

FINAL REPORT

Third Meeting of the Transitional Working Group to establish a Global Fund to fight AIDS, Tuberculosis, and Malaria Brussels, December 13-14 2001

PART 1: KEY DECISIONS TAKEN

THE FOLLOWING PAPERS WERE ADOPTED:

1. Governance – Annex 1
2. Country Processes – Annex 2
3. Eligibility – Annex 3 (adopted but the Russian delegate emphasised there could be adverse legal effect of the statement on degree of impact in Sub-Saharan Africa)
4. Technical Review Panel – Annex 4
5. Accountability – Annex 5
6. Fiduciary Issues – Annex 6
7. Legal Issues – Annex 7

The following papers were not adopted and will be further revised by the working groups for presentation to the first Board meeting:

1. Outcome Based Disbursement
2. Guidelines for Country Proposals
3. Quick Start

SUBMISSION OF COUNTRIES FOR BOARD MEMBERSHIP

1. USA
2. Japan
3. Italy
4. EC [Belgium]
5. France [Germany and Spain]
6. 0.7% Group – Sweden [Denmark and Norway; Netherlands and Ireland as alternate]
7. UK [Canada and Switzerland]
8. Gates Foundation, representing Foundations
9. Private Sector: WEF is facilitating process.
10. CIS Region: has not yet nominated its candidate. Will have finished the nomination process by mid January
11. Africa: Eastern and Southern Africa – Uganda with South Africa as alternate
12. West and Central Africa – further consultation required, to advise the Fund
13. Latin America and the Caribbean: Brazil will represent the region
14. Western Pacific: further consultation required, China will advise to advise the Fund
15. South East Asia: further consultation required, Thailand and India to advise the Fund
16. Eastern Mediterranean Region: further consultation required - WHO will facilitate
- 17 and 18. Northern and Southern NGOs: A selection process is in motion which will identify Board members by January 12.

For donors, membership is based on contributions.

The **FIRST BOARD** meeting will take place on **January 28-29**.

LOCATION OF THE SECRETARIAT: The sub-working group on location recommended Geneva as appropriate location. The TWG agreed that the Secretariat will be in Geneva.

NEXT STEPS to ensure the Transition to a Permanent Secretariat

Key tasks to be addressed include:

1. Preparation and dissemination of recommendations from the TWG. The Chair of the TWG should transmit these to the United Nations Secretary General. There was also an agreement for the need of a letter to be sent out to Ministries of Health to inform them about the process of building up the Fund.
2. Preparation and organization of documentation and logistics for the first Board meeting.
3. Move location to Geneva
4. Prepare Guidance Note for potential applicants to the Fund
5. Establish the Technical Review Panel (working group co-chaired by France, Thailand, WHO and UNAIDS to prepare recommendations for the Board)
6. Develop staffing profile for Secretariat and Executive Head of Secretariat to be presented to the Board.
7. Initiate process of independent and transparent recruitment of Executive Head of Secretariat and its staff.
8. Establish all necessary legal arrangements including incorporating the Fund legally in Switzerland, and concluding agreements with the World Bank as the Trustee and the World Health Organization as the Support Service Provider.

Oversight Committee

The TWG noted that after it disbanded on 14th December that there needs to be an interim oversight arrangement. To fulfill this function the TWG agreed to establish an Oversight Committee to oversee until the Board of the Fund assumes its responsibilities on 28th January. The Oversight Committee will be chaired by Dr Kiyonga, with Sweden as vice-Chair. It will also include Italy, Brazil, US, Mali, Gates Foundation or WEF, and an NGO. It will operate through teleconferences.

- The TWG noted that there is a lot to do in the next few months and that this will require private sector support and experience.
- Paul Ehmer and part of the current TSS will continue until the first Board Meeting.
- Sweden (Anders Nordstrom), as vice-chair of the Oversight Committee, will work with Paul Ehmer as Team Manager. From the first Board meeting onwards, new arrangements will be put in place.
- At the first Board meeting a Manager would be appointed to be the Interim Head of the Secretariat. This person would then not be eligible for the long-term position of Executive Head of the Secretariat.

The UK agreed to revise the paper on the measures needed to operationalize the Fund, based on the discussions at the TWG meeting.

The following working groups were established

Technical Review Panel Working Group

The TWG requested France and Thailand, with support from WHO and UNAIDS, to co-chair a working group to prepare the Technical Review Panel. Participation in the working group will be open-ended for other TWG members. The group will provide recommendations to the Board of the Fund on the Terms of Reference and nominations for the composition of the Technical Review Panel.

Other Working Groups

The TWG agreed to continue a number of Working Groups on specific issues that require further work for recommendations for the first Board meeting. These are:

1. Quick Start, chaired by Canada
2. Proposal guidelines, chaired by GAVI
3. Performance based disbursement, chaired by Canada
4. Fiduciary issues: a modified sub-working group, with additional legal support from Willis Ritter and Hakan Falk, will lead the work on getting the trustee agreement in

place with the World Bank.

PART 2: KEY POINTS FROM DISCUSSION OF OTHER ISSUES

Opening by the TWG Chair.

