose the most appropriate interventions based on their context and provides guidance on how to implement, monitor and evaluate their impact over time.

The evidence-based recommendations relate to the movements of health workers within the boundaries of a country and focus on strategies to increase the availability of health workers in remote and rural areas through improved attraction, recruitment and retention. As such, they should be viewed as complementary to the WHO Global Code of Practice on the International Recruitment of Health Personnel.

Sources:

The Kampala Declaration and Agenda for Global Action. Global Forum on Human Resources for Health, Global Health Workforce Alliance, Kampala, Uganda, 7 March 2008.

Global policy recommendations on increasing access to health workers in remote and rural areas through improved retention. Geneva, WHO, 2010.

3. Fair treatment of migrant health personnel

The Code takes a holistic view of health workforce recruitment. It therefore not only considers the consequences of health workforce migration in source countries, but also the rights and treatment of migrant health workers themselves.

The Code provides recommendations for the recruitment process, stating that health personnel should have the opportunity to assess the benefits and risks associated with employment positions and to make timely and informed decisions (Article 4.3). It also promotes the principle of equal treatment of migrant and domestic health personnel. This is particularly important in relation to hiring, promotion and remuneration conditions (Article 4.4), ensuring the enjoyment of legal rights and responsibilities (Article 4.5) and providing opportunities and incentives to strengthen professional education, qualifications and career progression (Article 4.6).

4. International cooperation

The Code aims both to mitigate the negative effects of health personnel migration and to maximize the positive effects on the health systems of source countries (Article 3.2).

To that end, destination countries are encouraged to collaborate with source countries so that both can derive benefits from the international migration of health personnel (Article 5.1). This can be referred to as the principle of mutuality of benefits.

For example, the Code proposes organizing international recruitment of health personnel through bilateral or multilateral arrangements. Such arrangements could include measures that allow source countries to also benefit from international recruitment, for example through support for training, access to specialized training, technology and skills transfers and the support of return migration, whether temporary or permanent (Article 5.2). In the same vein, the Code encourages circular migration of health personnel, so that skills and knowledge can be achieved to the benefit of both source and destination countries (Article 3.8).

5. Support to developing countries

In line with the ethical international recruitment principle, the Code highlights the importance of taking into account the specific needs and special circumstances of countries, especially developing countries and countries with economies in transition, notably the detrimental impact active recruitment practices can have on source countries' health systems.

Meanwhile, Member States, international organizations, international donor agencies, financial and development institutions and other relevant organizations are encouraged to provide technical assistance and financial support to developing countries that are experiencing critical health workforce shortages, to assist with the implementation of the Code (Articles 10.2 and 10.3).

6. Data gathering

Effective policies to address the drivers, trends and impacts of health workforce migration need to be grounded in a sound evidence base. Although information on health workforce migration is becoming more available, knowledge about international migration flows is far from complete.

The Code stresses the need for effective national and international data and research. It highlights the need to share information on international recruitment of health personnel if its objectives are to be achieved (Article 3.7). Member States are therefore encouraged to establish or strengthen health personnel information systems, including health personnel migration (Article 6.2), as well as research programmes in the field of health personnel migration (Article 6.3), and to translate those data into effective health workforce policies and planning. The Code also encourages WHO, in collaboration with relevant international organizations and Member States, to ensure data comparability and reliability (Article 6.4).

“If we ask ourselves what this Code really means, it is creating a system of information and evidence-based data that can facilitate future policy decisions that could go beyond the reach of the voluntary nature of the WHO Code.”

*Dr Francisco Campos, Secretary for Labor and Education
Management in Health, Ministry of Health, Brazil*

7. Information exchange

Mechanisms for the exchange of information related to health personnel migration are an important component of the Code.

Member States are encouraged to promote information exchange nationally and internationally and to share information with WHO. Under Article 7.2(c), Member States are encouraged to collect and provide both qualitative and quantitative information on health personnel. WHO, in consultation with Member States, will develop guidelines for minimum data sets to support the monitoring of international health personnel migration. Member States are also encouraged to establish and maintain an up-to-date and accessible database of laws and regulations related to health personnel international recruitment and migration. They should also, where appropriate, share their experiences in implementing the Code, including measures taken, results achieved, difficulties encountered and lessons learnt.

