



Investing in our future

**The Global Fund**

To Fight AIDS, Tuberculosis and Malaria

**Twelfth Board Meeting  
Marrakech, 15-16 December 2005**

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### **Appointment of Rapporteur**

**Decision Point:**

Peter van Rooijen from the Developed Country NGO Constituency is designated as Rapporteur for the Twelfth Board Meeting.

There are no material budgetary implications for this decision.

***Signed: 15 December 2005***

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Peter van Rooijen  
Rapporteur

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Dianne Stewart  
Secretariat



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### Approval of Agenda

**Decision Point:**

The agenda for the Twelfth Board Meeting (GF/B12/1, Rev. 3) is approved.

There are no material budgetary implications for this decision.

***Signed: 15 December 2005***

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Peter van Rooijen  
Rapporteur

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Dianne Stewart  
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### **Approval of Report of the Eleventh Board Meeting**

**Decision Point:**

The report of the Eleventh Board Meeting (GF/B12/2) is approved, as amended at the Twelfth Board Meeting.

There are no material budgetary implications for this decision.

***Signed: 15 December 2005***

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Peter van Rooijen  
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### **Update on Strategy Development**

**Decision Point:**

The Board acknowledges the progress made on developing the situation assessments and affirms the prioritization of issues and the principles to guide option development outlined in the Report of the Policy and Strategy Committee (GF/B12/5). It requests that the work proceed to the stage of option development and that the Policy and Strategy Committee report on progress at the Thirteenth Board Meeting.

There are no material budgetary implications for this decision.

***Signed: 15 December 2005***

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Peter van Rooijen  
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## **Continuity of Services**

The Board recognizes that in exceptional circumstances there may be a need to provide funding for the continuation of treatment in grants where funding ends (whether due to termination, a decision not to provide Phase 2 funding, or a grant reaching the end of its term). The Board recognizes that discussions on whether and how to provide continued funding for treatment will be part of the strategy process. To address exceptional cases that may arise before a comprehensive approach to the issue has been decided, however, the Board replaces the decision at the Ninth Board Meeting on continuity of services (GF/B10/2, Decision Points: Continuity of Services, Decision Point 1) with the following:

The Board adopts the following system for addressing continuity of services:

- i. A recipient (typically a CCM, or, if appropriate, in the case of a non-CCM proposal, the grant applicant) whose funding has ended, has been terminated or is less than four months from the end of its term may submit an Extraordinary Request for Continued Funding for Treatment.
- ii. The Extraordinary Request will be limited to expenses directly related to the continuation of treatment (including medicines [which, in the case of discontinuation of antiretroviral therapy, includes drugs for HIV-related opportunistic infections], diagnostics, and, as appropriate, costs for medical staff and other personnel directly involved in care of the patients on treatment) for those people already placed on life-long treatment under the existing proposal at the time of the Extraordinary Request.
- iii. The Extraordinary Request will be limited to the amount required to provide services directly related to the continuation of treatment for up to two years (taking into account any amount which remains available under the existing grant).
- iv. The Extraordinary Request shall contain a description of the steps that are being taken to find sustainable sources of financing for the people on treatment, and to ensure that treatment is being delivered effectively. To be eligible for funding under this provision the CCM (or, in the case of non-CCM proposals, the grant applicant) shall demonstrate that it has used its best efforts to identify other sources of funding to provide continuity of services but has been unsuccessful.
- v. The Secretariat will review the Extraordinary Request, and provide a funding recommendation to the Board for its approval. The Secretariat will address performance issues as appropriate, and shall make any adjustments to existing implementation arrangements necessary to ensure the effective use of grant funds.
- vi. Throughout the process, the Secretariat will actively engage with technical partners to identify mechanisms to ensure continuity of services.
- vii. In a resource-constrained environment, Extraordinary Requests for Continued Funding for Treatment shall be treated the same as Phase 2 renewals for the purpose of the decision on prioritization set out in GF/B9/2 page 9, Decision Point 2.

This decision shall expire at the first Board meeting of 2007 unless renewed.

