Investing in our future
The Global Fund
To Fight AIDS, Tuberculosis and Malaria

The Office of the Inspector General

Review of the suspension /termination processes for Global Fund grants

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Table of contents

Acronyms

3D Fund	Three Diseases Fund
ACTs	Artemisinin-based Combination Therapies
AFD	Agence Française de Développement
AG	Auditor General
AIDS	Acquired Immune Deficiency Syndrome
ARVs	Anti Retro Virals
ASG	Additional Safe guards
CCM	Country Coordinating Mechanism
CMF	Caretaker Management Firm
CPA	Central d'achat Pharmaceutique
CSF	Civil Society Fund
CSO	Civil Society Organisation
DPP	Directorate of Public Prosecution
DT	Deloitte and Touché
EU	European Union
EY	Ernst and Young
FAC	Finance and Audit Committee
FOSAP	Fonds de Soutien aux Activités en matière de Population
GAVI	Global Alliance for Vaccines and Immunization
GoU	Government of Uganda
GWP	Government White Paper
GTZ	Gesellschaft für Technische Zusammenarbeit
HGRN	Hopital General de Reference National
HIV	Human immunodeficiency virus
LFA	Local Fund Agent
LTIA	Long Term Institutional Arrangement
MDM	Medicine du Monde
M&E	Monitoring and Evaluation
MOGLSD	Ministry of Gender Labor and Social Development
MOFPED	Ministry of Finance, Planning and Economic Development
MOH	Ministry of Health

NDA	National Drug Authority
NGO	Non Government Organisations
NMS	National Medical Stores
OIG	Office of the Inspector General
OLAF	European Anti Fraud Office
OTF	Operations Task Force
OVC	Orphans and Vulnerable Children
PAF	Poverty Alleviation Fund
PLWA	People Living with HIV/AIDS
PMU	Program Management Unit
PoA	Plan of Action
PPDA	Public Procurement and Disposal of Assets Authority
PR	Principal Recipient
PwC	PricewaterhouseCoopers
PR	Principle Recipient
PSM	Procurement and Supply Management
SFO	UK Serious Fraud Office
SR	Sub Recipient
TB	Tuberculosis
TGF	The Global Fund
ToRs	Terms of Reference
TRP	Technical Review Panel
TWG	Technical Working Group
UAC	Uganda Aids Commission
UNAIDS	Joint United Nations Programme on HIV/AIDS
UNDP	United Nations Development Programme
UNICEF	United Nations Children's Fund
Ushs	Uganda Shillings
USAID	United States Agency for International Development
VAT	Value Added Tax
WB	World Bank
WHO	World Health Organisation

Executive Summary

Introduction

I The Global Fund Board at its 17th meeting requested the Inspector General to report to the Finance and Audit Committee on the action taken in response to cases where mismanagement of Global Fund grant programs had been reported.

Review objectives, scope and methodology

II The Office of the Inspector General (OIG) undertook a review of the adequacy, effectiveness and timeliness of actions taken by the Secretariat and the affected countries in managing and resolving the problems that had resulted in the suspension and termination of grants.

III The objectives of this review were to establish:

- what action was taken by the affected countries in conjunction with the Secretariat in response to the problems;
- whether the action taken was appropriate in resolving/ remedying the problem;
- whether the Secretariat has taken adequate actions to ensure that the risks identified are mitigated and do not recur; and
- the lessons learnt to further strengthen controls at Secretariat and country level in the future.

IV The scope of work covered the four countries namely Ukraine, Uganda, Indonesia and Chad where TGF has suspended grants and the terminated grants in Myanmar. The OIG undertook a desk review of the suspensions/ termination processes of Chad, Indonesia, Ukraine and Myanmar. The review of Uganda included country visits. This report provides:

- OIG's findings from the individual country reviews, as reflected in the different country specific sections; and
- Uses these cases to draw up conclusions for the Global Fund as a whole as reflected in the 'lessons leant' section.

V The countries are reported in the chronological order in which the restrictions happened as summarised below:

Country	Restriction imposed	Restriction lifted
Ukraine	26 January 2004	24 February 2004
Myanmar	18 August 2005	Not applicable
Uganda	25 August 2005	10 November 2005
Indonesia	15 March 2007	20 August 2007
Chad	28 November 2006	3 August 2007

Summary of findings

A. Findings specific to the countries

Ukraine

VI The weak capacity of PRs, ineffectiveness of the CCM and the widely acknowledged high corruption levels in Ukraine contributed to the poor performance of the GF grants in Ukraine and subsequent suspension of grants. Notification of the suspension halted the operations of the three PRs with the exception of making payments for outstanding obligations (under the supervision of the LFA) and the continuation of life saving activities. All cash balances were to be refunded. All PRs refunded all that was due to TGF with the exception of UNDP where there was a short fall of US$ 13,791 in the amount recovered.

VII The most critical conditions set for the lifting of the suspension were met before lifting the suspension i.e. the selection of an organization (International HIV/AIDS Alliance) that would temporarily replace the three PRs until the CCM addressed slow implementation and decided on other PR arrangements; and the cancellation of a Ministry of Health procurement tender. The decision to change PRs was strongly opposed by Government which resulted in reduced government commitment to the GF programs. The MOH subsequently declined to be co-PR with the Alliance under Round 1 Phase 2. The Alliance also had to pay tax on the drugs imported.

VIII The change of PR in Ukraine has proved to be a success in Ukraine. However, this has come at the cost of diminished government commitment and national ownership. The Ukraine CCM also did not survive the suspension. To date the CCM has not been properly constituted suggesting that there is a lack of proper oversight in country over TGF grants. Since CCMs are the GF's vehicle for local ownership and participatory decision-making, the lack of a functional CCM in Ukraine runs counter to TGF's principles.

IX Ukraine was put on the Additional Safeguards (ASG) list and has subsequently been removed because of good grant performance. Now that Ukraine is no longer on the ASG, the Secretariat should work with the country to return it to operating normally under the GF model especially through the engagement of government to ensure national ownership with a functional CCM for oversight.

Myanmar

X Myanmar was one of the first countries to be placed on the ASG list. This resulted in the mandatory safeguards as listed in the ASG policy as well as additional safeguards to address the specific risks identified in Myanmar. These included the zero cash policy to national entities which meant that GF money could only be transferred to GF authorised entities e.g. non governmental organisations not affiliated to government and not to national entities. All personnel implementing GF programs also had to be contracted by UNDP and not national entities.

XI The Fund terminated its grant agreements with Myanmar effective August 18, 2005 citing the breach by government of the commitments made to the GF PR. Specifically the reasons provided were:
   (a) The Government of Myanmar decision, in July 2005, to institute new travel clearance procedures which would have the effect of restricting access of the Principal Recipient, staff of implementing partners and staff of the Global Fund to grant implementation areas; and
   (b) The government imposing additional procedures for review of procurement of medical and other supplies.

XII However, the reasons provided for terminating the grants were negated by the government's lifting of restrictions that caused the termination soon after they were imposed and the GF programs continuing to run for a period of over a year despite TGF having previously stated that it was impossible to continue implementation in the country. This raises questions about whether the termination decision was optimal and whether TGF had exhausted all possible alternatives before making such a weighty decision.

XIII This phase out period lasted from the termination of the grants i.e. 18 August 2005 to 31 December 2006 when the title of the residual program assets was handed over to the SRs. A phase out plan was developed by the PR, reviewed by the LFA and approved by TGF. According to this plan, no new activities were to be undertaken. Activities to be undertaken would cover:
   (a) Life saving activities i.e. activities which if interrupted would have consequences on the critical welfare and health of the beneficiaries;
   (b) Ongoing obligations, commitments and contracts that had already been signed by the PR; and
   (c) Operational activities important to continue during the six months in order for donors to take on areas previously funded by TGF.

XIV Detailed phase out plans were prepared and no additional funds were disbursed by TGF to meet the obligations of the phase out period. Of the US$ 11,929,652 disbursed to the country, the country was holding US$ 11,049,443 at the time of termination. US$ 11,186, 275 was spent up to the end of the phase out period leaving a balance of US$ 743,476. UNDP has so far refunded US$ 665,000 and is due to pay the balance.

XV Myanmar is still eligible to apply for future funding from TGF. While TGF does not guide the Technical Review Panel (TRP) but provides relevant information for their decision making, there is no requirement for the TRP to be informed of past situations that have arisen as in Myanmar.

Uganda

XVI This review of Uganda included two visits to Uganda by the IG with a team between May and August 2008. The table below provides a summary of the objectives of the Uganda review and the IG's conclusions:

Objective	IG's conclusion
Review the actions taken by the GoU in undertaking investigations and recovering mismanaged funds;	The Government has shown a renewed commitment to investigate, prosecute culprits and recover misappropriated GF monies. However, a lot more still needs to be done to ensure that the investigation and recovery processes do not stall and recoveries are maximised.
Obtain assurance regarding the interim period managed by the CMF on behalf of the PR	The interim period, as defined by the signed Aide Memoire, was supposed to be a one year temporary arrangement that gave way to a longer term arrangement. It was extended for a period of almost three years without revisiting the adequacy of the established structures, systems and processes to safeguard TGF resources in the longer term which resulted in exposure of TGF investments to risk. The controls in place were not adequate to safeguard TGF investments.
Obtain assurance that the controls under the Long Term Institutional Arrangements (LTIA) would adequately safeguard GF investments in the future	The LTIA provided a broad architecture of the modalities through which proposals would be made, grants disbursed, monitored and reports sent back to TGF. However, no detailed analysis had been undertaken about how the architecture would translate into the day to day management of the grants. In consequence, the IG cannot at present provide assurance that the current arrangements and controls in place are adequate to safeguard TGF investments in the country. The LFA should undertake further assessments to identify areas where Government may need assistance in strengthening its controls under the LTIA. By so doing, the Secretariat would be able to invest its funds with reasonable assurance.

Table 1: Summary of grants that have had restrictions.

XVII Following the IG's August mission, a task force comprising top government officials and development partners met on 13 August 2008 and developed a Plan of Action (PoA) to address the issues that were raised in the IG's debriefing meeting. Implementation of actions to address the issues noted is already underway.

Indonesia

XVIII A country audit by the OIG revealed irregularities in financial management and oversight at CCM, PR and SRs. This was confirmed in a review by the LFA. Although the mismanagement was evident in only two grants, all grants were suspended due to the weak oversight of grants and PRs by the CCM.

XIX The restriction applied to Indonesia was a cessation of expenditure and not a suspension of grants. The difference between a suspension and a cessation of expenditure is that a suspension is publicized by way of a press release while a cessation is not public. In retrospect, the country team feels that the decision to go for a cessation did not have the same effect as a suspension would have had because publicity would have put the authorities under more pressure to act.

XX Some of the pre-conditions set up for lifting the suspension were not met. The country however committed to meeting the outstanding conditions within an agreed upon period.

XXI The cessation has adversely affected the performance of the grants. There was a lot of time lost and resignation of most of the staff involved in grant implementation over the non payment of salaries which negatively affected the capacity of the three PRs to implement programs after the cessation.

Chad

XXII There had been two external audits, an internal audit review and a financial management review by the LFA that all revealed significant weaknesses in financial and grant management and the internal control environment. The reports revealed the following key findings:

(a) The PR had a very weak internal control structure. Gaps were identified in the accounting records maintained and there was non-compliance with established guidelines and procedures.
(b) Managing and monitoring of the SRs was not satisfactory.
(c) Instances of transactions that appeared fraudulent were identified. These included disbursement of funds to SRs for activities that did not occur, transfer of program funds to unidentified bank accounts, unsupported expenditure, inflated prices, poor quality products etc.
(d) The PR had not implemented recommendations from previous audits/reviews.

XXIII The Secretariat hired forensic auditors to identify, quantify and determine the extent of financial losses arising from the financial irregularities and mismanagement in the application of GF resources. The Secretariat has recovered most of the money identified as misappropriated and PR staff involved in the misappropriation have been asked to leave the organization.

XXIV Whilst the suspension was lifted on 3 August 2007, TGF stipulated that a number of actions to mitigate the risks had to materialize before the grant disbursements could resume to the country. At the time of undertaking this review, no funds had been disbursed to the country for almost two years. This was as a result of the delay in the hiring of the fiduciary agent. Drugs have been procured through UNICEF in this period to ensure that life saving activities continued.

XXV While restrictions may be the proper tool to handle countries with mismanagement of funds by GF recipients, this decision may need to be reconsidered and other alternatives sought for ‘fragile’ countries like Chad. After almost two years, the country has only just met the conditions to resume.

B. Lessons learnt

XXVI Restrictions are part of doing business for the GF as it addresses different challenges that appear in the day to day management of the grants. Two types of restrictions namely terminations and suspensions as provided for in signed grant agreements. Suspensions involve stopping disbursements to the country and this can be with or without publicity. Whenever disbursements to a country are stopped for whatever reason, this represents a restriction to grant funding. There are a number of lessons learned from the suspensions/termination processes to ensure that the grants are managed better in the future.

<u>Other cases where disbursements have been stopped</u>

XXVII It is common practice within the Secretariat to stop disbursements to countries that have not met certain grant agreement conditions e.g. failing to provide the required audit reports or to address a problem that has presented itself in a country. Many of these cessations of disbursement are used as a management control tool and never publicized. Information about the extent of this type of restriction was not readily available since it is kept at team level. These are in effect restrictions although the Secretariat has not regarded them as such. The Secretariat should develop a mechanism to identifying and monitoring all countries in which restrictions have been instituted. This should include all countries where restrictions have been instituted informally i.e. without an announcement.

Preventing restrictions

XXVIII All restrictions by TGF were in reaction to an event or set of events that happened in the respective countries. Although the Secretariat has been proactive in developing tools to identify and manage risk, it does not currently have a tool that can identify high risk countries with a view to resolving the issues before they adversely affect the grants. The Secretariat should develop a risk management model that helps it identify countries prone to high risk that will enable it allocate its resources better and address whatever risks present themselves in countries before they affect the GF investments in country.

XXIX None of the cases of mismanagement noted were flagged initially by the LFA. LFAs are referred to as the ‘eyes and ears’ of TGF and this raises questions about whether their terms of reference provide them with this mandate, and if so, whether they are ‘looking and hearing’ as effectively as they should. The LFA’s scope of work should be directed by applying a risk based approach in order to increase its effectiveness in managing risk of the GF investments.

XXX The ASG policy is part of TGF’s risk management toolkit. It was established to address situations where the existing systems did not ensure accountable use of GF financing or suggested that GF monies could be placed in jeopardy without the use of additional measures. The justification for placing a country on the ASG list should be documented. The conditions for mitigating the risk identified in the country should be agreed upon and formalised with the relevant country. The conditions that countries on the ASG list are obliged to comply with should be flexible to address the specific risk in the country.

Managing restrictions

XXXI The Secretariat has not defined the decision making process for restrictions. The involvement of internal and external stakeholders across the five countries in the decision making process varied. The decision making process should be defined using a standardized case assessment process to ensure that optimal decisions made. This should cover having a plan to guide but not control the process; agreeing the composition of the decision making team; criteria for decision making; review and approval mechanisms of the decision making process and consultation with stakeholders at country level.

XXXII The rationale for selecting the type of restriction differed for all cases reviewed with different types of restriction being applied to address similar types of problems. Guidance should be developed on the different restriction options available and criteria to guide the selection of the appropriate restriction type taking into account of the country context.

XXXIII The management of allegations of misappropriation varied across the four cases reviewed. In three countries, reviews and investigations were undertaken to confirm the allegations. In line with its principle of promoting national ownership, the countries should be encouraged to take the lead on investigations with GF supporting such initiatives.

XXXIV TGF sought to recover the funds misappropriated once the amounts involved were confirmed. The countries that were successful in recovering funds were those that sought refunds before disbursement could resume. In accordance with its accountability responsibility, the Secretariat should seek to maximize recovery of misappropriated funds. However, some Secretariat staff suggested that this should not be done at the expense of its goal to fight the three diseases.

XXXV Communication played a key role in the suspension decision with countries that had a public announcement of the restriction responding faster and more effectively than those with limited or no announcement. A communication strategy should be prepared as part of the restriction plan. This should consider whether an announcement is appropriate and if so, what it should cover, when, by whom and how often.

XXXVI In none of the cases were the pre-conditions set up for lifting the restrictions fully met at the time of lifting the suspensions. Agreed upon time lines for meeting the conditions were not fulfilled resulted in a protracted suspension for the countries involved which inadvertently affected the performance of the grants. TGF should prioritize the conditions necessary for lifting suspension and these should not be waived unless an alternative control that mitigates that specific risk is put in place.

XXXVII Monitoring of countries during the suspension and post suspension varied. In all countries, the budgets of the LFA increased but OIG did not see amended ToRs for the LFAs that reflected a change in the scope of work that the LFA was to do. The enhanced LFA ToRs post restriction should be agreed in writing with deliverables to TGF specified. These ToRs should include providing assurance that the risks that led to the restriction are mitigated during the restriction and post restriction.

XXXVIII The Technical Review Panel is independent of the Secretariat and bases its grant decisions on the documentation that is provided. TRP review decisions are based on the merit of a proposal and performance of past grants. The merit of the proposal is contained in the country proposal that is submitted to the CCM and the grant performance based on the grant performance reports. Providing information about the factors that led to a restriction and how these have been resolved can assist the TRP make better decisions. The Secretariat should consult the TRP on what type of contextual information it requires for decision making and ensure that this is provided on a consistent basis.

C. Conclusion

XXXIX In conclusion, each country that has had a restriction has been handled in a different manner, with each process having its strengths and weaknesses. There are lessons to learn from the way each country team managed the restriction process and this can be used to develop a:

(a) capability to anticipate problems in countries that are funded by TGF and to manage the risks that may be present in those countries before they adversely affect the environment in which TGF grants are implemented; and

(b) comprehensive process that can be followed when countries present challenges in order to ensure that optimal decisions are made and that GF investments in the country are safeguarded.

