

FINAL REPORT

First Meeting of the Transitional Working Group to establish a Global Fund to fight AIDS, Tuberculosis, and Malaria Brussels, 11-12 October 2001

October 30, 2001

DAY 1: THURSDAY OCTOBER 10, 2001

DISCUSSION ON TITLE, PURPOSE, SCOPE, AND PRINCIPLES OF THE FUND

- Agenda **adopted** (Tab 1 of binder)
- Working methods as proposed by the TSS **adopted** (Tab 6 of binder)
- Principles discussion – **TWG delegations made general comments** on the TSS document (Tab 7 of binder)
- Some detailed drafting on the Principles section began in plenary. A decision was made to **form smaller drafting groups** on Principles and Purpose/Scope instead of making specific language changes in plenary.
- While the drafting group on Principles **retired to revise** the TSS draft section, **general discussion** on Purpose/Scope began in plenary.
- Following plenary discussion on Purpose/Scope, the drafting group on Principles returned to **present the results of its work**. This was followed by further general discussion on Principles.
- The Purpose/Scope drafting group completed its work late Thursday evening. **Revised versions** of the Principles and Purpose/Scope sections were distributed to TWG delegations Thursday evening.

DAY 2: FRIDAY October 11, 2001

- **DECISION ON FUND TITLE:**

The TWG **decided** that the title of the Fund will be “**GLOBAL FUND TO FIGHT AIDS, TUBERCULOSIS, AND MALARIA**”.

- **DECISION ON PRINCIPLES, PURPOSE, SCOPE:**

The TWG discussed the new draft versions of Principles, Purpose, Scope, prepared by the drafting groups, and **adopted a final version** (sent to the TWG for final review and comment on October 16, and finalized on October 30).

INTRODUCTION OF FIDUCIARY PAPER BY GEOFFREY LAMB, WORLD BANK

Mr. Lamb made a short presentation, summarized below:

When contemplating the fiduciary arrangements, there are several important issues to be considered.

- Fiduciary arrangements must be linked to issues of accountability. The global reputation and credibility of the World Bank would be involved if it were the Trustee.

Accountability is important from the point of view of the financial integrity of the Fund. Experience of the World Bank to date with Trust Funds shows that fiduciary responsibility must go beyond banking arrangements. The Trustee must play an active role, and have close relations with the Secretariat.

- The choice of implementation arrangements will have to be considered carefully, as this decision will have an impact on the eventual fiduciary arrangements. One option would be to have implementation agencies responsible for their own audit arrangements. The other option would be that audit arrangements would be handled from the central level by the overall fiduciary agent. If the countries themselves were to be the implementing agencies, this already implies a large workload for the Trustee. On the other hand, if the Trustee were asked to disburse to a number of different end users within countries, the World Bank feels this could be unworkable for the Trustee.
- The TSS requested the World Bank to explore the feasibility of setting up an interim trust fund account to make it possible to receive funds as soon as possible, before the final arrangements for the Fund have been completed. Mr. Lamb confirmed that the World Bank could establish such an interim trust account.
- The Chairman accepted the offer from the World Bank of setting up an interim trust account to begin receiving actual contributions of partners pending the completion of final arrangements for the Fund over the next two months.
- The Chairman then invited comments from the TWG, noting that the fiduciary paper was being introduced to initiate discussions, and not to make decisions. Final decisions on the fiduciary arrangements for the Fund will be made at the next TWG meeting in November.

MAIN POINTS OF DISCUSSION ON FIDUCIARY:

- A number of delegations supported the idea of the World Bank as the appropriate institution to perform the role as Trustee. This would allow countries to fulfil their pledges without having to create new mechanisms.
- Some delegations thought that if the World Bank were chosen, its role would have to be carefully defined. Several speakers agreed that using the World Bank as Trustee should not necessarily imply that the Fund would have to use World Bank procedures, particularly regarding procurement.
- It was observed that if the World Bank was used as Trustee, another entity that qualified as a charity under the tax laws of the United States (for US businesses), or other countries (for businesses from other countries) would be needed to receive donations from the private sector. This would allow corporations to qualify for tax relief, thus possibly leveraging significant additional resources for the Fund.
- It was agreed that by the end of November or the beginning of December 2001, some contributions to the Fund could be released into an interim trust fund account set up by the World Bank.
- Some support was voiced for having the Trustee and Secretariat closely linked to facilitate communication and coordination.
- Some delegations suggested that a range of options for Trustee (other than the World Bank) be explored prior to the November meeting, such as private auditing firms and banks.
- A holding account should be established as soon as possible to demonstrate progress.
- Trusteeship, governance, and program implementation have to be separated, and respective roles and responsibilities carefully defined.
- A number of delegations emphasized the importance of carefully defining the role of the Trustee as part of the governance structure. Some thought that the role of Trustee should be separated from implementation.

