

Annual Report on Privileges and Immunities

53rd Board Meeting

GF/B53/13 [Rev 1](#)

7 – 9 May, Geneva, Switzerland

Board Information

The purpose of this paper is to report to the Board on the Secretariat's progress to secure privileges and immunities for the Global Fund.

Executive Summary

Context

To date, [30](#) ~~28~~ countries have conferred privileges and immunities (“P&Is”) on the Global Fund: Afghanistan, Belize, Benin, Burkina Faso, Burundi, [Congo \(Brazzaville\)](#), Côte d’Ivoire, Djibouti, Eswatini, Ethiopia, Gabon, Georgia, Kenya, Lesotho, Liberia, Malawi, Mauritania, Moldova, Mozambique, Niger, Rwanda, Sao Tome and Principe, Senegal, [South Africa](#), Suriname, Switzerland, Togo, Uganda, the United States and Zimbabwe.¹ In addition, Cabo Verde, Central African Republic, ~~Congo (Brazzaville)~~, El Salvador, Ghana, Guinea-Bissau, Montenegro and Sierra Leone have signed but not yet ratified agreements conferring privileges and immunities on the Global Fund. Progress continues in multiple additional countries. Continued expansion of privileges and immunities coverage remains a priority for the coming year.

The Secretariat continues to implement privileges and immunities, especially with regard to visas, tax exemptions and mitigation of other country-specific risks. In doing so, the Secretariat continues to develop relevant precedent on the ways in which P&Is strengthen grant implementation.

The Secretariat continues to be guided by the Board and the Ethics and Governance Committee’s recognition of the strong business case for P&Is. This remains true, notwithstanding the fact that the Global Fund does not have in-country offices. The Board has historically supported Secretariat efforts to expand adoption of privileges and immunities (see Annex 2). And the Ethics and Governance Committee (“EGC”) endorsed the Secretariat’s proposed strategies to advance P&I adoption and implementation in the 2023-2025 allocation period (Grant Cycle 7 (“GC7”)). This paper updates the Board on recent developments.

Conclusions

Since the last update to the Board on this topic, an additional ~~six~~ [eight](#) countries have conferred P&Is on the Global Fund. Negotiations remain advanced in multiple other countries. In many countries, momentum is strong. It remains the case that engagement on P&I adoption is most effective when it is bespoke, responding to relevant interests in country and leveraging the convergence of those interests with Global Fund priorities and activities. Advancing P&I adoption in country requires a high level of effort sustained over time. The same is true for P&I implementation, which must be negotiated and reinforced by the Secretariat. Committing this level of effort will continue to require the Secretariat to balance tradeoffs between advancement of P&Is and other priorities, and to determine where time is most effectively spent.

¹ As of 17 April 2023.

What is the topic of this update?

To date, [30](#) ~~28~~ countries have conferred privileges and immunities (“P&Is”) on the Global Fund: Afghanistan, Belize, Benin, Burkina Faso, Burundi, [Congo \(Brazzaville\)](#), Côte d’Ivoire, Djibouti, Eswatini, Ethiopia, Gabon, Georgia, Kenya, Lesotho, Liberia, Malawi, Mauritania, Moldova, Mozambique, Niger, Rwanda, Sao Tome and Principe, Senegal, [South Africa](#), Suriname, Switzerland, Togo, Uganda, the United States and Zimbabwe.² In addition, Cabo Verde, Central African Republic, ~~Congo (Brazzaville)~~, El Salvador, Ghana, Guinea-Bissau, Montenegro and Sierra Leone have signed but not yet ratified agreements conferring privileges and immunities on the Global Fund. Progress continues in multiple other countries.