The Agenda was adopted (Tab 1 of binder).

BRIEFING FROM PRIVATE SECTOR CONSULTATION

- According to Private Sector (PS) representatives, the principle of a partnership between governments, the private sector and civil society is not truly represented in the current governance structure of the Fund. The main recommendation from the PS meeting was the proposal to increase the private sector representation in the Board by adding a private sector *ex-officio* observer.
- The PS offered to provide advisors to the Fund in the Partnership Forum and through specialized committees that could be established by the Board on specific tasks.
- The PS also offered assistance to facilitate the transition to permanent phase of the Fund.
- At the PS consultation it was also suggested to appoint pre-eminent persons as patrons of the Fund in order to assist with fundraising and also emphasized the need for the Fund to leverage other resources from collaborating partners at both global and country level.

Governance

- A number of delegates suggested that additional observers be added to widen input into the Fund.
- It was agreed to review the structure, functions and performance of the Board after a period of one to two years.
- It was suggested that the conflict of interest guidelines to be completed before inviting additional observers.

Outcome Based Disbursement

- There was broad support for an outcomes-based system of disbursing the funds as long as there is commitment to thoroughly investigate the reasons, and identify solutions, should there be failure to attain the strategic goals and targets.
- It was recommended to harmonize with other reporting procedures at the country level and not overburden countries with onerous reporting systems and also harmonize indicators with sector wide approach indicators for the three diseases.
- All proposals should have inbuilt measurable indicators, such as input, outcome, process, etc. for what the Fund will achieve.
- It was suggested that the Board should allow each country to use country-based indicators, within the global indicators and devise a strategy to address the statistical problems raised.

The Sub-working group led by Canada will continue its work and present a revised version at the first Board meeting in January.

Guidelines for country proposals and Quick Start (discussed together)

Main points of discussion:

- Although UN agencies have a rigorous process of evaluating projects, the Fund should not exclusively rely on their review process.
- Some felt that the Quick Start should be in place for a period of 3 – 5 months, others preferred that Quick start should be phased rather than being a mechanical and finite event.
- Quick start should set the tone for future work. During the Quick Start the same set of guidelines and criteria have to be used as for the long term.
- Some TWG members felt that it is infeasible to require countries to submit a single comprehensive country proposal and that initially there needs to be flexibility.
- It was commented to be careful about a massive rollout of ARV treatment. It was further recommended to choose a different balance of intervention strategies. It was commented that the quick start should include ARV treatment.
- Key criteria for proposals should include innovation, equity and quality.
- TWG should put in place a mechanism for the processing proposals to ensure a smooth transfer to the new board and secretariat, including the proposal guidelines.
- Guidelines for proposals were found to be very useful.

The two working groups led by GAVI and Canada will continue their work and present revised papers at the first Board meeting in January.

ADVISORY NOTES ON TECHNICAL ISSUES

- (i) **Immediate Access to Drugs (Brazil)**
- (ii) **Improving Access to HIV/AIDS Care (France)**

The TWG welcomed the two papers. It stressed that:

- An accreditation system for registration of drugs is essential.
- Availability of generics can contribute to price reduction.
- The drugs are efficient and should be on the menu of many countries.
- The cost is a crucial issue.
- Monitoring and infrastructure remain as big challenges.
- Quality assurance measures for these drugs should always be in place, including robust monitoring mechanisms.
- The introduction of ARVs wherever possible was advocated, including all other aspects of treatment and prevention.
- The real challenge of cost constraints were highlighted, especially in countries where HIV prevalence is high and health systems and infrastructure such as laboratory facilities are weak.
- In developing countries uptake is poor due to stigmatisation. It was stressed that strategies to overcome these constraints are needed and to build capacity in a critical mass on human resources.
- It was recognized that ARVs are part of the comprehensive continuum of care.
- A balanced approach should be maintained, including prevention and care and support.

(iii) **Communication Strategy (TSS)**

The paper and the need of having a communications strategy was fully endorsed by all TWG members.

- It was proposed that the Fund should be launched with a major event when Board is ready to make its first disbursements and to coordinate with the Office of the UN Secretary General.
- Special attention would have to be paid to ensure that the strategic objectives of the communication strategy can be carried out in developing countries.
- It was suggested that the TWG Chair should write to ministries of health to inform them about the process of establishing the Global Fund.

The TWG requested that the paper be further developed through a sub-working group on communications.

(iv) **Resource Mobilization (TSS)**

This paper and the need to plan resource mobilization carefully were strongly endorsed by all members of the TWG.

- It was agreed that resource mobilization would become a core function of the Fund.
- It was suggested to nominate celebrities as patrons or advocates for the Fund.
- It was recommended by the TWG that recipient countries should make an effort to raise at least 10% of the funds for the Global Fund within recipient countries.
- To avoid competition and strengthen synergy and complementarity, was felt that these efforts should be coordinated with other campaigns such as Stop TB, Roll Back Malaria, etc., and within the broader context of Health and Development and.

The TWG requested that the paper be further developed through a sub-working group on resource mobilization.

