



Investing in our future

The Global Fund

To Fight AIDS, Tuberculosis and Malaria

Thirteenth Board Meeting
Geneva, 27 - 28 April 2006

GF/B13/8

Annex 8

REPORT TO PORTFOLIO COMMITTEE IN RELATION TO PHASE 2 DECISION MAKING PROCEDURES

Outline: Current Board procedures in relation to Phase 2 Decision making were introduced at the 9th Board meeting as an interim measure to be reviewed at the 13th Board Meeting. The PC Committee is requested to make recommendations to the Board to facilitate that decision.

Required actions

1. At its 4th meeting, the PC Committee must decide on its recommendations to the Board in relation to the Phase 2 decision making process to be applied beyond the 13th Board Meeting.
2. Based on decisions reached at the 4th PC meeting, the Secretariat will prepare a paper to the Board outlining the specific recommendations.

Part 1: Introduction

1. The policies and procedures relating to the Phase 2 renewal of grants have evolved, from board decisions made at the 7th meeting in March 2004, through to the 12th meeting in December 2005.
2. Of particular relevance now is a decision made at the 9th Board Meeting, whereby the procedure for Phase 2 funding commitment decisions, approved at the 7th Board Meeting, was temporarily revoked until the 13th Board Meeting and replaced by alternative procedures. These new provisions gave the Board a decision making role in Phase 2 renewal decisions which it did not have under the earlier procedure.
3. As the existing provisions expire at the 13th Board Meeting, the Board must decide at that meeting which procedures will apply thereafter. This paper is provided to help the PC Committee formulate its recommendations to the Board. (**NB** the required decision relates to the Board role in Phase 2 decisions, and not a wider revisiting of phase 2 procedures.)

Part 2: Chronology of Phase 2 Board Decisions

1. The policies and procedures that govern Phase 2 renewals have evolved over several Board meetings since March 2004, with several key changes, as well as refinements to the procedures to address particular situations. The table in Annex 1 provides a brief summary of the key decisions.
2. **March 2004, 7th meeting.**
 - Phase 2 funding decisions were delegated to the Secretariat.
 - Where the Secretariat recommended discontinuance of funding (a "No Go") the ultimate decision was to be made by the Chair and Vice Chair of the Board.
3. **June 2004, 8th Meeting**
 - Board decided to revisit the Phase 2 decision making procedures established at the 7th Board Meeting.
 - As an interim step, the Board introduced a bridge funding facility and gave Secretariat authorisation to extend grants by up to 6 months
4. **November 2004, 9th meeting.**
 - The procedure established at the 7th meeting was revoked (its introduction having been deferred by the 8th Board meeting decision) until the 13th Board meeting.
 - New procedures were introduced allowing Board participation in all Phase 2 funding decisions through a no-objection voting process.
 - The impetus for this change was a concern among some delegates that a commitment of new funds, without Board approval, would pose legal and fiduciary concerns for those constituencies.
5. **September 2005, 11th and December 2005, 12th meetings.**
 - Following recommendations of a special Task Force on how to deal with "No Go" decisions, new procedures were introduced. These procedures clarify and

strengthen the processes to be followed when the Secretariat is proposing a “No Go” recommendation.

6. April 2006, 13th meeting.

- The Board must decide whether to continue the current decision making practice as established at the 9th meeting (but presumably incorporating the “No Go” modifications pursuant to 11th Board decision); or
- revert to the procedures established at the 7th Board Meeting, thus delegating renewal funding decisions back to the Secretariat;
- The Board also recognised that it may “adopt an alternative set of procedures”.

Part 3: Analysis of Phase 2 Decisions based on experience to date

Summary of Phase 2 results

The following table presents a summary of Phase 2 requests processed by the Global Fund since commencement of grant renewals:

PHASE 2 GRANT RENEWAL PROCESS Status as of 11 February 2006		
Initial Secretariat Phase 2 Recommendations		
	No.	\$ M
Go	58	433
Conditional Go	49	681
Revised Go	1	12
No Go	8	0
Total	116	1,126
Phase 2 Final Decisions – by Board		
	No.	\$ M
Go	58	433
Conditional Go	49	681
Conditional Go –revised recommendation following TRP review	2	20
Conditional Go – Secretariat revised its recommendation	2	6
Revised Go	1	12
Approved No Go	1	0
Approved No Go- following Independent Panel and TRP review	1	0
Blocked No Go – final decision pending	2	0
Total	116	1,152

Secretariat recommendation to continue funding (“Go” and “Conditional Go”)

1. In 107 instances (representing 92% of all Phase 2 renewals processed) the Secretariat made recommendations to continue funding, either by way of a “Conditional Go” or a “Go”. In all such cases the Board, by not voting to block the Secretariat recommendation, concurred with the Secretariat. On one occasion there was one dissenting vote.