For purposes of international communication, each Member State should designate a national authority responsible for the exchange of information regarding health personnel migration and the implementation of the Code.

Member States should provide information to the WHO Secretariat through periodic national reports, the first of which are expected in 2012. These national reports will constitute the basis for the WHO Director-General's report, which will provide a synthesis of the current status of Code implementation by all Member States and a global overview of international health workforce migration.

Key questions about the WHO Code

What are codes of practice?

Codes of practice typically recommend standards of behaviour to states and other actors. They are commonly adopted as formal resolutions of intergovernmental organizations and most are non-binding. Codes of practice, including those that are non-binding, are increasingly being used to address challenges of global governance (such as environmental and human rights issues) as they are practical to negotiate and implement. They create norms that can meaningfully guide state behaviour and allow adequate flexibility so that they can be practical and effective.

Why a WHO Code?

Through adopting Resolution WHA57.19 in 2004, Member States mandated the development of a code of practice under WHO auspices. This initiative comes from the observation that while migration of health personnel can bring mutual benefits to both source and destination countries, migration from those countries that are already experiencing a crisis in their health workforce, particularly in the 57 countries identified by The World Health Report 2006, is further weakening already fragile health systems and represents a serious impediment to achieving the health-related Millennium Development Goals.

What is the political and legal significance of the WHO Code?

The Code reflects the will of the international community to mitigate the negative consequences of health personnel migration. It is expected to be an important instrument in the global response to the health personnel migration issue. Although the Code is not binding, this does not mean it is without legal significance. Member States of WHO have a general good-faith obligation to consider its recommendations.

“There was commitment from all Member States to see a resolution adopted. This helped to keep the process moving and the results are there to see. The WHO Code promotes a very clear message.”

*Bjarne Garden, Acting Director, Global Health and AIDS Department,
Norwegian Agency for Development Cooperation*

What are the benefits of the WHO Code?

The Code represents a global response to a global problem. The Code is unique in scope, providing the only global framework for international cooperation to address the global issue of health personnel migration. It also provides a global platform for regular and continuous dialogue and international cooperation on issues related to health personnel recruitment, as well as important guidance to Member States on internationally accepted principles and standards related to international health workforce recruitment. In particular, its recommendations can contribute to promoting the ethical

international recruitment of health personnel and to strengthening health systems of source and destination countries. Unlike any other code in this field (see Box 4 for a few examples), the WHO Code includes mechanisms to advance essential data gathering and information exchange to inform policy development. The process of negotiating the Code has also encouraged governments to bring together different ministries to consider this issue and forge national solutions.

“Human resources for health vary widely in different Member States. Thanks to the WHO Code, we now have an important instrument that will contribute to ensuring that health workers are available and accessible to all.”

*Viroj Tangcharoensathien, International Health Policy Program,
Ministry of Public Health, Thailand*

BOX N° 4

Review of some existing codes of practice on the migration of health personnel

The past decade has seen the development of a number of codes of practice and other non-binding instruments to address the migration of health workers.

A well-known instrument and the first of its kind was developed by the National Health Service (NHS) in England in 2001. It included all health professionals and provided a list of developing countries from which the NHS was banned from undertaking active recruitment. This code was then strengthened in 2004 when it was extended to cover recruitment agencies working for NHS employers, temporary staff working in the NHS and private health-care organizations providing services to the NHS. In 2007, three countries on the list (China, India and the Philippines) were exempted at the request of their governments, on the basis of bilateral agreements with the British Government.

Another example is the Commonwealth Code of Practice for International Recruitment of Health Workers, adopted at a meeting of Commonwealth Health Ministers in Geneva in 2003. This code provides a framework for the international recruitment of health workers. In particular, it discourages the targeted recruitment of workers from countries that are experiencing shortages. It also incorporates recommendations aiming to safeguard the rights of recruits and the conditions related to their profession in the destination country.

