



**REPORT OF THE PORTFOLIO MANAGEMENT AND  
PROCUREMENT COMMITTEE (PMPC)**

**Part I Procurement and Supply Management (PSM)**

**Outline:**

The PMPC considered in the period following the Third Board Meeting a number of topics related to PSM. These included approved follow-up items from the Third Board Meeting (reference Report of the Third Board Meeting GF/B4/2), additional items raised by the Secretariat, PSM recommendations made to the Third Board Meeting that were not resolved at that time (reference also Report of the PSM Task Force GF/B3/7d), and the issue of necessary ongoing PSM support to the Global Fund. The results of the PMPC's deliberation on these topics is presented in this paper; some formal decisions are requested of the Board, while other results are presented only for acknowledgement.

**Summary of Decision Points:**

- 1. The PMPC recommends that a PSM Advisory Panel consider necessary policies for the Global Fund related to the procurement of diagnostics and other products related to the provision of medications. Refer to page 3 for further details.***
- 2. The PMPC requests that the Board adopt one of the three policies on domestic production as listed on page 5-6.***
- 3. The PMPC recommends that the Board amend the policy adopted on exemption on duties, tariffs and taxes to allow but not to encourage that Fund resources be used to pay possible product duties, tariffs and taxes. Refer to page 5 for further details.***
- 4. The Board is invited to acknowledge PMPC's decisions 4.a – 4.l on page 6-10.***

## Part II Portfolio Management

### Outline:

The PMPC considered in the period following the Third Board Meeting a number of topics related to Portfolio Management. These included approved follow-up items from the Third Board Meeting (reference: Report of the Third Board Meeting GF/B4/2) and additional items raised by the Secretariat. The results of the PMPC's deliberation on these topics is presented in this paper; some formal decisions are requested of the Board, while other results are presented only for acknowledgement.

### Summary of Decision Points:

- 1. Recommendations related to the expansion, renewal, composition and selection criteria of the TRP. Refer to page 24 for further details.**
- 2. PMPC recommends grant eligibility criteria based on poverty and disease-related need (which encompasses both current disease burden and risk of growth) be adopted. Refer to pages 25-26 for further details.**
- 3. PMPC recommends that a methodology for identifying the neediest and poorest countries to be developed, and asked the Secretariat to provide information to the Fourth Board Meeting on the needy and poor countries that have not received funds from the Global Fund. Refer to page 26 for further details.**
- 4. PMPC recommends that the Board endorse upper and lower limits for proposals submitted to the Global Fund. Refer to page 26-27 for further details.**
- 5. PMPC recommends the creation of a recourse mechanism, which is highlighted on page 27-29.**

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The PMPC recommends that the mandate of the Committee be extended to the end of 2003, with a work plan to address, inter alia, the following issues:

- Review of the Technical Review Panel
- Eligibility criteria
- Revision of the Guidelines for Proposals
- Definition and determination of mechanisms to measure additionality
- Advisory Panel on Procurement and Supply Management

1 Diagnostics and other major product categories

- 1.1 The Board decided in its Third Meeting (reference Report of the Third Board Meeting) that a necessary item of follow-up for PSM was the need for and articulation of policies on diagnostics and other major product categories related to the provision of medications.
- 1.2 The PMPC observed that WHO and other bodies have developed quality standards for diagnostics and many other public health products.
- 1.3 The PMPC agreed that this matter should be considered by appropriate technical experts and that the PSM Advisory Panel (the creation of which is decided to in **Decision 4a**) be given this task. The PMPC recognized the need to clarify the standards for the procurement of such products in lieu of formal Board policies.

***Decision 1: The PMPC recommends that a PSM Advisory Panel consider necessary policies for the Global Fund related to the procurement of diagnostics and other products related to the provision of medications. Until such policies are adopted at the Fifth Board Meeting, existing national or institutional practices should govern the selection and procurement of such products by Fund grantees.***

2 Domestic production

- 2.1 The PSM Task Force recommended to the Third Board Meeting two alternate recommendations on the subject of domestic production. The Board decided that further study of the issue was required.
- 2.2 The PMPC in its first meeting requested the WHO to conduct a survey of the practices of donors and international agencies vis-à-vis the eligibility of and any preference given to domestic production.
- 2.3 The preliminary results of this survey showed that nearly all donors and international agencies include domestically manufactured products as eligible for procurement (given other relevant policies on quality standards, competitive bidding, etc.), but that relatively few donors (particularly bilaterals) provide a formal preference for such products, sometimes through a price premium.  
See Part 1 Annex I.