Ukraine

Background

1. Ukraine has signed six grant agreements with the Global Fund. Three Round 1 grants were initially implemented by UNDP, The Ukrainian Fund to Fight HIV Infection and AIDS (the Foundation) and the Ministry of Health (MOH) of the Government of Ukraine as PRs. After the suspension the three grants were consolidated under a stewardship agreement managed by the International HIV/AIDS Alliance (Alliance) as PR. Under Round 6, the independently registered Ukrainian branch of the Alliance and the All-Ukrainian Network of People Living with HIV/AIDS and were nominated by Ukraine's CCM to act as co-PRs. The Local Fund Agent (LFA) is PricewaterhouseCoopers. The table below provides a summary of the Ukraine grant information:

PR	Grant number	Grant signature date	Grant amount US$	Amount disbursed US$
Pre-suspension				
The Ukrainian Fund to Fight HIV/ AIDS	UKR-102-G01-H-00	22-Mar-03	563,315	311,889
UNDP	UKR-102-G03-H-00	17-Feb-03	462,525	452,948
Ministry of Health	UKR-102-G02-H-00	29-Jan-03	6,552,136	541,682
Total			**1,306,519**	**1,306,519**
Post suspension				
Alliance	UKR-102-A04-H-00	09-Mar-04	300,000	300,000[1]
Alliance (P1&2)	UKR-102-G04-H-00	15-Mar-04	99,521,546	88,710,416
Alliance in Ukraine	UKR-607-G05-H	20-Aug-07	15,666,166	6,125,776
All-Ukrainian Network of PLWA	UKR-607-G06-H	20-Aug-07	13,983,021	5,151,646
Total			**129,470,733**	**100,287,839**

Table 2: Grants in Ukraine at 31 August 2008 (Source: The GF website)

Pre-suspension

The weak capacity of PRs, ineffectiveness of the CCM and the widely acknowledged high corruption levels in Ukraine contributed to the poor performance of the GF grants in Ukraine and subsequent suspension of grants.

2. The GF entered into grant agreements with three PRs as highlighted above. The three PRs were assessed by the LFA and all were found to have limited (i.e. UNDP and Ministry of Health) or no capacity (The Foundation) to implement GF programs. Grants were signed on the premise that capacity would

[1] This was a startup or bridge contract that permitted the Alliance to start up Round 1 implementation before the stewardship agreement could be finalized. This contract facilitated the initial disbursement to be made.

be developed during grant implementation. This was a high risk approach. One year into the two year grant period, TGF realized that the three PRs had only utilized 4% of the approved grant amounts. This was attributed to the Foundation and MOH spending the first six months developing structures, systems, policies and procedures and UNDP's delay in recruiting a program manager. The decision to allow the PRs time to build capacity to address critical capacity gaps runs counter to TGF's model of having time bound and performance based grants.

3. The GF also noted that there was weak oversight of TGF programs by the CCM. The CCM was described as being large and dysfunctional. It rarely met, was unable to take collective decisions and the few decisions made were made in a non transparent manner. The lack of proper CCM oversight meant that the implementation challenges of the PRs could not be detected and resolved on a timely basis. In retrospect, it would also have been prudent to ask the LFA to undertake closer monitoring of the Ukraine grants bearing in mind the weak capacity of PRs, ineffectiveness of the CCM and the widely acknowledged high corruption levels in Ukraine.

4. The Secretariat also received reports of irregularities within the programs which prompted a high level Secretariat management mission to Kiev. The allegations received were about:

(a) possible payment of kickbacks to the MOH from prospective SRs; and
(b) the price of the selected bidder for Anti Retro Viral (ARVs) being US$ 3.1 million higher than the lowest bidder. The two lower bidders had been disqualified for various reasons including failure to provide bank guarantees, procedural defects etc.

5. The Secretariat hired forensic accountants Ernst and Young (EY) to validate the allegations. EY's independent assessment of the alleged irregularities and the effectiveness of GF procedures in the management of grants resulted in a report that contained recommendations about the internal control environment (more like a management letter) and did not conclude on the existence of irregularities. This report could not be used for decision making at TGF, for example to seek refunds etc.

6. At TGF's request, the LFA's review of the procurement process revealed that the selected bidder, according to the English register of companies, was a dormant company with no known operations. Its directors were based in Cyprus and had registered the company there as a provider of 'director services' to other companies. Following this review, TGF asked the MOH to cancel the tender and instructed the MOH to appoint UNICEF to procure ARVs. No documentation was available on how the decision to select UNICEF was made. UNICEF submitted a bid that was subsequently revised four times resulting in a bid that was about US$ 1 million higher than the selected bidder price.

7. TGF at this point asked the PR to seek missing documentation from the two lower bidders and evaluate them with the intention of awarding the contract to one of them. This request was not fully executed by the PR citing contravention of procurement best practice and stating that such actions could be challenged in court. Although TGF may have been right to call for the cancellation of the bid, its decisions were seen as being contrary to its principle of having country led processes. It also:

(a) contravened procurement best practice by intervening in an ongoing procurement process e.g. asking the MOH to seek additional information from disqualified bidders; and
(b) contravened one of the basic principles of TGF by instructing the MOH to procure from UNICEF.

8. TGF has since established arrangements within the Secretariat e.g. establishing the procurement unit to provide advice about how mis-procurements such as this would be handled to safeguard TGF investments while not contravening its principles. However, consulting the procurement unit on matters such as this is not mandatory and therefore reduces the effectiveness of the controls that have been instituted.

9. OIG sought to understand why the LFA had not notified the Secretariat about the issues in country. The LFA, during one of the Secretariat missions acknowledged having prior knowledge of the issues in the country but had not included them in their reports to TGF because they had to 'adopt a diplomatic stance in their written opinions because they had to be mindful of their position in the country'. This runs counter to the declaration of independence that is signed by all LFAs in undertaking their work.

10. Ukraine was subsequently placed on the Additional Safeguards (ASG)[2] list (The ASG policy is attached under Annex 1). Although defined, in practice, the process followed in identifying and categorising countries for the ASG list is not clear. OIG learnt from the country team that the decision to place Ukraine on the ASG list was based on the risks arising from initial three PRs and CCM. However, documentation to support this as well as when and how the decision to place Ukraine on the ASG list was made was not available at the time of the

[2] The ASG is part of TGF's risk-management strategy, which is invoked when the existing systems cannot ensure accountable use of Global Fund financing and suggest that Global Fund monies could be placed in jeopardy without the use of additional measures. The Secretariat applies the ASG as required based on the facts and circumstances of each particular grant. Conditions which contribute to the imposition of additional safeguards include:
(1) significant concerns about governance;
(2) lack of a transparent process for identifying a broad range of implementing partners;
(3) major concerns about corruption;
(4) widespread lack of public accountability; and the following three additional criteria:
(5) recent or ongoing conflict in the grant environment;
(6) poorly developed civil society/lack of civil society participation; and
(7) lack of a proven track record in managing donor funds in the health sector.

review. The placing of a country on the ASG implies that there are conditions that it needs to satisfy. This includes and is not limited to the increased monitoring by the LFA and special reporting to the Board. The reports submitted to the Board were generic and did not contain critical information about the conditions and management of the countries to aid decision making.

11. Ukraine has subsequently been removed from the ASG for good performance. The issues for placing the country on the ASG were resolved by replacing the PRs with NGOs that were compliant with TGF's requirements. The CCM has in the past not met the minimum Global Fund requirements. All CCMs are assessed for compliance with the GF requirements every time they apply for funding. Since the suspension of grants in 2004, the Ukraine CCM only met the minimum GF screening standards in 2008.

Suspension

Documentation was not available to support the decision making and to show what alternatives were considered by TGF to resolve the crisis, how the decision was arrived at and why it was the optimal decision. In making such decisions, TGF should give consideration to how an approach it takes to ensure continuation of grants affects other aspects that are critical to the successful implementation of TGF programs in the long term e.g. building of sustainable national capacity and systems.

12. The decision to suspend the Ukraine grants followed a mission led by the then Chief of Operations to Kiev in January 2004 at concluded that the programs could not be successful using the PRs appointed at that time. TGF suspended the Ukraine grants citing poor governance by the CCM, poor management by the PRs, "lack of clarity of internal procedures" and slow program implementation. Documentation was not available to support the decision making and to show what alternatives were considered by TGF to resolve the crisis, how the decision was arrived at and why it was the optimal decision.

13. The three PRs received communication from TGF about the temporary suspension which contained a request to stop disbursements, make payments for outstanding obligations (under the supervision of the LFA) and refund all outstanding balances to TGF. The only exception was the continuation of life saving activities. OIG did not see any further communication from the Secretariat to the PRs covering the termination of the three PR grant agreements and the closing off of these grants. Without a termination of the grants in accordance with the grant agreement, the grant agreements remained valid yet another PR had been appointed to take over their operations. The termination of the grants would have necessitated close out audits that would ensure the accuracy of refunds from the former PRs as well as the management and /or transfer of TGF assets to the new PR.

14. The LFA communicated the balances that were refundable by the PRs to TGF. All three PRs made refunds less than the recommended amounts but only UNDP’s refund was significantly lower i.e. US$ 13,791 than the recommended amount. Subsequent to this, OIG did not see evidence of the resolution of outstanding balances nor a follow up of the balances post suspension.

15. The grant suspension period was in effect from 29 January to 24 February 2004. At the time of suspension, no plan was put in place about how the interim period would be managed as well as how a smooth transition between the old PRs and the new PR would be ensured. In the interim period i.e. suspension of grants and signing up Alliance, TGF had to take a more active role in the management of grants at country level e.g. to ensure that there was no break in life saving activities. However in practice, planning for the Ukraine restriction would have ensured that any anticipated repercussions e.g. continuation of life saving activities are identified and well managed early enough.

16. The decision to change PRs was strongly opposed by Government. This resulted in reduced government commitment to the GF programs as elaborated in the post suspension section below. The MOH also declined to take responsibility of being co-PR with the Alliance under Round 1 Phase 2. Importation of drugs is not tax free and this can only be resolved through proper engagement with Government. As an international charity, Alliance UK can import drugs duty free which is not the case for the domestic Round 6 PRs. In making decisions, TGF should give consideration to how an approach it takes to ensure continuation of grants affects other aspects that are critical to the successful implementation of TGF programs in the long term e.g. building of sustainable national capacity and systems.

Lifting of the suspension

Although the critical conditions were met at the time of lifting the suspension, other conditions were not met at the time of lifting the suspension. No controls were put in place to mitigate the additional risks arising from unsatisfied conditions.

17. The suspension was lifted upon the signing of the stewardship agreement with the Alliance on 15 March 2004. The conditions set up in the suspension letter for the lifting of the suspension were:
- (a) Selection of an organization that would temporarily replace the three PRs ‘until the CCM could address the slow implementation and decide on other PR arrangements’;
- (b) Cancellation of MOH tender;
- (c) Establishment of a monitoring and advisory unit; and
- (d) Resolution of governance and management issues at the CCM level.

18. The most critical conditions set for the lifting of the suspension were met before lifting the suspension. However, other conditions were not fulfilled i.e. establishment of a monitoring and advisory unit and resolution of the CCM governance and management issues. At the time of lifting the suspension, no alternative controls or requirements were put in place to address the identified risks.

19. A stewardship agreement was signed with Alliance as a PR before assessments of their capacity were undertaken which is contrary to TGF policy. At the time of signing the grant agreement, TGF relied on prior assessments by other funders, audit reports and a self assessment to get the assurances it needed that Alliance could manage the grant portfolio. However, this was with the understanding that these assessments would be undertaken before disbursement. OIG did not see evidence that these assessments were undertaken. The undertaking of assessments post grant signature also defeats the purpose in cases where capacity may be found to be inadequate and TGF had already entered into a commitment.

20. There were concerns raised especially among country stakeholders including development partners about the transparency of the selection process of Alliance. However, because the country was on the ASG list, TGF was within its right to select a PR. The selection of Alliance was justified by the Secretariat on the grounds of a strong track record in HIV program implementation, sound management arrangements and a strong presence in Ukraine. What was lacking in the stewardship period was in country oversight of Alliance since the country CCM was not operational.

21. The Ukraine CCM did not survive the suspension. The CCM was chaired at the time by the Deputy Prime Minister who took the position that TGF was not justified in its decision to suspend grants and appoint another PR to replace the three PRs. This probably was the cause of the breakdown of relations between the CCM and TGF. Without government buy in the CCM became an artificial edifice with no actual function. One of the recommendations coming out of the 13-15 April 2004 Secretariat mission to Kiev was for the Secretariat to come up with strategies to restructure the CCM. Development partners at the time also looked to the Secretariat to find a solution to the CCM. OIG did not see evidence of the Secretariat working to strengthen the CCM at the time. Since CCMs are the GF's vehicles for local ownership and participatory decision-making, the lack of a functional CCM in Ukraine ran counter to TGF's principles.

22. The CCM was reconstituted in May 2005 but it too suffered from a poor and inconsistent record of performance and was subsequently dissolved in July 2007, with the intention to reconstitute it shortly after the appointment of a new government. Towards the end of the year, a National Council of AIDS and TB was created. The CCM continues to function at a minimum level so as to endorse

Ukraine's rounds based proposals to the GF. It is hampered by the lack of political engagement by government.

Post suspension

The change of PR in Ukraine has proved to be a success in Ukraine. However, this has come at the cost of diminished government commitment and national ownership.

23. The GF identified and transferred 'temporarily' the stewardship of the Round 1 grants to Alliance-UK. Communication specified that the Alliance contract was supposed to run for a year but the grant agreement was signed for a year and a half Phase 1 period. There was a provision in the agreement that the decision whether to continue with the Alliance would be made after one year following a review of Alliance's performance and an analysis of whether the country had come up with a solution to its governance and management problems.

24. Although no review was undertaken after a year as stipulated in the stewardship agreement, Alliance UK was reviewed by the LFA under the Phase 2 process for continued funding. This review revealed strong performance by the Alliance against the targets set in the Stewardship Agreement. The registered achievements were despite the program challenges faced under the three initial PRS, initial stakeholder negativity towards the Alliance, the absence of a functioning CCM and the change of political leadership in Ukraine. At this time, there was a proposal to have the Ministry of Health as a second PR from June 2006. The change in implementation arrangements was proposed as a means to ensure capacity building of the Ministry of Health, and contribute to the sustainability of the national response to the HIV/AIDS epidemic beyond the provision of Global Fund resources. Although MOH had shown a significant change in commitment, this was not reflected in the other ministries e.g. Finance. This proposal did not materialize leaving the Alliance as the formally appointed PR for Phase 2.

25. The lack of an effective CCM has meant that oversight of TGF grants in the country has remained weak. A conciliatory group has been set up that is supposed to provide oversight over TGF grants. It comprises the Alliance, the Network of PLWA, Coalition of AIDS service NGOs, a member of parliament and a representative of the MOH but can only play a coordination and not oversight role because of the inherent risks arising from the dominant role played by the PRs. The change in the problematic CCM status was driven by the opportunity to apply for funds under the ongoing GF funding rounds. All countries should meet the minimum GF CCM criteria to qualify for funding. In 2008, the CCM met the minimum GF screening standards.

26. In order to strengthen oversight over Alliance-Ukraine, the country team in a letter to the Alliance in July 2008 proposed measures over TGF grants in Ukraine. The proposals included the establishment of an independent governing board as well as an audit committee, establishment of an internal audit function and the development of a corporate code of ethics. The implementation of these proposed measures is already underway.

27. Alliance has had an unqualified audit opinion on the financial statements for the stewardship period. An evaluation was also undertaken on the national AIDS response in Ukraine which covered the GF grants with a report being issued in June 2008. The evaluation covered the strengths, weaknesses, opportunities and threats of the GF grants and made recommendations about how current and future GF grants could better contribute to the national AIDS response. The report was complimentary of the role the Alliance has played in the national AIDS response especially in:

(a) Scaling up access to services
(b) Spearheading the development of a national monitoring and evaluation system;
(c) Strengthening of civil society as implementers and advocates;
(d) Driving of grant performance and meeting targets; and
(e) Procuring in an efficient manner.

28. However the model adopted in Ukraine was seen as having gone against some cardinal GF principles like promoting national ownership and additionality. The challenges that have arisen from Alliance's management of GF grants as reflected in the evaluation report are:

(a) The GF programs are currently managed by civil society and seen more as stand alone projects as opposed to being part of the national AIDS program. This implies that they lack national ownership as government commitment and support was minimal;
(b) Alliance focused on delivering results and meeting targets which left little time for considering broader issues like coordination and building a national response. This was particularly important in the absence of a CCM;
(c) The prevention and treatment activities have been spilt between two PRs without a mechanism to ensure that they remain coordinated. Such coordination would ideally be ensured by a CCM. This is especially important for interlinked activities to ensure that there is no duplication of activities;
(d) TGF has become the largest external source of funding in HIV and without government involvement and dwindling support from other development partners, sustainability of HIV programs could be impaired should TGF funding come to an end;
(e) Concerns have been raised about the Alliance's application of its policies in the grant management of SRs;

(f) The Alliance offers better incentives and has drawn many competent staff from the Government to run the GF programs creating a challenge for sustainability in the event that TGF grants end;

(g) The Alliance has set up effective but parallel procurement and supply management systems and thus is not building capacity of government systems. However the MOH has requested and is receiving technical assistance from the Grant Management Solutions project that is managed by the Office of the U.S. Global AIDS Coordinator.

29. Now that Ukraine is no longer on the ASG list, the Secretariat recognizes that they need to work with the country to return it to operating normally under the GF model especially through the engagement of government to ensure national ownership and a functional CCM for oversight.

Myanmar

Background

30. Myanmar signed three grants with the Global Fund. The grants were implemented with UNDP as the Principal Recipient. The Local Fund Agent (LFA) was KPMG. The table below provides a summary of grant information:

Grant	Grant number	Grant signature date	Approved amount US$	Amount disbursed US$
TB Round 2	MYN-202-G01-T-00	13-Aug-04	6,997,137	2,735,234
HIV Round 3	MYN-305-G02-H	14-Jan-05	19,221,525	6,103,009
Malaria Round 3	MYN-305-G03-M	14-Jan-05	9,462,062	2,491,409
Totals			**35,680,724**	**11,329,652**
Percentage of total grant				**32%**

Table 3: Grants in Myanmar at 31 August 2008 (Source: The GF website)

Pre termination

Myanmar was placed on the ASG list prior to the start of the grant with various conditions set to mitigate GF risk. However, these conditions hindered the implementation of grants in the country.