2. It is further noted that under the procedures introduced at the 9th meeting the Board has only 10 days in which to object to any Secretariat recommendation. Consequently Phase 2 decisions to continue funding have not suffered any material delay due to the Board voting process.

Secretariat recommendation to discontinue funding

3. In all, the Secretariat has to date made 8 recommendations to discontinue funding. The following table sets out the voting patterns of the Board delegations. The shaded boxes represent objections to each Secretariat “No Go” recommendation.

**Board’s Voting Pattern on Secretariat “No Go” Recommendations
As of 16 January, 2006**

	Recipients											Donors								
	Communities	Developed NGO	Developing NGO	EE	EMR	ESA	LAC	SEA	WCA	WIPR	Canada	EC	France	Italy	Japan	Point Seven	P. Foundations	Private Sector	UK	USA
1st No Go Recommendation																				
Honduras HIV Rd.1																				
Lao HIV Rd. 1																				
Senegal HIV Rd. 1																				
Senegal M. Rd. 1																				
S. Africa C. Rd 1																				
Kenya TB Rd. 2																				
Nigeria HIV Rd. 1																				
Nigeria HIV Rd. 1																				
2nd No Go Recommendation																				
Honduras HIV Rd.1																				
Senegal HIV Rd. 1																				
S. Africa C. Rd 1																				
Nigeria HIV Rd. 1																				
Nigeria HIV Rd. 1																				

4. As shown above, 7 out of 8 initial “No Go” recommendations and all 5 second “No Go” recommendations made by the Secretariat were blocked by the Board. A blocking of the Secretariat recommendation arises if either the Recipient or Donor block casts 4 “objection” votes.

5. Of the 7 first time “No Gos” that were blocked, the Secretariat revised its recommendation to “Conditional Go” in two instances (Lao HIV and Kenya TB) after considering the rationale quoted by objecting Board constituencies. For the remainder (5) the Secretariat again recommended a “No Go”.

6. Voting a second time the Board blocked all 5 Secretariat 2nd “No Go” recommendations. Subsequent to this, and in order to break the deadlock, special procedures were applied, including a review by the TRP in the cases of Honduras and Senegal (following the submission of revised requests) and by an independent panel (and subsequently the TRP, following a revised request) in the case of South Africa HIV/TB. In the latter case, the Board ultimately in an affirmative vote decided against granting new funds.

7. In recognition of some of the difficulties experienced in arriving at a decision in the case of “No Go” recommendations, the Board introduced new procedures at the 11th and 12th meetings designed to break deadlocks following double blocked “No Gos”. This followed a report by a Board-approved special Task Force. This new process importantly includes two new steps;

- a. allowing the CCM to respond to the Secretariat’s reasons for a proposed Secretariat “No Go” recommendation prior to such recommendation going to the Board; and
- b. an independent panel review in cases where there is a double blocked “No Go”. This procedure has only just been introduced and is yet to be fully operationalised.

8. **NB** Under the original Phase 2 procedures proposed under the 7th board meeting decision, “No Go” recommendations were to be referred by the Secretariat to the TRP with the decision then being referred to the Board Chair and Vice Chair.

Part 4: Conclusions drawn from experience to date

1. **“Go” and “Conditional Go” decisions timely.** Decisions to commit funds for phase 2 renewals, where they are based on Secretariat “Go” and “Conditional Go” recommendations, are being made in a timely manner. Board involvement in the decision, has neither caused undue delays nor has it proven burdensome. On the other hand it has enabled Board participation in the decision to so far approve over \$ 1bn in extra funds, and in so doing, has satisfied legal and fiduciary requirements and concerns of certain Board delegations.

2. **“No Go” decisions more problematic.** Where the Secretariat has made a “No Go” recommendation the decision process has been protracted and more problematic. This has led to lengthy delays, deadlocked positions and ultimately to a change in the process following recommendations of the special Phase 2 Task Force.