A more recent example is the 2008 Public Service Unions and European Hospital and Healthcare Employers' Association code of conduct. This code differs in that it has not been adopted by Member States, but within the framework of the European hospital sector social dialogue. It is based upon 12 key principles and commitments regarding, for example, health workforce planning, equality of rights and non-discrimination, and the promotion of ethical recruitment practices. The European social partner organizations have agreed to implement the code through their respective member organizations within three years. By the end of the fourth year, a report on the overall implementation should be published.

Sources:

Pagett C, Padarath A. A review of codes and protocols for the migration of health workers. *Regional Network for Equity in Health in Southern Africa (EQUINET)*, 2007 (Discussion Paper No. 50).

Buchan J, McPake B, Mensah K and Rae G. Does a code make a difference - assessing the English code of practice on international recruitment. *Journal of Human Resources for Health*, 2009.

How will the WHO Code be implemented and by whom?

Many parties need to participate in implementing the Code. The Code has adopted a holistic approach to ensure that it is applicable to different institutional contexts. Although the Code was formally adopted by Member States, it also speaks directly to non-state actors. These actors include health personnel, recruiters, employers, health-professional organizations and relevant sub-regional, regional and global organizations, whether public or private, governmental or non-governmental. The Code specifies that all

stakeholders should strive to work both individually and collectively to achieve its objectives, irrespective of the capacity of others to observe it (Article 8.4). All stakeholders are encouraged to adopt the principles enshrined in the Code, but adapt them to suit their own context. This implementation can be facilitated through adopting a broad and multisectoral approach.

“The Code is a great victory. However, this is just the beginning of a journey. It is now time to disseminate the Code widely among governments, recruiters, intergovernmental organizations, health professionals and other civil society organizations and all stakeholders with a view to promoting its implementation.”

Sandra Kiapi, Executive Director of Action Group for Health, Human Rights and HIV/AIDS (AGHA), an NGO in Uganda

Implementation by Member States

The Code has been formally adopted by Member States. As a voluntary instrument, the Code will be most effective when it is implemented into national policy or law. Within the Code, Article 8 specifically focuses on the implementation of the Code and provides certain recommendations for implementation by Member States. For example, Member States are encouraged to incorporate the Code’s principles into applicable laws and policies (Article 8.2) and to take it into account when developing their national health policies and cooperating with each other (Article 3.1). Member States are also encouraged to publicize and disseminate the Code (Article 8.1) in order to ensure all main private- and public-sector stakeholders are informed of its norms and principles. As specified in Article 8.1, implementation is encouraged in accordance with national and subnational responsibilities. The Code’s principles therefore also apply to decentralized states and to their subnational authorities. The Code makes clear that Member States should consult with all stakeholders in decision-making processes (Article 8.3) and collaborate with them in publicizing and implementing the Code (Article 8.1). This concerns non-state actors as well as various ministries concerned with the migration of health personnel.

Implementation by non-state stakeholders

Health personnel, recruitment agencies and health professional organizations have a direct role to play in implementing the code. In particular, Article 4, which addresses responsibilities, rights and recruitment practices, contains a number of recommendations that aim to protect migrant health personnel during the recruitment, hiring and employment processes. Those recommendations are also directed at recruiters and employers, in both public and private sectors.

To encourage and promote good practices among recruitment agencies, the Code recommends that Member States only endorse those agencies that comply with the Code's guiding principles (Article 8.6).

The Code also clearly states that private-sector actors should seek to cooperate fully with regulators, and national and local authorities (Article 4.1).

Civil society has played and will continue to play an important role in monitoring the implementation of the norms and recommendations of the Code. The Code recognizes this. For example, Article 9.4 establishes that the WHO Secretariat may consider reports on activities related to the implementation of the Code from any stakeholder concerned with the international recruitment of health personnel.

