



Investing in our future

The Global Fund

To Fight AIDS, Tuberculosis and Malaria

**Eighth Board Meeting
Geneva, 28 - 30 June 2004**

**GF/B8/6
Revision 1**

ANNUAL REPORT OF ETHICS COMMITTEE

Outline: This report is the annual Report of the Ethics Committee mandated by para. 1.6.1. of the Committee Rules and Procedures.

Part 1: Background

1. The Ethics Committee is a committee of the Board of the Global Fund to Fight AIDS, Tuberculosis & Malaria. The Committee was constituted after the Sixth Board Meeting. It is chaired by the Vice Chair of the Board. Accordingly, Dr. Suwit Wibulpolprasert led the Committee until the Seventh Board Meeting, and Dr. Hélène Rossert-Blavier has been Chair thereafter. The Committee also includes representatives of the Point Seven, Latin America and Caribbean, and United States of America constituencies.¹ In order to broaden representation, representatives of the Private Sector and Developing Country NGO constituencies have also participated in the Committee's meetings as invitees.²

2. The Ethics Committee has met three times by teleconference, on December 19, 2003, January 26, 2004, and May 18, 2004. The minutes of these meetings are attached as Annexes 1, 2 and 3 to this report.

3. To date, the Committee's objective has been to define its mission under the Ethics and Conflict of Interest Policy for Global Fund Institutions (the "COI Policy" or the "Policy") and the Committee's terms of reference, and agree on the procedures under which it will operate. In addition, the Committee supervised the distribution of the COI Policy and the Declaration of Interest form to persons covered by the Policy ("Covered Individuals"), and considered the response to the distribution. To date, no ethics or conflict of interest issues have been reported to it.

4. This document constitutes the Ethics Committee's first annual report to the Board under para 1.6.1 of the Committee Rules and Procedures (the "Rules"). Part 2 describes work done to define the Committee's mission and internal procedures. Part 3 covers the distribution of the COI Policy and Declaration of Interest form and its results, and Part 4 conflict of interest issues. Finally, Part 5 refers to the issue of the composition of the Committee.

Part 2 : Mission and Procedural Guidelines

1. The Committee's main purpose is to carry out the tasks that are set forth in the COI Policy and the Rules, which include its terms of reference.

2. The Committee will focus its activities on three tasks.

- First, it will promote high ethical standards among Covered Individuals by communicating the principles of the COI Policy and recognizing best practices.
- Second, the Committee will, to the greatest possible extent, work to prevent conflicts of interest from affecting the operations of the Global Fund by enforcing compliance with the COI Policy's requirements.
- Third, the Committee will investigate and determine action to be taken in specific cases of conflict of interest.

¹ The members of the Committee are: Dr. Hélène Rossert-Blavier (Chair, Developed Country NGO); Mr. John Gardner (United States of America); Ms. Sigrun Møgedal (Point Seven); and, since June 2004, Ms. Nemora Tregnago Barcellos (Latin America and Caribbean). Ms Barcellos was preceded by Volnei Garrafa and Miriam Ventura da Silva.

² The invitees are Ms Rita Arauz Molina (Developing Country NGO) and Dr. Brian Brink (Private Sector).

3. The Committee has a broad mandate to investigate individual conflicts of interest. However, such investigations will be carried out only where there is evidence suggesting that a conflict or a threat to the reputation and integrity of the Global Fund may exist. In making this determination, the Ethics Committee will rely on reports of conflicts received from the interested individual or by a third party, Declaration of Interest forms filed by Covered Individuals, or other evidence that might otherwise come to its attention.

4. In addition, the Committee will consider involvement in other areas – such as assisting the Board with the making of ethics and conflict of interest policy – when it believes that its involvement would help protect the integrity and reputation of the Global Fund. The Committee believes that this flexibility of action will make a positive contribution to its ability to ensure that the Global Fund's operations are carried out in a responsible and ethical manner.

5. To ensure that its operations are carried out in an effective, impartial and consistent manner, the Committee has developed certain internal procedures - based on the COI Policy and the Committee Rules and Procedures - to govern its work. These can be found at Annex 4 to this report. Because it has only recently commenced its operations, the Committee considers these guidelines to be “work in progress”, to be constantly revised in the light of experience.

Part 3: Distribution of the COI Policy and Declaration of Interest Form

1. Paragraph 9.1 of the COI Policy requires that the Policy be distributed each year to all Covered Individuals together with a copy of the Declaration of Interest form. The Committee decided to wait to distribute these documents until after the Seventh Board meeting, when they were due to be revised.

2. After the Policy and the Declaration of Interest form were finalized, they were distributed electronically to all Covered Individuals on April 7, 2004. The documents were accompanied by a personalized message from the Chair of the Ethics Committee providing guidance on the purposes and principal requirements of the Policy, details with respect to the confidentiality of the form, and instructions on how to disclose conflicts of interest and otherwise make contact with the Committee. Covered Individuals were asked to complete and submit a Declaration of Interest form to the Ethics Official by April 23, 2003.

A. Secretariat employees

3. Secretariat professional employees are among the categories of Global Fund individuals who are covered by the requirements of the COI Policy.

4. On April 29, 2004, the Executive Director of the Global Fund wrote to the Committee Chair to notify her that several Secretariat employees had expressed concern with respect to the Declaration of Interest form. In his letter, he stated that these employees consider the requirements of the form to be unnecessarily intrusive of their privacy, and worry that the information disclosed will not be treated as confidential.

5. The Committee discussed the issues raised by the Executive Director in detail. It concluded that para. 4.3 of the COI Policy safeguards the confidentiality of Declaration of Interest forms sufficiently. In addition, the Committee's internal procedures, reviewed in draft form during the meeting, provide for robust and specific precautions intended to protect the privacy of Covered Individuals.