31. Myanmar was one of the first countries to be placed on the ASG list. There was no documentation available about why, when and how the decision to place Myanmar on the ASG list was made. Without this information, the OIG cannot provide assurance about the adequacy of the conditions established to mitigate whatever risks may have been initially identified.

32. The placing of Myanmar on the ASG list resulted in the mandatory safeguards as listed in the ASG policy as well as additional safeguards to address the specific risks identified in Myanmar. These included the zero cash policy to national entities which meant that GF money could only be transferred to GF authorised entities e.g. non governmental organisations not affiliated to government and not to national entities.

33. In addition to the conditions listed above, there were additional conditions that TGF required Myanmar to meet. These were not articulated in the grant agreement nor implementation letters signed between TGF and the country. They were agreed upon in a meeting with the MOH and commitments were to be communicated to TGF in form of a letter. OIG was informed by the country team that this letter was received from the country. The additional conditions were:

(a) Explicit guarantee of tax exemption of all grant proceeds;
(b) Explicit guarantee of use of the UN exchange rate for all grant proceeds;

(c) Explicit guarantee of access to all international staff of TGF, the LFA, UNDP and the Sub Recipients (SRs);
(d) Final endorsement from the CCM of the program work plan and budget.

34. Implementation of the Tuberculosis grant had just started and the HIV and Malaria grants had not yet started at the time TGF grants to Myanmar were terminated. The delays in starting the two grants despite having signed the grants seven months earlier was due to implementation of and fulfilling the conditions for countries on the ASG list particularly the review and negotiation of Memoranda of Understanding between the PR and the SRs. While TGF is justified in having some mandatory conditions for all countries on the ASG list, there should be some flexibility allowed in determining the conditions that will be applied to each country. These should be customised to meet specific risks identified in a country. Otherwise, the conditions instituted can run counter and not support the GF goals of speedy disbursement to countries as was the case in Myanmar.

35. The PR stated in several communications that implementation of the GF programs was difficult especially under the zero cash policy where the PR was not allowed to transfer money to government entities or their employees yet some activities in practice could only be implemented by Government departments/ entities. The justification for some of the conditions set as mitigators of risk became questionable especially since they became impediments to program implementation.

Termination process

The reasons provided for terminating the grants were negated by the government's lifting of restrictions that caused the termination soon after and the GF programs continuing to run for a period of over a year despite having previously stated that it was impossible to continue implementation in the country. This raises questions about whether the termination decision was optimal and whether the Global Fund had exhausted all possible alternatives before making such a weighty decision.

36. The Fund terminated its grant agreements with Myanmar effective August 18, 2005 citing the breach by government of the commitments made to the GF PR. Specifically the reasons provided were:
(c) The Government of Myanmar decision, in July 2005, to institute new travel clearance procedures which would have the effect of restricting access of the Principal Recipient, staff of implementing partners and staff of the Global Fund to grant implementation areas.
(d) The government imposing additional procedures for review of procurement of medical and other supplies.

37. The termination was opposed by some development partners who in a statement to TGF said that '*although the operating environment was difficult, it was not impossible (*as was suggested in TGF's press releases*). What is clear is that TGF, as complicated by the additional safeguards agreed for Burma has proven in retrospect to be the wrong vehicle for responding to the major needs here*'. This position was supported by the letter from the PR to the Secretariat dated 4 August 2005 that stated that '*the additional safeguards that had been applied to the implementation of the different grants were seen by the Myanmar authorities as only excuses that were being imposed by political groups outside the country to provoke the termination of the GF grants'*. The PR continued to state that "*the close scrutiny by advocacy groups of GF activities meant that the operations are constrained almost to a point of ineffectiveness*". This suggests that the Myanmar authorities saw the safeguards as being politically motivated.

38. According to the termination letter sent to the country by the then Chief of Operations, the grants were terminated *with immediate effect*. This contravened the signed grant agreements that provided for a sixty day written notice. This termination notice period was meant to give the country an opportunity to address the GF concerns and/or plan for alternatives to current arrangements.

39. OIG learnt from the country team that the termination decision was made after discussions between the Operations and Legal team, the Executive and Deputy Executive Director and select bilateral partners. However some partners that had been actively involved in matters affecting Myanmar e.g. Japan that should have been consulted were not.

40. The reasons provided for terminating the grants were negated by the government's lifting of restrictions soon after the termination and the GF programs continuing to run for a period of over a year despite having previously stated that it was impossible to continue implementation in the country. This raises questions about whether the termination decision was optimal and whether TGF had exhausted all possible alternatives before making such a weighty decision.

Phase out period

The management of the phase out period met all the requirements listed in this policy for the closure of terminated grants.

41. The termination of the grants started what was referred to as a 'phase out" period. This period was managed by the PR with direct oversight of the GF through the LFA. There was no policy on closing grants at the time to guide this process. A policy has subsequently been developed and the Myanmar phase out process reviewed against this policy. The management of the phase out period met all the requirements listed in this policy.

42. The CCM was not involved in overseeing this phase out process. The involvement and role of the CCM in such situations needs to be defined. Monitoring was undertaken by two development partners i.e. UNAIDS and WHO and the LFA. The LFA terms of reference were enhanced with increased coverage. However whilst they increased frequency of visits and sample sizes reviewed, they did not extend the scope (i.e. the tasks undertaken remained generic) and did not effectively address the unique risks within which TGF was operating at the time.

43. This period lasted from the termination of the grants i.e. 18 August 2005 to 31 December 2006 when the title of the residual program assets was handed over to the SRs. A phase out plan was developed by the PR, reviewed by the LFA and approved by TGF. According to this plan, no new activities were to be undertaken. Activities to be undertaken would cover:

(a) Life saving activities i.e. activities which if interrupted would have consequences on the critical welfare and health of the beneficiaries;
(b) Ongoing obligations, commitments and contracts that had already been signed by the PR; and
(c) Operational activities important to continue during the six months in order for donors to take on areas previously funded by TGF.

44. At the time of terminating the grants, US$ 11.9 million had been disbursed into the country. Of this total amount, US$ 3.5 million was already committed by the PR leaving a balance of US$ 8.4 million that should have been refunded to the GF. The grant agreements signed with the PR stipulated that the PR may use portions of the grants already disbursed to satisfy commitments already incurred before the date of termination. After these commitments had been satisfied, the PR was supposed to return all remaining funds to TGF or dispose of them as directed by TGF.

45. However, contrary to the grant agreement, TGF allowed the additional funds to be committed. OIG did not see evidence of approval or ratification of this decision by the Board. This decision was however justified by the Secretariat on the following grounds:

(a) Significant adjustments that had been made to domestic and external funding as a result of the TGF funding;
(b) Anticipation that replacement donor funding would take up to six months to mobilize and there was a need to continue activities; and
(c) Cessation of activities in the 6 month period would affect the Myanmar people.

46. Detailed phase out plans were prepared and no additional funds were disbursed by TGF to meet the obligations of the phase out period. Of the US$ 11,929,652 disbursed to the country, the country was holding US$ 11,049,443 at the time of termination. US$ 11,186, 275 was spent up to the end of the phase out period leaving a balance of US$ 743,476 which was to be refunded at the

end of the phase out period. Evidence has been seen that US$ 600,000 was refunded by UNDP to TGF leaving a balance of US$ 143,476. The country team informed OIG that UNDP has recently paid US$ 65,000 and is due to pay the balance. The country team is following up UNDP for payment of the outstanding balance.

47. A final report was prepared at the end of the phase out period. An audit was also undertaken at this time by STT Audit and Advisory Certified Chartered Accountants. The audit did not cover the expenditure amounting to US$ 849,852 incurred by the technical agencies namely UNAIDS and WHO. The auditors issued a qualified audit opinion based on the following:

(a) Lack of access to disbursements to one SR called Medicine du Monde (MDM) amounting to US$ 391,680. The supporting documentation was supposed to have been sent to France which contravenes the grant agreement conditions; and
(b) There were differences noted between the UNDP detailed expenditure ledgers and the financial statement balances for which no explanations were obtained. Details are shown in the table below:

Grant	**Detailed ledger balance US$**	**Balance in summary report US$**
TB Round 2	3,082,142	5,356,566
HIV Round 3	5,150,458	2,888,846
Malaria Round 3	2,953,675	2,940,764
Totals	**11,186,275**	**11,186,176**

Table 4: Balances at the end of the grant period (Source: Audited accounts by STT Audit and Advisory Certified Chartered Accountants)

48. Based on the financial statements and the management letter, the audit appears to have been undertaken on a going concern basis as opposed to being a close out audit. The management letter did not contain key information that TGF would typically require to make decisions to close the Myanmar grant accounts e.g.:

(a) Whether grants were managed in accordance with the conditions in the grant agreement, relevant GF policies and other conditions applicable to the grants e.g. the additional safeguards;
(b) Whether the figures reported in the final report were accurate. There were differences in the figures reported in the audit report and the final PR report. These as well as those highlighted in the qualification above remained unresolved;
(c) Whether disposal of assets was effectively undertaken and in accordance with the signed agreement with TGF;
(d) Whether the internal control systems operated effectively in this period to ensure that TGF resources were not exposed to risk especially in areas

like procurement (significant procurement was undertaken in the phase out period); and

(e) Assurance on the final balances as well as amounts that needed to be refunded to TGF.

49. At the close of the phase out period, with the approval of TGF, title of assets passed from the PR to the SRs including the national entities. While the grant agreement states that assets revert to the PR at the close of a grant, the PR, UNDP could not take responsibility of these assets. The assets were transferred to SRs on the understanding that they would be used once the Three Diseases Fund (3D Fund)[3] became operational. Proper documentation is available to evidence the process followed in transferring assets.

50. An asset verification exercise by the LFA post phase out revealed that some assets procured of substandard quality e.g. bicycles and most of the assets procured for SRs were not in use which reflected a lack of proper planning by the PR. The assets not in use were due to:

(a) Sufficient capacity already existing in some SRs that suggested that they did not need the additional assets procured by the GF money in the phase out period;
(b) There were no funds provided for operational aspects e.g. running generators;
(c) Lack of parts e.g. bicycles that were delivered unassembled and when they were assembled some parts were missing or the wrong supplies ordered e.g. the wrong film was supplied x-ray machines

51. The grants have not been closed. The country team awaits the refund from UNDP in order to close the grants. Once this happens, a letter should be sent from the Director of Country Programs to the Management Team and PR and country CCM informing them about the closure of the grants.

Post termination

Consideration should be given to how grants will be managed should TGF resume funding to Myanmar.

52. OIG was informed by the country team that the CCM's proposal for Round 5 was screened out for no justifiable reason after the termination of the grants. This was done by the then Director of Operations. Myanmar is still eligible to apply for future funding from TGF. While TGF does not guide the Technical Review Panel (TRP) but provides relevant information for their decision making,

[3] The 3D Fund was formally established on 12 October 2006 to fill the country needs following the termination of TGF grants. This Fund is supported by Australia, the European Commission (EC), the Netherlands, Norway, Sweden and the United Kingdom (UK) with pledges of US$100 million over 5 years.

there is no requirement for the TRP to be informed of past situations that have arisen as in Myanmar.

53. It is not clear if Myanmar would remain on the ASG list if it receives funding in the future or whether it would have to be reassessed and a decision made on placing it on the ASG list.

Uganda

Background

54. The Government of Uganda (GoU) has signed seven grant agreements with TGF for amounts totaling $343 millions (see table below for grant details). The grants for Round 1 HIV and Round 2 TB and Malaria are now time barred and are in the process of being closed. Round 3 HIV and Round 4 Malaria are currently in Phase 2. The PR for all the grants agreements is the Ministry of Financial Planning and Economic Development (MoFPED) and PricewaterhouseCoopers is the LFA.

Grant	Number	Signature date	Grant amount US$	Funds disbursed US$
Round 1 HIV	UGD-102-G01-H-0	06-Mar-03	36,314,892	26,160,888
Round 2 Malaria	UGD-202-G02-M-0	27-Feb-04	23,211,300	21,054,781
Round 2 TB	UGD-202-G03-T-00	01-Oct-04	4,692,021	4,599,506
Round 3 HIV	UGD-304-G04-H	14-Apr-05	82,586,057	46,362,091
Round 4 Malaria	UGD-405-G05-M	06-Mar-03	66,432,148	59,071,374
Round 6 TB	UGD-607-G06-T	31-Oct-07	8,103,106	901,385
Round 7 HIV	UGD-708-607-H	08-Jul-08	70,277,726	-
Round 7 Malaria	UGD-708-608-M	6-Aug-08	51,422,198	-
Totals			**343,039,448**	**158,150,025**

Table 5: Grants status in Uganda at 31 August 2008 (Source: Detailed country grant sheet on TGF website)

55. On 23 August 2005, the GF suspended its five grants to Uganda following a review by the LFA that highlighted material mismanagement by the Program Management Unit (PMU) and some SRs as well as significant weaknesses in the governance, oversight and management of TGF grants under the to Round 1 HIV grant in Uganda. The PMU was responsible for coordinating the grant implementation and they were supervised by the MOH and nominally reported to the PR. In the suspension notification letter, the CCM and PR were asked to cease all program activities with the exception of life saving activities and restructure the implementation arrangements for all programs.

56. The GoU responded by:
- (a) Establishing a Judicial Commission of Inquiry (the Commission) chaired by Principal Judge Justice Ogoola;
- (b) Disbanding the PMU, freezing bank accounts and taking ownership of program activities;
- (c) Commissioning an audit of the GF activities in Uganda;
- (d) Identifying life saving activities to continue during the suspension period;
- (e) Appointing an inter-institutional Operations Task Force (OTF) to ensure the continuation of life saving treatment and activities;

(f) Devising an interim one year institutional arrangement that would give way to a longer term implementation framework; and

(g) Forming a new Contracts Committee that would handle GF program related procurement.

57. The suspension was lifted on 10 November 2005, following the signing of an Aide-Memoire between the GoU and TGF. The Aide-Memoire established the structures that the PR would use to oversee the implementation of the five grants in the interim period. On behalf of the PR, Ernst and Young have acted as caretaker of the activities that were previously managed by the PMU.

58. The Commission issued its report in June 2006 which contained recommendations to prosecute culprits, refund misappropriated funds, and undertake further investigations and/or audits of CSOs and individuals. These recommendations were endorsed in the November 2006 Government White Paper (GWP) which contained a six month time-bound action plan for the recovery of misappropriated funds, conducting further investigations and audits and initiating legal action in a number of cases.

59. Concerns were raised at the 17th TGF Board meeting in April 2008 that two years after the GWP, the GoU had failed to fulfil its commitment to undertake further investigations and recover misappropriated funds. The IG travelled to Uganda in May and August 2008 to:

(a) review the actions taken by the GoU in undertaking investigations and recovering mismanaged funds;

(b) obtain assurance regarding the interim period managed by the CMF on behalf of the PR; and

(c) obtain assurance that the controls under the Long Term Institutional Arrangements (LTIA) would adequately safeguard GF investments in the future.

60. Following the IG's August mission, a task force comprising top government officials and development partners met on 13 August 2008 and developed a Plan of Action (PoA) to address the issues that were raised in the IG's debriefing meeting.

Investigation and recovery of funds

The Government has shown a renewed commitment to investigate, prosecute culprits and recover misappropriated GF monies. However, a lot more still needs to be done to ensure that the investigation and recovery processes do not stall and recoveries are maximised.

61. The GWP provided a commitment to investigate and recover misappropriated funds within a six month period. It contained recommendations

for refunds amounting to Ushs 2,745,143,224 (US$1,568,653[4]) and recommendations for further audits/ investigations relating to grant disbursements of Ushs 7,322,193,185 (US$ 4,184,110). During his two missions to Uganda, the IG met with various government officials and received assurances of a renewed commitment to investigate, prosecute culprits and recover misappropriated GF monies. While in Uganda in early June 2008, the Executive Director (ED) also received similar assurances from government officials, including the President.

62. The lack of action by the GoU in investigating and prosecuting culprits was attributed to the lack of funding. The GoU in its 2008/9 budget allocated Ushs 930 million (almost US$0.6m) to the Directorate of Public Prosecutions (DPP) to cover investigations and prosecution of TGF cases. By August 2008, DPP had received Ushs 234 million (US$ 0.15m) of the allocated amount. The DPP confirmed that 373 cases were due to be investigated. An initial caseload of 12 is currently under investigation. A plan that categorises and prioritises how the remaining cases would be handled was not available at the time of this review. However, in the 13 August 2008 Plan of Action (PoA), the DPP committed to have such a plan in place by the end of September.

63. The OIG facilitated a request from the DPP to enhance the latter's investigative capacity by securing support from the European Anti Fraud Office (OLAF) and the UK Serious Fraud Office (SFO). In August 2008, OLAF's Director General, Mr. Franz-Hermann Bruener was in Uganda to coordinate support to the investigation process.

64. The OLAF/SFO team was in Uganda from 4-13 August 2008 to identify what technical and investigative support was required, review the progress of the cases under investigation and conduct a needs assessment for the remaining cases. The OLAF/SFO team met with the investigating teams and reviewed the evidence gathered on the prioritized cases.

65. At the end of the visit, the team recommended that assistance needed to be provided on a more continuous basis as opposed to short ad hoc visits if it was to be effective. Whilst it was agreed that a second mission by a computer forensic team would be undertaken at the end of September, it was recommended that consideration be given to providing more long term investigative assistance to the DPP i.e. a case controller/lawyer and an investigator to oversee TGF investigations. This could be tried for two to three months as a model for future assistance.

66. The thematic areas that were identified for possible investigative assistance were:

(a) Enhancing statement quality;
(b) Use of interviews as an investigative tool;

[4] Exchange rate used for translation is 1: 1,750)

(c) Strengthening computer forensic capability;
(d) Strengthening case management;
(e) Enhancing file management; and
(f) Strengthening evidence handling.