Implementation by WHO

When requested, WHO will give all possible support to Member States to implement the Code and is expected to liaise with other international organizations, including non-governmental organizations, to support implementation of the Code (Article 9.3(c)). WHO also has a critical role to play in monitoring implementation. More details on the WHO Secretariat's strategy to support Member States in implementing the Code can be found in the "WHO Global Code of Practice on the International Recruitment of Health Personnel: Implementation by the Secretariat" report, available at www.who.int/hrh/resources/code_implementation.

How is the implementation of the WHO Code monitored?

Member States should periodically report to the WHO Secretariat on the implementation of the Code. For this purpose, Member States should provide a first report by May 2012 and then every three years thereafter (see Box 5). The WHO Director-General will use these as the basis of his/her own report to the World Health Assembly — first in 2013 and then every three years thereafter — on the effectiveness of the Code in achieving its stated objectives, including suggestions for improvement.

BOX N° 5

Timeline for reporting by Member States and by the Director-General

2012	Reports of Member States to the WHO Secretariat
2013	Report of WHO Director-General to the World Health Assembly
2015	Reports of Member States to the WHO Secretariat
2016	Report of WHO Director-General to the World Health Assembly
2018	Reports of Member States to the WHO Secretariat
2019	Report of WHO Director-General to the World Health Assembly
Etc...	

Reports from Member States should contain two types of information, both qualitative and quantitative. Qualitative information includes measures taken, results achieved and difficulties encountered in implementing the Code, as well as information on laws and regulations related to health personnel recruitment and migration. Quantitative information includes data on international health workforce migration and data from health personnel information systems.

To facilitate this reporting process, in accordance with Resolution WHA63.16, the Secretariat is in the process of developing guidelines for minimum data sets, information exchange and reporting on the implementation of the Code.⁷

What is the objective of the guidelines for minimum data sets, information exchange and reporting on the implementation of the WHO Code?

These guidelines were called for as part of Resolution WHA63.16, by which Member States adopted the Code. This resolution requested the WHO Director-General “to rapidly develop, in consultation with Member States, guidelines for minimum data sets, information exchange and reporting on the implementation of the WHO Global Code of Practice on the International Recruitment of Health Personnel”. These guidelines aim at facilitating the reporting process by Member States to the WHO Secretariat by providing guidance to Member States about the process for information exchange and the type of quantitative and qualitative information to be collected and included in the periodic reports of Member States.

Can the WHO Code be revised?

Article 9.5 establishes that the Code should be considered a dynamic text to be brought up to date as required. Member States are welcome to propose amendments; the national reports will have a section for Member States to make suggestions for changes to the text. On the basis of periodic national reports received from designated national authorities, the WHO Director-General may also suggest modifications (Article 9.2).

⁷ These guidelines are expected to be published and disseminated by the end of 2011.

Further reading

The World Health Report 2006: working together for health. Geneva, WHO, 2006.

http://whqlibdoc.who.int/publications/2006/9241563176_eng.pdf

International migration outlook. Paris, OECD, 2007.

<http://www.oecd.org/dataoecd/22/32/41515701.pdf>

The looming crisis in the health workforce. Paris, OECD, 2008.

<http://www.oecd.org/dataoecd/25/14/41509461.pdf>

The Kampala Declaration and Agenda for Global Action. Global Forum on Human Resources for Health, Global Health Workforce Alliance, Kampala, Uganda, 7 March 2008.

http://www.who.int/workforcealliance/forum/2_declaration_final.pdf

Global policy recommendations on increasing access to health workers in remote and rural areas through improved retention. Geneva, WHO, 2010.

http://whqlibdoc.who.int/publications/2010/9789241564014_eng.pdf

WHO Global Code of Practice on the International Recruitment of Health Personnel

http://apps.who.int/gb/ebwha/pdf_files/WHA63/A63_R16-en.pdf

Resolution WHA57.19 International migration of health personnel: a challenge for health systems in developing countries. Geneva, WHO, 2004.

http://apps.who.int/gb/ebwha/pdf_files/WHA57/A57_R19-en.pdf

Further references are available at www.who.int/hrh/migration

Annex

WHA63.16 - WHO Global Code of Practice on the International Recruitment of Health Personnel