There are no material budgetary implications for this decision.

***Signed: 15 December 2005***

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Peter van Rooijen  
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## Round 5 Funding

### Decision Point:

1. The Board approves for funding, subject to paragraph 2 below, all remaining Round 5 proposals recommended as eligible for funding by the Technical Review Panel ("TRP") listed in Annex VI to the Report of the TRP and the Secretariat on Round 5 Proposals (GF/B11/6) that could not be approved for funding at the Eleventh Board meeting due to resource constraints.

The Board's approval is for the amount indicated as 'Total 2 Years' in such Annex, and is made with the clear understanding that such amounts are upper ceilings rather than final Phase 1 Grant amounts. The aggregate amount of funding for the proposals approved by this decision shall not exceed US\$343,539,127.

2. The Board notes that the Secretariat has previously notified the applicants of the clarifications and adjustments requested by the TRP. These adjustments and clarifications shall be completed within four months from the receipt of the initial reply from the applicant. The Board's approval is conditional on the final approval of the TRP Chair and/or Vice Chair based on consultations with the TRP primary and secondary reviewers.

There are no material budgetary implications for this decision.

***Signed: 15 December 2005***

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Peter van Rooijen  
Rapporteur

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Dianne Stewart  
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## **Secretariat Budget 2006**

### **Decision Point:**

The Board approves the 2006 operating expense budget in the amount of US\$83,200,000 as set out in Annex 1 to the Report of the Finance and Audit Committee (GF/B12/7) and as recommended by the Finance and Audit Committee (FAC) and proposed by the Secretariat.

The Board notes that the budget includes envisaged cost savings and requests FAC to review actual expenditure and budgetary needs after the first half of 2006 and, if necessary, make further recommendations to the Board at that time.

***Signed: 15 December 2005***

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Peter van Rooijen  
Rapporteur

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Secretariat



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## Round 6 Funding

### **Decision Point:**

The Board requests that the Secretariat make the necessary preparations for a Board decision, including a forecast of resources available, so that a Call for Proposals for Round 6 can be launched and proposals reviewed and approved in 2006. The Secretariat should furthermore work in close collaboration with relevant committees taking into account the established process to develop a strategy for the Global Fund.

These preparations should ensure the minimum of disruption to countries' ongoing work.

The Board notes that the mid-term review of the Replenishment process in June 2006 and other resource mobilization efforts are essential for securing adequate funding for Round 6.

There are no material budgetary implications for this decision.

***Signed: 16 December 2005***

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Peter van Rooijen  
Rapporteur

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Dianne Stewart  
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### **Resource Mobilization**

The Board requires that resource mobilization and the replenishment process be included as an agenda item at each Board meeting, and that the Finance and Audit Committee will develop a resource mobilization strategy to be discussed at the Thirteenth Board meeting.

There are no material budgetary implications for this decision.

***Signed: 16 December 2005***

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Peter van Rooijen  
Rapporteur

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Dianne Stewart  
Secretariat



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## Appeals—Round 5

### Decision Point:

1. The following proposals will be approved by the Board as Category 2 proposals, based upon the Appeal Panel recommendation, subject to paragraph 2 below and through Board confirmation by e-mail, as funds become available to cover all four proposals under the terms of the Comprehensive Funding Policy:

- i. Equatorial Guinea (Malaria)
- ii. Philippines (Tuberculosis)
- iii. Sudan (HIV/AIDS)
- iv. Sudan (Tuberculosis)

The Board's approval will be for the amount indicated as "Total 2 years" in Annex 2 to the Report of the Internal Appeal Panel (GF/B12/8) and will be made with the clear understanding that such amounts are upper ceilings rather than the final Phase 1 Grant amounts.

2. The proposal applicants shall provide an initial reply to the clarifications requested by the Appeal Panel no later than six weeks after notification in writing by the Secretariat to the applicant of the Board's decision. Any further adjustments and clarifications shall be completed within four months from the receipt of the initial reply from the applicant.

There are no material budgetary implications for this decision.

