



Investing in our future

The Global Fund

To Fight AIDS, Tuberculosis and Malaria

Twenty-Third Board Meeting
Geneva, Switzerland, 11-12 May 2011

GF/B23/6

Attachment 2

SUPPLEMENTARY REPORT OF THE FINANCE AND AUDIT COMMITTEE AND THE FAC SUB-COMMITTEE ON OIG MATTERS

PURPOSE:

This report summarizes the deliberations of the Finance and Audit Committee (FAC) at its meeting on 9 May 2011 and in subsequent email communications, and its resultant recommendations to the Twenty-Third Board Meeting.

This report (Part 3) also contains the deliberations of the FAC Sub-Committee on OIG Matters which met on the same date.

PART 1: INTRODUCTION

1.1 The Finance and Audit Committee (FAC) met in Geneva on 9 May 2011 as a follow up to its 16th meeting (22-24 March 2011). The Chair was Peter Van Rooijen (Developed Countries NGO) and the Vice-Chair was Lars Kjaer Knudsen (Point Seven). For the OIG Matters discussed at the meeting, members of the FAC Sub-Committee representing the PSC, PIC, Ethics Committee, and the Office of the Vice-Chair of the Board attended.

1.2 This report contains the following topics for Board Decision:

- Part 2: Approval of the 2010 Financial Statements
- Part 3: OIG Matters

1.3 This report contains the following topics for Board information:

- Part 4: Debt2Health
- Part 5: Other Financial and FAC Matters

PART 2: APPROVAL OF THE 2010 FINANCIAL STATEMENTS

Decision

2.1 The Auditors, Ernst & Young presented their findings of the audit of the 2010 Financial Statements. The FAC noted that the auditors intended to issue an unqualified audit report (i.e. a clean audit report).

2.2 The FAC noted that the auditors identified a number of immaterial and therefore unadjusted matters, and that these matters reflected some delays in the ability of the Global Fund Finance Cluster to respond to audit queries in a prompt manner in all cases. It was stressed that this was due to significant workload issues which had been exacerbated through the loss of key staff to maternity and sick leave.

2.3 The FAC congratulated the Global Fund's Financial Controller and his team on the excellent work in having another unqualified audit report, and decided to recommend approval of the 2010 Financial Statements to the Board.

Decision Point 3: Approval of 2010 Financial Statements

The Board approves the 2010 Financial Statements of the Global Fund which have been audited by Ernst & Young.

This decision does not have material budgetary implications for the 2011 Operating Expense Budget

OIG Progress Report

3.1 In relation to the OIG Progress Report (GF/B23/10), the FAC noted the comments of the Inspector General that he did maintain that he had been 'directed' by the Secretariat and the FAC Chair to exclude material from the Table of Losses. The FAC further noted that the Inspector General considers it important for him to be able to report as he sees fit and not under the direction of the FAC. The FAC further noted that the Inspector General reiterated the view that language initially proposed on the Disclosure Policy would have seriously constrained the OIG's ability to report. In addition, the FAC noted the Inspector General's strong opposition to suggestions to severely limit and restrict the scope, depth and thoroughness of OIG investigations and which in his view should be rejected by the Board. The FAC noted the Inspector General's view that these three issues were interlinked.

3.2 The Executive Director restated the view that the Global Fund Secretariat was following the process on reporting losses that was agreed by the FAC at the March 2011 FAC meeting. The Executive Director further expressed his surprise and frustration at some of the language used in the OIG Progress Report.

3.3 The FAC noted the comments from the FAC Chair on some of the statements made in the OIG Progress Report. Following the meeting, the FAC summarized these issues in the following statement:

FAC discussed the OIG Progress Report and reviewed the process after the March 2011 FAC meeting up till the 23rd Board meeting. FAC confirmed that the agreed process was that FAC would consider both the Disclosure Policy and the Losses Document at its May 9 meeting and provide a full report to the Board.

It concluded that the FAC, FAC members and the FAC Chair have not been withholding information from the Board. FAC therefore considers the communication by the OIG on these issues in his Progress Report - which was updated after the March FAC meeting - to be incorrect.