The Sixty-third World Health Assembly,

Having considered the revised draft global code of practice on the international recruitment of health personnel, annexed to the report by the Secretariat on the international recruitment of health personnel: draft global code of practice,

1. ADOPTS, in accordance with Article 23 of the Constitution, the WHO Global Code of Practice on the International Recruitment of Health Personnel;
2. DECIDES that the first review of the relevance and effectiveness of the WHO Global Code of Practice on the International Recruitment of Health Personnel shall be made by the Sixty-eighth World Health Assembly;
3. REQUESTS the Director-General:
 - (1) to give all possible support to Member States, as and when requested, for the implementation of the WHO Global Code of Practice on the International Recruitment of Health Personnel;
 - (2) to cooperate with all stakeholders concerned with the implementation and monitoring of the WHO Global Code of Practice on the International Recruitment of Health Personnel;
 - (3) to rapidly develop, in consultation with Member States, guidelines for minimum data sets, information exchange and reporting on the implementation of the WHO Global Code of Practice on the International Recruitment of Health Personnel;
 - (4) based upon periodic reporting, to make proposals, if necessary, for the revision of the text of the WHO Global Code of Practice on the International Recruitment of Health Personnel in line with the first review, and for measures needed for its effective application.

WHO Global Code of Practice on the International Recruitment of Health Personnel

Preamble

The Member States of the World Health Organization,

Recalling resolution WHA57.19 in which the World Health Assembly requested the Director-General to develop a voluntary code of practice on the international recruitment of health personnel in consultation with all relevant partners;

Responding to the calls of the Kampala Declaration adopted at the First Global Forum on Human Resources for Health (Kampala, 2–7 March 2008) and the G8 communiqués of 2008 and 2009 encouraging WHO to accelerate the development and adoption of a code of practice;

Conscious of the global shortage of health personnel and recognizing that an adequate and accessible health workforce is fundamental to an integrated and effective health system and for the provision of health services;

Deeply concerned that the severe shortage of health personnel, including highly educated and trained health personnel, in many Member States, constitutes a major threat to the performance of health systems and undermines the ability of these countries to achieve the Millennium Development Goals and other internationally agreed development goals;

Stressing that the WHO global code of practice on the international recruitment of health personnel be a core component of bilateral, national, regional and global responses to the challenges of health personnel migration and health systems strengthening,

THEREFORE

The Member States hereby agree on the following articles which are recommended as a basis for action.

Article 1 – Objectives

The objectives of this Code are:

- (1) to establish and promote voluntary principles and practices for the ethical international recruitment of health personnel, taking into account the rights, obligations and expectations of source countries, destination countries and migrant health personnel;
- (2) to serve as a reference for Member States in establishing or improving the legal and institutional framework required for the international recruitment of health personnel;
- (3) to provide guidance that may be used where appropriate in the formulation and implementation of bilateral agreements and other international legal instruments;
- (4) to facilitate and promote international discussion and advance cooperation on matters related to the ethical international recruitment of health personnel as part of strengthening health systems, with a particular focus on the situation of developing countries.

Article 2 – Nature and scope

- 2.1 The Code is voluntary. Member States and other stakeholders are strongly encouraged to use the Code.
- 2.2 The Code is global in scope and is intended as a guide for Member States, working together with stakeholders such as health personnel, recruiters, employers, health-professional organizations, relevant subregional, regional and global organizations, whether public or private sector, including nongovernmental, and all persons concerned with the international recruitment of health personnel.
- 2.3 The Code provides ethical principles applicable to the international recruitment of health personnel in a manner that strengthens the health systems of developing countries, countries with economies in transition and small island states.