67. OIG reviewed the status of proposed recoveries from individuals and organizations and noted the following:

(a) Most of the money that has been refunded is from the DFCU bank and Government ministries with minimal refunds from Civil Society Organizations;
(b) There were some organizations that are not identified for recovery in the GWP that have refunded money;
(c) All the recoveries were made voluntarily i.e. without any prompting from the Government; and.
(d) Most of the recoveries were made in 2006 with almost no recoveries occurring in 2007/8. Details are contained in the table below :

	Amount Ushs	**Amount US$ (1:1750)**	**Percentage %**
Refunds called for per GWP	2,745,143,224	1,568,653	100
Actual recoveries			
Actual refunds from GWP	629,589,950	359,765	23
Other refunds not listed in GWP	69,344,600	39,625	N/A
Total refunds	***698,934,550***	***399,390***	
Analyzed by type of organization			
Ministries	198,239,900	113,279	28
DFCU Bank	455,030,000	260,017	65
Civil-Society Organizations	45,664,650	26,094	7
Total refunds	***698,934,550***	***399,390***	***100***
Analyzed by year			
2006	692,717,300	395,838	99
2007/8	6,217,250	3,552	1
Total refunds	***698,934,550***	***399,390***	***100***
Amounts not refunded analyzed by type of organization			
Districts	80,785,200	46,163	4
Ministries	227,925,141	130,243	11
MOH Staff	3,112,000	1,779	-
SRs	1,524,639,446	871,222	72
Individual recipients	209,975,798	119,986	10
MOH Ministers' Travels	57,443,500	32,825	3
PMU Staff	11,672,189	6,670	-
Total not refunded from GWP	***2,115,553,274***	***1,208,888***	***100***

Table 6: Refunds (Source: CMF records and Bank of Uganda bank statement)

68. There is a difference of Ushs 100,000 noted between the Bank of Uganda bank statement and the manual register of deposits maintained at Bank of Uganda. While the difference between the register and the bank statement may be small, it raises the risk that there may be refunds received by the Bank that have not been credited to the GF recoveries bank account. The CMF in its exit report also states that some recoveries may have been banked in the Commission of Inquiry designated bank account.

Recommendation 1

The LFA should review the Bank of Uganda manual register, Bank of Uganda recoveries bank account and Commission of Inquiry bank account to confirm that all recoveries made have been identified. A reconciliation of recoveries should be made.

69. A review of the administrative action taken by the PR to recover funds revealed that no communication had been sent to the concerned organizations/ individuals. All refunds made were voluntary. However in its PoA, the MoFPED committed to take administrative action by following up organizations/ individuals mentioned in the GWP by October 2008.

70. The GWP called for the audit/investigation of additional individuals and organisations not covered in sufficient detail by the Commission of Inquiry. OIG's review revealed that by only considering the individuals and organisations in the GWP, the DPP may not have a comprehensive list of the individuals and organisations that need to be investigated with the possibility of recovering TGF funds. OIG's conclusion was based on work done by the CMF in the interim period that revealed issues about individuals and organisations that were not covered by the Commission of Inquiry.

71. Other reviews undertaken by the CMF in the interim period revealed additional individuals and organisations (details in sections 68 to 70 below) which the DPP should investigate for recovery of funds either because they were unaccounted for or because they were ineligible for funding. In identifying these different additional individuals/ organizations for investigation, there may be overlaps between the organizations in the GWP, ineligible CSOs per the CMF report and organizations that have not accounted for funds. A reconciliation would ensure that there is no duplication in cases the DPP is handling.

72. The CMF as part of its ToRs reviewed 162 pre-suspension SRs with the objective of identifying entities with which activities could continue and those for which recovery of funds should be pursued. 65 organizations were identified as ineligible for funding. This report dated August 2006 remained as draft at the time of this review and no evidence was seen at PR nor Secretariat level to address the recommendations made in the report. This report has been shared with the DPP with the intention of investigating these CSOs and recovering monies paid.
OIG was unable to establish to what extent this data duplicates the findings of the GWP.

The table below provides a summary of the categorization of the CSOs.

Categories	Coverage	Percentage
Continue: Eligible with strong systems	51	31
Demote: Eligible but with weak systems	46	29
Discontinue/ Ineligible CSO	65	40
Total	***162***	***100***

Table 7: Categorization of CSOs by the CMF (Source: CSO draft report prepared by the CMF)

73. The OIG also noted that the CMF had reported that some SRs had received money pre-suspension i.e. over three years ago but had not accounted for it to date. This amounts to Ushs 2,926,783,068 (US$ 1,829,239), 77% of which related to Central and Local Government and 23% to CSOs and the private sector. Similarly, there were also some individuals in the MOH that had not accounted for Ushs 78,829,900 (US$ 45,045) received pre-suspension. These individuals and organizations should be forwarded to the DPP for investigation and recovery of funds. OIG was unable to establish to what extent this data duplicates the findings of the GWP.

74. As part of the accountabilities received that related to advances made pre-suspension, the CMF received cash refunds amounting to Ushs 253 million. Most of the refunds were from CSOs i.e. 82% and the balance from districts. This is additional and is not part of the amounts reported above as recoveries in the Special refund account in the Bank of Uganda. There is a possibility that some of this money relates to refunds as recommended in the GWP or payment by organisations that have been classified as ineligible by the CMF.

Recommendation 2

- *The DPP should be provided with a breakdown of all SRs that received and have not accounted for money pre-suspension and investigate them with a view to recover funds that remain unaccounted for.*
- *The DPP in close collaboration with the PR should reconcile the organizations listed in the GWP with those that have accounted/refunded money to the CMF and those identified in the CSO report. This will ensure that there is no duplication and that a comprehensive list of cases for investigation is developed.*

75. The Commission report and GWP lists individuals, organizations, districts and government departments that were implicated in the mismanagement and/or misappropriation of funds. However, some of those implicated have continued to manage or receive TGF funding which exposes TGF resources to risk. An example is the Rukungiri Gender Development Association which was highlighted in the GWP for suspected fraudulent expenditure with a recommendation to refund some money. The CMF recommended it be demoted from the lead agency status due to weak systems and it is currently under

investigation. This organization however has since received additional funding from the Civil Society Fund (Paragraph 97)

76. While it may be impossible to discontinue funding to some organizations e.g. districts or individuals with specific technical skills, the GoU should provide assurance to TGF that controls have been instituted to ensure that in such cases, TGF investments are safeguarded. In the POA, the MOH has committed to taking appropriate administrative action including sanctions against individual officers that are implicated in the GWP.

Recommendation 3

The LFA should review and report to TGF whether the people and organizations involved and listed in the GWP are still involved in the implementation of the GF activities at country level. In cases where certain organizations and individuals are critical for the continuation of TGF programs, the LFA should provide TGF with assurance that the controls in place are adequate to mitigate risk and safeguard GF resources.

77. At the time of the IG's visit, there were initial discussions about what Government should do with the money that had been recovered. It was provisionally agreed that the money could be offset against future disbursements and be used in country.

Recommendation 4

The Secretariat should formalise the modality that will allow the GoU to use the money recovered.

78. While Government has in the recent past shown a renewed commitment to investigating, prosecuting culprits and recovering misappropriated GF monies, there is still a lot more that needs to be done to ensure that recoveries are maximised. The PoA addresses key time bound actions that the Government is taking to ensure that the process stays on track. However, this commitment can only be demonstrated once the plan is actioned by cases being well investigated and coming before the courts as appropriate and more recoveries of monies lost being secured.

The interim period

The interim period, as defined by the signed Aide Memoire, was supposed to be a one year temporary arrangement that gave way to a longer term arrangement. It was extended for a period of almost three years without revisiting the adequacy of the established structures, systems and processes to safeguard TGF resources in the longer term which resulted in exposure of TGF investments to risk. The controls in place were not adequate to safeguard TGF investments.

79. TGF resumed all its grants to Uganda after signing of the Aide Memoire. This document contained the proposed structures, systems and processes for

the management and implementation of the GF programs during the interim period until a Long Term Institutional Arrangement (LTIA) had been developed. Commitments were made by the GoU in five key areas namely governance, fiduciary management and responsibility, procurement, technical input and oversight, and monitoring and evaluation.

80. TGF disbursed US$ 112 million to the country during the interim period of which US$ 85 million was disbursed directly to the World Health Organisation (WHO) and UNICEF that carried out the role of third party procurement agents of health products during the interim period. This contributed to the GF commitment at the time of suspension to continue life saving activities. During the interim period, with the support of the Global Fund, the GoU was able to, among other things, procure and distribute Long Lasting Insecticide treated Nets (LLITNs), scale up the enrolment of patients on ARVs and procure and distribute condoms.

81. At the time of signing the Aide Memoire, it was envisaged that this interim period would cover a 12 month period i.e. up to November 2006. However, the interim period was extended until June 2008. This extension of the interim period was without any formal agreement between the GF and the GoU or amendment to the Aide-Memoire. The measures that were instituted in the Aide Memoire were supposed to have been of a temporary nature. Because of this, the extension of the interim period without revisiting the adequacy of the established structures, systems and processes to safeguard TGF resources in the longer term exposed TGF resources to risk.

82. The commitments in the Aide Memoire ensured effective, accountable and transparent implementation of GF programs only to the extent that they were implemented. While many of the commitments were met, several others were not implemented which weakened the control environment in which grants were implemented and exposed TGF resources to risk. Several TGF missions noted that many of the obligations by GoU were not met but the Secretariat did not follow up on the issues noted.

83. Specifically the areas that were not complied with that have negatively impacted the control environment in the interim period were:

(a) Delays in the reconstitution and operationalisation of the Technical Working Groups which affected the timely review and approval of the work plans and budgets for post suspension funding. This delayed the disbursement of funds by TGF;

(b) The tardy submission of financial and programmatic reports to TGF resulting in delays in disbursements by TGF;

(c) The failure to appoint a third party agent for the non health products which affected the country's ability to deliver on some of the activities in the grant agreement especially Round 3 Phase 1;

(d) Failure of the LFA role to include procurement reviews in their quarterly part verification of implementation (this would have been likely to detect early and possibly resolve issues raised in the audit management letter about procurement) ;

(e) OIG noted an increase in the LFA budget to reflect the enhanced role. However, no evidence has been provided to OIG that the LFA ToRs were redefined from the standard ones to address the risks inherent to the interim period and to ensure better monitoring of the interim period.

(f) Failure to appoint monitoring and evaluation firms weakened the financial and programmatic monitoring of TGF programs in the interim period.

(g) The ineffectiveness of the financial management firms hired resulted in large balances which remained outstanding at the end of the interim period. The CMF in its exit report could not give assurance that the accountabilities received were bona fide;

(h) The GoU was to develop a LTIA within the first nine months of the interim period. This has taken over two years to develop and left TGF programs to operate on a temporary modality that has not always been optimal as detailed below.

84. EY was responsible for caretaking the GF programs on behalf of the PR during the interim period. Without a proper handover from the PMU, there was a loss of institutional memory which resulted in a delay of up to six months in the resumption of activities post suspension. The CMF's roles and responsibilities as set out in the ToRs were deficient in not catering for capacity building of Government employees that would take over the management of grants after the interim period.

85. A review of the deliverables by the CMF against the TORs revealed that while the CMF had met many of their obligations, there were some exceptions noted as detailed below:

(a) The CMF conducted a comprehensive assessment of 162 CSOs that received pre-suspension funding with the objective of categorizing all SRs, reporting on the degree of risk associated with each SR and recommending what action Government should take. As mentioned earlier this report remained in draft and there was no evidence that the recommendations were implemented;

(b) This CMF review did not cover the public sector organizations as was required in the ToRs. However, in its exit report, the CMF mentions that none of the public sector organizations complied with the laid down eligibility criteria in the Program Implementation Manual and this suggests that they would not have been eligible for funding;

(c) The CMF was responsible for overseeing and coordinating procurement of all products. However, the draft management letters from the Office of the Auditor General highlighted several irregularities noted with procurement processes during the interim period;

(d) The CMF did not appoint monitoring and evaluation firms to undertake monitoring of SRs. This resulted in a lack of effective monitoring of SRs during the interim period;
(e) As already mentioned, the CMF did not prepare timely quarterly financial and programmatic reports for reporting to TGF. This affected the disbursement decisions at TGF;
(f) The CMF was supposed to have reviewed all the pre suspension SR accountabilities. In its exit report, the CMF states that while it reviewed accountabilities, it cannot confirm that they are genuine and proposed that more work be done on these accountabilities;
(g) The CMF was supposed to prepare a draft exit strategy with a three-month window before the end of the interim period to ensure an effective handover of activities. At the time of this review, no exit strategy had been developed despite the fact that CMF was in its last month of operation.

86. At the time of this review, the audits for the interim period i.e. 2004/5, 2005/6, 2006/7 and 2007/8 had not been completed. TGF has stopped grant disbursements because of the outstanding audit reports. No other review or evaluation of the interim period to assess the performance of the programs or the CMF during the interim period has been undertaken. The Auditor General's draft management letters for the interim period raised a number of salient issues around the management of TGF grants in the interim period. At the time of finalising this report, the audit reports had not been finalised.

87. EY produced an exit report at January 2008 which was subsequently updated to May 2008. This report raised some aspects that reflect the state of affairs during the interim period some of which are detailed below:
(a) There have been overpayments made to the National Medical Stores (NMS) and National Drug Authority (NDA) amounting to US$ 381,346 and US$ 15,088 respectively which are to be offset against future billings;
(b) Funds disbursed post suspension by the CMF that remained unaccounted for amounted to Ushs 5,717,338,122 (US$ 3,267,050). Total amounts disbursed and not accounted for pre and post suspension amounted to Ushs 8,644,121,190 (US$ 4,939,497). While evidence of the effort to follow up accountabilities was seen in 2006, there was no evidence seen of follow-up during 2007 and 2008;
(c) There are organizations that have submitted accountabilities over and above the advances received totalling Ushs 475,706,361 (US$ 271,832). Since they did not submit counterclaims for their over expenditure, this suggests that the accountabilities received may not been genuine.
(d) The CMF qualifies its reviews of accountabilities by stating that they cannot confirm that accountabilities received are genuine. The CMF has proposed that an audit of all accountabilities be undertaken. However, this is contrary to the CMF ToRs that required that financial management

firms be appointed to 'audit' the accountabilities. The CMF states in its exit report that these firms were appointed but they only undertook a limited scope desk review. The appointment of other firms to audit the accountabilities for genuineness does not represent value for money since it duplicates some of the work partially undertaken by the firms appointed by the CMF;

(e) The MOH has not paid VAT worth Ushs 1,108,803,016 (US$ 648,615). Government's failure to pay taxes has resulted in the CMF being barred from their offices several times which has impaired the execution of GF work;

(f) Drugs worth Ushs 1,038,416,100 (US$ 593,380) have expired. In addition to this, drugs worth Ushs 1,970,419,302 (US$ 1,125,953) are at the risk of expiry if their uptake is not scaled up. The CMF has sent several reminders to the MOH to no avail;

(g) The lack of coordination between the CMF and the NMS is evidenced by condoms worth US$ 198,273 that should have been distributed in July 2007 still being held at the NMS in February 2008. It was also noted that there is no follow up mechanism for drugs once they leave the NMS; and

(h) Government placed a large order for the traditional Malaria drugs at the time when there was a change in treatment policy from Chloroquine and Sulphadoxine to Artemisinin-based Combination Therapies (ACTs). The cancellation of the contracts i.e. payment for which no value is obtained will cost TGF US$ 248,278.

88. The problems identified above were not identified earlier because they fell outside the ambit of the work of the LFA. The LFA ToRs should have been enhanced to cover closer monitoring during the interim period based on the risks inherent to the programs at the time. This arose because of inadequate Secretariat oversight during the interim period. Effective monitoring would have detected and facilitated early resolution of the issues raised above.

89. Three of the grants (Rounds 1 and 2) became time barred and these grants are reflected as having been closed. Two of these grants i.e. Round 2 malaria and TB received "no go" recommendations for continued funding. The balances held in the country were US$ 1,552,236 and US$ 696,674 for the Round 2 Malaria and TB grant respectively. Close out audits should be undertaken of these grants to establish how the outstanding activities should be managed, identify non cash assets and agree on their modality for disposal and agree final grant balances and balances to be refunded to TGF.

90. Based on the issues raised, the OIG cannot give assurance that the GF grants were managed in an environment that mitigated risk to TGF investments in the interim period. The controls in place were not adequate to safeguard TGF investments.

Recommendation 5

The LFA should follow up the resolution of the issues arising from the interim period especially those that have been highlighted in the CMF exit report. These can be used as lessons learnt and help to identify potential high risk areas and control areas that need strengthening under the LTIA. The LFA's work can also help to facilitate a smooth transition from the CMF to the LTIA.

Long Term Institutional Arrangements (LTIA)

The LTIA provided a broad architecture of the modalities through which proposals would be made, grants disbursed, monitored and reports sent back to TGF. However, no detailed analysis had been undertaken about how the architecture would translate into the day to day management of the grants. In consequence, the IG cannot at present provide assurance that the current arrangements and controls in place are adequate to safeguard TGF investments in the country. The LFA should undertake further assessments to identify areas where Government may need assistance in strengthening its controls under the LTIA. By so doing, the Secretariat would be able to invest its funds with reasonable assurance.

91. One of the key outcomes provided by the Aide-Memoire concerns the implementation of sustainable arrangements for Global Fund activities after the interim period. An LTIA Working Group comprising relevant stakeholders including development partners was set up in January 2006 with the objective of re-aligning all funding mechanisms to existing institutional arrangements of the GoU, thereby minimizing duplication and fragmentation of intervention. This arrangement is supposed to be used by all development partners that fund the MOH. This resulted in the September 2006 *Proposed LTIA for the programs of the GF* (LTIA 2006). The GF raised some concerns about the 2006 LTIA and this resulted in another document dated May 2007 that provided responses to the issues raised. OIG was informed that these two documents with relevant appendices formed the LTIA. At the time of the review, no consolidation of the two documents had happened resulting in confusion amongst stakeholders, including the Secretariat, about which version was the correct version.

Recommendation 6
The Secretariat should ensure that all approved LTIA documents are consolidated with due care in order not to deviate from the agreed modalities between GoU and TGF.

