

**THE GLOBAL FUND TO FIGHT AIDS, TUBERCULOSIS, AND MALARIA**  
**LEGAL**  
**DECISIONS ADOPTED**  
**TWG MEETING 14 December 2001**

The TWG agreed:

- a. To initiate start-up actions;
- b. To recommend that the Fund is provided with an independent legal personality of its own;
- c. To explore which legal form would suit the needs of the Fund, in the chosen location, or other countries.

**1. ACTIONS IN ORDER TO GET STARTED WITHOUT DELAY**

The Discussion paper on “Arrangements to move from a Transitional to Permanent Structure” outlines a number of start-up activities. In addition the following activities should be included:

- 1.1 The TSS should arrange for actions necessary to complete recommendation C above and present it to the Board for decision.
- 1.2 The TSS should arrange for negotiation of agreements with the potential providers of Secretariat and Trustee services.
- 1.3 These agreements shall be presented to the Board of the Fund for approval.
- 1.4 Soliciting and receiving funds from donors starts. The contributions are paid into an account managed by the Trustee under the provision that the Board of the Fund shall decide on the use of the money. As soon as the account has been established, donors can make payments to it.

Two models of agreements with donors can be imagined:

- A. The Donor enters into an Agreement with the Trustee, which undertakes to handle the donation as decided by the Fund;
  - B. The Donor enters into an Agreement with the Fund, recognising the Fund as a valid partner, even if the Fund strictly speaking has not yet acquired formal legal personality. In that agreement it is stipulated that the donation shall be paid into an account managed by the Trustee. The Fund makes undertakings directly to the donor regarding how to use the money.
- 1.5 Once the Fund has acquired legal personality as a separate legal entity, all decisions taken during the start up period should be confirmed by the appropriate body in the newly established legal entity. (Thus relieving interim decision makers of any personal liability).