(v) **Procurement Arrangements (TSS)**

The TWG noted that the Fund is a financing mechanism, not a procurement mechanism. The following need to be considered when developing a procurement policy:

- Quality assurance has to be assured.
- It should be based upon respect for intellectual property and consistent with the Doha Declaration.
- The use of a list of commodities must be flexible and should include antiretroviral drugs.
- Open and transparent competitive tender should be used to ensure procurement at lowest possible cost.
- Multiple Procurement mechanisms – there should be flexibility to choose the procurement option that serves the proposal's needs, whether national, regional, multilateral or private.
- Sustainability of long term supply systems should be supported.
- Exemption of procured medicines and goods from taxation

FINAL SESSION

CLOSING REMARKS BY TWG CHAIR

Annex 2 - Country Processes

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COUNTRY PROCESSES
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Basic Principles to guide country processes

1. The Fund will base its work on programs that reflect national ownership and respect country partnership-led formulation and implementation processes.
2. The Fund will promote partnerships among all relevant players within the country, and across all sectors of society. It will build on existing coordination mechanisms, and promote new and innovative partnerships where none exist.
3. The Fund will work with and support existing and new innovative programs at national and multi-country levels. This could include programs such as National AIDS plans, National Health Strategies and country elements of Stop TB and Roll Back Malaria, as well as Poverty Reduction Strategies and Sector Wide Approaches. It will take into account regional frameworks and global level recommendations.
4. Disbursements will be made in tranches based on results as measured by ex-ante indicators and independent assessments and surveys.
5. The Fund will leverage support for innovative capacity development from other financial sources throughout the programs it supports.

Coordination Mechanism at country level

6. The Fund will work with a country coordination and partnership mechanism that should include broad representation from governments, NGOs, civil society, multilateral and bilateral agencies, and the private sector. The mechanism should be at the highest national level responsible for national multi-partner and multi-sectoral development planning. It should preferably be an already existing body. If no appropriate coordinating body exists, a new mechanism will need to be established. Where public/private partnerships do not exist, the Fund may support alternative partnerships among NGOs and the private sector.
7. The Country Coordinating Mechanism (CCM) will be the focus for program accountability, depending on the Board's decisions regarding overall Fund accountability and fiduciary issues.
8. A senior government official should in most cases chair the mechanism. Where agreed upon among the partners, any member of the mechanism can chair it.

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9. The role and function of each player within the partnership of the mechanism will be agreed upon by the mechanism, safeguarding equity and transparency among the partners.
10. The role of the United Nations agencies, multilateral and bilateral agencies and other development agencies in the mechanism should be country partnership-driven and reflect the roles of these partners in AIDS, TB, and malaria programs in-country. The country partners may want to identify a "Lead Support Agency", either bilateral, multilateral or civil society to support the preparation of proposals and undertake any other support as requested by the CCM.
11. Proposals for funding should be submitted to the Fund through the country partnership mechanism. The technical review panel will only recommend funding Coordinated Country Proposals, which reflect genuine, broad participation and ownership of all interested groups.
12. The Fund will also consider proposals arising from partnerships in circumstances such as:
 - a. countries without legitimate governments;
 - b. countries in conflict or facing natural disasters;
 - c. countries that suppress or have not established partnerships with civil society and NGOs;

Country Proposals

13. Countries will be encouraged to submit a coordinated proposal to the Fund. The Fund will consider proposals on one or more of the three diseases or crosscutting aspects of these, depending on country realities and readiness. The proposal is hereafter referred to as the CCP (Coordinated Country Proposal).
14. A CCP may consist of existing and already costed plans. It should be, however, submitted with a cover note specifying what aspects of these plans need funding from the GFATM. In addition, the note should describe how the CCP fits within the overall national health program. The format of the CCP should not be overly elaborate and not impose undue burden on the countries.

Channeling of Funds:

15. All eligible partners on the CCM will be entitled to access Global Fund support based on their role and allocations in the approved CCP.
16. To facilitate targeting of financial support as well as accountability, CCPs will be submitted with budgets tied to specific partners. Each

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partner's contribution must have specified outcomes, targets and results, and an indication of how these will be measured.

17. The CCP should include an indication of how funds will be disbursed to partners, emphasizing that funds should go directly, efficiently and transparently from the disbursing entity chosen by the partnership to implementing partners, based on allocations in the Board-approved CCP.
18. Alternative or special arrangements will only be used when clear justification exists. These will be tailored so that country partnership mechanisms can take over as soon as possible.

Monitoring and Evaluation

19. Monitoring at country level will be country-driven, but also linked to the Fund's monitoring and evaluation system at global level.
20. The Fund will seek to use, wherever possible, existing monitoring and evaluation mechanisms.
21. An independent, impartial annual assessment of progress at country level will be done.
22. The monitoring and evaluation will include an assessment of the functioning of the CCM and the process of developing the CCP, including the functioning of partnerships at country level.

Capacity Building

23. The CCP will consider institutional and absorptive capacity. It may include interventions to improve national capacity, which are associated with the delivery and monitoring of the Fund's programs to deal with the three diseases. Proposals to the Fund shall not have capacity building as their main focus.