**Signed: 16 December 2005**

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Peter van Rooijen  
Rapporteur

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## **Phase 2 Decision-Making Policies and Procedures**

### **Decision Point:**

The Board approves the document entitled "Phase 2 Decision-Making Policies and Procedures" included as Annex 1 to the Report of the Portfolio Committee (GF/B12/6) and as amended at the 12th Board Meeting and revokes all previously approved versions of such document.

There are no material budgetary implications for this decision.

***Signed: 16 December 2005***

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Peter van Rooijen  
Rapporteur

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## **Phase 2 Decision-Making Policies and Procedures**

1. The Board may commit funds for Phase 2 renewals (up to the full duration of a proposal) up to the cumulative uncommitted amount pledged through the calendar year of the Board decision.
2. The Board makes funding decisions for Phase 2 renewals based on its review of Secretariat or Technical Review Panel (TRP) recommendations, according to procedures agreed by the Board.
3. The Secretariat or TRP will present the Board with its recommendations on the first of every month (notice to Board constituencies of a recommendation shall be effective upon the posting of the recommendation on the Global Fund website; the Secretariat will inform Board constituencies via e-mail when recommendations have been posted). The Board will vote by email on each recommendation on a no-objection basis. Votes must be received by the Secretariat no later than the tenth of the same month.
4. In exceptional circumstances, the Secretariat may need to take more than 20 months to provide a Phase 2 recommendation to the Board. In such situations, the Secretariat may extend, at no cost, the term of Phase 1 grant agreements by up to six months. The Secretariat shall inform the Board immediately upon taking action under this decision.
5. If the Secretariat decides to issue a "No Go" recommendation, it shall give notice of that intention and the reasons for it to the relevant CCM and allow that CCM four weeks to comment on the information submitted to it by the Secretariat.
6. The Secretariat shall review and consider the information provided by the CCM, and then make its recommendation to the Board. The information provided by the CCM shall be made available to the Board.
7. A Board decision in favor of a Secretariat or TRP recommendation either:
  - commits additional resources in the amount proposed in the recommendation (in the case of recommendations of "Go," "Conditional Go," and "Revised Go"); or
  - does not commit any additional resources (in the case of recommendations of "No Go"), thereby discontinuing the proposal after Phase 1.
8. If the Board does not decide in favor of a Secretariat or TRP recommendation, this would serve to request further clarification on the recommendation and ask the Secretariat or TRP to reassess its recommendation. To facilitate the clarifications process, those Board constituencies that are not ready to decide in favor of a Secretariat or TRP recommendation would provide a written explanation that is made publicly available. The Secretariat or TRP will review its recommendation in light of the questions and comments of those Board constituencies and will then present a second recommendation on the first day of the subsequent month (unless time-constraints make it necessary to wait to the month thereafter). The Board then votes again, on the second Secretariat or TRP recommendation, using the procedures described above.
9. A Board decision in favor of the second Secretariat or TRP recommendation either:
  - Commits additional resources in the amount proposed in the recommendation (in the case of recommendations of "Go," "Conditional Go," and "Revised Go"); or
  - Does not commit any additional resources (in the case of recommendations of "No Go"), thereby discontinuing the proposal after Phase 1.
10. In the event that (i) the Board rejects a first "No Go" recommendation, (ii) the Secretariat issues a second "No Go" recommendation to the Board and (iii) the Board rejects the Secretariat's second "No Go" recommendation, the matter shall be referred to an independent panel, which shall assess the specific areas where the Board and the Secretariat differ on their assessment of the grant and report its conclusions to the Board.