1. As the Board recognized, there is a strong business case for P&Is.³ P&Is provide Global Fund officials, staff, programs, and resources with unique protections, including:
 - a. Protecting against resource diversion and ensuring maximum resources are directed to Global Fund programs.
 - b. Immunizing the Global Fund from legal process in country.
 - c. Protecting Global Fund property and assets (e.g., grant funds and assets procured using grant funds), “wheresoever located and by whomsoever held,” from legal process, seizure, confiscation or interference.
 - d. Ensuring tax and customs duty exemptions and speedy customs clearance.
 - e. Facilitating travel of the Global Fund’s governance officials, experts, and staff, to enable in-country engagement on program implementation.
 - f. Enabling the Global Fund to operate with a comparable level of protections as those enjoyed by other international organisations.
2. The above protections also benefit implementing countries. In particular:
 - a. They maximize Global Fund resources directed to program implementation and save lives in implementing countries.
 - b. They can remove administrative bottlenecks associated with the importation of health products and thus advance timely and effective program implementation.
 - c. They facilitate missions by providing critical protections for Global Fund officials, staff and experts in country, including repatriation rights in times of crisis.
3. Conferral of P&Is on the Global Fund by donor countries also brings benefits. The protections P&Is provide also accrue in donor countries – for example, the immunity from legal process and the protection of funds in Global Fund bank accounts. Donor countries’ conferral of P&Is on the Global Fund sends a clear message of support of the broader effort to expand P&I adoption including in implementer countries. This remains an area where future effort could be aimed.

² As of 8 April 2025.

³ See Annex 2.

What is the current status?

4. The Secretariat continues to prioritize P&I advocacy in implementer countries and leverage opportunities to expand conferrals.
5. In June 2023, the Secretariat revised the Global Fund Grant Regulations for the first time since 2014. Contemporaneously, the Secretariat began amending the Framework Agreements it holds with countries and other implementers. The Secretariat leveraged this opportunity to align negotiations on P&Is, resulting in additional conferrals (for example, in Suriname, Djibouti and Mauritania).
6. Also in June 2023, the Secretariat began offering bilateral P&I agreements to stakeholders. This resulted in progress at a faster pace because for some countries, bilateral agreements could be executed more efficiently than the multilateral P&I treaty could be ratified.
7. In 2024, as endorsed by the Board and EGC, the Secretariat reconvened a new Privileges and Immunities Advisory Group to support P&I conferrals. The PIAG discussed with the Secretariat strategies to expand conferral, including engaging regional organizations and parliamentarians and facilitating direct contacts with government officials. The Secretariat is still assessing these approaches and appreciates the PIAG's willingness to support specific conferral opportunities as they arise. The Secretariat will continue to engage with the EGC on this topic.
8. In August 2024, the Secretariat obtained an expert opinion from Professor Jan Klabbers, the newly elected Whewell Professor of International Law at the University of Cambridge. This opinion reaffirms the Global Fund's status as an international organisation under international law. Professor Klabbers' opinion follows a 2009 opinion by Professor Michael Reisman of Yale University that reached the same conclusion.

Are we progressing as expected?

9. Since the last report to the Board on this topic, ~~six~~-eight additional countries have conferred P&Is on the Global Fund: Belize, Benin, Burundi, [Congo \(Brazzaville\)](#), Djibouti, Mauritania [South Africa](#), and Suriname. The Global Fund now has P&Is in the Latin American and Caribbean region for the first time. Progress continues in multiple other countries.
10. Recent efforts continue to affirm the lesson that engagement on P&Is is most effective when it leverages opportunity in country. Some examples illustrate the point:
 - a. In several countries, the Secretariat tied P&I negotiations to negotiations around the amended Framework Agreement and Grant Regulations. The Secretariat proposed contemporaneous amendment and conferral, and the country executed accordingly.
 - b. In another country, the Country Team prioritized P&Is during an in-country mission and obtained buy-in from key leaders in Government. After sustained follow-up, the country passed legislation conferring P&Is on the Global Fund.
11. That said, challenges remain, even when momentum appears strong.
 - a. In one country, following in-country missions, support was obtained from all relevant Government ministries, and a Cabinet memorandum was drafted for approval.

Progress then stalled once the Secretariat left the country and has been challenging to revive.