2.4 The PMPC did not come to consensus on whether or not to recommend a preference for domestic production by the Global Fund. While the PMPC has a bipolar view on whether to use the World Bank price preference or none at all, there is an alternative proposal of limiting the price preference of domestic production only when compared to imported generics. Issues regarding such a preference were as follows:

2.4.1 Members of the PMPC noted that the benefit of a preferential pricing mechanism for domestic production are unclear; the administration of such a preference could be an administrative burden to recipients; and a price premium of any sort may limit the purchasing power of Fund grants. In addition, PMPC representatives stated that support for domestic production may be beyond the mandate of the Fund to be a focused financing mechanism for AIDS, TB and malaria interventions.

2.4.2 Members of the PMPC also acknowledged that actions and grants of the Fund, given its scale, risk undermining broader development efforts, including those to build local capacity, including domestic production of health products. PMPC members expressed concern that local markets could be overwhelmed by competition of international producers with greater scale and thus lower prices. Some PMPC members noted that local production can and has in a number of countries led to increased competition and reduced prices for medicines. The effects of local production on reduced prices may be seen over time.

2.4.3 Members of the PMPC agreed that, if the Fund does not formally support domestic production through a required mechanism of recipients, its development partners should continue to do so, by encouraging the various factors of production at the local level. Members also affirmed the need to monitor the impact on domestic production of the Global Fund's PSM policies.

***Decision 2: The PMPC requests that the Board adopt one of the following policies on domestic production:***

**Option 1: "Recipients should procure products of assured quality at the lowest price. The strengthening of local capacity and the domestic production of public health products are goals that the Global Fund supports. The Global Fund encourages its recipients and stakeholders to ensure that their practices do not undermine domestic production."**

**Option 2: "Recipients of Global Fund grants, at their discretion, may establish a domestic production price premium based on a standard price comparison, domestic generic products<sup>1</sup> of assured quality would be**

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<sup>1</sup> In this context, the term "generic product" refers to non-innovator products.

**allowed a premium of up to 15% over the lowest price imported generics of assured quality.”**

**Option 3: “Recipients of Global Fund grants, at their discretion, may establish a domestic production price premium comparable to that of the World Bank – based on a standard price comparison, domestic products of assured quality would be allowed a premium of up to 15% over the lowest imported product of assured quality.”**

### 3 Exemption from duties, tariffs and taxes

3.1 The Board agreed at its Third Meeting a policy on product duties, tariffs and taxes whereby the Fund encourages that national authorities in recipient countries exempt Fund recipients from such costs and stipulates that Fund resources not be used for these costs in cases in which they are not exempted. The Board further agreed that the impact of this policy, specifically on NGOs, be further studied prior to the Fourth Meeting of the Board.

3.2 The PMPC requested the Secretariat to review the effect of this policy on NGOs nominated by CCMs to be Principal Recipients of approved Round One proposals. The PMPC noted that this policy might also adversely effect other PRs. While some cases exist in which appropriate exemptions have been made in order for a NGO to play the PR role in a manner consistent with this policy, it was viewed as a constraint. Many PRs neither have the authority to guarantee, according to the legal stipulations of a Grant Agreement, that duty, tariff and tax exemptions will be made nor the cash reserves to cover associated costs in cases when exemptions are not possible. The PMPC agreed that the principle of NGO inclusion is paramount to the preferred exclusion of expenditure on duties, tariffs and taxes, though using Fund resources for such costs should be avoided as much as possible.

3.3 The Secretariat also noted to the PMPC that the policy adopted presents a challenge to contractual and reporting arrangements. In terms of reporting, the results-based reporting framework currently serving as a basis for grant negotiations, which favours outcome-based rather than line-item reporting of spending, does not provide the Fund with appropriate information to assess whether or not grantees are or are not using Fund resources to pay for duties tariffs or taxes. In terms of contracts, the Secretariat noted that it was difficult to request Local Fund Agents to advise the Secretariat on whether grantees are maintaining consistency with the adopted policy on tariffs, duties and taxes when the information required to make that assessment was not being requested.

***Decision 3: The PMPC recommends that the Board amend the policy adopted on exemption on duties, tariffs and taxes to allow but not to encourage that Fund resources be used to pay possible product duties, tariffs and taxes. The amended policy should read as follows:***

***“The Fund strongly encourages the relevant national authorities in recipient countries to exempt from duties and taxes all products financed by Global Fund grants and procured by NGOs or any other Principal Recipient or sub-recipient.”***

#### 4 PSM Advisory Panel

- 4.1 At its Third Meeting the Board asked the PMPC to explore the necessity for the continuation of a special PSM Task Force and review the memberships of such a Task Force.
- 4.2 In order to fulfil the tasks it is assigned by the Board, the PMPC agrees that it will need substantive external technical advice. Hence, the PMPC decided that continuation of the Task Force is necessary but agreed to rename it “Advisory Panel” due to its changed objectives. The PMPC prepared Terms of Reference for the PSM Advisory Panel (Annex I).