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11. The composition of the Independent Panel will be based on the following principles:
  - Size: Two senior members supported by 1-2 contracted analysts, as appropriate;
  - Independence: Potential conflict of interest should be taken into consideration in selecting these members;
  - Profile of Senior Members: The team of senior members should have a solid understanding of country processes;
  - Profile of Analysts: Analysts should have the capability to fully understand GF principles and procedures;
  - Identification of Candidates: Pool of pre-qualified candidates for Senior Members and Analysts is identified through partners, including WHO, UNAIDS and the World Bank. A list of these candidates is compiled by the Secretariat and each candidate submits a CV to the file for review. A proposed "reserve list" will be compiled based on this selection process;
  - Selection of Panel: The list of tentative candidates will be submitted to the Chair and Vice-Chair of the Board and the Chair and Vice-Chair of the PC. The selection of the Senior Members and Analysts of the independent panel shall be carried out by the Chair and Vice-Chair of the Board in consultation with the Chair and Vice-Chair of the PC;
  - Panel members (Senior members and contracted analysts) will be remunerated; and
  - The Secretariat will facilitate the process.
12. The Independent Panel's scope of work will be based on the following principles:
  - The objective of the external assessment will be to submit conclusions to the Board based on all information put forth by the CCM, PR, Secretariat and Board constituencies;
  - The analysis shall include a chronology of information provided, a typology of the content and an analysis of the source and flow of information;
  - The assessment shall take into consideration the different arguments analyzing how they refer to each other, highlighting areas of agreement and disagreement, and defining the areas which have not been previously addressed by the parties involved; and
  - The Independent Panel shall report to the Board no later than six weeks after receipt of the relevant information from the Secretariat.
13. The final decision on making a funding commitment will be made at the next Board meeting.
14. In circumstances in which insufficient resources remain in Phase 1 to cover financing needs until any Board decision in the Phase 2 procedure can be operationalized, the Board authorizes the Secretariat to extend the terms of the grants by up to six months, and to provide bridge funding for such grants as appropriate. The Board authorizes the Secretariat to commit up to a maximum of one-half of the first year budget contained in the Request for Continued Funding in question for these purposes, which would be financed by utilizing the Phase 2 renewal funding of the proposal. The actual amount committed by the Secretariat would be based primarily on the performance and disbursement patterns in Phase 1.
15. For proposals for which the Board commits Phase 2 funds, a sufficient amount of assets to cover the full costs of the extension of the Grant Agreement must be deposited with the Trustee or readily available on demand prior to the Secretariat extending a Grant Agreement.
16. The Technical Reference Group (TERG) will regularly review and report on the soundness of the Phase 2 review and decision process to the Board through the Portfolio Committee.
17. The Phase 2 decisions will typically be taken based on recommendations that are made 20 months after the Program Starting Date (exceptions could include for situations of force majeure). The decision may be taken earlier in cases of (i) accelerated implementation; or (ii) severe exchange rate fluctuations.



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18. These procedures for the Board commitment of funds for Phase 2 are subject to a time-limited trial period. The Board asks the Portfolio Committee to review these procedures or should adopt an alternative set of procedures. Based on these recommendations the Board will reconsider the procedures at the Thirteenth Board Meeting.



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## Extension of Proposal Completion Dates

### Decision Point 1:

The Board authorizes the Secretariat to extend the Phase 2 term of Grant Agreements by up to six months, without committing any additional funding, in circumstances where the Principal Recipient is prevented, due to exceptional circumstances, from using the full amount of Grant funds during the Phase 2 term.

### Decision Point 2:

The Board decides that in circumstances where the term of a Phase 1 Grant Agreement has been extended in accordance with paragraph 4 of the Phase 2 Decision-Making Policies and Procedures attached as Annex 1 of the Report of the Portfolio Committee (GF/B12/6) (a "Phase 1 Extension"), the Secretariat may extend the Phase 2 term of Grant Agreements by up to an equal length of time as the Phase 1 Extension without committing any additional funding.

The Secretariat shall inform the Board immediately upon taking action under Decision Point 1 and 2.

There are no material budgetary implications for this decision.

**Signed: 16 December 2005**

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Peter van Rooijen  
Rapporteur

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Dianne Stewart  
Secretariat



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## Technical Review Panel Membership

### **Decision Point 1:**

Mindful of the current distribution of the geographic diversity of the Technical Review Panel pool, the Board requests the Portfolio Committee to recommend for approval at the 13th Board meeting one additional Alternate Member of the Technical Review Panel for each area of expertise (HIV/AIDS, tuberculosis, malaria and cross-cutting).