6. The Committee decided to reply to the Executive Director that, because the COI Policy and the Declaration of Interest form were approved by the Board, it would be necessary for Secretariat Employees to comply with the Policy's requirements, including the submission of the form. In this connection, the Committee noted that there would be no reason to justify exempting Secretariat employees, but not persons belonging to other categories of Covered Individuals, from the obligation to file a Declaration of Interest form.

7. Accordingly, the Committee concluded that it would be necessary to remind Secretariat employees of the need to file a Declaration of Interest form - and explain the rationale for this requirement. However, it decided that, because Secretariat employees are staff members of the World Health Organization who are subject to that organization's own conflict of interest rules, it would not attempt to enforce the Declaration of Interest filing requirement until such a time as the application of the Global Fund's COI Policy to its employees has been provided for in the Log of Exceptions under the Administrative Services Agreement between the Global Fund and WHO. The Secretariat has submitted a proposal that the matter be added to the Log of Exceptions, and expects that WHO's agreement will be provided in due course.

B. Declaration of Interest filings

8. The initial response to the distribution of Declaration of Interest forms was disappointing, with only 35 out of 208 Covered Individuals submitting completed forms by the April 23, 2004 deadline. A personalized reminder to Covered Individuals who had failed to file resulted in an increase in the number of filings to 69. After a second reminder was sent on May 21, 2004 the number of filings increased further to 96 declarations on June 7, 2004. A list of Covered Individuals other than Secretariat employees who have not filed Declaration of Interest forms prior to the Eighth Board Meeting will be provided to Board members at that meeting.

9. As discussed in the preceding section of this report, the Committee has decided not to enforce the Declaration of Interest filing requirement against Secretariat employees until an appropriate entry has been added to the WHO Log of Exceptions.

10. The Ethics Committee plans to continue to seek 100% compliance with the requirement that each Covered Individual file a Declaration of Interest form.

Part 4: Ethics and Conflict of Interest Cases Reviewed

1. The Committee has reviewed no conflict of interest or ethics cases since its constitution.

Part 5: Composition of the Committee

1. The Committee's membership was established based on the 14 applications received to achieve geographical and donor/recipient balance and a close relationship to the leadership of GPC and MEFA. However, when the Committee's composition was announced after the Sixth Board meeting, several constituencies complained that government constituencies were the only ones to be represented. To enhance the Committee's diversity, its first Chair, Dr. Suwit Wibulpolprasert, invited representatives of the NGO South and Private Sector

constituencies to attend meetings as invitees rather than as members.³

2. The Committee notes that, at the Seventh Board meeting, the Private Sector delegation requested that the Board consider expanding the membership of the Ethics Committee from four to six members, and include an independent ethics expert and non-governmental members on the committee. The Board decided to defer this issue to the Eighth Board meeting.

Annex 1

Minutes of Ethics Committee Teleconference

**December 19, 2003
14h00 – 16h00**

Present on call: Dr. Suwit Wibulpolprasert (Chair); Ms. Sigrun Møgedal; Mr. John Gardner; Ms. Milly Katana (invitee).

Absent: Mr. Volnei Garrafa

Agenda item 1: Roll call for participants

1. The Chair announced that, given the presence of two Committee members and himself, a quorum had been achieved.
2. Dr. Suwit informed the Committee that Ms. Katana, representing the NGO-South Constituency, had been invited to participate in the teleconference. The Chair had also invited the Private Sector to participate; however, a name had not yet been put forward by the constituency for that purpose.

Agenda item 2: Document summary

3. The Ethics Official presented the documents that were distributed to the Ethics Committee in advance of the teleconference. The principal item was a briefing note containing background information on the Global Fund's Ethics and Conflict of Interest Policy (the "COI Policy") and rules affecting the operations of the Ethics Committee, and certain options that the Committee might consider in deciding on its work ahead.
4. The principal issue for consideration listed in the briefing note was the scope of the Committee's mission, and specifically the issue of whether it should have policymaking function. Other issues included possible revisions to the Global Fund's conflict of interest disclosure form, the scheduling of Committee meetings, and certain issues currently under consideration by the Governance and Partnership Committee ("GPC").
5. The documentation distributed to the Committee also included the COI Policy, the Ethics Committee Rules (the "Rules"), and other basic documents affecting the Committee's work. The terms of reference of the Committee were also provided.

³ However, the Committee's members agreed that invitees should not take part in the consideration of specific ethics and conflict of interest cases.

6. One member pointed out that GPC is considering both substantive and editorial revisions to the COI Policy, which is not yet in final form.

Agenda item 2: Visions / Mission / Strategy of the Global Fund

7. The Chair directed the Committee's attention to the question of its terms of reference. In so doing, the Committee considered whether its mission, as stated in para. 1.3 of the Rules, should extend beyond ensuring compliance with the requirements of the COI Policy, to participation in ethics and conflicts of interest policymaking, a task that is usually carried out by GPC.
8. The Committee concluded that its primary purpose is to carry out the tasks that are set forth in the COI Policy and its terms of reference – including providing information and advice on the Policy, investigating and resolving reported conflicts of interest, and generally ensuring compliance with the COI Policy.
9. In addition, the Committee will consider involvement in other areas – such as assisting the Board on policymaking issues, dealing with other ethical issues beyond the COI policy, – **when it believes that it would help to protect the integrity and reputation of the Global Fund.** This flexibility of action would make a positive contribution to the Committee's ability to ensure that the Global Fund's operations are carried out in a responsible and ethical manner.
10. The Committee considered its power to investigate individual conflicts of interest in some detail. It concluded that this power is a broad one, but that conflict of interest investigations should only be carried out where there is evidence suggesting that a conflict may exist, or that there is a threat to the reputation and integrity of the Global Fund.
11. In making this determination, the Ethics Committee will rely primarily on reports of conflicts by the interested individual or by a third party, Declaration of Interest forms, or other evidence that might otherwise come to its attention.