***Decision 4a: The PMPC has agreed to the creation of a PSM Advisory Panel, according to the Terms of Reference in Part 1 Annex II, to provide technical advice to the PMPC as required.***

#### 5 Product quality monitoring processes

- 5.1 The Board decided in its Third Meeting to name as a PSM follow-up item the issue of studying the nature of product quality monitoring, including the degree of intensity and the frequency of the testing, along with the costs involved.
- 5.2 The PMPC observed that the WHO is preparing guidelines on this subject as part of its ongoing work.

***Decision 4b: The PMPC has agreed to consider the subject of product quality monitoring processes, on the basis of both WHO input and advice by the PSM Advisory Panel, and make appropriate recommendations to the Fifth Board Meeting.***

#### 6 Assessing NDRA capacity to laboratory analysis for quality assurance

- 6.1 PSM decisions adopted in the Third Board Meeting refer to the assessment of NDRA capacity for the monitoring of product quality (Agenda Item 10, Decision B.6). The Board requested as a PSM follow-up item a study of how such judgements would be made.
- 6.2 The PMPC observed that currently there is not an internationally-accepted system for certification of NDRA laboratories. The WHO is focusing on the overall strengthening of NDRAs but has no specific plan to certify NDRA laboratories.

- 6.3 The PMPC noted that product samples will be tested by NDRA/WHO recognized laboratories and that there is no relationship to NDRA capacity. As such, there is no need to judge NDRA capacity.
- 6.4 The PMPC affirmed that a need does exist for judging NDRA recognized laboratories and that the mechanism for such judgement should not involve the creation of special Global Fund quality monitoring systems.

***Decision 4c: The PMPC has agreed to consider how the Global Fund should ensure the assessment of NDRA recognized laboratories for product quality monitoring, drawing on the advice of the PSM Advisory Panel, and make appropriate recommendations to the Fifth Board Meeting.***

## 7 Possible PSM-related conflicts of interest

- 7.1 The Board decided in its Third Meeting that a PSM follow-up item be the investigation of potential PSM-related conflicts of interest between grant recipients, product suppliers, and entities monitoring product quality.
- 7.2 The PMPC noted that such conflicts of interest do not necessarily exist and that, in the case of any adopted standards, the Global Fund should draw on experiences from existing donors for the establishment of these standards. Also, the PMPC suggested that items related to conflicts of interest should generally be deferred to the legal council of the Secretariat, though the PSM Advisory Panel could propose possible approaches in this case.

***Decision 4d: The PMPC has agreed to consider potential PSM-related conflicts of interest based on advice of the PSM Advisory Panel and make appropriate recommendations to the Fifth Board Meeting.***

## 8 Global procurement and bidding mechanisms

- 8.1 The Board agreed at its Third Board Meeting that a PSM follow-up item be the review of the feasibility and options for partnering relevant global bidding mechanism. An additional agreed follow-up item was a review of the feasibility or necessity of global or regional bidding mechanisms for product categories for which such mechanisms do not currently exist. The Board noted that the Global Fund would not, in any case, take on such responsibilities itself.
- 8.2 The PMPC observed that international product procurement agencies exist, including the Global Drug Facility for TB medicines (and possibly other products in the future, including TB diagnostics and malaria medicines). In case the Principle Recipient specifically requests to contract existing and well-established non-profit international procurement and quality assurance agencies, the Secretariat will be supported by the WHO in determining which of these agencies would be eligible.
- 8.3 The PMPC agreed that it would ask the PSM Advisory Panel to review the status of global bidding mechanisms for various product categories. Such

mechanisms could establish prices to be used in local procurement contracts.

***Decision 4e: The PMPC has agreed to consider issues related to global bidding mechanisms based on advice from the PSM Advisory Panel and make appropriate recommendations to the Fifth Board Meeting.***

## 9 Capacity building

9.1 The PMPC took note of the fact that the PSM Task Force had highlighted the importance of building capacity for procurement and supply management, particularly for some of the newer products being financed by the Global Fund, such as antiretroviral therapy and MDR-TB drugs.