92. The LTIA provided a broad architecture of the modalities through which proposals would be made, grants disbursed, monitored and reports sent back to TGF. However, no detailed analysis had been undertaken about how the architecture would translate into the day to day management of the grants. To illustrate this, TGF released funds for the TB Round 6 grant in February 2008. At the time of this review i.e. August 2008, the TB Program Manager could not access the funds since MOH was still working out the modalities of how the

money would be recorded, accounted for and reported. This had already created problems for this performance based and time bound grant since six months of program implementation time has been lost.

93. At the time of developing the LTIA, it was envisaged that it would be used only for new grants i.e. Rounds 6 and 7 with the CMF handling the old grants i.e. Phase 2s of Round 3 and 4. However, at the time of this review, this position had changed with the CMF expected to wind down its operations by the end of August 2008 and handover all management of the five grants to the MOH. At the time of the review there was a lack of agreement between the PR, the MoH and the CMF regarding transitional arrangements and handover and how the interim period and LTIA would be bridged. This raises the risk of loss of institutional memory which would adversely affect the pace of the GF program.

94. The initial version of the LTIA 2006 provided for a Coordination Secretariat to coordinate and ensure compliance of all GF activities to the grant agreement. However, in subsequent addenda, the Coordination Secretariat was abandoned for fear that it would impose an additional structure to the existing government's structure. As a result, the May 2007 LTIA does not provide for any coordination body for GFATM activities. Focal points (in MOH and UAC) as well as the planning department in MOH have been tasked with the coordination of TGF programs. The allocation of roles and responsibilities under coordination had not been defined at the time of this review nor had any assessment been undertaken on the capability of the proposed officials and units to effectively undertake this role.

95. While the LTIA seeks to take implementation away from the project-mode, the shortcomings of which led to the August 2005 suspension, the LTIA Working Group acknowledged that government institutions and systems still have inadequacies and proposed that weakness be identified and actions taken to strengthen them. However, the responsibility to carry out a needs assessment and propose capacity-building for the gaps identified was not allocated to anyone. The Government has shown commitment in addressing some of the higher risk areas through the PoA that addresses particular weaknesses especially in monitoring and evaluation and procurement. However, without a comprehensive review of the structures, systems and processes under the LTIA, this will only address some of the problems.

96. Recent assessments undertaken by the LFA are for Round 6 (July 2007), Round 3 Phase 2 (August 2007) and Round 7 (March 2008) raised some pertinent issues about the LTIA environment in which the GF programs were to be implemented. The issues raised through the three assessments are the same implying that there has been no change in the control environment in the period over which the three assessments have been undertaken. Conditions precedent to disbursement were incorporated that were supposed to address the issues raised.

97. The gaps identified by the LFA included and are not limited to the following:

(a) There are several conflicts of interest throughout the proposed arrangement especially at MOH and UAC level where the MOH is PR delegate, CCM Chair, major SR, coordinator etc and UAC provides oversight, and is coordinator and manager. There were no recommendations about how this would be managed to ensure that the control environment around GF programs remains sound. The LFA did not comment about how effective the Uganda CCM is as a governance body in fulfilling its mandate;

(b) The LTIA is supposed to be implemented under the Poverty Alleviation Fund (PAF) modality. However, there have been protracted discussions at Secretariat and country level about whether the proposed modalities meet the minimum financial management and programmatic requirements of TGF. Proposals for change have been made although they remain inconclusive. This has contributed to the confusion in country on the modality that will be followed in implementing TGF programs;

(c) The LFA reports state that the Civil Society Fund[5] (CSF) is supposed to cover the management of TB and Malaria grants as well. However, there is an unresolved issue as the TB and Malaria programs do not consider it feasible to report through the UAC; and

(d) Lack of a mechanism to undertake the coordination role that is currently undertaken by the CMF;

98. The assessments undertaken by the LFA covered in a limited scope the following aspects:

(a) The GF assessments do not provide for countries that have a 'pass through' PR i.e. a PR like MoFPED that is constitutionally responsible for receiving grant funds but that is not ultimately responsible for implementation of programs. This creates the challenge of deciding who should be assessed and the extent of assessment that should be undertaken at the two levels. The LFA assessment covered MoFPED, MOH, CSF and to a lesser extent UAC and MoGLSD but not in much depth. There has been no detailed review of structures, systems and processes as well as capacity at the MOH, MoGSLD and UAC to manage TGF programs under the proposed LTIA modality. Because the risk under the LTIA lies at the level below the PR, more work should have been done at this level to identify potential challenges to implementation and recommendations for improvement.

(b) The procurement and supply management assessments allude to but do not cover in sufficient depth the known substantial challenges in the procurement and logistics management of supplies that have been

[5] The CSF was formed by a group of development partners to manage disbursements to civil society.

prevalent in the and continue to be e.g. slow moving and expired stocks, distribution challenges etc.

(c) The review by the LFA of the program management capacity concentrates on technical aspects and does not cover financial and administrative aspects which are key in ensuring that any program runs well.

(d) An assessment was not made of the unique governance structure proposed under the LTIA.

(e) The LFA does not conclude on what the audit modality will be i.e. whether the AG's audits of the MOH will be sufficient to provide TGF with assurance or whether TGF specific audits would need to be commissioned.

(f) The mismanagement of grants happened when the programs were under the supervision of MOH. The PR has delegated its role again to the MOH, and it is essential to assess whether the initial risks that were prevalent pre-suspension in MOH have been mitigated.

(g) There is a proposal to have a third party agent manage procurement. However based on the PPDA law, the work of the agent is complimentary and does not take over the responsibility of the MOH. There is a need to undertake a detailed capacity review of the procurement unit and the contracts committee at the MOH to assess whether it is able to manage the procurement responsibilities bestowed on them by the PPDA.

Recommendation 7

- *The LFA should be commissioned to undertake more work especially around the modalities of implementation under the LTIA with the objective of identifying areas of weakness and possible technical assistance to Government in strengthening the relevant areas. The LFA report would be used as a basis for discussion with the MOH and development partners about the types of technical assistance required. GAVI has already committed to providing some technical assistance to the MOH under the LTIA.*
- *The LFA should review the adequacy of the audit arrangements currently proposed under the LTIA and advise whether they can provide TGF with assurance about the utilisation of TGF money.*
- *The decision to disburse should be driven by the Secretariat having satisfied itself that the risks identified by this review concerning the LTIA have been mitigated.*

99. The OIG review also sought to provide reasonable assurance that there are adequate monitoring and evaluation (M&E) arrangements in place to support the performance based principle of TGF. Many of the observations noted were already well known and had been documented in several other reviews. However, because these issues had not been fully resolved at the time of this review, they have been repeated in this report. Measures to address some of

these issues are already being undertaken e.g. the hiring of additional M&E specialists at MOH and UAC level. However, this additional capacity does not address the structural problems of M&E systems.

100. There is a general lack of stewardship of the M&E function within the MOH. Senior management do not regularly receive analyses, reviews and interpretation of the key indicators. No one manager is in overall charge of the M&E function. The Technical Working Group (TWG) for M&E has not, up to now, taken on the responsibility of discussing and reviewing these key indicators on a regular basis. There is no formalized coordination between the UAC and the MOH to report to the Global Fund and there are significant weaknesses in the M&E function of both.

101. There are parallel systems for information management in each of the three programs i.e. HIV, TB and Malaria having their own information systems, in addition to the mainstream health management information system (HMIS). The data contained in these parallel systems does not always tally with that in the HMIS, raising concerns about which system is accurate.

102. There are a number of issues related to poor data quality arising from lack of timely and complete submission of data from facilities and districts, lack of feedback from the centre to the districts and facilities, no regular analysis of the data resulting in errors with the data remaining undetected and the manual transmission of data from districts.

Recommendation 8

- *All M&E activities should fall under the framework of the TWG (M&E) with a senior manager chairing this meeting. This TWG (M&E) should provide a quarterly performance review of key indicators to senior management.*
- *There should be a single official repository of information which should be housed in the resource centre databases.*
- *All individual programme reports containing indicators should be copied to the resource centre manager so that there is internal agreement on these indicators.*
- *Over time vertical and parallel systems of data collection should be discontinued*
- *Recognizing that there are no "quick fixes" there should be a commitment to a continuous process of improvement of data. This process should be accelerated by:*
    - *Regular analysis (at least quarterly) of all routine data*
    - *Quarterly feedback to districts from the central level*
    - *Regular supervision of districts including the M&E processes*
    - *Special attention should be paid to the flow of data from hospitals*
- *Web-based data transmission should be phased in starting with pilots in selected districts with attention given to all relevant logistical issues such as support, back-up of data, uninterrupted power supplies.*

103. Although UAC has a monitoring framework (and accompanying handbook with key HIV indicators and targets) the M&E system of the UAC has not been adequately operationalised and needs further development especially since UAC's TWG does not interact, analyze or interpret key HIV indicators. UAC also does not have a formal system data collection and does not receive regular information from the line ministries and other key stakeholders. The UAC's database is also not up to date with information regarding the key HIV indicators.

104. The M&E system for TGF at UAC and the general UAC M&E system appear to be parallel systems which contradict the LTIA as well as the spirit of the Paris Declaration. The person in charge of TGF's M&E system at UAC does not report to the head of M&E but directly to the Director General.

Recommendation 9

- *A clear operational plan for implementation of the performance measurement and management plan should be operationalised.*
- *Routine, formal, quarterly information should be collected from all line ministries and other key players (e.g. CSF, USAID and its funded NGOs).*
- *The TWG needs to regularly (at least quarterly) discuss, analyse and interpret the key HIV indicators and UAC should regularly (at least six-monthly) disseminate these indicators to key stakeholders.*
- *A formalized mechanism for reporting to the Global Fund should be established between the UAC and the MOH.*

105. The M&E system in MoGLSD is under development and still uncoordinated, incomplete and project driven. Indicators have been developed and there is a pilot to test the tools in at community and district level. This data will establish the new system MIS for OVCs. There has been no process developed for formal data flow between MoGLSD and UAC.

106. Most of the activities for OVCs will be funded under the CSF. It is not clear how the OVC secretariat will be involved in the M&E since an independent/private CSF monitoring agency has been hired. Coordination and M&E is a cardinal function of the OVC secretariat. There are also a number of activities duplicated /uncoordinated because of weak inter-sectoral collaboration. There is also a concern that the CSF Monitoring Agency may lack the capacity to monitor TGF, USAID and other donor funded projects.

107. TGF states that it will not require attribution at country level. However, consideration has not been given to whether the reported results would be adequate to support the principle of performance based funding by TGF.

Recommendation 10

- UAC should support the expansion M&E of HIV/AIDS activities under MoGLSD.

- The coordination and M&E roles of the MoGLSD over the CSF should be clarified.

108. Based on the information in the preceding sections, the IG cannot at present provide assurance that the current arrangements and controls in place are adequate to safeguard TGF investments in the country. The LFA should undertake further assessments to identify areas where Government may need assistance in strengthening its controls under the LTIA. By so doing, the Secretariat would be able to invest its funds with reasonable assurance. OIG will within six months undertake a review of the progress made by Government in strengthening the current arrangements and controls in place in order to ensure that TGF investments are safeguarded in the future. Feedback on progress will be provided to the spring 2009 Board meeting.

109. Uganda received the largest approval from the Technical Review Panel grants for Round 7. The TRP is independent of the Secretariat and bases its decisions on the documentation that is provided to them. TRP review decisions should be based on the merit of a proposal and performance of past grants. The merit of the proposal is contained in the country proposal that is submitted to the CCM and the grant performance based on the grant performance reports. A review of the Grant Performance Reports submitted to the TRP revealed that the information that was contained did not provide adequate contextual information about the country position in that it did not relate many of the concerns raised in this report.

110. The Round 7 grant agreements were signed without the resolution of key issues reflected above. The conditions precedent to disbursement as contained in the grant did not address all the concerns raised by the LFA in the assessments undertaken. The signing of grant agreements without addressing the risks inherent to the implementation of grants exposes grants to risk and results in implementation problems as was the case with the Round 6 TB grant where disbursements to the country have remained unutilised because the MOH is still agreeing on the implementation modalities (see paragraph 88).

Indonesia

Background

111. Indonesia has signed six grants with the Global Fund. The PR is the Ministry of Health as represented by the Directorate of Directly Transmitted Disease Control for HIV Rounds 1 and 4, TB Rounds 1 and 4, Directorate of Vector Borne Disease Control for Malaria Round 1 and Directorate General of Disease Control and Environmental Health for Malaria Round 6. Details of the grants are summarised in the table below. The LFA is PricewaterhouseCoopers.

Grant	Grant number	Grant signature date	Approved grant amount	Amount disbursed
HIV/AIDS Round 1	IND-102-G03-H-00	11-Jun-03	7,829,764	5,714,668
Malaria Round 1	IND-102-G02-M-00	11-Jun-03	23,704,947	21,231,148
TB Round 1	IND-102-G01-T-00	27-Jan-03	68,663,564	51,125,056
HIV/AIDS Round 4	IND-405-G04-H	26-Jan-05	49,770,446	27,868,793
TB Round 5	IND-506-G05-T	21-Sep-06	18,314,685	5,382,399
Malaria Round 6	IND-607-G06-M	21-Dec-07	27,683,015	7,287,714

Table 8: Grants in Indonesia at 31 August 2008 (Source: TGF website)

Pre cessation

A country audit by the OIG revealed irregularities in financial management and oversight at CCM, PR and SRs. This was confirmed in a review by the LFA. Although the mismanagement was noted in only two grants, all grants were suspended due to the weak oversight of grants and PRs by the CCM.

112. The OIG undertook a country audit of TGF grants in Indonesia in December 2006. This audit revealed irregularities in financial management and oversight at CCM, PR and SRs. As a result of this audit, TGF commissioned an independent assessment of the issues by the LFA which confirmed the findings of the OIG. Specifically, the issues reported were:

(a) There were 12 cases of real or potential conflict of interest noted at CCM, PR and SR level. These affected the oversight to TGF programs at CCM and PR level;

(b) Weak program oversight and monitoring by the CCM and PR i.e. inadequate monitoring of NGOs and SRs; weak appointment procedures; failure by the PRs to reflect grant agreement obligations in the SR agreements; payment of advances to SRs without a signed agreement in place etc and

(c) Weaknesses in financial control at PR and SR level. Examples are the lack of documentation held by SRs to evidence their registration; CCM members receiving undeclared honoraria; weaknesses in the accounting systems; non competitive procurement; most SRs not having been audited; and cases of non compliance with the grant agreement.

113. The mismanagement was initially identified by the OIG when it undertook a three week audit. In its responses about the issues raised above, the CCM asserted that the LFA knew about the conflict of interest. This raises the question about why the LFA who was resident in country and spends a substantial amount of time with the CCM and PRs undertaking assessments and quarterly verifications of implementation had not identified these issues. This raises questions about whether the LFA terms of reference are adequate especially in the high risk environments in which the GF operates i.e. shouldn't the work undertaken by the LFA enable them to detect certain levels of mismanagement?

Cessation of expenditure

The restriction applied to Indonesia was a cessation of expenditure and not a suspension of grants. The difference between a suspension and a cessation of expenditure is that a suspension is publicized by way of a press release while a cessation is not public. In retrospect, the country team feels that the decision to go for a cessation did not have the same effect as a suspension would have had because publicity would have put the authorities under more pressure to act.

114. After receiving the LFA report, the Director of Operations sent a letter to the CCM in Indonesia and gave them two weeks to rectify the irregularities. In that period, all disbursements were put on hold from the GF and the country was asked to stop expenditure. However, TGF made an exception for funding to cover life saving activities. The cessation covered all three disease components, despite the fact that the issues noted affected only two grants. The basis of this decision was that the oversight over all the grants was weak and the cessation was meant to address weaknesses in the overall control environment in which TGF grants were being implemented.

115. The restriction applied to Indonesia was a cessation of expenditure and not a suspension of grants. The difference between a suspension and a cessation of expenditure is that a suspension is publicized by way of a press release while a cessation is not public. The effect is the same to the country where all disbursements to and within the country are stopped and the only difference lies with the 'naming and shaming' that comes with a suspension.

116. The decision to have a cessation and not a suspension was driven by the regional cultural context where the Secretariat took the reputational costs into consideration in arriving at the decision not to announce the restriction publicly. At the time, the communications department advised against this saying that it would cause confusion. They also felt that the decision to go for a cessation should be based on a definition of the two forms of restriction i.e. suspension and

cessation as well as the effects of each. No evidence that such an analysis was undertaken was seen by OIG.

117. At the time of the cessation, the Secretariat was also considering restrictions for Chad. The evidence for both countries was equally strong but the decisions arrived at were different. The reason provided for the different actions taken was that Chad had been given a chance to address TGF concerns which was not the case with Indonesia. However, OIG noted that Indonesia had also been given an opportunity to address issues since the OIG audit took place in December 2006. There is no guidance in the Secretariat about the different forms of restrictions as well as what would be most appropriate in which situation.

118. In retrospect, the country team feels that the decision to go for a cessation did not have the same effect as what a suspension would have had. The CCM did not feel pressured enough by the restriction as reflected in the speed of their response to the issues raised by TGF. The decision to have a cessation was made with a caveat placed in the notification letter that should the responses provided by the country be considered by TGF to be inappropriate, then TGF would either suspend or terminate the grants. However, when the responses received were not satisfactory, it started an exchange of letters between the CCM and the Secretariat never took the actions listed in the cessation letter i.e. suspension or termination.

119. Although the cases of mismanagement that arose were of sufficient magnitude to stop disbursement, the Secretariat opted not to undertake an investigation of the grants. This decision was driven by the fact that a forensic audit would slow down the country's corrective actions and because there was no IG at the time. A forensic audit would have helped to give precision to identifying the refunds that TGF expected the country to make. The decision to undertake forensic investigations with the aim of recovering funds is in line with TGF's responsibility of being accountable for funds received from donors but may affect program implementation.