Agenda item 3: Plan of Action

12. Having identified its mission, the Committee moved on to discuss its work plan. Its members agreed that, due to the Committee's youth, its work would be a "**learning process**" during which effective working procedures would be refined through experience.
13. The role of the Ethics Official in screening matters that might need to be referred to the Committee was discussed. It was suggested that the Ethics Official deal with routine questions. The Ethics Official proposed that, during an interim phase, the appropriateness of referrals of all but the most routine matters to the Committee be explored on a case-by-case basis with the Chair in order to establish a modus operandi from experience.
14. In addition, it was stated that the Ethics Official should be accountable and report solely to the Committee despite his status as a Secretariat employee, and that all Committee business should be treated by him as strictly confidential. The Ethics Official agreed to this and stated his opinion that this arrangement would be acceptable to his colleagues in the Secretariat.

15. The Committee agreed that more discussion would be required in order to agree on a work plan. However, the Chair stated that the work ahead should be linked to three broad principles. First, the Committee should promote high ethical standards among individuals covered by the COI Policy through communication of its principles and recognition of best practices. Second, the Committee should, to the greatest possible extent, work to prevent conflicts of interest from affecting the operations of the Global Fund by enforcing compliance with the COI Policy's requirements. Third, the Committee should investigate and determine action to be taken in specific cases of conflict of interest.
16. This proposal was welcomed by the Committee, and the Ethics Official was asked to prepare a briefing note including an action plan based on these three principles, for distribution on January 14, 2004, in time for the Committee's second teleconference, to be held on January 20, 2004.

Agenda item 4: The composition of the Committee

17. The Chair explained that the Committee's membership had been established based on the 14 applications received to achieve geographical and donor/recipient balance and a close relationship to the leadership of GPC and MEFA. Given these objectives, and the relatively small size of the Committee, it would have been impossible to include constituencies other than governments without reducing the number of government members to one – which would involve a dramatic under-representation of that constituency given its weight on the Board.
18. To enhance the Committee's diversity, the Chair decided to invite representatives of the NGO South and private sector constituencies to attend the Committee meetings as invitees rather than as members.
19. The Chair asked whether attendees felt that the Committee should be larger so as to accommodate additional constituencies as members. If so, an expansion of the Committee's size could be proposed to GPC; that committee could then consider the matter and, if appropriate, present a proposal to the Board at its next meeting.
20. Committee members generally expressed strong support for the current size, on the grounds that it is better suited to its responsibilities.
21. In addition, one member emphasized that, given the nature of the Committee's business, the importance of objectivity and fairness is paramount, requiring that members act in their individual capacities rather than as representatives of their constituencies, and stated that this fact decreases the importance of having additional constituencies as members.
22. Attendance by two additional constituencies as invitees was also supported. However, it was stated that it would be best to restrict agenda items considering specific conflict of interest investigations to members only.
23. The invitee representing the NGO South constituency was asked whether she considered it satisfactory to attend Committee meetings as an invitee rather than as a member. She replied in the affirmative.

The meeting adjourned at approximately

Minutes of Ethics Committee Teleconference

January 26, 2004
13h00 – 15h00

Present on call: Dr. Suwit Wibulpolprasert (Chair); Ms. Sigrun Mogedal; Mr. John Gardner; Dr. Brian Brink (invitee).

Absent: Mr. Volnei Garrafa, Ms. Milly Katana (invitee)

Agenda item 1: Approval of Minutes of December 19, 2003 teleconference

24. The Committee approved the minutes of its previous meeting

Agenda item 2: Review of Committee Action Plan and Procedures

25. The Committee confirmed that it will be guided by three fundamental principles: First, the Committee shall promote high ethical standards among individuals covered by the COI Policy through communication of its principles and recognition of best practices. Second, the Committee will, to the greatest possible extent, work to prevent conflicts of interest from affecting the operations of the Global Fund by enforcing compliance with the COI Policy's requirements. Third, the Committee will investigate and determine action to be taken in specific cases of conflict of interest.

26. It was agreed that, because the Committee was established only recently, its work will be a learning experience, involving the continuous refinement and development of its procedures.

27. The Committee discussed the briefing note on action to be taken and Committee procedures, following the order of that document.

a. Communication of the Principles of the COI Policy and Recognition of Best Practices

28. The Committee decided that the Ethics and Conflict of Interest Policy ("COI Policy") of the Global Fund will be distributed to all Covered Individuals together with the Declaration of Interest form after revisions to these documents have been approved by the Board at the March 18-19, 2004 Board meeting. To this end, the Committee requested that the Ethics Official supervise the preparation of a list of names and contact information of all Covered Individuals.

29. The Committee also decided that, in order to facilitate compliance with the COI Policy, it would be appropriate, from time to time, to issue interpretative notes on compliance issues. Such notes could also be accompanied by case studies describing "real life" situations arising under the policy, appropriately redacted so as to protect the privacy of the Covered Individuals involved.

30. The Committee approved the proposed procedures on the processing of requests for information from Covered Individuals and the provision of information to specific individuals.