- Program and financial accountability have to be separated and responsibilities for each defined.
- The importance of both program and financial accountability was emphasized, and it was pointed out that a clear role for the fiduciary be defined in each of these areas.

DECISIONS TAKEN ON FIDUCIARY:

- The TWG should **consider options** when thinking of what entity should undertake fiduciary responsibility for the Fund. The World Bank is one such option.
- A **working group** on Fiduciary will be formed in preparation for the November TSG meeting – Japan will lead this group.
- The World Bank should move quickly to **open a holding account** to begin to receive donations from TWG partners

INTRODUCTION OF GOVERNANCE PAPER BY MARTIN TAYLOR, TSS

- The Principles for governance – consensus from previous discussions includes:
 - Light governance
 - Accountable and transparent
 - Supporting country decision-making
 - Technically sound
 - Rapid resource transfer
 - Inclusive of all partners
 - Minimizing transaction costs
- Four key elements for governance emerged at the Brussels meeting in July: Board, secretariat, technical review and trusteeship.
- After looking at best practices, the TSS has added two new ones: global partnership and country coordination mechanisms. *Global partnership*: brings together partners, mobilizes resources, reviews progress, and sustains commitment and momentum. *Country coordination mechanisms*: builds upon the experience of existing disease-specific country-level partnerships.
- *Global Partnership*: Could meet after the first year, and every two years thereafter. Functions: Brings together all partners; mobilizes resources; advocates for support; reviews progress; sustains commitment and momentum; promotes coordination;
- Principles for the *Board*: effective, manageable, small, high level. If it has too many members, it won't be able to make its decisions efficiently and rapidly. Functions: Define policies; set priorities; represent constituencies; set eligibility criteria; make funding decisions; appoint executive head of secretariat.
- Principles for the *Secretariat*: will be the only permanent standing body. Should not be so small that it can't do its job, but not so large that it grows into new organization. Functions: day-to-day management; communicate board's decisions; prepare board meetings; oversee proposal process.
- Principles for the *Trustee*: assure financial accountability and transparency; hold partner contributions, and distribute grants. Functions: manage and disburse resources upon instructions from the Board; provide financial statements to the Board on use of Fund resources; establish mechanism to receive private sector contributions.
- *Country level processes*: key to securing outcomes. Functions: country level priority setting; preparing proposals; accountable for outcomes; bring together all parties in countries; build on existing co-ordination groups.

- *Technical panels:* Panel 1: make recommendations on policy; review new evidence; recommend assessment standards; agency experts. Panel 2: review proposals – independent experts (non-representative). It is important to keep the 2 panels separate so that there is an independent transparent standard for decision-making.
- Two options for moving forward: create a small TWG working group, or open a larger consultative process to allow for greater inclusion.

MAIN POINTS OF DISCUSSION ON GOVERNANCE:

- Country-level co-ordination is crucial, and should wherever possible be based on existing co-ordination mechanisms.
- What will be the Fund's relationship with UN agencies and how should these agencies interact with the Secretariat?
- It is necessary to assess the strengths and weaknesses of existing mechanisms to make the best use of resources.
- Some delegations stressed the need to clarify to whom the Board will be accountable.
- There is a need to separate responsibility for management from operations. The Board will be responsible for management. Who will have operational responsibilities?
- Size of the Board: a maximum of 15 members was mentioned most frequently. How can a balanced regional representation be ensured in such a group? A suggestion of a rotating mechanism, based on constituency representation was supported by a number of delegations.
- One delegation suggested that the Head of the respective national entity in charge of development cooperation is the appropriate level of representation on the Board. This delegation felt that this issue was more important than the size of the Board.
- How will the Fund be evaluated?
- A concern was raised that countries may be obliged to seek grants from multiple sources for the same disease control program. There was agreement that the risk of possible duplication of effort and increased transaction time should be discussed in the working group on country processes.
- Relationship between different bodies and technical panels is key to ensure balance, effectiveness and accountability.
- Several delegates suggested that WHO and UNAIDS could play an important role in supporting the work of the Fund Secretariat.
- Some delegates also mentioned that UN agencies could also possibly help with implementation in countries with limited capacity.
- Fund raising and advocacy activities will be very important for the Global Fund. Which part of the governance structure is responsible needs to be clearly defined.
- There was wide agreement on the idea that a global partnership be established.
- The idea of establishing two technical panels (for example – policy and technical review) with separate and clearly defined responsibilities was supported by some delegates.
- Should representation on the Board be at the ministerial level (emphasizing high level political engagement and commitment), or senior technical level (emphasizing more substantive technical engagement)?
- Should the Secretariat's function be limited to coordination and communication, or should it have some leadership or other executive functions?
- Many emphasized the importance of accountability at country level.
- It is critical to clearly define the respective roles of the Board, the Secretariat, the technical panels, and the Trustee.