120. The cessation of expenditure resulted in the resignation of the CCM Chair and two of the PR representatives. Contracts with some SRs were terminated. The amount that was refunded amounted to US$ 121,734. This included a refund of the allowances paid to the CCM Chair and a CCM member. The amount paid by the country was based on the LFA's review. A committee was set up to review these amounts and they recommended a lower amount. This was agreed upon with TGF and refunds effected.

121. There was non compliance with one of the key conditions in the notification letter that all expenditure at country level should stop with the exception of life saving activities. During this period, some PRs and SRs entered into agreements and undertook expenditure. The confusion according to the

country submissions was caused by a misinterpretation of the notification letter as well as a delay in relaying the cessation decision to the remote parts of the country where implementation was taking place. There needs to be mechanisms in place at country level to ensure that the conditions of the cessation/suspension are monitored. The enhanced LFA role should cover ensuring that conditions are met.

122. The total unauthorized expenditure incurred during this period was US$ 912,771. TGF through the LFA subsequently reviewed this expenditure and it was found to be bona fide and therefore approved by TGF. The decision not to seek a refund was driven by a field mission by the Secretariat which confirmed that:

(a) The expenditure was all legitimately spent on program activities;
(b) The restriction had already antagonized MOH and CCM members and any request for further refunds would be reviewed negatively; and
(c) The amounts were incurred due to a misunderstanding of the cessation and were not intended to defraud TGF.

Lifting the cessation

Some of the conditions set up for lifting the suspension were not met. The country however committed to meeting the outstanding conditions within an agreed upon period.

123. There was a list of 29 time bound actions that were agreed between TGF and the country at the time of the cessation of expenditure. The LFA undertook additional work to review the fulfillment of conditions laid down to enable the cessation to be lifted. The CCM formed an oversight committee that was responsible for ensuring that actions were implemented. There were several communications between the CCM and the GF. However as time passed, the conditions that had been laid down for the cessation to be lifted were reworked by the Secretariat because the GF received weak responses on the actions taken. This made lifting the suspension more complicated as the conditions to be met became ‘moving targets’.

124. Some of the conditions had not been met at the time of lifting the cessation. A deadline of October 2007 was set to have these conditions met by the country. At the time of developing conditions, it is important to develop a list of mandatory conditions that the country should meet before the restrictions are lifted. These will depend on the identified risks. Once agreed upon with the country, TGF should not lift the suspensions in the event that these conditions are not met or that the proposed actions do not mitigate the risks.

Post cessation

The cessation has adversely affected the performance of the grants. There was a lot of time lost and resignation of most staff involved in managing the grant period over the non payment of salaries which negatively affected the capacity of the three PRs to implement programs after the cessation.

125. One of the effects of the cessation was the slowing down of program implementation. There was massive resignation of staff over the non payment of salaries which negatively affected the capacity of the three PRs to implement programs after the cessation. Grant performance dropped as a result.

126. OIG reviewed the actions taken post cessation to safeguard TGF investments post cessation. The country team mentioned that the LFA role had been enhanced as is evidenced by a marked increase in their fees. However, the terms of reference in such cases need to be revisited so that the LFA role is defined to ensure that there is proper oversight over the GF grants.

127. Indonesia has not been placed on the ASG list and this raises the question whether countries coming out of restrictions like Indonesia should qualify for inclusion on the list. The ASG is supposed to apply to countries whose existing systems cannot ensure accountable use of Global Fund financing suggesting that Global Fund monies are placed in jeopardy without the use of additional measures.

Chad

Background

128. The Global Fund approved two grants to the Republic of Chad. The PR is The Fonds de Soutien aux Activités en matière de Population (FOSAP) translated as Support Fund for Population Activities. The GF has contracted Swiss Tropical Institute as the Local Fund Agent (LFA). Details of the grants are summarised in the table below:

Grant	Grant number	Grant start date	Approved grant amount US$	Amount Disbursed US$
Rd 3 HIV/AIDS	TCD-304-G02-H	01-Aug-04	17,783,344	7,140,543
Rd 2 TB	TCD-202-G01-T-00	01-May-04	3,039,321	1,341,657
Total			**20,822,665**	**8,482,200**

Table 9: Grants in Chad (Source: TGF website)

Pre suspension

There have been two external audits, an internal audit review and a financial management review by the LFA that all revealed significant weaknesses in financial and grant management and the internal control environment.

129. There have been two external audits, one internal audit review and one audit verification undertaken on the GF grants. The first external audit was by PwC and the second by Cabinet African de Gestion Informatique et Comptable. On receipt of the second audit report, FOSAP's internal audit department undertook a financial review into the management of the three main SRs. The internal and external audits revealed significant weaknesses in financial and grant management and internal control. Upon the receipt of the above reports, the GF requested the LFA to undertake a financial review of the grants with the aim of assessing the performance of the PR and following up the findings in the internal and external audits.

130. All the above reviews confirmed the following key findings:

(e) The PR had a very weak internal control structure. Gaps were identified in the accounting records maintained and there was non-compliance with established guidelines and procedures.

(f) Managing and monitoring of the SRs was not satisfactory.

(g) Instances of transactions that appeared fraudulent were identified. These included disbursement of funds to SRs for activities that did not occur, transfer of program funds to unidentified bank accounts, unsupported expenditure, inflated prices, poor quality products etc.

(h) The PR had not implemented recommendations from previous audits/reviews.

131. Following the second audit in 2006, on 25 August 2006, the Chief of Operations suspended (in the form of a cessation) all disbursements citing the change of the PR management and lack of a proper signatory for GF money as the underlying reasons. This was lifted after receiving the new signatories to GF grants. In October 2006, following the receipt of the internal audit review report that suggested alleged fraud and mismanagement by the PR and SRs, the GF had a second cessation of disbursements and expenditures and requested the LFA to undertake a financial management review of the situation in Chad. This financial review confirmed mismanagement and the possibility of fraud.

Suspension

The Secretariat hired forensic auditors to identify, quantify and determine the extent of financial losses arising from the financial irregularities and mismanagement in the application of GF resources. The Secretariat has recovered most of the money identified as misappropriated and PR staff involved in the misappropriation have been asked to leave the organization.

132. Based on the findings of these reports and a Global Fund mission to Chad in mid-November 2006, the GF suspended its grants with Chad on 17 November 2006, with the exception to disbursements required to ensure the continuity of life-saving treatment. The Chad suspension was only publicized on TGF website and there was no external press coverage as was the case with Uganda. The CCM was requested to put in place a new structure that would ensure the effective management of the GF grants. The GF also commissioned an investigation into the financial irregularities, mismanagement and lack of CCM oversight to help in making inform decisions about whether the grants could be continued or other arrangements would have to be made in the long term.

133. The Secretariat immediately advised the OIG of the suspension decision with a request that a forensic audit investigation be initiated immediately. However, due to the resignation of the IG, and the fact that interim arrangements for a replacement were not yet in place, the Chair and the Vice-Chair of the Board determined that it was not appropriate that this investigation be undertaken by the OIG. Accordingly, they requested the Secretariat to retain the services of an external service provider to carry out the investigation and provide day-to-day oversight of that firm’s work. The Finance and Audit Committee (FAC) of the Global Fund’s Board would provide general oversight of the investigation process. In February 2007, Deloitte & Touché (DT) were hired to undertake the forensic audit. The decision to select DT was driven by urgency and DT having done another excellent piece of work for the Board.

134. DT was appointed to conduct an investigation with the overarching goal of being able to provide the Global Fund with sufficient information to assess whether the grant funding could be continued or other arrangement(s) made in

the long term. The scope was to cover the PR, CCM and at least 6 SRs. The objectives agreed upon were:

(a) Identifying, quantifying and determining the extent of financial losses arising from the financial irregularities and mismanagement in the application of GF resources;
(b) Determining the efficacy of policies, systems and procedures currently in place to safeguard in GF resources;
(c) Identifying risks that GF grants are exposed to; and
(d) Making recommendations regarding measures to ensure the prudent management of GF grants.

135. D&T completed the assignment and submitted an interim report at the end of February 2007. It covered two SRs and no work was done at PR and CCM level. DT recommended that additional work would need to be done in order to successfully complete the assignment. The additional work would be done at an extra cost (at least US$ 300,000)[6] and would take at least a month to complete.

136. The Secretariat considered the output of DT to be unsatisfactory since it did not address the objectives and scope set out for the investigation. However, they opted not to have further work done by DT based on the reasons listed below. This decision was supported by the IG Ad Interim:

(a) The financial cost of completing the assignment was very high and this could be viewed to be ‘throwing good money after bad’;
(b) Timing i.e. it was almost a year since the first reviews started and five months since the grants were suspended. With time, information was no longer readily available as documents would most likely be “lost” or tampered with and as people changed offices. Lack of documentation was listed as one of the impediments to the investigation undertaken by DT;
(c) There is also a reputational risk to the GF in the event that decisions regarding the future of the grants were not reached soon;
(d) The PR had undergone over five reviews in a period of a year and there was a feeling that the PR had been ‘over-audited’; and
(e) TGF felt it had adequate information to make the decisions that it needed to make.

137. The DT interim report confirmed inadequate management and control over GF grants by FOSAP, misuse of funds at SR level i.e. Hopital General de Reference National (HGRN) and Central d’achat Pharmaceutique(CPA) and disproportionate operating expenses and overpriced pharmaceutical supplies by the national procurement agent. The findings by DT were:

(a) Weak oversight by the PR;
(b) The full extent of the administrative charges imposed by the CPA was not disclosed to FOSAP. The rate charged was 22% as opposed to the

[6] The initial piece of work completed cost US$ 174,000.

agreed upon 16%, the extra amount supposedly being to cover transportation and duties;

(c) The contract signed between FOSAP and CPA has defective i.e. relationship between the two parties was ambiguous. It was not clear whether CPA was a supplier or a procurement agent. It was also not clear what was the agreement of fees that were payable and the negotiated payment terms were unfavorable;

(d) CPA overcharged FOSAP i.e. markups on cost price were higher than the stipulated 22%. In some cases, the markup was as high as 62%. This resulted in an estimated overpayment of US$ 240,000; and

(e) FOSAP did not supervise the receipt and distribution of goods by CPA.

(f) There were weak controls at HGRN that resulted in payments without supporting documentation.

138. Given the significant problems identified with this PR, the country team felt that one of the options it should explore was the change of the PR. The team considered what organizations would/could be the PR and approached UNDP which has a small presence in country and UNICEF which has a larger country presence. UNDP and UNICEF were not enthusiastic about taking on the PR role. In a CCM meeting held in June 2007, the CCM agreed to retain the PR and strengthen it through technical assistance from development partners. A fiduciary agent was also to be put in place for an interim period until capacities were strengthened at PR and SR level and structures and systems were adequate to allow effective, accountable and transparent implementation of funded programs.

139. The amounts that were to be refunded by the three main SRs from the audits and reviews amounted to US$ 169,194. OIG confirmed that of this amount, US$ 105,088 had been refunded leaving a balance of US$ 64,106. Most of this balance relates to PNLS i.e. US$ 62,817. This is being followed up by the country team. The balances identified in the DT report that were to be refunded were about US$ 243,837 and the country team advised OIG that only US$ 149,752 has been refunded. The refund was based on the amount verified and confirmed by the LFA. All staff associated with the mismanagement were dismissed.

140. Based on the information from prior audits/ reviews and the forensic audit, the Secretariat communicated to the country the gravity of the issues and provided the country with a period within which the GF expected a response to the conditions set. The letter of 18 May 2007 letter by the Chief of Operations to the CCM Chair laid out the of conditions that should be met, first to formally lift the suspension and, second, to resume disbursements. The conditions for lifting the suspension were:

(a) The provision of information on the status of the recovery of funds from the Centrale Pharmaceutique d'Achats and the Hôpital Général de Référence Nationale, and the initiation of the recovery of such funds;

(b) The delivery of the sections of the report of the "Contrôle d'État" relating to Global Fund Programs;

(c) The removal of individuals involved in the mismanagement of funds at the PR and SR levels;
(d) Concrete steps to improve CCM's capacity and strengthening of CCM involvement;
(e) Clarification of the relationship between FOSAP and the CCM in terms of accountability on Program's oversight; and
(f) Clarification on the roles and responsibilities and interface between the CCM and Fosap's "Comité des Directeurs".

Lifting the suspension

At the time of lifting the suspension (3 August 2007), the Secretariat felt that the degree of risk for Global Fund investments in Chad had not changed. However, mitigating factors were put in place to ensure that all risks were addressed before disbursement resumed to the country.

141. At the time of lifting the suspension, the LFA reviewed the fulfillment of the conditions and concluded that the measures put in place by the country at the time were adequate to mitigate risk and the GF could lift the suspension. However, the legal department in TGF felt that although positive steps were taken and assurances were given on paper at the appropriate levels, no concrete factual elements would allow the Secretariat to conclude that the risk level associated with this Program had been lowered in a meaningful way.

142. At the time of lifting the suspension (3 August 2007), the Secretariat felt that the degree of risk for Global Fund investments in Chad had not changed although the Government of Chad, the CCM and partners in country had pledged their support in addressing governance, management and adherence to required business practices. Lifting the suspension was therefore a 'political decision' that took the following into consideration:
(a) The Government's confirmation that it had met the conditions to lift the suspension;
(b) Development partners in country (e.g. EU, AFD, UNDP, GTZ) urged the GF to re-launch the grants and pledged their support through technical assistance;
(c) The World Bank was ready to develop a plan that outlined synergies and areas of close cooperation between WB and GF programs and their respective PMUs;
(d) Chad is one of the least developed countries in the world (171/177 of the Human Development Index) with political and civil unrest. There is hardly any aid going into the country with the precarious security situation and mismanagement of available resources penalizing the poorest and most in need. TGF is the only donor for the National TB program;
(e) In the above context, the two programs have achieved commendable results.

143. This risk was mitigated however by the fact that disbursements would not resume until the PR had met other conditions. These additional measures to mitigate risk were:

(a) Slow phasing in of grant implementation and disbursements;
(b) Finalization of HIV/AIDS Phase 2 grant agreement and update of work plan and budget for the TB grant to include risk mitigation measures;
(c) Enhancing the mandate of the LFA (verification of implementation at PR and SR level, quarterly in-depth verification of accounting, verification of quality and efficacy of SRs);
(d) Regular internal controls reviews by the internal auditor of FOSAP
(e) PR and SR capacity assessment to identify areas of strengthening and technical assistance needs;
(f) Technical assistance through the GTZ Back up initiative to be continued for one additional year
(g) Technical assistance in financial management to be provided by Agence Française de Développement (AFD);
(h) For an interim period (12 months) a fiduciary agent will guarantee adequate monitoring and accounting for grant expenditures and build necessary capacities at PR level;
(i) Assessment of CPA and tailored contract between CPA and FOSAP, should CPA meet TGF's minimum requirements in terms of procurement and supply management. EU pledged technical support to CPA;
(j) CCM self assessment and capacity building to ensure effective oversight of GF grants
(k) Harmonization and update of procedures manual between World Bank and GF Program Management Units (PMUs) and strengthening of synergies between WB and GF PMUs and programs (M&E, PSM)

Post suspension

While restrictions may be the proper tool to handle countries with mismanagement of funds by GF recipients, this decision may need to be reconsidered and other alternatives sought for 'fragile' countries like Chad. It has taken the country almost two years to meet the conditions to resume.

144. At the time of undertaking this review, no funds had been disbursed to the country for almost two years. This was as a result of the delay in the hiring of the fiduciary agent. This process has been protracted (almost a year) mainly due to delays in getting an understanding with the CCM on various aspects of the services to be provided. The agent has however now been appointed. Drugs have been procured to ensure that life saving activities continued through CPA under the supervision of a special committee comprising of EU, AFD, MOH, UNAIDS, LFA and FOSAP.

145. The role of the LFA in Chad has been effective in following up issues in country, advising the Secretariat on submissions made by the country and

monitoring actions in place to ensure that the control environment in Chad is strengthened.

146. While restrictions may be the proper tool to handle countries with mismanagement of funds by GF recipients, this decision may need to be reconsidered and other alternatives sought for ‘fragile’ countries like Chad. After almost two years, the country has just met the conditions to resume.

Lessons learnt

The Secretariat should proactively identify countries prone to problems, and manage their problems and only react to those it did not anticipate.

147. As the old saying goes "*Experience is a hard teacher because she gives the test first, the lesson afterwards*"[7]. What follows is an analysis of the lessons the Secretariat can learn from the 'tests' it has had and how these can help it prevent situations that will lead to restrictions and to better manage those that may nevertheless occur.

Preventing restrictions

All restrictions by TGF were in reaction to an event or set of events that happened in the respective countries. Although the Secretariat has been proactive in developing tools to identify and manage risk, it does not currently have a tool that can identify high risk countries with a view to resolving the issues before they adversely affect the grants.

Risk assessment tools

148. The Secretariat has in the past endeavoured to develop various tools and models that would help it to predict the grants/ countries that were likely to have problems. This was done with the aim of developing a 'dashboard' that showed the level of risk associated with each grant/country and using this to manage these countries better. Unfortunately, TGF has not yet been fully successful in developing and operationalising a risk model that identifies poorly performing grants or those that may be facing implementation challenges and responding methodically to resolve the issues before they adversely affect the grants.

149. The Secretariat has developed several tools to assess risk as summarised below:

(a) A model was initially developed that incorporated quantitative data e.g. grant size and performance i.e. LFA ratings of PRs as well as governance related data like corruption related data from Transparency International indices. The model then ranked countries according risk. This model was never used because it was criticised for relying too heavily on quantitative indicators and not adequately accounting for qualitative aspects e.g. unique country contextual factors.

(b) The early warning and response system (EARS) as a replacement to this risk model aimed to identify and address issues arising in grants, facilitating the engagement of partners, and promoting learning and exchange of best practices. This system identified symptoms and not underlying causes. It alerted stakeholders that there was a problem that

[7] Quote by Vernon Saunders Law

needed to be examined in more detail. This model was inward looking i.e. it only depended on factors internal to TGF as triggers that something may be wrong e.g. delays in signing agreements or making disbursements etc. This tool never became fully operationalised.

(c) The Secretariat is currently developing another risk management model that builds upon a tool developed by OIG that takes the best from past models.