B. Enforcement of the COI Policy

31. It was agreed that the text on the filing of Declaration of Interest forms be adjusted to reflect the fact that Covered Individuals who are already subject to code of ethics or standards of conduct regulation, and who, under such code or regulation, are required to complete and file a disclosure form that includes the information requested in the Declaration of Interest form, may submit such form in lieu of the Declaration of Interest form – as stated in footnote 3 to the COI Policy.
32. The Committee then discussed the nature of the review that should be carried out of completed Declaration of Interest forms when they are filed with the Ethics Official. It was agreed that only a prima facie review for completeness and conflicts of interest can be performed, as the form will often not contain sufficient information on the external interests and Global Fund activities of Covered Individuals to permit more detailed analysis and conclusions with respect to conflicts (as described in paras. 37-45 of the briefing note).
33. In reaching this conclusion, the Committee noted that the forms will be a useful and ready source of information where a conflict has already been reported or alleged, but that the Committee will have to rely primarily on the obligation to report conflicts of interest and allegations of conflicts from third parties in discovering conflicts in the first place.

C. Investigation of Conflicts of Interest

34. It was pointed out that self-reported conflicts of interest will often come to the attention of the Committee in the form of enquiries (i.e. a Covered Individual will ask whether a given interest that she holds amounts to a conflict of interest). The Committee agreed that the description of the procedure for enquiries should be amended to reflect this point.
35. The importance of confidentiality in investigating and dealing with conflicts of interest was noted by the Committee, which agreed that the privacy of covered individuals should normally be protected.
36. The Committee also noted that the Chair of the Board or Chairs of other Board sub-committees have the authority to make decisions on conflicts of interest that are reported during meetings where an urgent determination is necessary – e.g. where it is necessary to decide whether a given individual should be allowed to participate in a matter that is before the Committee at that meeting. If the Chair of the Ethics Committee or the Ethics Officer are present at that meeting, they may be consulted before the decision is made. If there is a doubt, it is preferable to act as if there were a conflict of interest - taking the necessary short-term action - and then refer the matter to the Ethics Committee for later determination.
37. In the case of conflicts that are not self-reported, the Chair considered whether action should be taken in several cases, ranging from an anonymous letter that contains extremely vague allegations and no information on who might have the conflict (generally, no action required), to an anonymous communication stating who has the conflict and a modicum of additional information (grey area) to a signed communication with clear information (generally, action required).

38. It was agreed that the Committee would consider conflict of interest allegations on a case-by-case basis, and that it would not be necessary to record the action to be taken in the Committee's procedures.
39. The invitee from the private sector delegation drew the Committee's attention to procedures for whistleblowers, and volunteered to provide the policy of Anglo American PLC in this regard. The Ethics Official will carry out additional research on this matter.
40. The Committee agreed that it would not be necessary to have detailed procedures on requests to third parties for the release of information in the context of conflict of interest investigations, as these determinations could be made on a case-by-case basis.
41. It also was pointed out that reports to the Board on conflicts should generally be redacted so as to protect the privacy of the persons who are being investigated.
42. At the conclusion of the meeting, several Committee members expressed their strong appreciation for the Chair's service on the Committee and as Vice Chair, and suggested that the Governance and Partnership Committee consider certain ambiguities in the Bylaws and Board Operating Procedures on the terms of Board members.
43. The meeting was adjourned at approximately 15h30, Geneva time.

Minutes of Ethics Committee Teleconference

May 18, 2004
14h30 – 16h30

Present on call: Dr. Hélène Rossert-Blavier (Chair); Ms. Sigrun Møgedal; Mr. John Gardner; Ms. Rita Arauz Molina (invitee); Dr. Brian Brink (invitee) Mr. Himamauli Das (invitee)

Absent: Ms. Miriam Ventura da Silva

Agenda item 1: Roll call and Chair's message

44. The Chair declared that a quorum had been achieved and opened the teleconference. She paid tribute to Dr. Suwit Wibulpolprasert's outstanding leadership in the initial phase of the Committee's experience, and declared her intention to ensure that the Committee continues to conduct its work in an effective fashion, guided by common sense.
45. The delegate of the United States of America introduced Mr. Himamauli Das, who will be replacing him as a Committee member.

Agenda item 2: Approval of minutes of January 26, 2004 teleconference

46. The Committee approved the minutes of its previous meeting.
47. It was agreed that minutes of meetings be distributed as soon as possible after the date of a meeting rather at the time of distribution of the agenda and material for the next meeting.

Agenda item 3: COI Policy and Declaration of Interest form distribution

48. The Ethics Official described the recent distribution of the COI Policy and the Declaration of Interest form to Covered Individuals, covered by a letter from the Chair containing information on the Global Fund's ethics requirements, the confidential treatment of information disclosed, and modalities for communication with the Ethics Committee.
49. The distribution initially yielded a disappointing number of filings. The issuance of a reminder improved the response considerably.
50. The Chair proposed that another reminder to Covered Individuals who have not yet filed be issued as soon as possible. The Committee agreed that the reminder should refer to the Committee's obligation to report in detail to the Board on compliance with the Declaration of Interest requirement, and to its intention to disclose a list of Covered Individuals who had not complied prior to the Board meeting in that context.
51. The Ethics Official will be available to assist Covered Individuals who have not yet completed their Declaration of Interest forms at the time of the Eighth Board Meeting on June 28-30, 2004.