FAC also noted however that the OIG reports that he perceived pressure to edit reports and hindrance in his communication to the Board on his Progress Report. The Secretariat felt that they were following the FAC-agreed processes at all times. This situation is a matter of concern for the FAC. Therefore FAC will review these circumstances in detail with Secretariat and OIG, and will propose a process for managing such situations.

Since the OIG Progress Report has led to questions and concerns, within and outside of the Global Fund, FAC proposes a decision point that will send a strong message and reconfirms the Board's commitment to transparency and accountability, the independence of the OIG within the Global Fund and the important role of the HLP in further strengthening our relevant processes and systems.

3.4 The FAC noted that the Inspector General very much supported such a Decision Point, building on the language from the Board Chair.

3.5 The FAC Sub-Committee discussed the issues raised and concluded that there was general consensus that a Decision Point would be useful, however the Sub-Committee did not endorse the wording of the Decision Point presented by the OIG, and therefore delegated to a sub-group led by the Vice-Chair of the FAC to propose the wording of a Decision Point which would:

- i. Provide confirmation of the commitment to transparency and accountability
- ii. Restate the importance of an independent OIG
- iii. Provide confirmation that existing policies (OIG Charter and Terms of Reference) should be maintained
- iv. Would recommend that the High Level Panel contribute to improving the policies, systems and working arrangements.

3.6 Following the meeting, and based on the work of the sub-group, the FAC presented a Decision Point for recommendation to the Board. The following is the final approved Decision Point which the Board adopted:

Decision Point GF/B23/DP24: Global Fund Commitment to Transparency

1. The Board reaffirms the Global Fund's strong and continuing commitment to the highest standards of transparency and accountability.

2. The Board further reaffirms the Global Fund's commitment to a fully independent and transparent Office of the Inspector General as set forth in the OIG Charter and Terms of Reference.

3. The Board looks forward to receiving the views of the High Level Independent Review Panel on Fiduciary Controls and Oversight Mechanisms on existing arrangements and its recommendations on ways to further improve the fiduciary controls and oversight within the Global Fund.

This decision does not have material budgetary implications for the 2011 Operating Expenses Budget.

Process for Managing Disagreements

3.7 The Sub-Committee considered how to better manage disagreements between the Global Fund Secretariat and the OIG in future. Suggestions included a process which would involve a number of steps to resolve disagreements:

- i. The Inspector General and Executive Director would attempt to resolve the issues
- ii. If the first step did not succeed, the matter would be raised with the Chair/Vice-Chair of FAC
- iii. Chair and Vice-Chair of Board
- iv. Full Board

3.8 A small working group was created to consider the matter further. This group would meet with both the OIG and the Global Fund Secretariat to better understand the issues arising from each side and to inform their work in proposing a process for managing these issues in future.

3.9 Subsequent to the meeting, the Chair of the FAC clarified that the sub-group would in fact, not be required as these matters would be taken forward by the Board Chair and Vice-Chair.

Presentation of Table of Losses and Recoveries

3.10 The Global Fund Secretariat and the OIG informed the Sub-Committee that agreement had been reached on the presentation of the table of losses and recoveries and the information which would be included within, with the exception of one issue, the denominator to be used to present the scale of the loss.

3.11 The Sub-Committee noted the detailed explanations provided by both the Global Fund Secretariat and the OIG on alternative approaches, and recognized that they were not in a position to make a recommendation at that time.

3.12 The Sub-Committee delegated to the Chair of the FAC to work with the OIG and the Global Fund Secretariat to come up with a proposal which could be submitted to the Board for Decision.

3.13 Subsequent to the meeting, and under the leadership of the Chair of the FAC, the OIG and Global Fund Secretariat agreed on an approach which is outlined in detail in Attachment 1 to GF/B23/6.

3.14 The FAC therefore decided to recommend a Decision Point to the Board. The final version adopted by the Board is set out below:

Decision Point GF/B23/DP28: Communication of Losses and Recoveries arising from OIG Audits and Investigations

As outlined in GF/B23/DP24, the Board reiterates its full commitment to transparency, and to the independence of the Office of the Inspector General within the Global Fund.

The Board recognizes the need to have clear, consistent and contextualized information regarding the status of losses identified from OIG audits and investigations, as well as the status of efforts to recover losses, which can then be made public.