Annex 3 - Eligibility

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ELIGIBILITY CRITERIA
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Criteria to determine eligibility of proposals

1. A basic, flexible, easily measurable set of eligibility criteria will be used to define proposals eligible for consideration. A combination of the criteria will be used to assess proposals. Final determination of the eligibility criteria to be used will be determined by the Board. Proposals not meeting the eligibility criteria will not receive funding. The Board should consider establishing an appeals process to address proposals that are not accepted. In addition, basic eligibility criteria will need to be reviewed periodically by the Board.

2. In considering proposals, the highest priority should be given to those proposals from countries and regions with the greatest need, based on the highest burden of disease and the least ability to bring financial resources to address these health problems¹. Also, proposals from countries and regions with a high potential for risk should be considered, taking into account the opportunity to prevent increases in prevalence and incidence. For all proposals the Board might consider criteria that take into account the ability of the country partnership to raise its own resources and to apply coordinated resources from multilateral, bilateral, or private sector sources in support of the proposal. Approaches for “weighting” and scoring multiple criteria should be assessed. Essential proposal eligibility criteria should include the following:
 - 2.1. Disease burden for HIV, TB and/or malaria: This would rely on accepted international standards for assessing disease prevalence and magnitude. It should be noted that all proposals need not address all three diseases. Selection of the disease(s) to be addressed will depend on county needs.

 - 2.2. Relevant indicators of the poverty situation, such as GNP per capita, the UN Human Development Index, or others.

 - 2.3. Potential for rapid increase in disease, based on accepted international indicators such as: recent disease trends, size of population at risk, prevalence of risk factors, extent of cross-border and internal migration, conflict, or natural disaster.

 - 2.4. Political commitment, as measured by a variety of indicators, which could include such indicators as: contribution to the financing of the proposal, public spending on health, existence of supportive national policies, or the presence of a national counterpart in the proposal.

 - 2.5. Existence of a country coordination mechanism (CCM), which consists of an inclusive collaborative partnership, with all relevant partners engaged in planning, decision-making and implementation.

¹ These include sub-Saharan Africa, currently the region most affected, as well as some countries within the Caribbean, Asia-Pacific, Latin America and Central and Eastern Europe.

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3. Country proposals will be accepted from a Country Coordination Mechanism (CCM) that includes broad representation from government agencies, NGOs, community-based organisations, commercial sector organizations (where these exist), and bilateral and multilateral agencies. In addition, other organizations, such as country or regionally based academic institutions that can facilitate and support the programs may be requested to join the CCM.
4. Submissions from groups of organizations from multiple countries would be accepted in order to help address cross-border issues related to the three diseases. Such proposals would be required to meet standards agreed upon from the above eligibility options and would need to be consistent with the priorities of the CCMs in the countries involved. It may be necessary to develop specific eligibility criteria that are applicable to regional proposals.
5. Individual organizations, such as NGOs, would be eligible to submit proposals directly. However, the proposal must demonstrate clearly why it could not be considered under the CCM process at the country level, and the Board should require validation of these reasons. Criteria for the submitting NGO would include the quality, coverage, and credibility of their services and operations.
6. Exceptions may be made for countries in special circumstances (e.g. countries in conflict).

Criteria for eligibility of proposals:

7. The following country or regionally based entities will be eligible to receive funds:
 - 7.1. Government agencies.
 - 7.2. Civil Society Organizations (including NGOs, community-based organizations, associations, etc).
 - 7.3. A third-party group charged with program and financial responsibility.
 - 7.4. Multilateral institutions, when requested through the CCM to provide for trustee, operational or advisory services. Multilateral institutions will not apply directly for funding.
 - 7.5. Universities and other academic institutions that have been requested by the CCMs to play key roles in program implementation and assessment of program effectiveness.

8. Proposal Review Criteria

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8.1 The Board will determine a detailed set of proposal review criteria.

8.2 An ad hoc working group may be formed to develop proposal review criteria options for Board approval. These could include contractors or shareholder organizations with appropriate capacity.

Annex 4 - Technical Review Panel

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TECHNICAL REVIEW AND ADVICE
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1. Application Process

- 1.1 The Global Fund will need a clear, simple and transparent application format and process.
- 1.2 The Secretariat will be responsible for facilitating the application process.
- 1.3 The Global Fund will need to identify a process for accommodating proposals in various languages. This will be critical to assure equitable access to the Fund.
- 1.4 The Secretariat will ensure that all the required information is included, before forwarding proposals to the independent Technical Review Panel.
- 1.5 A system for vetting the proposals will be explored, keeping in mind the need to simplify the process while not increasing transaction costs on countries, the Secretariat or the Technical Review Panel.
- 1.6 The Secretariat will forward the recommendations from the Technical Review Panel to the Board for final decision.
- 1.7 Technical support for preparing proposals and developing country level partnerships could be provided and funded by partners active in the country, such as bilateral donors and UN organizations. Mechanisms will need to be developed for supporting the development of proposals in countries without such partners active in the country. The possible role of the Fund in the provision of support for proposal preparation will be further explored.
- 1.8 To enable more rapid transfer of funds and initial implementation of programs, the Board may consider adopting special, transparent procedures to approve “quick start” proposals, particularly during the first year of Fund operation. “Quick start” proposals must adhere to Fund principles and must undergo technical review.
- 1.9 In addition, other mechanisms may be developed for “interim” proposals to allow for rapid release of one or two smaller funding tranches, with additional funds contingent upon performance. These proposals must adhere to Fund principles and must undergo technical review.