Agenda Item 4: Letter from the Executive Director on Declaration of Interest form

52. On April 29, 2004, the Executive Director of the Global Fund wrote to the Chair describing concerns with respect to the Declaration of Interest of a number of Secretariat employees. In particular, some employees consider the requirements of the Declaration of Interest form to be unnecessarily intrusive of their privacy, and worry that the information disclosed will not be treated as confidential.
53. The Committee discussed the issues raised by the Executive Director in detail. It concluded that para. 4.3 of the COI sufficiently safeguards the confidentiality of Declaration of Interest forms.⁴ In addition, the Committee's internal procedures, reviewed in draft form during the meeting, provide for robust and specific precautions intended to protect the privacy of Covered Individuals.
54. The Committee decided that, because the COI Policy and the Declaration of Interest form were approved by the Board, it would be necessary for Secretariat Employees to comply with the Policy's requirements, including the submission of the form. In this connection, the Committee noted that there would be no reason to justify exempting Secretariat employees, but not persons belonging to other categories of Covered Individuals, from the obligation to file a Declaration of Interest form.
55. The Committee agreed that the Chair would communicate its decision to the Executive Director. The Chair also agreed that she would remind Secretariat employees of the need to file a Declaration of Interest form - and explain the rationale of this requirement - once compliance with the Policy had been added to the Log of Exceptions under the Administrative Services Agreement between the Global Fund and the World Health Organization. The Secretariat is proposing the addition to the Log, which is required if the COI Policy is to be enforceable on Secretariat employees, who are WHO staff members. No action with respect to such employees will be taken until the matter has been added to the Log.

Agenda Item 5: Translation of COI Policy and Declaration of Interest form

56. The Chair informed the Committee that France has requested translation of the COI Policy and the Declaration of Interest form into French.
57. The Ethics Official informed the Committee that the COI Policy and the Declaration of Interest form are scheduled to be translated, in accordance with Board Policy, into the official languages of the United Nations as soon as final revisions are made to the Policy after the Eighth Board meeting (a modification to the requirement with respect to post-Board employment in the Secretariat will be considered by the Board at that time).

Agenda Item 6: Approval of Revised Committee Procedures

58. The Committee reviewed its revised internal operating procedures. It expressed appreciation for the procedures, which are intended to guide the Committee in its work, and approved them.
59. The representative of the Private Sector constituency remarked that both the COI Policy and the procedures rely mostly on self-reporting, and referred the Committee to his

⁴ Para. 4.3 of the COI Policy provides that "Disclosure statements shall be updated annually and whenever there is a material change in the information they contain, and shall be maintained by the Ethics Official and made available for inspection by the Ethics Committee, and, only as deemed appropriate by the Ethics Committee, by the Board. *Except as outlined above, these statements shall be maintained confidential.*"

earlier point that it would be desirable to consider the introduction of a whistleblowing mechanism. The Chair replied that she was aware that the Committee planned to discuss this point, but had decided that the agenda for the meeting was too crowded to allow for full discussion of the topic on that occasion. The topic was therefore deferred to a later meeting. In the meantime, the Ethics Official will ensure the distribution to new Committee members of Anglo American PLC's whistleblowing policy, previously circulated by the Private Sector delegation.

60. Separately, the Developing Country NGO invitee raised the issue of conflicts of interest involving Country Coordinating Mechanisms, underlining its crucial importance to the Global Fund's effectiveness and results. The issue falls within the remit of the Governance and Partnership Committee, which is in the process of considering matters related to CCMs.

Agenda Item 7: Report to the Board

61. The Committee reviewed the draft report that must be – under the Committee Rules – be delivered to the Board at its Eighth meeting. Some relatively minor revisions to the text were made.
62. On the issue of the Committee's size and constituency representation, the Private Sector invitee pointed out that his delegation had proposed a resolution proposing expansion of the Committee's membership and inclusion of an expert in ethical matters at the Seventh Board meeting. The discussion of the motion had been deferred to the Eighth Board meeting due to lack of time; it was agreed that the draft report to the Board would be amended to reflect this fact.
63. The representative of the United States declared that his constituency strongly favors the current size and composition of the Committee as they best ensure effectiveness and confidentiality.
64. Separately, it was agreed that the report should contain the observation that the Committee's work is a learning process, and that its processes and mechanism will be revised in the light of experience.
65. The Ethics Official will distribute a new draft of the report in time to receive feedback from the Committee and submit the report to the Board in advance of its Eighth meeting.
66. The meeting was adjourned at approximately 16h30, Geneva time.

ETHICS COMMITTEE INTERNAL PROCEDURES

I. INTRODUCTION

1. The primary purpose of the Ethics Committee is to carry out the tasks that are set forth in the Policy on Ethics and Conflict of Interest Policy (the "COI Policy") and the Committee's terms of reference. In addition, the Committee will consider involvement in other areas – such as assisting the Board and GPC with ethics and conflict of interest policymaking or deal with other issues beyond the COI policy – when it believes that such involvement would help to protect the integrity and reputation of the Global Fund.
2. In order to achieve progress towards its objectives, the Committee will concentrate on three tasks.
3. First, it shall promote high ethical standards among the persons to whom the COI Policy applies ("Covered Individuals") through communication of the principles of the COI Policy and recognition of best practices.
4. Second, the Committee will, to the greatest possible extent, work to prevent conflicts of interest from affecting the operations of the Global Fund by enforcing compliance with the COI Policy's requirements.
5. Third, the Committee shall investigate and determine actions that should be taken in specific cases of conflict of interest.
6. Parts II through IV of this document contain procedural guidelines for the Committee. Part V covers the Committee's obligation to report to the Board of the Global Fund.