3. **Threshold for blocking “No Go” decisions is low.** Under the existing arrangements, 4 constituencies (from a single voting block) can block a Secretariat “No Go” recommendation. This is a threshold of 20% of all possible votes. To date, the proportion of objecting votes has ranged from 25% to 65% and overall, averages under

40%. “No Go” recommendations have been blocked by the Recipient constituencies 12 times and by the Donor constituencies 4 times.

4. **Threshold for decision to fund a double blocked “No Go” is high.** Once a Secretariat “No Go” recommendation is blocked twice (double blocked “No Go”) and following an independent review as now required under the new procedures, the decision must go to a full Board affirmative vote at the next Board meeting. In a formal vote, a funding decision will require approval by 7 out of 10 delegates in each voting block, that is a minimum of 14 (70%) of possible 20 votes. This is a significantly different threshold from the 4 (20%) votes in a voting block required to block a “No Go”.

5. **Delay and cost in decision making.** Even under the new procedures for dealing with “No Gos”, the eventual decisions could be up to 10 months after the original Secretariat recommendation. This prolongs uncertainly for the PR/CCM and may have a substantial funding cost for the GF in the event of a final “no go” decision, due to the need to provide bridge funding. It also has significant transaction costs for the PR, CCM, the Secretariat and Board members.

6. **Criteria for “No Go” decisions require clarification.** The criteria used by the Secretariat in recommending a “No Go” and that used by the objecting Board delegations when supporting their decision to block would appear not to be consistent. The Board approved requirement (7th Board meeting – a provision that has not been revoked) is that *“decisions will be made according to clear criteria for satisfactory grant performance, financial accountability and contextual considerations...the decisions will be based on systematically collected information, which will be made transparently available...”* (Phase 2 Decision point 1 approved by the Board at the Seventh Board Meeting) Under performance based funding principles, it is clear that actual performance, rather than potential of future performance, must be the main assessment criteria applied by both the Secretariat and Board delegates when making their recommendations/decisions. In several instances even the objecting Board delegates acknowledged poor performance and appeared to base their objection mainly on the anticipation of future improvements including radical changes to implementation structures.

Part 5: Possible options and refinements for ongoing Board decision process

1. The options for Board decision making procedures beyond the 13th Board Meeting, as identified at the time of the 9th Board decision are as follows:
 - a. continue the current decision making practice as established at the 9th meeting (with modifications that the Board has since agreed to), which would require a positive decision by the Board to do so; or
 - b. revert to the procedures established at the 7th Board Meeting, which is automatic and would require no action by the Board;

In the Annex incorporated within the 9th Board decision, it was however recognised that the Board would need to decide whether to continue with these (that is the 9th meeting) procedures or “adopt an alternative set of procedures”.

2. Table A summarises some of the Pros and Cons of options (a) and (b) above. This provides inputs on how an alternative set of procedures might be designed, should the PC seek to recommend a variation from the current options.

Table A

Option (a) – Continue 9th Board Meeting-Approved Procedures	
Pros	Cons
<ul style="list-style-type: none"> Allows Board participation in decisions to commit funds ("Go" and "Conditional Go"), without undue process or time burdens. Secretariat procedures have been designed to accommodate this step. Satisfies certain donors' legal and fiduciary requirements and concerns. Phase 2 "No Go" process has been recently refined and improved. 	<ul style="list-style-type: none"> Introduces an extra step in decision-making process. Places an ongoing burden on Board delegations. Phase 2 "No Go" decision process has been protracted and decisions to block are not necessarily representative of the full Board's opinion. The current threshold for blocking "No Go" recommendations is low (20%) and is inconsistent with the higher approval thresholds (70%) that the submission may eventually have to achieve to get funded Emerging voting patterns on "No Go" decisions appear to almost guarantee a blocking of Secretariat "No Go" recommendations. It is not evident that objection votes on "No Go" fully reflect performance based funding principles.