INTRODUCTION OF LEGAL PAPER BY MIKE KITAY, CONSULTANT FROM USAID

- A key issue is whether the Secretariat should be formally organized as a legal entity with full authority to make contracts and hold property.

- In his introduction Mr. Kitay raised the issue of formal versus informal organizations: some legal entity will have to enter into legally enforceable contracts in the ordinary course of business of the Fund. Renting office space, acquiring equipment, securing telephone service, hiring staff etc. are examples of the normal housekeeping duties of the Fund that will require some legal status.
- The examples of GAVI and the GEF were given, and the legal differences of these two models highlighted.
- The question is whether there is some legally separate organization or entity that can perform services for the Fund without sacrificing the independence of the Fund and its ability to seek contributions from both public and private sources.

MAIN POINTS OF DISCUSSION ON LEGAL:

- Need to define what the Fund is.
- Maybe use the example of the GEF or GAVI.
- What are the constituent parts of the Fund?
- Should the Fund be formally or informally organized?
- If the Fund will be an organization, under which (national) laws?

DECISIONS TAKEN ON FIDUCIARY, GOVERNANCE, LEGAL, COUNTRY PROCESSES, AND ACCOUNTABILITY/TECHNICAL REVIEW/ELIGIBILITY:

- The TWG agreed to **create working groups** to prepare background/discussion, and eventually decision papers for the November meeting on fiduciary, legal, governance, country processes, and accountability/technical review and advice/eligibility issues. The working groups formed are outlined below. The TWG delegation responsible for preparing each paper is indicated, as well as a TSS focal point for each group.
- It was further agreed that initial working group papers on these issues (defining options wherever possible) will be circulated to all TWG members prior to the November meeting. The TSS will prepare a final package of papers incorporating TWG comments, highlighting areas of agreement and diverging opinions. These papers will provide the basis of discussion for the TWG at the November meeting. At the November meeting, final TWG decisions on these issues will be made.

Fiduciary: **Japan** - TSS focal point, Ann Duncan

Legal: **Sweden** - TSS focal point, Martin Taylor

Accountability, Technical review and advice, Eligibility: **US**

TSS focal points:

Accountability (program), Macharia Kamau;

Accountability (financial), Ann Duncan;

Technical Review, Martin Taylor;

Eligibility, Moses Aikins

Governance: **UK** - TSS focal point, Martin Taylor

Country processes: **Norway**, TSS focal point, Macharia Kamau

OTHER BUSINESS DISCUSSED:

- In addition to an Asian regional consultation meeting to be held mid-November in Bangkok, the government of Brazil and the horizontal technical cooperation group of Latin America will sponsor a Latin American and Caribbean consultation meeting IN

Brazil in November. The national AIDS program of Brazil will organize the meeting in close cooperation with the TSS.

- The governments of the Netherlands and Switzerland offered financial assistance, if necessary, particularly to facilitate the participation of developing countries at the country consultation meetings.
- It was agreed that a standard format and process for capturing the ideas and inputs generated from the regional consultations be developed by the TSS. The TWG agreed on the importance of assuring an open and transparent process of selection for determining representation on country teams that attend the regional consultation meetings.
- The next meeting of the TWG will take place in Brussels, and is scheduled for November 22-24 (Thursday-Saturday). Although a Saturday work session was not ideal, the TWG agreed on the need for a three day meeting, and this schedule seemed to be best for most of the delegations. The TSS will finalize arrangements for the meeting, and inform all TWG delegations accordingly.