Accordingly, the Board requests the Global Fund Secretariat and the OIG, under the oversight of FAC, to jointly publish before each regular scheduled meeting of the Board, a Losses & Recoveries Report (“Report”) containing background information and an updated table in the format outlined in Attachment 1 to GF/B23/6.

The Board requests the FAC to:

- Oversee the process to create/update this report and table.*
- Ensure requests for clarifications are addressed to their satisfaction.*
- Report to the Board on their oversight of this process.*

The table shall only contain information on identified losses when:

- The principle of country ownership has been respected by notifying the Country Coordinating Mechanism (CCM) and the entities involved, of the details of the losses claimed, where they have been provided with appropriate time to respond, and this response is incorporated by the OIG in the publicly available reports.*
- The details of losses identified have been submitted to the Global Fund Secretariat and comments have been considered by the OIG.*
- The Global Fund’s Legal Counsel has made a determination that the Global Fund is entitled to make a claim for recovery against an entity based on the work of the OIG.*
- These figures have been made public, i.e. the OIG has reported a number either through a specific public report or through the OIG Progress report to the Board which will also be made public, or the OIG has notified the FAC in writing.*

The usefulness of the application of the Losses & Recoveries Report for information sharing and communication will be reviewed by FAC before the second Global Fund Board meeting of 2012.

The Board requests that the High Level Independent Review Panel on Fiduciary Controls and Oversight Mechanisms consider and provide guidance on the issues surrounding the use of a denominator to serve as a communication tool regarding the scale and evolution of losses in Global Fund supported programs, as part of their interim report.

This decision does not have material budgetary implications for the 2011 Operating Expenses Budget.

Update on Release of Mali Investigation Report

3.15 The Sub-Committee noted the progress made following their decision to delegate this matter to the Chair and Vice Chair of the FAC at the 16th Board Meeting

3.16 The Sub-Committee further recommended, that the process of including a communication from the Chair of the Board to accompany the public release of the report would be managed by the Chair of the FAC

Update on the Disclosure Policy

3.17 The Sub-Committee endorsed the recommendation of the Chair of the FAC, which had been communicated on 21 April 2011 to the OIG, to have the disclosure policy reviewed by the High Level Panel.

Cases in the Pipeline

3.18 The Sub-Committee determined that such an update was not necessary at this session, and other agenda items should take precedence in light of the shortness of time.

Depth of Investigations

3.19 The Sub-Committee decided that the issue of Depth of Investigations should be deferred to the High Level Panel.

Update on UNDP

3.20 The Sub-Committee noted the progress made by the Chair of the FAC on discussions with UNDP and endorsed the approach to engage in a dialogue with UNDP on how to improve operational practices, following the decisions of the UNDP Board in June, where the issue of member state status for Global Fund is expected to be discussed and decided upon.

3.21 The Sub-Committee further noted that a minority report, from the office of United States Senator Lugar contained a number of potential recommendations related to UNDP and the Global Fund, which if adopted could have serious implications on Global Fund contributions from the United States.

3.22 The Sub-Committee was briefly updated on the status of an investigation currently underway, relating to a program for which the UNDP is the PR. A draft OIG investigation report was presented to the Sub-Committee, and copies were distributed in confidence. A short briefing was made by the OIG concerning the case, including its procedural status. The Sub-Committee decided that given the late submission of the update, it would not be appropriate to consider the matter in detail, but that members could review and provide comments or request clarifications at a later date.

3.23 The Sub-Committee noted that the report summarizes facts/events that have been reported previously to FAC. The Sub-Committee did not support a proposed approach that due to lack of access to UNDP records or non-submission of supporting documents, Global Fund disbursements made via UNDP should be regarded as undocumented expenses and therefore count as a loss. Sub-Committee members were advised that the report is in the process of being finalized and disclosures outside of the FAC about the case should not be made.

Complaints Procedure / Pre-Arbitration Process

3.24 The Sub-Committee noted the substantial progress made by the Global Fund Secretariat and OIG in combining these two issues into one report.

3.25 The Sub-Committee further noted that only one area of disagreement remained, and this related to whether Global Fund Secretariat staff in addition to OIG staff would be subject to the complaints procedure.