Article 3 – Guiding principles

- 3.1 The health of all people is fundamental to the attainment of peace and security and is dependent upon the fullest cooperation of individuals and states. Governments have a responsibility for the health of their people, which can be fulfilled only by the provision of adequate health and social measures. Member States should take the Code into account when developing their national health policies and cooperating with each other, as appropriate.
- 3.2 Addressing present and expected shortages in the health workforce is crucial to protecting global health. International migration of health personnel can make a sound contribution to the development and strengthening of health systems, if recruitment is properly managed. However, the setting of voluntary international principles and the coordination of national policies on international health personnel recruitment are desirable in order to advance frameworks to equitably strengthen health systems worldwide, to mitigate the negative effects of health personnel migration on the health systems of developing countries and to safeguard the rights of health personnel.
- 3.3 The specific needs and special circumstances of countries, especially those developing countries and countries with economies in transition that are particularly vulnerable to health workforce shortages and/or have limited capacity to implement the recommendations of this Code, should be considered. Developed countries should, to the extent possible, provide technical and financial assistance to developing countries and countries with economies in transition aimed at strengthening health systems, including health personnel development.
- 3.4 Member States should take into account the right to the highest attainable standard of health of the populations of source countries, individual rights of health personnel to leave any country in accordance with applicable laws, in order to mitigate the negative effects and maximize the positive effects of migration on the health systems of the source countries. However, nothing in this Code should be interpreted as limiting the freedom of health personnel, in accordance with applicable laws, to migrate to countries that wish to admit and employ them.

- 3.5 International recruitment of health personnel should be conducted in accordance with the principles of transparency, fairness and promotion of sustainability of health systems in developing countries. Member States, in conformity with national legislation and applicable international legal instruments to which they are a party, should promote and respect fair labour practices for all health personnel. All aspects of the employment and treatment of migrant health personnel should be without unlawful distinction of any kind.
- 3.6 Member States should strive, to the extent possible, to create a sustainable health workforce and work towards establishing effective health workforce planning, education and training, and retention strategies that will reduce their need to recruit migrant health personnel. Policies and measures to strengthen the health workforce should be appropriate for the specific conditions of each country and should be integrated within national development programmes.
- 3.7 Effective gathering of national and international data, research and sharing of information on international recruitment of health personnel are needed to achieve the objectives of this Code.
- 3.8 Member States should facilitate circular migration of health personnel, so that skills and knowledge can be achieved to the benefit of both source and destination countries.

Article 4 – Responsibilities, rights and recruitment practices

- 4.1 Health personnel, health professional organizations, professional councils and recruiters should seek to cooperate fully with regulators, national and local authorities in the interests of patients, health systems, and of society in general.
- 4.2 Recruiters and employers should, to the extent possible, be aware of and consider the outstanding legal responsibility of health personnel to the health system of their own country such as a fair and reasonable contract of service and not seek to recruit them. Health personnel should be open and transparent about any contractual obligations they may have.

- 4.3 Member States and other stakeholders should recognize that ethical international recruitment practices provide health personnel with the opportunity to assess the benefits and risks associated with employment positions and to make timely and informed decisions.
- 4.4 Member States should, to the extent possible under applicable laws, ensure that recruiters and employers observe fair and just recruitment and contractual practices in the employment of migrant health personnel and that migrant health personnel are not subject to illegal or fraudulent conduct. Migrant health personnel should be hired, promoted and remunerated based on objective criteria, such as levels of qualification, years of experience and degrees of professional responsibility on the basis of equality of treatment with the domestically trained health workforce. Recruiters and employers should provide migrant health personnel with relevant and accurate information about all health personnel positions that they are offered.
- 4.5 Member States should ensure that, subject to applicable laws, including relevant international legal instruments to which they are a party, migrant health personnel enjoy the same legal rights and responsibilities as the domestically trained health workforce in all terms of employment and conditions of work.
- 4.6 Member States and other stakeholders should take measures to ensure that migrant health personnel enjoy opportunities and incentives to strengthen their professional education, qualifications and career progression, on the basis of equal treatment with the domestically trained health workforce subject to applicable laws. All migrant health personnel should be offered appropriate induction and orientation programmes that enable them to operate safely and effectively within the health system of the destination country.
- 4.7 Recruiters and employers should understand that the Code applies equally to those recruited to work on a temporary or permanent basis.