### **Decision Point 2:**

The Board authorizes the Chair and Vice Chair of the Technical Review Panel to add temporarily up to four members, which shall be selected from existing Alternate Members, to the membership of the TRP for a given round of proposals, where appropriate in light of the number of proposals and their distribution among categories.

There are no material budgetary implications for this decision.

***Signed: 16 December 2005***

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Peter van Rooijen  
Rapporteur

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### **Conflicts of Interest of Former Employees**

**Decision Point:**

The Board decides to extend the Terms of Reference of the Ethics Committee to cover conflicts of interest in relation to former staff members of the Secretariat and requests the Ethics Committee to develop a policy regarding this matter at the Thirteenth Board Meeting.

There are no material budgetary implications for this decision.

***Signed: 16 December 2005***

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Peter van Rooijen  
Rapporteur

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## Report of the Committee on the Executive Director

### Decision Point 1:

The Board requests the Chair to launch a process to produce a performance assessment of the Executive Director in time for the Thirteen Board Meeting.

### Decision Point 2:

The Board decides to establish a Committee, composed of the Chairs and Vice Chairs of the Policy and Strategy Committee, Finance and Audit Committee, Portfolio Committee and Ethics Committee, to prepare recommendations for the Thirteenth Board Meeting, which will include updated Terms of Reference for the position of Executive Director.

### Decision Point 3:

The Board decides to amend its By-laws and Board Operating Procedures for the appointment of the Executive Director to be in line with the text appearing below. The Board requests the Chair to work with WHO and the Global Fund's Legal Counsel and outside Swiss counsel to produce draft amendments for adoption at the Thirteen Board Meeting.

## APPOINTMENT OF THE EXECUTIVE DIRECTOR

### I. Term and Term Limits:

The Board decides to amend Article 8.1 of its By-Laws. The Board selects the Executive Director for a period of four (4) years, renewable for a period of three (3) years. The Board will make this selection on a merit-based, non-political and open basis.

### II. Options for Board Decision

At least six months before the end of the incumbent Executive Director's first term, the Board makes one of three decisions:

1. Launch a recruitment procedure, and encourage the Executive Director to let his/her name stand for the post;
2. Reappoint the Executive Director, subject to performance appraisal; or
3. Launch a recruitment procedure, and do not encourage the Executive Director to let her/his name stand for the post.

The norm is Option One. In that case, the Board will make public that it has invited the incumbent Executive Director to re-apply for the post.

### III. Recruitment/reappointment procedure

The Board decides to modify its Board Operating Procedures to include a recruitment procedure and a reappointment procedure, as decided in Paragraph 2 above.



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3.1. Recruitment procedure ;

a. At least six months before the end of the term of an incumbent Executive Director, or any other time decided by the Board, the recruitment process will be followed as below. The Board at that time approves updated Terms of Reference, including selection criteria, for the position of Executive Director.

b. The Board Chair nominates, and the Board approves, a selection committee.

c. The Board launches the recruitment process.

d. The selection committee interviews candidates, and presents the best-ranking candidates to the Board for decision.

3.2. Reappointment procedure

On the basis of the performance assessments, the Board could decide to reappoint an Executive Director for one additional term of three (3) years, under the conditions in Paragraph One above.

Under this system, the annual performance assessment of the Executive Director would, of course, continue, in line with normal best practice. All material for the evaluation will be provided to the Board in the first quarter of the calendar year.

***Signed: 16 December 2005***

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Peter van Rooijen  
Rapporteur

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Dianne Stewart  
Secretariat



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## Report of the Office of Internal Oversight Services

### Decision Point:

The Board recognizes the commitment of the Fund management to implement the recommendations and the findings of the WHO Office of Internal Oversight Services report.

The Board acknowledges its own responsibility to oversee appropriate follow-on measures and ensure that systems and processes for personal and institutional accountability are enforced.