2. Technical Review Panel

- 2.1 The technical review process will be an independent transparent process based on rigorous scientific and programmatic reviews of proposals. Proposals will be subjected to a systematic process of case-by-case peer review of the technical and programmatic content.

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- 2.2 The Technical Review Panel is an independent, impartial team of experts appointed to guarantee the integrity and consistency of the proposal review process. It will review grant proposals submitted to the Fund for support, based on a set of proposal review criteria set by the Board, and will make recommendations to the Board for final decision. Members will not represent their home institutions or governments, but will serve in their personal, professional capacities.
- 2.3 Guidelines will be developed on potential conflict of interest and in areas of confidentiality.
- 2.4 There should be a single Technical Review Panel, which possesses a wide array of expertise and will consist of an appropriate number of scientific and programmatic experts to review all proposals. As needed, it will draw from a larger, geographically diverse pool of reviewers, from a broad range of organizations in both the developing and developed world, to advise on specific technical and programmatic issues, depending on the nature of the proposal under consideration.
- 2.5 The panel will include individuals with extensive program experience to provide peer reviews of proposals and bring their substantive expertise to the process. The panel will include members who possess country experience and expertise on the role of Civil Society in the field.
- 2.6 Because it will be difficult to find individual reviewers with expertise in all three disease areas, members will be selected to ensure a balance of expertise in HIV/AIDS, TB and malaria, as well as in non-health areas such as economics, finance, program management, community development, and implementation in resource poor settings. Reviewers must be able to evaluate proposals based on their overall sustainability and feasibility.
- 2.7 Panel members will not represent positions of Global Fund partners, nor be able to review proposals that represent a perceived conflict of interest.
- 2.8 While UN staff will not serve on the technical review panel, they can provide critical resources for organizing the review process and can assure independence. UN staff can perform a supportive role to the Review Panel.
- 2.9 Panel members will be nominated by and approved by the Board. The Secretariat may solicit the names of potential reviewers through a variety of sources, including governments, UN agencies, and Civil Society (NGOs, Private Sector). It would be useful for the Board to develop a stable pool of Technical Experts that can be called upon as needed.

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- 2.10 Panel members will serve for a two-year period, though it may be necessary to renew selected Experts. Staggered terms may be used so that not all members are up for reappointment at the same time.
- 2.11 The Fund will make available resources to cover the expenses that panel members incur in the proposal review process to ensure independence.
- 2.12 The Panel may need a full-time convener, who could be a member of the Secretariat.
- 2.13 The Board will determine how the technical panel will be convened and how reviews will take place.
- 2.14 The names of the members of the Technical Review panel will be made public.
- 2.15 Mechanisms will be developed for providing feedback to applicants regarding the quality of their proposal, including an indication of why proposals were unsuccessful. Such remanded proposals could be resubmitted for consideration after revision.

3. Technical Policy and Program Support

- 3.1. The Board will commission an appropriate body to address key technical and policy issues for Board consideration, such as: detailed criteria for reviewing proposals; options for monitoring and evaluation indicators; and possible floors/caps for funding. This function could be served through a standalone working group, ad hoc working groups, or assigned to the Technical Review Panel.

4. Additional Actions

- 4.1 A sub-working group should be established to further develop a process for technical review for submission to the first meeting of the Board. This group should focus on a number of critical areas including the use of multi-layered reviews and the establishment of timelines for the review process.

Annex 5 - Accountability

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MONITORING PROGRAM PROGRESS

Defining Accountability

1. The Global Fund will require sound processes for specifying, tracking and measuring program results to ensure a sufficient level of accountability, and to ensure that lessons learned are shared.
2. The future financial viability of the Fund will depend on being able to demonstrate results, initially in terms of coverage of activities and subsequently in terms of outcomes. All partners, without specific attribution, could claim results achieved under Global Fund activities. A system of accountability is also needed to provide incentives to grant recipients to achieve more, faster, and better results.
3. Financial accountability is covered in another paper. However, there are clear links between financial and programmatic accountability that must be considered.

Accountability to whom?