3.26 The Sub-Committee noted that the paper was submitted on the day, and therefore there was no time to consider the issue in detail. The Sub-Committee decided that this would be considered at the meeting of the FAC on 21 June 2011. The Sub-Committee requested that the paper be circulated electronically with information on the key differences between what is currently covered by existing Human Resources Regulations of the Global Fund and what is proposed in the paper in order for the FAC to be able to consider these matters.

PART 4: DEBT2HEALTH

Information

4.1 The FAC considered the paper on Debt2Health (D2H) (GF/FAC16/13) and noted that the FAC was being requested to make a decision clarifying the nature of the exception that allows specific and limited earmarking in D2H, specifically in relation to earmarking of funds by disease and for programs in countries other than the debtor.

4.2 The FAC noted that Germany had proposed a Debt2Health swap with the Government of Egypt, which in turn had proposed that the counterpart funding to be paid to the Global Fund be earmarked for malaria programs in Ethiopia.

4.3 The FAC sought clarification on the involvement and role of the CCMs. The FAC was advised that the Egyptian Government, as the provider of counterpart funding under the Debt2Health agreement, had proposed, with Germany's agreement, that funding be earmarked for malaria programs in Ethiopia rather than in Egypt. It was therefore the Ethiopian CCM that needed to be consulted. The FAC was briefed on consultations that had taken place with the Chair of the CCM and other Ethiopian CCM members. The FAC also suggested that the Egyptian government informs the CCM of Egypt about the agreement.

4.4 The FAC made the following decision:

FAC Decision Point 4: Debt2Health Clarification

The FAC acknowledges the progress achieved to date in the implementation of the Debt2Health mechanism. The FAC also takes note of opportunities identified for increasing the scope and scale of the Debt2Health mechanism through new innovative transactional arrangements, particularly involving earmarking of the Debt2Health contribution to the benefit of the fight against a particular disease in a country other than that of the country receiving debt cancellation ("Third-Party Country and Disease Earmarking").

In order to facilitate the ability of the Secretariat to pursue such innovative arrangements, the FAC takes note of the need for clarification of the nature of the exception that allows specific and limited earmarking in D2H, granted by the Board of

Directors for Debt2Health swaps from the Global Fund Policy for Restricted Financial Contributions (the “D2H Earmarking Exception”)

Accordingly, the FAC clarifies that the D2H Earmarking Exception permits Third-Party Country and Disease Earmarking for Debt2Health transactions.

The FAC requests the Secretariat to provide regular updates to the FAC regarding the implementation of Debt2Health arrangements, including those involving Third-Party Country and Disease Earmarking.

PART 5: OTHER FINANCIAL AND FAC MATTERS

Information

Hedging

5.1 The FAC noted the current status of the US Dollar/Swiss Franc hedge which the Global Fund Secretariat established to mitigate the foreign exchange risk between the US Dollar and the Swiss Franc. (the majority of the Operating Expenses are denominated in Swiss Francs)

5.2 The FAC noted that with the USD/CHF exchange rate still being very volatile, the contract put in place was effectively protecting the Global Fund against the effects of these fluctuations.

5.3 The FAC further noted, that a Decision Point in relation to this same matter for the 2012 budget will need to be presented to the Board at its Twenty-Fourth meeting.

21 June Meeting of the FAC

5.4 The FAC noted that the Global Fund Secretariat will be incorporating the findings of the Quarter 1 review of the Global Fund Secretariat, the mid-year budget review, and the decisions of the Board in relation to the Comprehensive Reform Working Group when finalizing the cost implications of implementing the reform agenda for submission to the FAC. The meeting will take place on June 21 2011.

This document is part of an internal deliberative process of the Global Fund and as such cannot be made public until after the Board meeting.



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Annex 1

GUIDANCE ON LOCATION OF FURTHER INFORMATION

The below table indicates where further information on items dealt with in this report can be found:

All documents listed below are available on the FAC password-protected website:
<http://www.theglobalfund.org/protected/committees/fac/>

Item:	Further information available:
OIG Matters	GF/B23/6 - Report of the FAC GF/B23/6 Attachment 1 - Communication of Losses and Recoveries GF/B23/10 - Progress Report of the OIG GF/B23/11 - Secretariat Response to the Progress Update of the OIG GF/B23/12 - Report of the FAC Sub-Committee on OIG Matters
Debt2Health	GF/FAC16/13 - Debt2Health