Option (b) – Revert to 7th Board-Approved Procedures	
Pros	Cons
<ul style="list-style-type: none"> Streamlines decision-making process by removing one step in decision to commit funds ("Go" and "Conditional Go"). If "No Go" decisions were to be made by Board Chair and Vice Chair only, then this would greatly simplify current process. 	<ul style="list-style-type: none"> Ignores certain donor requirements and concerns for participation in funding commitment decisions. Board participation in making of funding decisions, (under the 9th Board meeting procedures) has not proved to be onerous. Original procedure for Phase 2 has been substantially overtaken by

	<p>subsequent events, in particular based on recommendations of Phase 2 Task Force.</p> <ul style="list-style-type: none"> The Chair and Vice Chair may not feel it appropriate that they alone make Phase 2 "No Go" decisions. The original Phase 2 "No Go" procedure involved a TRP role. The TRP does not wish to have a role in such decisions.
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3. There appears to be no persuasive reason to revert to the Phase 2 decisions-making procedures originating from the 7th Board Meeting. On the other hand, the current procedures, which are an amalgamation of the procedures agreed at the 9th Board Meeting and certain subsequent modifications, provide a valid and effective process for making funding commitments ("Go" and "Conditional Go").

4. There are, however, some concerns about the transparency, efficiency and effectiveness of current procedures with respect to processing "No Go" decisions. These are:

- "No Go" recommendation can be blocked on the basis of achieving objections from as low a threshold as 20% of all Board delegates. Yet a subsequent funding decision by the Board (following an independent panel recommendation) will require a support level of 70% from **each** Board voting block. These two thresholds are inconsistent.
- The Board voting process was specifically introduced to give the Board a role in funding commitment decisions. The fiduciary and legal concerns of some delegates was based on non Board approved funding commitments. A "No Go" does not lead to a funding commitment. Arguably it therefore does not need a Board decision and can be delegated to the Secretariat.
- The criteria for assessing "No Gos", whether by the Secretariat or Board delegation, must be grounded in the principles of Performance Based Funding. The key here is primarily historic performance and not an indication of potential that the PR will do better in the future.

5. The PC may wish to consider modifications to the current process in order to address these perceived shortcomings. Such modifications might include:

- Different voting thresholds. For example:
 - Requiring a blocking vote in both Recipient and Donor blocks for all votes
 - Requiring a blocking vote in both Recipient and Donor blocks for "No Go" decisions
 - Delegating "No Go" decisions to the Secretariat and removing the Board vote as no funding commitment decision is involved
- Ensuring performance based funding principles are used as the basis for Phase 2 renewal recommendations/decisions by the Secretariat and Board. At present objecting Board members are required to explain the rationale for their objection. This requirement could be expanded to ensure that an objection vote is made by

reference to Board approved criteria. Consequently an objecting vote should be required to clearly cite its rationale in the context of:

- o Satisfactory grant performance;
- o Financial accountability and appropriate use of grant funds; and
- o Contextual considerations.

Annex 1

Board Meeting	Main Policy Decisions
7 th March 2004	<ul style="list-style-type: none"> I. Definition of overall criteria for Phase 2 decision making II. Establishment of basis for determining upper limit of Phase 2 funding III. Delegation of authority to Secretariat to make funding commitments IV. Board to confirm all decisions to discontinue funding
8 th June 2004	<ul style="list-style-type: none"> I. Board decides to revisit decision to delegate authority to the Secretariat to make funding commitments and seeks options for a Board role in this decision process for consideration at the 9th meeting.
9 th Nov. 2004	<ul style="list-style-type: none"> I. Revokes until the 13th Board Meeting, the authority of the Secretariat to make funding commitments as previously established at the 7th meeting. II. Introduced until the 13th Board Meeting new non-objection voting procedures which gave the Board a role in phase 2 funding commitment decisions III. Decision to revert to original 7th Board meeting decision making procedures, at the 13th Board Meeting in the event that the Board does not decide at the 13th meeting to continue with the new procedures (or adopt alternative procedures) IV. Established new provisions to cater for continuity of service, for grants for which Phase 2 funding is not approved.
10 th April 2005	<ul style="list-style-type: none"> I. Established a process for no cost extensions, to apply in exceptional circumstances
11 th Sept. 2005	<ul style="list-style-type: none"> I. Based upon recommendations of the Phase 2 Task Force, established new procedures for processing Secretariat "No Go" recommendations II. Requested PC to make recommendations on composition and functions of Independent Panel to review double rejected "No Go" recommendations.
12 th Dec. 2005	<ul style="list-style-type: none"> I. Adopted updated 'Phase 2 Decision Making Policies and Procedures' which essentially reflected the incorporation of the new "No Go" procedures including establishment of an Independent Panel.