II. Communication of the principles of the COI Policy and recognition of best practices

7. Under the Ethics Committee's terms of reference, the Committee "[...] shall [...] [p]rovide guidance and information on the application of the COI Policy, and advise the members of the bodies and staff on conflict of interest and ethics issues".
8. The objective of this mandate is to promote compliance with the requirements of the COI Policy by informing Covered Individuals of them. This can be done by divulging to Covered Individuals the COI Policy, other related documents, and interpretative materials intended to facilitate understanding of the Policy's requirements, and by replying to enquiries from Covered Individuals, other sub-committees of the Board, and the Board itself.
 - A. Distribution of the COI Policy to Covered Individuals and Measures to Protect the Confidentiality of Declaration of Interest Forms
9. The COI Policy provides that the Policy must be distributed, together with a copy of the Declaration of Interest form,⁵ to all Covered Individuals each year.⁶

⁵ Compliance with requirements concerning the Declaration of Interest Form is discussed in Part III of this note.

⁶ COI Policy, para. 7.1.

10. To ensure confidentiality and protection of the privacy of Covered Individuals, a dedicated mailbox (ethics@theglobalfund.org) will be used to distribute and receive declarations of interest. Only the Ethics Official and, if appropriate, his assistant will have access to the mailbox.
11. Declarations of Interest will be filed electronically in the mailbox, and in hard copy under lock in a secure location that only the Ethics Official has access to.
12. The Ethics Official will not share the contents of Declarations of Interest with any person other than members of the Ethics Committee.
13. The COI Policy and the Disclosure statement are also available on the Global Fund's website, at <http://www.theglobalfund.org/en/>, as required by the Policy.⁷

B. Interpretative materials

14. To further facilitate compliance with the COI Policy, the Committee will, from time to time, issue interpretative notes providing practical guidance on situations arising under the COI Policy.
15. These will cover practices under the Policy and, if appropriate, include case studies describing "real life" situations arising under the Policy, appropriately redacted so as to protect the privacy of the Covered Individuals involved.
16. If appropriate, these interpretative notes will also be made available on the Global Fund's website.

C. Requests for Information on Ethics and Conflict of Interest Issues

17. The Committee will receive requests for information from Covered Individuals, sub-committees of the Board, or the Board itself. For example, a Covered Individual might ask whether investing in a given security or accepting a particular job offer or gift might lead to a conflict of interest, or a sub-committee might wish to ascertain whether a prospective technical adviser's affiliations would have implications under the Policy.
18. The Committee will employ the following procedures in dealing with requests.

1. Questions from Covered Individuals

19. A note accompanying the COI Policy when it is distributed each year will specify that Covered Individuals should submit questions on ethics and COI issues to the Committee via the Ethics Official. This will provide a single entry point to the Committee.
20. The Committee foresees that such enquiries will usually involve clarifications of COI Policy requirements (e.g. whether a particular gift may be accepted), the compilation of Declaration of Interest forms and other similar issues. In addition, Covered Individuals may seek clarification of whether given interests they hold would constitute conflicts of interest under the COI Policy; where such enquiries amounts to the reporting of a conflict of interest, the Committee will follow the procedures described in Part IV of this document.

⁷ Id., para. 7.2.

21. In the interest of efficiency, and to avoid being overburdened by routine questions, the Committee will delegate responses to relatively straightforward questions to the Ethics Official.
22. Questions delegated to the Ethics Official will, for example, pertain to routine procedural matters (e.g. how to complete declaration of interest forms, or how to communicate with the Committee). Other matters to be dealt with by the Ethics Official will include questions as to requirements clearly set forth in the COI policy (e.g. whether a given person is a Covered Individual, or whether a given interest needs to be declared under para. 4.1 of the Policy).
23. Where the answer to the question is not readily ascertainable by reference to the COI Policy or is not otherwise straightforward, or where its subject matter might have wider relevance due to its sensitive nature, the Ethics Officer will refer it to the Chair of the Committee, accompanied by a briefing note containing analysis of the relevant information.
24. The Chair may then reply to the question himself, refer it to the entire Committee for consideration, or ask the Ethics Official to reply to it.
25. If the question is referred to it, the Ethics Committee would, in turn, respond to the question or, if necessary, refer it to the entire Board under para. 1.3.4 of the Rules.

2. Questions from the Board or Other Sub-Committees

26. Questions from another sub-committee of the Board or from the Board itself are likely to be addressed to the Ethics Committee via its Chair.
27. Where this is the case, assistance shall be requested of the Ethics Official as needed.
28. If, instead, the question is referred to the Committee through the Ethics Official, the Official will, in consultation with the Chair, prepare the necessary briefing materials and then refer it on to the Committee.

D. Provision of Information to Specified Individuals by Initiative of the Committee

29. The Committee will provide information to specific Covered Individuals of its own initiative where it believes that doing so will help to promote high ethical standards and prevent damage to the Global Fund's reputation.
30. For example, the Committee might wish to remind a given Covered Individual of the COI Policy's definition of conflict of interest where it has information suggesting that the individual may be about to acquire an interest (e.g. accept an offer of employment) that would conflict with his or her Global Fund responsibilities.

III. Enforcement of the COI Policy

31. The Committee's mandate to enforce compliance with the COI Policy's requirements originates in para. 1.3.2 of the Rules, which provides that the Ethics Committee shall "oversee the COI Policy and its implementation".
32. This mandate overlaps partially with two other mandates of the Committee. The first is the provision of information on the COI Policy, already discussed in Part II of this note, as

understanding of the COI Policy by Covered Individual will facilitate its enforcement. The second is the investigation and resolution of specific conflicts of interest, that will be discussed in Part IV of this note.