3. Grantees need to be:
 - accountable to government, private sector & foundation donors (for the use of funds, achievement of results)
 - responsive to developing countries (to help them fight the three diseases in their countries)
 - responsive to the needs of those infected and directly affected by the three diseases
4. Monitoring of Global Fund grants will focus on programmatic accountability: assessing the programmatic progress and public health impact of activities supported by the Fund; and providing incentives for improved performance.
5. The Global Fund will require comprehensive plans for assessing programmatic accountability, including monitoring, evaluation, and auditing. To the degree possible, a country's monitoring plan will make use of existing monitoring and evaluation structures and mechanisms, including independent mechanisms. The Fund should not establish parallel monitoring and evaluation systems, but be willing to invest in the existing systems. However, for selected countries, it is possible that some new M&E arrangements will need to be established where none currently exist.
6. The Fund will seek to reinforce country information systems, build on existing country indicators, and use a standard set of internationally agreed upon indicators as benchmarks for overall progress. This is a long-term

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investment and will need interim process indicators to measure rapid progress, within the context of achieving sustainable impact.

7. Desired long-term programmatic impact includes final outcome measures such as reduced death rates, reduced disease transmission rates, increased survival rates, and control of multi-drug resistance. The Fund must ensure that grant recipients have the ability to adequately and accurately monitor the public health and clinical impact of supported interventions on disease progression, transmission rates, morbidity and mortality rates, and development of drug resistance. Intermediate outcomes and benchmarks will also be established to assess program progress and provide incentives for improved performance.

8. The Fund will not take on the responsibility for assessing overall worldwide progress made in the areas of HIV/AIDS, TB, and malaria. This task will remain the responsibility of existing international organizations working in the three disease areas.

9. While the processes may have distinct differences, the monitoring of the fiduciary and financial accountability process is intimately linked with programmatic monitoring and evaluation.

Program Monitoring And Evaluation of Programs:

10. Monitoring of program progress through the use of benchmarks, process and output indicators should be an inherent component of any program. Country Coordination Mechanisms (CCM) are ideally situated to monitor progress. However, the evaluation of program outcome and impact indicators are more suitable for independent, external organizations. This avoids the moral hazard of non-credible reporting. The Fund should primarily utilize existing monitoring and evaluation systems and indicators. For instance, reports from the National TB Program, which contain the number of identified active cases of TB those completing therapy, and proportions that are under DOTS therapy, should be accepted by the Fund.

11. The Global Fund will require two levels of program monitoring and external evaluation:

- **11.1 Global Fund results** – The Fund will use a core set of impact and process indicators to track overall progress of the Fund (to be determined by the Board), to assess performance of partners, and to evaluate overall progress of grant recipients. Core indicators for assessing public health results may be established by an ad hoc M&E working group, drawing upon indicators used by existing programs, such as UNAIDS, Stop TB and Roll Back Malaria¹.

¹ WHO has provided the TSS with a range of current work on monitoring program performance in the areas of TB and malaria.

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- **11.2 Grantee results** – The Fund will also require more detailed independent programmatic monitoring of individual grant recipients on a regular basis, using a broader set of evaluation criteria and indicators. The CCM should play a significant role in establishing the performance and monitoring processes and should review the results as part of a tiered review protocol. Grantee M&E would consist of:
 - 1) submission of routine progress reports (by the CCM/grantee), which contain information on the state of the process and the results of agreed indicators (to the Secretariat or to an independent technical monitoring group); and
 - 2) commission of an external evaluation team to assess progress made with grant funds.

12. Program indicators used by grantees will be identified by the grantee in the grant proposal. To ensure consistency, the Board should consider requiring all grantees to track a core set of public health indicators (these core indicators could be proposed by an ad hoc M&E working group). Partners in a proposal will also be required to identify an independent entity to collect data and conduct local M&E operations. During the initial strategic design and during the establishment of the monitoring and evaluation systems, potential risks and obstacles to program implementation should be identified and reassessed at appropriate intervals.

Results-oriented approach (alternative text to be supplied by results oriented sub working group)

13. The Board will consider setting up a system for using selected M&E results from grantees for making results-oriented disbursements. Decisions regarding release of subsequent tranches of funding to grant recipients would be based on indicator results. Using indicator results, a designated group (such as the Secretariat or an independent technical monitoring group – to be determined by the Board) would decide if progress is sufficient to release subsequent tranches of funding to the grantee (with Board approval). Grantees not producing sufficient positive results would not receive additional funds. Remedial support may be provided to poorly performing programs when there is a clear justification. While the long-term goal is to reduce infections, illness and death from the three diseases, there must be meaningful milestones along the way against which to evaluate the progress of each grantee and to consider disbursement of subsequent tranches of the grant. In any scheme there must be appropriate financial accountability mechanisms in place. These should be factored into the process for releasing subsequent tranches of funding to recipients of grant. A sub-working group, convened by Canada, will identify potential options of results-oriented funding.

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Oversight

14. Oversight for monitoring and evaluation will remain the ultimate responsibility of the Board. The Board may wish to assign some responsibilities to another group (either internal or independent) to review M&E reports submitted by grantees, and draft M&E reports on the overall progress of the Global Fund. Options for who will oversee the process of monitoring both Global and Local program progress (on behalf of the Board) include:

- Global Fund Secretariat
- Ad hoc M&E working group
- The Trustee (World Bank, OED)
- A UN agency
- Existing mechanisms (UNAIDS, Stop TB, Roll Back Malaria)
- An independent M&E oversight committee appointed by the Board
- Third party – accounting firm, university, etc.