Article 5 – Health workforce development and health systems sustainability

- 5.1 In accordance with the guiding principle as stated in Article 3 of this Code, the health systems of both source and destination countries should derive benefits from the international migration of health personnel. Destination countries are encouraged to collaborate with source countries to sustain and promote health human resource development and training as appropriate. Member States should discourage active recruitment of health personnel from developing countries facing critical shortages of health workers.
- 5.2 Member States should use this Code as a guide when entering into bilateral, and/or regional and/or multilateral arrangements, to promote international cooperation and coordination on international recruitment of health personnel. Such arrangements should take into account the needs of developing countries and countries with economies in transition through the adoption of appropriate measures. Such measures may include the provision of effective and appropriate technical assistance, support for health personnel retention, social and professional recognition of health personnel, support for training in source countries that is appropriate for the disease profile of such countries, twinning of health facilities, support for capacity building in the development of appropriate regulatory frameworks, access to specialized training, technology and skills transfers, and the support of return migration, whether temporary or permanent.
- 5.3 Member States should recognize the value both to their health systems and to health personnel themselves of professional exchanges between countries and of opportunities to work and train abroad. Member States in both source and destination countries should encourage and support health personnel to utilize work experience gained abroad for the benefit of their home country.
- 5.4 As the health workforce is central to sustainable health systems, Member States should take effective measures to educate, retain and sustain a health workforce that is appropriate for the specific conditions of each country, including areas of greatest need, and is built upon an evidence-based health workforce plan. All Member States should strive to meet their health personnel needs with their own human resources for health, as far as possible.

- 5.5 Member States should consider strengthening educational institutions to scale up the training of health personnel and developing innovative curricula to address current health needs. Member States should undertake steps to ensure that appropriate training takes place in the public and private sectors.
- 5.6 Member States should consider adopting and implementing effective measures aimed at strengthening health systems, continuous monitoring of the health labour market, and coordination among all stakeholders in order to develop and retain a sustainable health workforce responsive to their population's health needs. Member States should adopt a multisectoral approach to addressing these issues in national health and development policies.
- 5.7 Member States should consider adopting measures to address the geographical maldistribution of health workers and to support their retention in underserved areas, such as through the application of education measures, financial incentives, regulatory measures, social and professional support.

Article 6 – Data gathering and research

- 6.1 Member States should recognize that the formulation of effective policies and plans on the health workforce requires a sound evidence base.
- 6.2 Taking into account characteristics of national health systems, Member States are encouraged to establish or strengthen and maintain, as appropriate, health personnel information systems, including health personnel migration, and its impact on health systems. Member States are encouraged to collect, analyse and translate data into effective health workforce policies and planning.
- 6.3 Member States are encouraged to establish or strengthen research programmes in the field of health personnel migration and coordinate such research programmes through partnerships at the national, subnational, regional and international levels.

- 6.4 WHO, in collaboration with relevant international organizations and Member States, is encouraged to ensure, as much as possible, that comparable and reliable data are generated and collected pursuant to paragraphs 6.2 and 6.3 for ongoing monitoring, analysis and policy formulation.

Article 7 – Information exchange

- 7.1 Member States are encouraged to, as appropriate and subject to national law, promote the establishment or strengthening of information exchange on international health personnel migration and health systems, nationally and internationally, through public agencies, academic and research institutions, health professional organizations, and subregional, regional and international organizations, whether governmental or nongovernmental.
- 7.2 In order to promote and facilitate the exchange of information that is relevant to this Code, each Member State should, to the extent possible:
- (a) progressively establish and maintain an updated database of laws and regulations related to health personnel recruitment and migration and, as appropriate, information about their implementation;
 - (b) progressively establish and maintain updated data from health personnel information systems in accordance with Article 6.2; and
 - (c) provide data collected pursuant to subparagraphs (a) and (b) above to the WHO Secretariat every three years, beginning with an initial data report within two years after the adoption of the Code by the Health Assembly.
- 7.3 For purposes of international communication, each Member State should, as appropriate, designate a national authority responsible for the exchange of information regarding health personnel migration and the implementation of the Code. Member States so designating such an authority, should inform WHO. The designated national authority should be authorized to communicate directly or, as provided by national law or regulations, with designated national authorities of other Member

States and with the WHO Secretariat and other regional and international organizations concerned, and to submit reports and other information to the WHO Secretariat pursuant to subparagraph 7.2(c) and Article 9.1.