- b. In other countries, changes in government interlocutors required negotiations to restart from scratch.
12. The Secretariat has continued to implement P&Is in countries where they have been conferred. In some countries, this process is led by in-country stakeholders; in others, the Secretariat leads negotiations on implementation. Capitalizing on the consistency between the P&I agreements relevant to the Global Fund and Agreements conferring P&Is on other international organisations, the Secretariat has sought consistent treatment to fellow international organisations in each country.
13. The Secretariat progressed implementation of P&Is, including in the following ways:
- a. As one example, in preparation of the 52nd Global Fund Board Meeting in Malawi, and pursuant to the P&Is conferred to the Global Fund by that country, the Secretariat engaged with the Malawian mission in Geneva as well as its Ministry of Foreign Affairs, to facilitate entry of all Global Fund Staff and Board delegates into the country by the least restrictive means. The government had committed to, among other things, putting the necessary security measures in place so as to ensure a smooth proceeding of the official Board meeting discussions as well as Staff and Board delegates participation to site visits and side events.
 - b. As another, the de facto authorities in one country decided through an ordonnance to levy a 10% tax on grant fund amounts otherwise exempt through various tax exemptions schemes, including through the Framework Agreement and the Global Fund Grant Regulations. Upon a strong advocacy effort by the Principal Recipient, Country Coordinating Mechanism and Secretariat, the authorities excluded beneficiaries of tax exemptions emanating from concluded international conventions from the scope of the ordonnance. Thus, the survival of the tax exemptions in such conditions underscores the pertinence of P&Is in asset protection and maximization of resource mobilization.
14. It remains the case that government support for the conferral of P&Is does not automatically translate to support for P&I implementation. Both the latter and the former require active Secretariat management.

What are the implications for our outlook and plans?

15. The Secretariat will continue to work to expand adoption and implementation of P&Is through implementation of the endorsed strategies, under the oversight and guidance of the EGC.
16. The Secretariat appreciates the EGC and Board's ongoing support and guidance on this issue and will continue to provide progress updates.
17. The Secretariat will discuss with the new EGC whether additional strategies or approaches are warranted to accelerate the conferral of P&Is on the Global Fund.

Annexes

The following items can be found in Annex:

- Annex 1: Relevant Past Board Decisions

Annex 1 – Relevant Past Board Decisions

| Relevant past Decision Point | Summary and Impact |
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| GF/EGC24/ER01 (May 2024) | EGC approved the appointment of members to PIAG. |
| GF/B50/EDP04: Reactivation of the Privileges and Immunities Advisory Group and Revisions to its Terms of Reference (December 2023) | The Board approved the reactivation of PIAG and approved revised terms of reference. The Board delegated to EGC the authority to select and appoint members of PIAG. |
| GF/EGC23/EDP02: Privileges and Immunities (October 2023) | EGC recommended to the Board the reactivation of PIAG and the approval of the proposed revisions to the PIAG's Terms of Reference. |
| GF/EGC09/EDP02: Appointment of members of the Privileges and Immunities Advisory Group (June 2019) | EGC appoints five individuals to serve as members of PIAG for a one-year period starting on 1 July 2019. |
| GF/B39/EDP04: Review of the terms of reference and renewal of the term and composition of the PIAG (June 2018) | The Board approved the review of the terms of reference and renewal of the term and composition of the PIAG and requested EGC to select and appoint the members of PIAG and to inform the Board of the outcome of the selection process. |
| GF/EGC02/EDP02: Privileges and Immunities (October 2016) | EGC acknowledges the serious challenges and risks faced by the Global Fund and its staff members in the discharge of their duties in many countries; stresses the importance of states granting to the Global Fund privileges and immunities through the signature of the Agreement on Privileges and Immunities of the Global |

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| | Fund ("P&I Agreement"); and, requests the Secretariat to develop, in consultation with PIAG, proposals to further enhance the levels of signature and ratification of the P&I Agreement. |
| GF/B32/EDP12: Terms of Reference of the Privileges and Immunities Advisory Group (March 2015) | The Board approved the Terms of Reference of PIAG, a dedicated group of donor and implementer representatives to identify strategies and advocate for the acquisition of privileges and immunities for the Global Fund. |
| GF/B32/DPO6: Privileges and Immunities (November 2014) | The Board acknowledges past decisions on privileges and immunities and further requests: the Secretariat to dedicate required resources for the acquisition of privileges and immunities; the FOPC and the Audit and Ethics Committee to oversee jointly the acquisition of privileges and immunities, and report on progress to the Board on an annual basis; and the Board Leadership to constitute a dedicated group of donor and implementer representatives to identify strategies and advocate for the acquisition of privileges and immunities. |