15. A new way of doing business is needed so that the entire process is transparent and demonstrates an ideal partnership. Funded proposals should be made widely available to ensure this transparency and to provide models for future proposals.

16. The transaction costs of the Fund will need to be assessed, including the operation of the Board and Secretariat, cost to produce a proposal, the review process, and monitoring and evaluation. This will be done as a collaborative effort between a sub-working group and the TSS.

Annex 6 - Fiduciary Issues

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PRINCIPLES

1. Generally, financial accountability and program accountability will be handled separately, recognizing that they will be linked at certain key points in the process. The GFATM's system of accountability needs to be based on the following principles:
 - The funds were used for the intended purposes;
 - They were used cost-effectively for these purposes;
 - They produced the expected result/impact.
 - All fiduciary arrangements, including audits should be fully transparent to stakeholders and others interested in the activities of the GFATM.
 - The system should be designed to minimize transaction costs for all parties, especially the recipients.

TRUSTEE

2. The TWG will request the World Bank to be the Trustee for the GFATM. The Chairperson of the TWG will write to the President of the World Bank, requesting the World Bank to be Trustee for the GFATM.

TRUSTEE RESPONSIBILITIES

3. The Trustee would have primary responsibility for financial accountability, including the following:
 - **Collection, investment, and management of funds¹:**
 - The Trustee would be responsible for receiving contributions from *public sector donors*; the investment of such contributions; and disbursement of funds in accordance with the terms of the instrument.
 - Regarding *private sector donors*, modalities would have to be determined to allow for tax-deductibility. Arrangements may have to vary according to the laws of different countries.
 - The private donations would be channeled to the Trustee, commingled with the public sector donations, and the Trustee would invest all the funds together².

¹ The Board of the Fund would be responsible for resource mobilization.

² The WB's Investment Management Department currently manages the WB's assets, working with a variety of financial institutions, and achieves a rate of return that compares favorably with that achieved on similar types of funds managed by other financial institutions (last year the WB's yield on trust funds was 8%).

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➤ **Disbursement of funds to national-level entities, on the instruction of the Board (see below for details)³:**

At the instruction of the Board, the Trustee would disburse GFATM funds to Board-approved country-level entities (both Government and non-government).

➤ **Financial reporting to stakeholders:**

Through the Board, the Trustee would report to the GFATM stakeholders as a group⁴ on the financial management of the Fund, and the allocation of Fund resources. Standardized formats for financial reporting would be required by all parties in the system, based on internationally accepted standards.

INDEPENDENT AUDITS

4. The Trustee, in co-ordination with the Board, would set the standards and requirements for the independent financial audits that need to be carried out on any of the implementing and financial agencies involved in handling the resources of the GFATM. Any party handling GFATM funds would need to agree to be subject to independent audits, and to accept serious consequences, should the audits reveal financial malfeasance. Audits would be both regular and random: for example, all programs/grants over a certain value would be subject to regular audits, and all programs/grants below that threshold would be subject to random audits. Resources should be specifically set aside upfront to cover the costs the auditing program.

5. Each Coordinated Country Proposal (CCP) should include plans for independent financial and program audits (of inputs and outputs), as well as independent evaluations of outcomes, starting with an assessment of the financial accountability of the recipients. The financial and program audits should be separate, parallel and linked at critical points in the system. The costs of these independent audits could be included in the cost of the CCP.

³ In its capacity as Trustee for other multi-donor Trust Funds, the WB already has on-going relationships with commercial banks world-wide. In particular, the WB holds bank accounts in many commercial banks, which are accountable for the proper maintenance of the accounts and the security of all transactions within the accounts.

⁴ Reporting on the commingled Fund finances would be done for the donors as a group, and therefore funds from any particular donor would not be tracked and reported on separately.

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DISBURSEMENTS

6. The main different methods of disbursement that are most often used are:
- Disbursements to finance expenditures for approved goods and services that have already been incurred, usually done on the basis of statements of expenditures. In this and the case below, common WB practice is to provide implementing agencies with sufficient funding to last 3-4 months, keeping the remaining resources invested to earn a return;
 - Direct payments to suppliers, based on pro-forma invoices: this reduces the amount of cash needed to be held in a Special Account (see point below) and ensures that the agreed procurement procedures are followed;
 - Advances to cover anticipated expenditures on the goods and services needed to carry out the approved activities over a specified period (often managed through a Special Account). These are usually provided to entities/countries that are particularly short of their own resources (where making an advance, and having to wait for reimbursement, would cause particular difficulties).

In addition, the Board may consider two further approaches:

- An outcomes-based approach which provides incentives for the implementing agencies to achieve results in fighting the three diseases;
- General budget support, which is not tied to the purchase of specific goods and services, but made on the basis of commitments to achieve change or make progress in certain areas.