33. Beyond these two other mandates, the Committee will carry out the following enforcement activities.

A. Ensure the Filing of Declaration of Interest Forms

34. Under the COI Policy, all Covered Individuals and professional staff members of the Global Fund secretariat must submit a completed Declaration of Interest form and then update it annually.⁸ This declaration must, under the Policy, be submitted to the Ethics Official.⁹
35. Covered Individuals who are already subject to a code of ethics or standards of conduct regulation, and who, under such code or regulation, are required to complete and file a disclosure form that includes the information requested in the Declaration of Interest form, may submit such form in lieu of the Declaration of Interest form.¹⁰
36. The first step in securing compliance with this requirement will be the annual distribution of the Declaration of Interest form, directing all Covered Individuals to file it within a given period of time.¹¹
37. After this communication has been issued, the Ethics Official will ensure that the form is filed and updated annually by all persons required to do so, with appropriate administrative support from the Secretariat, by sending reminders to Covered Individuals who have failed to file by the given deadline.
38. The Ethics Official will regularly report to the Committee on compliance with this requirement, and provide the names of Covered Individuals who have not filed Declaration of Interest forms. The Committee could then decide on appropriate action and include this information in its annual report to the Board.

B. Review of Declaration of Interest Forms

39. Under the Rules, the Ethics Official receives Declaration of Interest forms and transmits those that may raise conflict of interest issues to the Ethics Committee for consideration.¹² The forms will be treated as confidential, kept in a secure location, and not shared with any person other than members of the Ethics Committee, as detailed at paras. 9-13, below.¹³
40. The Declaration of Interest form requires that each Covered Individual disclose his or her assets, liabilities, sources of income and positions.
41. As such, it is intended to provide a full account of the financial interests of each Covered Individual and facilitate the Global Fund's determination, where a conflict of interest is

8 Id., para. 4.2.

9 Id., para. 4.3.

10 Id., footnote 3.

11 Id., para 7.1 mandates that the COI Policy and the Declaration of Interest form be distributed to all Covered Individuals each year.

12 Rules, para. 1.5.1.

13 The confidentiality of the form is specifically provided for in para. 4.3 of the COI Policy.

suspected or has been claimed, of whether the conflict in fact exists. In addition, the form can provide an opportunity for the Global Fund to identify conflicts of interest that have not been disclosed by the relevant Covered Individuals.

42. In relation to the identification of possible conflicts during the Ethics Official's preliminary review of Declaration of Interest forms, in many cases the form will not contain information sufficient to ascertain whether the interests disclosed are in conflict with those of the Global Fund.
43. For example, it may be difficult to assess whether a Covered Individual's ownership of a particular security might, due to the operations and interests of the issuer of the security, represent a conflict, because the form does not require that the Covered Individual provide a complete list of the issuer's interests and operations.
44. In addition, in order to identify whether an interest of a Covered Individual is in conflict with an interest of the Global Fund, it is necessary to have complete and up-to-date information on the Global Fund operations and decisions that the Covered Individual is involved in.
45. For example, a Covered Individual's ties to a pharmaceutical company that might be affected by Global Fund procurement policies would arguably only be of concern if that individual were directly involved with the formulation and implementation of those policies. However, the form does not provide this information, which would otherwise be rather burdensome to collect given the high number of Covered Individuals and the even greater number of Global Fund decisions and operations that they are engaged in.
46. Accordingly, it is only possible for the Ethics Official to conduct a *prima facie*, and necessarily rather superficial, review for conflicts and completeness of the disclosure.
47. Based on the results of that review, apparently incomplete or defective forms will be returned to the relevant Covered Individual for correction or explanation. Suspected conflicts of interest shall be referred to the Ethics Committee pursuant to procedures approved by the Committee (see Part IV of this note).

IV. Investigation of Conflicts of Interest

48. Under the COI Policy, actual or possible conflicts of interest must be disclosed to the Ethics Committee¹⁴, which shall then decide whether action is warranted.¹⁵
49. Conflict of interest investigations shall only be carried out where there is evidence suggesting that a conflict may exist, or that there is a threat to the reputation and integrity of the Global Fund.
50. In making this determination, the Ethics Committee will rely primarily on reports of conflicts by the interested individual or by a third party, Declaration of Interest forms, or other evidence that might otherwise come to its attention.

A. Gathering and Presentation of Information/ Evidence to the Committee

¹⁴ Id., para 4.1

¹⁵ Id, para. 5

51. Where a conflict of interest – or the acceptance or giving of a gift in violation of the Policy -- are alleged, the Ethics Official will gather and provide to the Committee the background information, assess the relevant information, and propose options for action to the Committee in a confidential manner.
52. The procedure to be followed in gathering information will depend somewhat on whether the conflict is reported by the interested individual or whether it comes to the Committee's attention by other means.

1. Self-reported conflicts

53. This category includes both situations where a Covered Individual reports an interest that is in conflict, or may be in conflict, with an interest of the Global Fund, and situations where a filed Declaration of Interest form reveals a conflict of interest or the possibility of such a conflict.
54. The procedure for dealing with self-reported conflicts depends heavily on the circumstances of the conflict and its disclosure.
55. If the information provided by the Covered Individual is, in the Ethics Official's opinion, sufficient for the Committee to be able to establish whether there is a conflict of interest, that information will be passed on to the Ethics Committee for consideration.
56. If, instead, the Ethics Official were to conclude that additional information is required, he could, given that the disclosure came from the Covered Individual himself, request additional information or evidence from that person.
57. In cases where the Covered Individual refuses to provide the additional information, or where it does not appear appropriate for the Ethics Official to act on his own initiative in this respect, the Official will refer the matter to the Committee and propose that it issue a procedural order requesting the information from the Covered Individual.
58. The Ethics Official will assist with the drafting of the procedural order, which would request the specific information and/or evidence that is needed. When appropriate, the Committee will indicate in the order that failure to respond adequately to it would result in the Covered Individual being excluded from the relevant Global Fund operations.

