



Investing in our future

**The Global Fund**

To Fight AIDS, Tuberculosis and Malaria

**Thirteenth Board Meeting  
Geneva, 27 - 28 April 2006**

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**GF/B13/17**

**AMENDMENTS OF BY-LAWS AND BOARD OPERATING PROCEDURES  
RECRUITMENT OF THE EXECUTIVE DIRECTOR**

**Outline:** This document provides the recommended decision points concerning amendments to the By-laws and Board Operating Procedures to include the new procedures for the appointment of the Executive Director, as requested by the Board at the Twelfth Board Meeting.

**Summary of Decision Points:**

Amendment of the bylaws in accordance with the decision made at the Twelfth Board Meeting.

Amendment of the Board Operating Procedures in accordance with the decision made at the Twelfth Board Meeting.

## Part 1: Background

1. At the Twelfth Board Meeting in December 2005, the Board decided to amend the Global Fund's bylaws and Board Operating Procedures to include (i) changes to the term of office and number of permitted terms of the Executive Director; and (ii) a procedure for the appointment of the Executive Director. The Board accordingly requested the Chair to work with the Global Fund's Legal Counsel, the World Health Organization ("WHO") and outside Swiss counsel to produce draft amendments for adoption at the Thirteenth Board Meeting.

## Part 2: The Consultations and the Decision Points

2. As requested by the Board, the Chair has worked with the Global Fund's Legal Counsel, WHO and outside Swiss counsel to prepare amendments to the bylaws and Board Operating Procedures that are set forth below.

3. WHO has advised that the appointment and performance appraisal procedures referred to in the proposed amendments differ, or have the potential to differ, in some respects from the applicable WHO procedures and that the Global Fund should request that these be recorded in the Log of Exceptions to the Administrative Services Agreement between the Global Fund and the World Health Organization dated 24 May 2002.<sup>1</sup> The Global Fund's Legal Counsel is working with WHO to ensure that all appropriate steps are taken, having received confirmation that Decision Points 1 to 3 below are acceptable in principle to WHO in the form recommended below.

4. Swiss counsel<sup>2</sup> has also indicated that the amendments described below do not raise issues under Swiss law and has confirmed that the Swiss Federal Supervisory Authority of Foundations is likely to accept them when they are presented to it for approval.

### **Decision Point 1:**

***The Board amends Article 8 of the Bylaws as follows:***

#### **Article 8. Secretariat**

##### **8.1 Composition**

***The Secretariat is responsible for managing the day-to-day operations of the Foundation.***

***The Secretariat is headed by an Executive Director, who is selected by the Foundation Board based on merit, in a non-political, open and competitive manner. The Executive Director and acts as the chief executive officer of the Foundation and serves for a term of four years, renewable for not more than one additional term of three years.***

***The Executive Director is responsible to the Foundation Board for the day-to-day management of the Foundation, and for specific duties and responsibilities assigned to him by the Foundation Board.***

***Secretariat staff are selected by the Executive Director, under policies and procedures approved by the Foundation Board.***

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<sup>1</sup> WHO has already agreed to a request regarding the term of employment of the Executive Director being changed to four years, renewable for not more than one additional term of three years. Other entries to the Log of Exceptions may be required on a case by case basis depending on the recruiting procedures chosen by the Selection Committee.

<sup>2</sup> Tavernier & Tschanz

## **Decision Point 2**

**The Board amends Section 17 of the Board Operating Procedures as follows:**

### **17. Executive Director**

**The Executive Director shall attend all Board Meetings, and shall be responsible for the preparation and distribution of all materials required for the meeting, and for such other duties and responsibilities as may be assigned by the Board or the Chair. The Executive Director shall be appointed by the Board for a term of four years, renewable for not more than one additional term of three years ~~two year renewable term~~.**

## **Decision Point 3**

**The Board amends the Board Operating Procedures by inserting the following text as Section "G" and renumbering the remaining text accordingly:**

### **G. PROCEDURES FOR APPOINTMENT AND ASSESSMENT OF THE EXECUTIVE DIRECTOR**

#### **26. Appointment of the Executive Director**

**No later than six months prior to the end of the term of the incumbent Executive Director, the Board shall, in accordance with Article 8.1 of the Bylaws and this Section of the Board Operating Procedures, decide on a procedure for the appointment of the next Executive Director.**

**At this time, the Board shall normally launch a competitive recruitment process, publicly inviting applications for the position of Executive Director. Where the incumbent Executive Director has not served more than one term of office, the Board shall invite him to re-apply, together with other candidates, for such position and publicly announce such invitation. Where appropriate the Board may launch such a recruitment process without inviting the Executive Director to re-apply for the post or, based on a satisfactory performance appraisal and if the incumbent Executive Director has not served more than one term, extend the appointment of the Executive Director for a further term of three years without the normal recruitment process.**

**If the Board decides to launch a recruitment process, it shall be assisted by an ad hoc Selection Committee. At least six months prior to the end of the term of the incumbent Executive Director, or at any other time decided by the Board, the Chair of the Board shall, notwithstanding the otherwise applicable procedures under these Board Operating Procedures and the Committee Rules and Procedures, recommend for Board approval the terms of reference of the Selection Committee and nominate for Board approval a Chair and the membership of that Committee. Membership in the Selection Committee shall not count towards the two committee limit referenced in Section 23 of these Board Operating Procedures.**

**The Chair may also recommend for Board approval updated terms of reference of the Executive Director and the criteria for his selection. Following approval of the membership of the Selection Committee, the recruitment process is launched.**

**The Selection Committee shall interview and rank candidates, and present the highest ranking candidates to the Board, which shall then select a**

***candidate, consistent with the terms of office of the Executive Director that are stated in Section 17 of these Board Operating Procedures.***

***The mandate of the Selection Committee shall expire upon the appointment of the Executive Director.***

***27. Assessment of the performance of the Executive Director***

***The Chair shall ensure that the performance of the Executive Director is assessed each year based on best practices. All documentation related to such assessment shall be provided to the Board not later than the end of the first quarter of the calendar year.***

This document is part of an internal deliberative process of the Fund and as such cannot be made public. Please refer to the Global Fund's documents policy for further guidance.