PRINCIPLES FOR ENSURING FINANCIAL AND PROGRAM
ACCOUNTABILITY AND OPTIONS FOR CHANNELING FUNDS

8. The Board, through the Trustee will enter into grant agreements with the recipients of funds: each grant agreement will set forth the terms and conditions on which the funds will be made available, including how and when the funds will be disbursed, the procurement requirements that will be applicable, and the program and financial reporting that the grantee will need to fulfill.
9. All grantees will provide regular *financial reports* through the CCM to the Trustee or sub-trustee. The grantees will also provide regular *program reports* as required by the Board.

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10. In order to clarify the responsibility for the preparation, assessment, implementation and monitoring of programs and the use of funds made available by the GFATM, the Board will base its decisions regarding funding procedures and disbursement channels on an independent assessment of the expenditure and financial management capacity of recipient partners involved. The Board will consult with appropriate parties, including the Trustee, for this purpose. These assessments, taking into account internationally agreed standards, will guide decisions on the involvement of “lead support agencies” and on options for channeling the funds.
11. The Trustee may advise the Board on potentially suitable sub-trustees in specific countries or regions.
12. Costs are an important consideration. Different options for channeling funds and maintaining accountability have different implications for costs, effectiveness and accountability.
13. While many different combinations are possible, three main options are presented here. The Board will have the final decision on which option is most appropriate for each circumstance⁵:

The *one-check option*: On the basis of an approved CCP, the Trustee disburses one check to the Government of the recipient country. The Government then passes the funds on to the various entities identified in the CCP, and is held accountable for both financial and program performance.

The *two-checks option*⁶: the Trustee (either directly, or through a “sub-trustee”) makes out two checks, on the basis of an approved CCP. The first check goes to the Government, to pass on to all the public sector entities identified in the CCP. The second check goes to a credible entity in the non-government sector, which then passes the funds on to all the non-government entities identified in the CCP.

The *multi-checks option*: The CCM proposes a sub-trustee, who would be responsible for both the financial and the program accountability, subject to approval by the Board and the Trustee. The sub-trustee could be a private bank, or some other appropriate entity. On the basis of an approved CCP, the Trustee would pass to the sub-trustee the full allocation for the country’s CCP. The sub-trustee would periodically make out checks for each of the

⁵ This would inevitably increase the workload of the Secretariat.

⁶ This is the approach followed under the MAP (Multi-Sectoral AIDS Program in Africa), supported by the World Bank and other donors.

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different entities identified in the CCP. The sub-trustee would be responsible to provide both financial and program reporting.

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ANNEX

Further questions to be resolved/issues to be noted

A number of further questions would need to be addressed during the next stage of elaborating the fiduciary arrangements. Some of these questions are:

- a) The fiduciary arrangements would need to be integrated with whatever system of procurement is decided upon.
- b) How to ensure that the CCP is fully integrated with all other donor supported programs for the 3 diseases, so that there is only one system of reporting, auditing etc. that the country needs to follow for each disease (donors need to “walk the talk” on harmonization of donor practices)?
- c) How to manage and account for the flow of in-kind contributions (which are unlikely to be managed by the WB as Trustee)? Since WHO handles such contributions in certain programs (e.g. a Leprosy Eradication Programme in India), that experience could be examined; and lessons learned from it.
- d) What would be an appropriate process to be followed, in the case of regional-level proposals, and which bodies would fulfill accountability functions at regional level (e.g. Regional Development Banks)?
- e) Administrative versus program costs: how should the question of funding the administrative costs of GFATM be handled, given that certain sources of funding are restricted to funding program costs?
- f) Proposals need to be developed for a process and criteria to be followed to identify a partner to mobilize and collect private sector contributions.

Annex 7 - Legal Issues

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The TWG agreed:

- a. To initiate start-up actions;
- b. To recommend that the Fund is provided with an independent legal personality of its own;
- c. To explore which legal form would suit the needs of the Fund, in the chosen location, or other countries.

1. ACTIONS IN ORDER TO GET STARTED WITHOUT DELAY

The Discussion paper on “Arrangements to move from a Transitional to Permanent Structure” outlines a number of start-up activities. In addition the following activities should be included:

- 1.1 The TSS should arrange for actions necessary to complete recommendation C above and present it to the Board for decision.
- 1.2 The TSS should arrange for negotiation of agreements with the potential providers of Secretariat and Trustee services.
- 1.3 These agreements shall be presented to the Board of the Fund for approval.
- 1.4 Soliciting and receiving funds from donors starts. The contributions are paid into an account managed by the Trustee under the provision that the Board of the Fund shall decide on the use of the money. As soon as the account has been established, donors can make payments to it.

Two models of agreements with donors can be imagined:

- A. The Donor enters into an Agreement with the Trustee, which undertakes to handle the donation as decided by the Fund;
 - B. The Donor enters into an Agreement with the Fund, recognising the Fund as a valid partner, even if the Fund strictly speaking has not yet acquired formal legal personality. In that agreement it is stipulated that the donation shall be paid into an account managed by the Trustee. The Fund makes undertakings directly to the donor regarding how to use the money.
- 1.5 Once the Fund has acquired legal personality as a separate legal entity, all decisions taken during the start up period should be confirmed by the appropriate body in the newly established legal entity. (Thus relieving interim decision makers of any personal liability).