Therefore, the Board decides to establish an *ad hoc* Oversight Committee to oversee the following:

1. On contracts, payments, and recruitment
  - The Board finds the proposed actions in the Response of the Management appropriate
  - The Board requests that the management present an action plan to the Oversight Committee of the Board for review and approval
  - The Board requests that the Oversight Committee report to the 13<sup>th</sup> Board meeting
  - The Board requests that the Oversight Committee involve the Fund's Inspector General in this process
2. On involvement of family members of Fund staff
  - The Board finds the proposed action in the Response of the Management appropriate
  - The Board requests that the management present an action plan to the Board's Ethics Committee
  - The Board requests that the Ethics Committee review the action plan and report to the 13<sup>th</sup> Board meeting
3. Furthermore, the Board requests that the Ethics Committee review and make recommendations to strengthen the Fund's conflict of interest policy in light of the deliberations of the 12<sup>th</sup> Board meeting.
4. The Board requests the Fund's Deputy Executive Director, together with the Fund's Legal Counsel, to prepare appropriate excerpts from the IOS report to be presented to relevant employees with respect to whom there have been adverse findings in the report. Taking into account their responses, Fund management should take measures to determine who is responsible for any improprieties in order to document accountability. In this process, protection of whistleblowers is also essential.
5. The Board requests the Chair and Vice Chair of the Board to ensure that the IOS report as a whole and the Response of the Management are taken into account in the annual performance evaluation of the Fund's Executive Director.
6. The Board directs the Executive Director to provide a full report at the 13<sup>th</sup> Board meeting on steps taken to improve oversight of compliance with existing Global Fund and WHO policies and procedures, including those already developed in response to the Report.
7. The Board decides that the mandate of the Fund's Inspector General includes oversight of the implementation of this decision point. The Board further requests that, in advance of the 13<sup>th</sup> Board meeting, the Inspector General and the Oversight Committee report to the Board about progress in preparations and implementation called for in this decision point.



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The Board approves the Statement of the Board for public release regarding the report of the IOS of the WHO on allegations of improprieties in the operations of the Global Fund:

## **Statement**

The Global Fund to Fight AIDS, Tuberculosis, and Malaria has in its first three years of operations achieved significant results that are saving lives. It strives to operate with the highest level of integrity and transparency to ensure that resources provided are properly utilized and focused on providing life-saving services in the fight against AIDS, tuberculosis, and malaria.

The Board received allegations in July 2005 involving contracting and payments, recruitment of staff, and the involvement of a family member. These allegations concerned activities within the Secretariat in Geneva.

Acting immediately, the Board Chair and Vice Chair and the Executive Director referred the allegations to the WHO's Office of Internal Oversight Services (IOS)<sup>1</sup>, which after a substantial review provided a Report to the Board.

Based on the IOS Report and a review by its Ethics Committee, the Board finds that:

- There was no evidence of fraud and misuse of funds.
- There was no evidence of violations of the Policy on Ethics and Conflict of Interest for Global Fund Institutions, though there were actions that created concerns about lack of transparency.
- There were instances of violation of established Global Fund and WHO rules and procedures.

In response, the Board takes the following actions:

- A new Ad Hoc Committee is established to facilitate Board oversight of corrective measures being taken by Secretariat management.
- The Office of Inspector General will advise the Board on progress made by the Secretariat in implementing recommendations made in the Report and related directives of the Board, as well as to propose additional improvements that might be needed.
- The Executive Director is directed to provide a full report at the next Board meeting (April 2006) on steps taken to improve oversight of compliance with existing Global Fund and WHO policies and procedures, including those already developed in response to the Report.

In addition to these allegations, the Board also received concerns about Secretariat culture and morale, which it takes seriously. The Global Fund's success depends on the hard work and commitment of its staff. Therefore, the Deputy Executive Director has already been tasked by the Board with responding to these concerns and is now directed to provide a comprehensive progress report at the next Board meeting.

<sup>1</sup> The Global Fund operates under an Administrative Service Agreement with the WHO to provide human resource and administrative services.

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**Signed: 16 December 2005**

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Peter van Rooijen  
Rapporteur

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Dianne Stewart  
Secretariat