- 7.4 A register of designated national authorities pursuant to paragraph 7.3 above shall be established, maintained and published by WHO.

Article 8 – Implementation of the Code

- 8.1 Member States are encouraged to publicize and implement the Code in collaboration with all stakeholders as stipulated in Article 2.2, in accordance with national and subnational responsibilities.
- 8.2 Member States are encouraged to incorporate the Code into applicable laws and policies.
- 8.3 Member States are encouraged to consult, as appropriate, with all stakeholders as stipulated in Article 2.2 in decision-making processes and involve them in other activities related to the international recruitment of health personnel.
- 8.4 All stakeholders referred to in Article 2.2 should strive to work individually and collectively to achieve the objectives of this Code. All stakeholders should observe this Code, irrespective of the capacity of others to observe the Code. Recruiters and employers should cooperate fully in the observance of the Code and promote the guiding principles expressed by the Code, irrespective of a Member State's ability to implement the Code.
- 8.5 Member States should, to the extent possible, and according to legal responsibilities, working with relevant stakeholders, maintain a record, updated at regular intervals, of all recruiters authorized by competent authorities to operate within their jurisdiction.
- 8.6 Member States should, to the extent possible, encourage and promote good practices among recruitment agencies by only using those agencies that comply with the guiding principles of the Code.

8.7 Member States are encouraged to observe and assess the magnitude of active international recruitment of health personnel from countries facing critical shortage of health personnel, and assess the scope and impact of circular migration.

Article 9 – Monitoring and institutional arrangements

9.1 Member States should periodically report the measures taken, results achieved, difficulties encountered and lessons learnt in a single report in conjunction with the provisions of Article 7.2(c).

9.2 The Director-General shall keep under review the implementation of this Code, on the basis of periodic reports received from designated national authorities pursuant to Articles 7.3 and 9.1 and other competent sources, and periodically report to the World Health Assembly on the effectiveness of the Code in achieving its stated objectives and suggestions for its improvement. This report would be submitted in conjunction with Article 7.2(c).

9.3 The Director-General shall:

- (a) support the information exchange system and the network of designated national authorities specified in Article 7;
- (b) develop guidelines and make recommendations on practices and procedures and such joint programmes and measures as specified by the Code; and
- (c) maintain liaison with the United Nations, the International Labour Organization, the International Organization for Migration, and other competent regional and international organizations as well as concerned nongovernmental organizations to support implementation of the Code.

9.4 WHO Secretariat may consider reports from stakeholders as stipulated in Article 2.2 on activities related to the implementation of the Code.

- 9.5 The World Health Assembly should periodically review the relevance and effectiveness of the Code. The Code should be considered a dynamic text that should be brought up to date as required.

Article 10 – Partnerships, technical collaboration and financial support

- 10.1 Member States and other stakeholders should collaborate directly or through competent international bodies to strengthen their capacity to implement the objectives of the Code.
- 10.2 International organizations, international donor agencies, financial and development institutions, and other relevant organizations are encouraged to provide their technical and financial support to assist the implementation of this Code and support health system strengthening in developing countries and countries with economies in transition that are experiencing critical health workforce shortages and/or have limited capacity to implement the objectives of this Code. Such organizations and other entities should be encouraged to cooperate with countries facing critical shortages of health workers and undertake to ensure that funds provided for disease-specific interventions are used to strengthen health systems capacity, including health personnel development.
- 10.3 Member States either on their own or via their engagement with national and regional organizations, donor organizations and other relevant bodies should be encouraged to provide technical assistance and financial support to developing countries or countries with economies in transition, aiming at strengthening health systems capacity, including health personnel development in those countries.

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