2. Conflicts that Are Not Self-Reported

59. Where a conflict of interest, or the acceptance of a gift in violation of the COI Policy, are brought to the attention of the Committee by a party other than the interested party, the Committee will consider whether additional information can be obtained informally by the Ethics Official or whether such information should be requested formally by the Committee by means of a procedural order.
60. In addition, under the COI Policy the Committee must inform any Covered Individual that it has reasonable cause to believe he or she failed to disclose a conflict, describe the basis of such belief, and provide him or her with the opportunity to explain the alleged failure to disclose.¹⁶ The explanation can be invited in written form or through a personal appearance, at the Committee's discretion.

¹⁶ COI Policy, para. 5.8.

61. The COI Policy requires that the interested Covered Individual be afforded this opportunity before the Committee determines whether he or she has failed to disclose a conflict of interest.¹⁷
62. This shall be done by means of a separate communication from the Committee or by adapting a procedural order requesting information/evidence to include language inviting an explanation of the alleged failure to disclose.

3. Seeking Information from Third Parties

63. In some cases, it will be appropriate to seek information with respect to a conflict of interest from parties other than the interested Covered Individual (e.g. request information from his or her employer). The Committee will exercise caution where permission to contact other parties has not been granted by the Covered Individual, as the information sought may give rise to confidentiality issues.
64. Where necessary, the Committee will request that the interested Covered Individual authorize it to contact third parties under penalty of exclusion from the Global Fund activities with respect to which the conflict is suspected to exist if that authorization is not provided.

4. Conflicts Reported During Board or Sub-Committee Meetings

65. Conflicts of interest may, on occasion, be reported during a Board or Committee meeting.
66. When this occurs, the Chair of the relevant meeting will have the authority to make determinations on conflicts where it is urgent that he or she do so – e.g. where one must decide whether a given individual should be allowed to participate in a matter that is before the Committee.
67. If either the Chair of the Ethics Committee or the Ethics Officer is present at that meeting, that individual may be consulted before the decision is made. If there is a doubt, it is preferable to act as if there is a conflict of interest, temporarily excluding the interested individual from the relevant work and/or decision, and then referring the matter to the Ethics Committee for later determination under its ordinary procedures.

B. Next steps

68. The Ethics Official will collect information/evidence with respect to conflicts or gifts and present it to the Committee together with decision options for consideration. This presentation will normally be made in the form of a written note, followed as appropriate by an oral briefing during a Committee meeting.
69. The Committee will then decide whether additional information is required, and how this should be requested and provided. As discussed above, the request can be made with varying degrees of formality (ranging from a communication from the Ethics Official to a procedural order). In addition, the Committee may, under the Policy, invite a Covered Individual to provide information by means of a personal appearance before the Committee.

¹⁷ Id.

70. Once information has been collected, the Committee can decide whether a conflict of interest in fact exists, and communicate its findings to the relevant Covered Individual.
71. Under the COI Policy, a Covered Individual may not participate in a matter where it is found that he or she has a conflict of interest in relation to it. Accordingly, the Rules authorize the Committee to “exclude the Individual from participation in matters relating to the matter that has given rise to the conflict of interest.”¹⁸
72. The Committee may, otherwise, require that the Covered Individual dispose of the outside interest that gives rise to the conflict – e.g. sell a given security, or resign from a position. This option will be less appropriate where the outside interest has been discovered despite the Covered Individual’s failure to disclose it.
73. Under para. 5.3 of the COI Policy, the Ethics Committee may waive the requirement that a Covered Individual not participate in the matter that has given rise to the conflict. Such waiver “may be designed to allow for any level of participation the Ethics Committee deems appropriate. For example, it may permit the covered individual to present information of a technical nature, but not recommendations. Or it may permit the Covered Individual to attend the meeting in order to fulfill his or her administrative responsibilities, but not participate in any discussion on issues that have given rise to the conflict of interest. The names of Covered Individuals with conflicts of interest who participate in a particular meeting, and the issue on which there is a conflict, shall be recorded in the minutes for that meeting.”
74. The Ethics Committee may decide to refer a conflict of interest matter to the Board for discussion or determination. This will occur where the Committee is unable to achieve a consensus on whether a conflict exists, or where the matter is of such importance that it is desirable to raise it to the Board level. In addition, the Committee is required to do so, under the Policy, where it finds that a Covered Individual has failed to disclose a conflict of interest.¹⁹ Reports to the Board should be redacted so as to protect the privacy of the persons who are being investigated, both by removing the name of the individual and, to the extent possible, other information that might suggest his or her identity.
75. In the case of the acceptance or giving of gifts, the Committee may determine whether a gift may be acceptable under Article 6 of the COI Policy, or whether the gift is unacceptable on the grounds that it is intended to affect the policies or practices of the Global Fund. The Committee may also, where appropriate, waive the requirements of Article 6.²⁰ Where a gift is not acceptable but has already been given or accepted, the Committee may presumably decide on appropriate action (the COI Policy does not say what that action may be).

V. Reports to the Board and Written Records

76. The Rules require that the Committee report to the Board on its activities and on conflict of interest issues each year. The first report is due to be delivered in advance of the Board’s eighth meeting, scheduled to be held on June 7-8, 2003, and will contain a description of the Committee’s operations since its foundation.
77. The Rules also require that the Committee keep written records of its activities.

¹⁸ Ethics Committee Rules, para. 1.4.2

¹⁹ Id.

²⁰ COI Policy, para 6.1.

78. The Ethics Official will assist the Committee with the drafting of its annual report to the Board and meeting minutes, redacted to protect the confidentiality of Covered Individuals, unless an alleged or potential conflict of interest, or other violation of the COI Policy, is being referred to the Board for resolution.