150. The GF understands the repercussions of operating in the world's poorer and often high risk countries increase the likelihood that its grants will be exposed to risk and that this can result in consequences e.g. imposing restrictions. The time, cost and effort spent in preventing a problem is far less than that spent in solving a problem. Therefore the importance of having an effective risk management model has to be underscored as the Secretariat seeks to better manage its grants.

Recommendation 11
The Secretariat should develop a risk management model that helps it identify countries prone to high risk that will enable it to allocate its resources better and address whatever risks present themselves in countries before they affect the GF investments in country.

Local Fund Agents

151. LFAs are a critical component to the GF model and to implementing the risk model that TGF develops. Despite undertaking assessments prior to grant signing and periodic verification of implementation to ensure there is value for money received for funds expended i.e. there are results to show for the money spent, none of the four cases of mismanagement considered in this report were flagged initially by the LFA. The most common explanation from LFAs is that their terms of reference would not be enable them identify risk factors that are prevalent in TGF grants. This brings into question whether LFAs are doing the right things or whether they are doing enough to support TGF in managing its risks and grants better.

152. Assessments by the LFAs are a good risk management tool developed by the Secretariat because they help to identify risk and solutions to mitigating the risk. They are undertaken by the LFAs at the beginning of each grant. Once risks are identified, the Secretariat will usually identify conditions precedent to disbursement to mitigate the risk identified. The effectiveness of this approach as a risk management tool will depend on the Secretariat developing sound solutions that address risk and implementing these solutions and continuously monitoring them to ensure they remain relevant. However, in practice, conditions precedent are sometimes waived and once the grants become operational, the periodic reviews undertaken by the LFA do not take into consideration the risks initially identified during the assessment. The cases reviewed showed that the

risk identified at the inception of the grant period remained pervasive during the grant implementation period and were the cause in most cases of the restrictions that TGF had to impose.

153. It has been noted in several reviews of the LFA function that the LFA model follows the ‘one size fits all’ adage. The GF has until now not been able to incorporate risk in contracting LFAs and aligning the scope of work to be undertaken to the risks identified. As a result, the work done by LFAs in high and low risk countries has tended to be the same or with an increase in frequency without necessarily addressing the scope of work needed to monitor specific risk factors identified.

Recommendation 12

In line with global trends, LFA work should be driven by risk based approach that identifies the risks inherent in a country’s grants and tailors the approach accordingly so that well focused, cost-effective and efficient reviews are undertaken in the future.

Additional Safeguards Policy (ASG)

154. The ASG policy is being applied as part of TGF’s risk management toolkit but was still in draft at the time of this review. It was established to address situations where the existing systems did not ensure accountable use of GF financing or suggested that GF monies could be placed in jeopardy without the use of additional measures. The additional measures include TGF selection of the PR, additional features to the PR assessment, undertaking SR assessments, having quarterly reporting, requiring PR to provide access assurance etc. At the time of its development, the policy was seen as a tool that addressed the risks that presented themselves in grants that TGF managed. In OIG’s view, the implementation of the ASG i.e. identification of countries at risk and imposing conditions to manage risk needs to be better managed in order to ensure that this tool is effective.

155. The rationale for placing countries on the ASG list in the past was not documented and was not clear. Only two of the countries which have had restrictions imposed were on the ASG list. However, based on the criteria in the policy, all five countries that have had restrictions qualified to be on the ASG list. OIG noted that the conditions set to safeguard TGF resources had been predefined and in the two cases on the ASG list, did not fully address the specific risk in the country. The measures to monitor countries on ASG have also not been effective.

Recommendation 13

- *All countries coming out of a restriction should be placed on the ASG list for close monitoring until such a time as the risks inherent to the country programs are addressed.*

- *The justification for placing a country on the ASG list should be documented. This is important in ensuring that countries do not remain on the ASG list after the concerns that got them on the list are addressed. The conditions for mitigating the risk identified in the country should be agreed upon and formalised with the relevant country.*
- *The conditions that countries on the ASG list are obliged to comply with should be flexible to address the specific risk in the country.*

Managing the restriction process

The management i.e. the decision making process, recovery of misappropriated funds, communication processes, conditions for lifting the suspension etc varied across the five country cases. Each selected strategy presented its own advantages and disadvantages. Based on the lessons learned, the Secretariat should develop guidance for managing the restriction processes in order to ensure that they are effective in achieving the goals for which they were imposed.

<u>Appropriateness of the restrictions applied</u>

156. Restrictions are part of doing business for the GF as it addresses different crises that appear in the day to day management of the grants. Provisions for restrictions are contained in the signed grant agreements. There have been two types of restrictions namely terminations and suspensions as provided for in the signed grant agreements. While there may be other types of restrictions, these have not been stipulated in the agreements.

157. There are also varying applications of the suspensions as shown below:
   (a) “Cessation of expenditure” is in essence a suspension except that no publicity is to given to this restriction decision.
   (b) Public announcements of suspensions were made in the case of Uganda and Ukraine but for Chad, the suspension notice was only placed on TGF website.

158. The rationale for selecting the type of restriction differed with all cases reviewed. This has been driven by the varied country contexts. Different restrictions have been applied to address similar types of problems e.g. misappropriation was identified in Indonesia and Chad with similar underlying issues yet different types of restrictions were selected.

159. Each of the restrictions had varied repercussions. In two cases i.e. Indonesia and Chad, the countries had cessations that were not formalized at least initially (i.e. stopping disbursement and giving the country a chance to respond to the issues raised before officially communicating the restriction). Chad then moved to a suspension while in Indonesia cessation was eventually formalized. The Secretariat does not have a defined process for escalating cases

from cessations to suspension/terminations. Effective crisis management is about defining the different types of crises, their causes, identifying which restrictions can best address what problems as well as the likely repercussions of each scenario.

160. Based on this review, OIG proposes that consideration be given to the following process for managing restrictions. This process however will be driven by different country contexts i.e. (i) the nature of the problem, (ii) urgency to get the country to respond, (iii) responsiveness of the country (iv) reputational risk to TGF (v) performance of the country grants (vi) strength of the country control environment to safeguard GF investments (vii) amounts of money involved to name but a few. The process should ideally be:

(a) Once a problem is identified in a country, the Secretariat should stop disbursements (informal cessation) to the country and communicate seeking resolution of the matter within an agreed timeframe.
(b) If the country does not respond appropriately, then this can be escalated to a formal cessation where the country receives a letter listing conditions that should be met within an agreed upon time frame and providing a provision that should this fail then the country programs may be suspended or terminated.
(c) The next step would be to suspend the grants (publicizing of the restriction) providing a list of conditions necessary to lift the suspension.
(d) Once all measures are exhausted and the Secretariat is convinced that there is nothing else that can be done, then the next option would be to terminate the grants.

Recommendation 14
The different restriction options as well as their different applications should be analyzed to assess their pros and cons. This will aid the selection of the optimal restriction option in the decision making process.

Decision making process

161. The parties involved in the decision making process varied across the five countries. Individual decision making characterized the earlier cases. Over time, a more consultative approach emerged with other units e.g. Finance, Communications and Legal being involved in the decision making process. The extent of involvement of the management team also varied. The risk of not making optimal decisions seemed higher when decisions were made by individuals rather than decisions being made by a group of individuals. The Board was not involved in the decision making process for any of the five cases but was informed after the event. Other funders like GAVI involve their Boards in the decision making process for restrictions. In two cases, the CCM and technical partners were consulted pre restriction to find a solution to the problem before any restrictions were imposed.

Planning for the restriction

162. Planning for the restriction only happened in one of the five cases reviewed. Whenever a problem arose in a country, this created an emergency environment which resulted in the need to identify a solution quickly and resulting in planning being seen as a 'luxury' to the process. While planning does not guarantee that there will be no surprises as the restriction unfolds, it ensures that restrictions are managed better.

Recommendation 15
The decision making process should be defined using a standardized case assessment process to ensure that optimal decisions made. This should cover:

- *Having a plan to guide but not control the process since the plan should be flexible to address changing contexts as the restrictions are implemented. This plan should cover an analysis of the problem at hand, identification of various options to resolve the problem, an assessment of each option, selection of optimal option etc;*
- *Having a team that comprises the relevant country programs team as well as expertise from the specific clusters e.g. communications, finance, legal etc. The composition of the team should be consistent not by individuals but by cluster to ensure consistency in decisions made while allowing the flexibility to take account of the specific country context;*
- *Guidance should be developed on drivers for the decision e.g. amount of money, impact of decision, whether restriction should cover all the grants in a country etc;*
- *A management team should review and approve the decisions made.*
- *The decision to suspend/terminate should remain a Secretariat decision but the Board should always be informed of the action taken at the earliest opportunity. The type, form and frequency of reporting to the Board should be defined on a case by case basis and should be included in the overall plan. However, exceptions to this can be made on a case by case basis, reflecting the unique country situations;*
- *The consultation with the CCM and technical partners in country should be assessed on a country by country basis.*

Recovery of misappropriated funds

163. The management of allegations of misappropriation and the recovery of funds misappropriated varied across the four cases reviewed. The table below provides a summary of how the mismanagement cases were handled:

	Ukraine	**Uganda**	**Indonesia**	**Chad**
LFA undertook work to confirm allegations	✗	✓	✓	✓
External firm did forensic work	✓	✗	✗	✓
Work of external firm satisfactory	✗	N/A	N/A	✗
Country undertook work to confirm allegations	✗	✓	✓	✓

Action involved prosecution	✗	✓	✗	✗
TGF recovered misappropriated funds	✗	Partial	✓	Partial
Action taken against misappropriators	✗	Partial	✓	✓

Table 10: Action taken by Secretariat/Countries to address allegations (Developed by OIG)

164. In three cases, the LFA undertook additional work to confirm the extent of mismanagement. The advantages of using the LFA include their knowledge of the country context and expediency to contract and mobilize. However, the objectivity and independence of the LFAs in undertaking this type of work may be impaired especially if their findings expose any shortcomings in their previous work. In three cases, it also created tension between the LFA and the country implementers.

165. In two cases, external financial management firms were hired to undertake forensic work. In both cases, the work done and reports produced was not adequate to properly inform the Secretariat decision making. In three cases, the governments commissioned independent reviews of the alleged mismanagement.

166. In three cases, TGF sought to recover the funds confirmed as having been misappropriated. Recovery of funds in Ukraine was impossible because of lack of evidence. Recovery in two cases has been partial i.e. not all the funds said to have been misappropriated were paid back. One other perspective is the need to investigate and prosecute those involved as in Uganda. The Uganda case is proof that such a process can be protracted without a guarantee that recoveries and refunds will be made. The countries that have been more successful in recovering of funds are those that sought refunds before disbursement was allowed to resume. This mechanism is similar to the approach other funders e.g. GAVI have opted for i.e. to offset misappropriated funds from future grants or to require countries to pay back misappropriated funds before funding resumes to the country.

167. While recovery of funds was seen as an extension of accountability, Secretariat staff felt that this should not be emphasized at the expense of its goal to fight the three diseases. In one case, the action taken to recover funds is expected to involve public prosecution.

Recommendation 16

- *Countries should be encouraged to take leads in investigating allegations of mismanagement. The Secretariat should be supportive and monitor the progress of these country actions.*
- *As far as is practical the use of LFAs to investigate or follow up allegations should be discouraged. A roster of consultants should be developed that can be quickly called upon to investigate or follow up allegations. Proper ToRs and contracting should be developed for this type of work to ensure that TGF gets a product that it can use in decision making.*

- *Once misappropriation is confirmed, TGF should seek to recover funds from the country before continuing with funding. The mode of recovering funds may vary based on the country context.*

Controls for managing the post restriction period

168. Conditions that needed to be met before suspension can be lifted were set up for all countries with restrictions. These were to be fulfilled within an agreed upon time. The agreed times within which country had to respond were never met. In none of the cases were the conditions set at the time of the suspension fully met by the country. The conditions set up in some cases were numerous and in other cases too ambitious and were all agreed and driven by urgency to resume grant disbursements. The Secretariat had to compromise on the conditions set up in order to lift the suspension due to stakeholder pressure, time lost or the effects of the restriction. This often resulted in another set of conditions that the country had to deliver on within a set time limit post suspension.

169. Some Fund Portfolio Managers felt that the support to the country programs team in restriction cases was mainly pre-restriction. After the restriction, country programs continued to manage the crisis with minimal support from other units resulting in some decisions post restriction that were sub optimal e.g. extension of the interim period.

170. Two countries entered into an interim period in which the country was supposed to have come up with a long term solution to the problem. In both cases, the interim period exceeded the agreed upon time. The temporary management structures that were established to manage the interim period were not revisited to ensure that they were adequate to safeguard TGF funds in the longer term.

Recommendation 17

- *The Secretariat should categorise the conditions set for countries for the lifting of suspensions into high, medium and low risk. The high risk conditions are those that would adversely affect program implementation and countries would have to address them before the restriction is lifted. While medium to low risk conditions are those that would affect the control environment in which programs are implemented but would not be detrimental to the program implementation.*
- *The team formed to make the restriction decision should continue to support the country programs team until such time that the risk prevalent in the country is mitigated.*
- *In the event that an interim period has to be extended, TGF should assess the adequacy of the interim arrangement in safeguarding its investments in the longer term and make any changes that may be necessary.*

171. Communication played a key role in the suspension decision. Countries where a public announcement of the restriction was made appeared to respond in a faster and more effective manner than those for which there was limited or no announcement.

172. The management of communication by the Secretariat in some cases was not properly coordinated. In some cases, contradictory messages were sent out. In other cases like Ukraine and Myanmar where there may have been secondary issues that caused the restriction, the lack of a clear story line resulted in accusations that the Secretariat was not being direct and truthful. In all cases, a formal statement was made at the beginning and the end of the restriction without TGF providing an update during the restriction period.

Recommendation 18
A communication strategy should be prepared as part of the restriction plan. This will ensure that contradictory messages are not sent out at any time. This strategy will determine who speaks on behalf of the Secretariat and how often communication will be made. Communication should not only be at the beginning and end of the restriction but during the restriction as and when there is information that should be communicated. It may be worthwhile to develop questions and answers to guide senior management in case they need to make statements about the restrictions.

173. Monitoring of countries during the suspension and post suspension was varied across the countries. In all countries, the budgets of the LFA increased but OIG did not see amended ToRs for the LFAs that reflected the change of work that the LFA was to do.

Recommendation 19
LFA ToRs post restriction should be enhanced. The additional work should be agreed in writing with deliverables to TGF specified. These ToRs should include providing assurance that the risks that led to the restriction are mitigated during the restriction and post restriction.

174. The TRP is independent of the Secretariat and bases its decisions on the documentation that is provided to them. TRP review decisions are based on the merit of a proposal and performance of past grants. The merit of the proposal is contained in the country proposal that is submitted to the CCM and the grant performance based on the grant performance reports. Providing information about the factors that led to a restriction and how these have been resolved can assist the TRP make appropriate decisions.

Recommendation 20
The Secretariat should consult the TRP on what type of contextual information it requires for decision making and ensure that this is provided on a consistent basis.

ANNEX 1

OPERATIONAL POLICY NOTE

Effective: 28 February 2008
Approved by: Operational Policy Committee

PURPOSE

1. The Global Fund uses a range of tools to manage risk. The Additional Safeguard Policy (ASP) is part of this risk-management strategy, which can be invoked in full or in part, based on risks identified in the country where a particular grant or group of grants is being implemented.
2. This Operational Policy Note describes the ASP as approved by the Board[8], outlines the general decision-making process to determine when particular grants should be managed under the ASP and provides examples of the types of additional safeguards that may be applied[9].

RESPONSIBILITY

3. The Country Programs Team is responsible for assessing and recommending to the Country Programs Cluster Director whether, with respect to the particular grants under the Team's oversight, (i) any grant should be managed under the ASP, (ii) the safeguards imposed on grants managed under ASP are effective and (iii) any grants currently being managed under the ASP should no longer be under the ASP.
4. The LFA assists the Country Programs Team by assessing the risks of a particular grant and recommending appropriate safeguard measures and, as requested, carries out ASP safeguard measures such as in-depth assessments of the PR and sub-recipients.
5. The Country Programs Cluster Director considers the recommendation of the Country Programs Team and makes recommendations to the Executive Director for approval.
6. The Executive Director considers the recommendation from the Country Programs Cluster Director and makes his/her final determination.
7. The Country Programs Cluster Director is responsible for reporting compliance with this policy to the Portfolio Committee and leading the annual review process of the portfolio.
8. Given the significance of invoking (or revoking) the ASP, the recommendations and decisions described above should be fully documented through formal communications.

POLICY

Criteria for Invoking the ASP

9. The Additional Safeguard Policy should be invoked when the existing systems to ensure accountable use of Global Fund financing suggest that Global Fund monies could be placed in jeopardy without the use of additional measures.
10. The evaluation criteria for making a determination of whether or not to apply the ASP include, but is not limited to, the following:

[8] GF/B7/7 'Report of the Governance and Partnership Committee' Annex 4.
[9] Memorandum by Brad Herbert to the Governance and Partnership Committee: 'Briefing on Grants Managed Under the Additional Safeguard Policy', December 20, 2004.

- significant concerns about governance;
- lack of a transparent process for identifying a broad range of implementing partners;
- major concerns about corruption;
- widespread lack of public accountability;
- recent or ongoing conflict in the country or region where the program supported by the grant operates;
- poorly developed civil society/lack of civil society participation; and
- lack of proven track record in managing donor funds in health or other sectors.

Minimum Safeguards

11. Once invoked, additional safeguards should be applied to the grant as protection against the identified risks. Examples of additional safeguards that may be applied to ensure the necessary transparency, fiduciary accountability, and reporting are listed below (this list is illustrative only – the type of safeguards should be tailored to the specific risks identified):

    a. <u>Global Fund selection of the Principal Recipient (PR)</u>: The nomination of the Principal Recipient is made directly by the Secretariat, in consultation with CCM and other development partners. PRs could include multilaterals, bilaterals, NGOs, or other suitable entities[10].

    b. <u>Additional features of the Principal Recipient Assessment</u>: The PR Assessment, in addition to normal assessments of the PR according to the *PR Assessment Guidelines*, may also feature special emphasis on the transparency and accountability of the flow of funds to sub-recipients, and in certain cases, contractors, and sub-contractors. This could include a review of the nature, type, and past experiences of sub-recipients, contractors, and sub-contractors proposed. A more in-depth review may be warranted if financial management risks are identified, a measure that may be considered is the imposition of a financial management intermediary or disbursement of funds on a reimbursable basis based on actual expenditures.

    c. <u>Sub-recipient Assessments</u>: LFAs conduct full assessments of some or all sub-recipients, including assessments of their financial management systems, institutional and programmatic structures, procurement systems, and, where appropriate, their monitoring and evaluation structures. Selection of Sub-recipients is subject to Global Fund approval based on the Global Fund's assessment of risk. Approval may be conditioned on tighter flow of funds arrangements (e.g. Sub-recipients may not receive grant funding in advance, in that, disbursement is made on a reimbursement basis only against submission of appropriate invoices and other supporting documentation – the "zero cash" policy).

    d. <u>Quarterly Reporting/Disbursements and Monitoring</u>: As with other grants, disbursement of funds will be made based on achieving performance indicators. In addition, grants managed under the ASP must meet quarterly reporting requirements. The frequency of the disbursements will depend on the risks identified, but as a general rule the timing for the disbursement schedule should be no less frequent than a quarterly basis – any exception to this general rule must be approved by the Country Programs Cluster Director. Commensurate with the quarterly reporting schedule,

[10] In the event that UNDP is selected as Principal Recipient, the special ASP standards terms and conditions of the grant agreement for UNDP should be used.

LFAs will be contracted to conduct enhanced on-site monitoring and program verification in addition to the scope and frequency of monitoring conducted in non-ASP grants, with particular focus on sub-recipients.

e. Procurement: Procurement arrangements must be tailored to address any perceived risks, including, but not limited to, the risk of diversion. Measures may include disbursement of funds on a reimbursable basis based on actual expenditures, or arrangement for direct payment to contractors/vendors, or the imposition of a procurement management arrangement (including the selection of a procurement agent or manufacturer).

f. Minimization of Exchange Rate Distortions: In circumstances of major distortions between the official exchange rate and the market rate, the Global Fund will work with other development partners, and/or establish alternative mechanisms for judicious management of grant funds in order to be able to utilize acceptable currency exchange rate baskets to remove any distortions. The LFA may be instructed to engage in more frequent site visits and accounting reviews.

g. Access Assurance: Free and unfettered access to program sites is required for all Global Fund grants. In the case of grants managed under the ASP, access by the Global Fund, LFA, and audit staff to sites, Principal Recipients, Sub-Recipients, implementing entities, contractors, including documentation in evidence of the use of the Grant Funds, must be guaranteed through appropriate assurances issued prior to grant signing if any access risks have been identified.

Revoking the ASP

12. In principle, the additional safeguards should continue throughout the entire life of the grant. However, the ASP may be revoked for a particular grant in certain circumstances. This would usually be the case when the circumstances that gave rise to the original decision to invoke the ASP for a specific grant have materially changed such that the grant systems to ensure accountable use of Global Fund financing are sufficient to safeguard Global Fund grant funds and assets without the use of the additional measures required under the ASP or when the grant implementation experience has demonstrated that the risks identified at the outset of the grant were significantly over-estimated.

Annual Review

13. The Country Programs Cluster Director will conduct an annual review of the grant portfolio (including all newly approved proposals) for the purpose of:

    a. Reviewing the effectiveness of the safeguards imposed on grants managed under the ASP;

    b. Recommending whether the ASP should be revoked for any grants; and

    c. Recommending whether the ASP should be invoked for any newly approved proposals or for any other grants where the circumstances of the grant have materially changed such as to give grounds for concern using the ASP evaluation criteria described above.

14. The Country Programs Team is responsible for reviewing its grant portfolio (including newly approved grants) to assess whether any grants pose risks that may warrant

invocation of the ASP. The identification of risks meeting some or all of the evaluation criteria referred to in Section 10 above may be prompted by FPM concerns, LFA reports, and/or reports from partners or other sources.

15. At the time of the review, the Country Programs Team should also analyze the effectiveness of the safeguards imposed on grants being managed under the ASP and determine whether any grants should be considered for revocation of the ASP.

16. The determination of whether or not to invoke or revoke the ASP will be based on written submissions to the Country Programs Cluster Director presented by each Country Programs Team. The submission should be prepared by the FPM, in consultation with relevant support teams and, as necessary, based on input provided by the LFA. The submission should state the reasons the grant was considered for ASP by reference to the evaluation criteria described in Section 10 above and whether or not the Country Programs Team recommends that the ASP should be invoked or revoked. In cases where the Country Programs Team is making a recommendation to invoke the ASP, the submission should also recommend which of the safeguards described in Section 11 above is most appropriate to use and whether any other safeguards would be appropriate, based on an assessment of the particular risks involved. If the Country Programs Team recommends that the ASP should not be invoked or revoked, the submission should set out the reasons for this recommendation (and, as appropriate, describe measures being taken to address risks that may not warrant invocation of the ASP but are nevertheless higher than those for a standard grant).

17. The Country Programs Cluster Director will review the recommendations of the Country Programs Teams and pass on his/her recommendations (including recommendations not to invoke or revoke the ASP) to the Executive Director for final decision.

18. Generally, the annual review will take place in December-January to enable timely reporting to the Portfolio Committee. However, the ASP may be invoked or revoked in respect of a grant at any time outside of this annual review cycle, if circumstances require it (e.g. if the grant has been terminated or suspended).

Reporting

19. The Country Programs Cluster Director will report to the Portfolio Committee cases in which the Additional Safeguard Policy has been invoked or revoked. The report will include information on why the policy was invoked and how particular obstacles were or were not overcome in reaching a grant agreement (e.g., the selection of the Principal Recipient, if there were major discrepancies between the official and market exchange rates, etc.). The report will also include information on why the policy was revoked with respect to a particular grant and how the associated risks have been addressed. The report will be made on an annual basis, at the first meeting of the PC each year.

Amendments

20. The Additional Safeguard Policy will be reviewed and updated as necessary based on specific cases and experiences.

ANNEX 2
Uganda review

No.	Recommendation	Response	Action	Responsible official	Completion date
Recommendations for the Uganda Government action					
Investigation and recovery of funds in Uganda					
2	The DPP should be provided with a breakdown of all SRs that received and have not accounted for money pre-suspension and investigate them with a view to recover funds that remain unaccounted for.	Noted and agreed	The office of the DPP has received and is working with the Ogoola report, Government White Paper & Ernest & Young Report. These will provide them with the required information on SRs. DPP will seek any updates.	DPP	October 2008
	The DPP in close collaboration with the PR should reconcile the organizations listed in the GWP with those that have accounted/refunded money to the CMF and those identified in the CSO report (paragraph 59). This will ensure that there is no duplication and that a comprehensive list of cases for investigation is developed.	Noted and agreed	DPP is in the process of categorising the cases. This will help in advising on the recoveries	DPP/PS-ST	October 2008
The Long Term Institutional Arrangement					
8	All M&E activities should fall under the framework of the TWG (M&E) with a senior manager chairing this meeting. This TWG (M&E) should provide a quarterly performance review of key indicators to senior management.	This is in line with the Mid term review of the health sector strategic plan, the Joint AIDS program review and Gender & education program reviews. There are ongoing studies, position papers,	Completion of the midterm review report will address this concern	Respective accounting officers of responsible sectors	December 2008

No.	Recommendation	Response	Action	Responsible official	Completion date
		assessments and development of national priority action plan (NPAP) whose recommendations will feed into the plan.			
	There should be a single official repository of information which should be housed in the resource centre databases.	The whole resource centre is undergoing assessment as reflected in the action plan.	TORs completed and shared with stakeholders Hiring of TA is due	PS Health	November 2008
	All individual programmed reports containing indicators should be copied to the resource centre manager so that there is internal agreement on these indicators. Over time vertical and parallel systems of data collection should be discontinued.	Part of MTR process	Quarterly reviews to assess progress	PS Health	On going
	Recognizing that there are no “quick fixes” there should be a commitment to a continuous process of improvement of data. This process should be accelerated by: o Regular analysis (at least quarterly) of all routine data o Quarterly feedback to districts from the central level o Regular supervision of districts including the M&E processes o Special attention should be paid to the flow of data from hospitals	To be addressed through 1. Mid term review of the health sector strategic plan 2. M&E TWG	Quarterly performance M&E reviews and data quality audits	PS Health	On going

No.	Recommendation	Response	Action	Responsible official	Completion date
	Web-based data transmission should be phased in starting with pilots in selected districts with attention given to all relevant logistical issues such as support, back-up of data, uninterrupted power supplies.	Conceptual discussions in advanced stages, piloted studies already done(MEEPP and Rakai health sciences Project)	Developing concept note for scale up and implementation of first phase.	DGHS and DG-UAC	June 2009
9	A clear operational plan for implementation of the performance measurement and management plan should be operationalised.	Noted	1. The performance measurement and management plan and its handbook will be Launched at the Joint AIDS Program Review and Partnership Forum - 13th to 17th October 2008 2. The country rollout of the PMMP and its handbook to be done	DG - UAC	30th June 2009
	Routine, formal, quarterly information should be collected from all line ministries and other key players (e.g. CSF, USAID and its funded NGOs).	Noted	In line with the M&E TWG to done quarterly by SR	DG UAC	On going activity
	The TWG needs to regularly (at least quarterly) discuss, analyze and interpret the key HIV indicators and UAC should regularly (at least six-monthly) disseminate these indicators to key stakeholders.	Noted	The M&E TWG of UAC (M&E subcommittee) is to review indicator to assess progress on quarterly basis	DG - UAC	On going

No.	Recommendation	Response	Action	Responsible official	Completion date
	A formalized mechanism for reporting to the Global Fund should be established between the UAC and the MOH.	Noted	1. The mechanism is in place in conformity and will be strengthened 2. Operational manual and abridged versions for LTIA is near completion	Chair of CCM	Done
10	UAC should support the expansion M&E of HIV/AIDS activities under MoGLSD.	Noted	In line with the M&E TWG to done quarterly by SR	DG UAC	On going activity
	The coordination and M&E roles of the MoGLSD over the CSF should be clarified.	Noted	In line with the M&E TWG to done quarterly by SR	DG UAC	On going activity
Recommendations for Secretariat action					
Investigation and recovery of funds in Uganda					
1	The LFA should review the Bank of Uganda manual register, Bank of Uganda recoveries bank account and Commission of Inquiry bank account to confirm that all recoveries made have been identified. A reconciliation of recoveries should be made.	Agree	The LFA will be asked to do this	FPM/TL	30 September 2008
3	The LFA should review and report to TGF whether the people and organizations involved and listed in the GWP are still involved in the implementation of the GF activities at country level. In cases where certain organizations and individuals are critical for the continuation of TGF programs, the LFA should provide TGF with	Agree	This is already happening. Two Program Managers have been re-assigned	LFA/FPM/TL	30 September 2008

No.	Recommendation	Response	Action	Responsible official	Completion date
	assurance that the controls in place are adequate to mitigate risk and safeguard GF resources.				
4	The Secretariat should formalise the modality that will allow the GoU to use the money recovered.	Agree	Discussions have already taken place on this. Recovered funds will be offset against any new disbursement to Uganda	FPM/TL/Finan ce	Rolling
Management of the interim period in Uganda					
5	The LFA should follow up the resolution of the issues arising from the interim period especially those that have been highlighted in the CMF exit report. These can be used as lessons learnt and help to identify potential high risk areas and control areas that need strengthening under the LTIA. The LFA's work can also help to facilitate a smooth transition from the CMF to the LTIA.	Agree		FPM/TL/LFA	ASAP
Long Term Institutional Arrangement (Uganda)					
6	The Secretariat should ensure that all approved LTIA documents are consolidated with due care in order not to deviate from the agreed modalities between GoU and TGF.	Agree	Ongoing	FPM	ASAP
7	The LFA should be commissioned to undertake more work especially around the modalities of implementation under the LTIA with the objective of identifying areas of weakness and possible	Agree	TORs to be finalized for LFA to commence work -	FPM/TL with OIG input	ASAP

No.	Recommendation	Response	Action	Responsible official	Completion date
	technical assistance to Government in strengthening the relevant areas. The LFA report would be used as a basis for discussion with the MOH and development partners about the types of technical assistance required. GAVI has already committed to providing some technical assistance to the MOH under the LTIA.				
	The LFA should review the adequacy of the audit arrangements currently proposed under the LTIA and advise whether they can provide TGF with assurance about the utilisation of TGF money.	Agree		FPM	ASAP
	The decision to disburse should be driven by the Secretariat having satisfied itself that the risks identified by this review concerning the LTIA have been mitigated.	Agree	Secretariat-wide review	FPM/TL in consultation with DCP	ASAP

ANNEX 2
Lessons learnt

No.	Recommendation	Response	Action	Responsible official	Completion date
11	The Secretariat should develop a risk management model that helps it identify countries prone to high risk that will enable it allocate its resources better and address whatever risks present themselves in countries before they affect the GF investments in country.	Agree. Under development jointly with OIG		CP, OIG, SPP	ASAP
12	In line with global trends, LFA work should be driven by risk based approach that identifies the risks inherent in a country's grants and tailors the approach accordingly so that extremely focused, cost-effective and efficient reviews are undertaken in the future.	Agree	This is tied into the point raised above, and work should be done in conjunction with the classification of countries according to risk	CP	
13	All countries coming out of a restriction should be placed on the ASG list for close monitoring until such a time when the risks inherent to the country programs are addressed.	Agree	To be operationalized immediately	CP	ASAP
	The justification for placing a country on the ASG list should be documented. This is important in ensuring that countries do not remain on the ASG list after the concerns that got them on the	Agree		FPM/TL	ASAP

No.	Recommendation	Response	Action	Responsible official	Completion date
	list are addressed. The conditions for mitigating the risk identified in the country should be agreed upon and formalised with the relevant country.				
	The conditions that countries on the ASG list are obliged to comply with should be flexible to address the specific risk in the country.	Agree		FPM/TL	Rolling
14	The different restriction options as well as their different applications should be analyzed to assess their pros and cons. This will aid the selection of the optimal restriction option in the decision making process.				
15	The decision making process should be defined using a standardized case assessment process to ensure that optimal decisions made. This should cover: • Having a plan to guide but not control the process since the plan should be flexible to address changing contexts as the restrictions are implemented. This plan should cover an analysis of the problem at hand, identification of various options to resolve the problem, an assessment of each option,				

No.	Recommendation	Response	Action	Responsible official	Completion date
	selection of optimal option etc; • Having a team that comprises the relevant country programs team as well as expertise from the specific clusters e.g. communications, finance, legal etc. The composition of the team should be consistent not by individuals but by cluster to ensure consistency in decisions made while allowing the flexibility to take account of the specific country context; • Guidance should be developed on drivers for the decision e.g. amount of money, impact of decision, whether restriction should cover all the grants in a country etc; • A management team should review and approve the decisions made. • The decision to suspend/terminate should remain a Secretariat decision but the Board should always be informed of the action taken at the earliest opportunity. The type, form and frequency of reporting to the Board should be defined on a case by case basis and should be included in the overall plan. However, exceptions to this can be made on a case by case basis, reflecting the unique country situations;				

No.	Recommendation	Response	Action	Responsible official	Completion date
	• The consultation with the CCM and technical partners in country should be assessed on a country by country basis.				
16	Countries should be encouraged to take leads in investigating allegations of mismanagement. The Secretariat should be supportive and monitor the progress of these country actions.	To be discussed. It may depend on the nature of the allegations and who are involved		To be discussed	
	As far as is practical the use of LFAs to investigate or follow up allegations should be discouraged. A roster of consultants should be developed that can be quickly called upon to investigate or follow up allegations. Proper ToRs and contracting should be developed for this type of work to ensure that TGF gets a product that it can use in decision making.	Disagree. We feel that unless there is clear evidence that the LFA is complacent or incompetent, we should use them **[In OIG's view the objectivity and independence of the LFAs in undertaking this type of work may be impaired especially if their findings expose any shortcomings in their previous work.]**		To be discussed	
	Once misappropriation is confirmed, TGF should seek to recover funds from the country before continuing with funding as far as is practical. The mode of recovering funds may vary based on the country context.	Agree	Country-specific	FPM	Rolling

No.	Recommendation	Response	Action	Responsible official	Completion date
17	The Secretariat should categorise the conditions set for countries for the lifting of suspensions into high, medium and low risk. The high risk conditions are those that would adversely affect program implementation and countries would have to address them before the restriction is lifted. While medium to low risk conditions are those that would affect the control environment in which programs are implemented but would not be detrimental to the program implementation.	Agree	As proposed	FPM	Rolling
	The team formed to make the restriction decision should continue to support the country programs team until such a time that the risk was prevalent in the country is mitigated.	Agree	Support/Oversight	team	As long as needed
	In the event that an interim period has to be extended, TGF should assess the adequacy of the interim arrangement in safeguarding its investments in the longer term and make any changes that it may deem necessary.	Agree	As proposed	FPM	Rolling
18	A communication strategy should be prepared as part of the restriction plan. This will ensure that contradictory messages are not sent out at any time.	Agree	Already happening (e.g. Indonesia) but this should be formalized	CP, Communications	Three months

No.	Recommendation	Response	Action	Responsible official	Completion date
	This strategy will determine who speaks on behalf of the Secretariat and how often communication will be made. Communication should not only be at the beginning and end of the restriction but during the restriction as and when there is information that should be communicated. It may be worthwhile to develop questions and answers to guide senior management in case they need to make statements about the restrictions.				
19	LFA ToRs post restriction should be enhanced. The additional work should be agreed in writing with deliverables to TGF specified. These ToRs should include providing assurance that the risks that led to the restriction are mitigated during the restriction and post restriction.	Agree	Define what this means exactly (has financial implications)	LFA Manager	3 months
20	The Secretariat should consult the TRP on what type of contextual information it requires for decision making and ensure that this is provided on a consistent basis.	Agree, but this should be done in-house, not with TRP		TRP Manager	