9.2 The PSM Task Force further identified six key areas in which capacity building may be necessary:

1. Training
2. Public education
3. Technical assistance
4. Systems development
5. Cross-learning
6. Transfer of technology

9.3 The PMPC reviewed and endorsed the mechanisms for capacity building identified by the PSM Task Force, and recommends the Secretariat to make available this information to potential grantees and Principal Recipients.

***Decision 4f: The PMPC has agreed to approve the importance of capacity building for procurement and supply management as proposed by the PSM Task Force and request the Secretariat to ensure that information on the subject be made available to potential grantees and Principal Recipients.***

## 10 Pricing reporting mechanism

10.1 The Board decided in its Third Meeting that disclosure of prices paid for products purchased with Fund resources is a matter of agreed principle and that transparency in paid prices would contribute to processes leading to lower prices over time. The Board further agreed that information made available of paid prices should refer to DDU (delivery duty unpaid) costs and that the reporting of prices use a consistent methodology. The details of an appropriate mechanism were to be determined on the basis of a feasibility study.

10.2 The PMPC in its first meeting agreed that a design rather than a feasibility study was required, so that the product of the study is a functioning mechanism to collect and report data on prices paid by recipients. The PMPC further agreed to develop Terms of Reference for such a study.

10.3 At its second meeting, the PMPC agreed to Terms of Reference, as reflected in Annex I. Members of the PMPC agreed that the Secretariat

should commission the study and implement as soon as possible the product of the study. The Committee also agreed that the reporting mechanism should first focus on medicines, with information on additional products to be considered at a later stage.

***Decision 4g: The PMPC has agreed on the Terms of Reference for a Pricing Reporting Mechanism design study, as attached in Part 1 Annex III, and has directed the Secretariat to commission this study and implement the resulting system for collecting and reporting prices paid for pharmaceutical products by Global Fund recipients by September 2003.***

## 11 Direct payment of suppliers

11.1 The PMPC notes that direct payment to suppliers may lead to cost-savings, but that it is complex to operationalize. In particular, this Board recommendation requires the development of a considerable body of operational procedures.

11.2 The PMPC therefore referred this issue to the Secretariat for follow-up. It also noted that further analysis may be required by the Advisory Panel.

***Decision 4h: The PMPC has agreed to refer this issue to the Secretariat, with further analysis by the Advisory Panel as necessary.***

## 12 Product prices used for budgeting proposals

12.1 The decision endorsed by the Third Board meeting on product prices used for budgeting may lead to considerable difficulties. In particular, the requirement that proposals “must use the *lessor* of current procurement prices, firm offers from suppliers, or existing public price information sources specified by Secretariat in the Guidelines for Proposals” may be problematic, because countries will be required to budget at prices that may not be available in a country.

12.2 Thus guidance in implementing this decision is needed for CCMs and other potential applicants. In particular, elaboration on what is required by the second sentence of the decision (“A rationale for budgeting using prices other than those specified above should be described in the proposal”) should be provided. The Secretariat should developed such guidelines. Additional guidance shall be provided by the Advisory Panel as necessary.

***Decision 4i: The PMPC has agreed to refer this issue to the Secretariat for operationalization, with further analysis by the Advisory Panel as necessary.***

## 13 In-kind donations

13.1 The Board received but did not approve at its Third Meeting recommendations on in-kind contributions (reference: item 20 in Annex II of the Report of the PSM Task Force GF/B3/7d).

13.2 The PMPC observed that the main question on this issue was whether or not the Fund should solicit or accept in-kind donations on behalf of recipients. It further noted that the recipients may establish their own donation policies for direct donations.

13.3 The PMPC acknowledged that the Resource Mobilization Committee was tasked with recommending whether or not in-kind contributions, through any process, should be eligible for receipt by the Global Fund. The PMPC affirmed that in case in-kind contributions are eligible, critical PSM issues to ensure product quality should be considered.

***Decision 4j: The PMPC has agreed to consider issues related to in-kind contributions, if they are considered eligible by the Board of the Global Fund for resource mobilization, based on advice from the PSM Advisory Panel and make appropriate recommendations to the Fifth Board Meeting.***

#### 14 International and national law

14.1 The Board received but did not approve at its Third Meeting recommendations on international and national law (reference: item 11 in Annex II of the Report of the PSM Task Force GF/B3/7d).

14.2 The PMPC observed that references to international and national law were incorporated into product pricing policies adopted by the Board.

***Decision 4k: The PMPC has agreed to consider the previous recommendation made to the Third Board Meeting on the issue of international and national law, based on advice from the PSM Advisory Panel and make appropriate recommendations to the Fifth Board Meeting.***

#### 15 Supply chain management

15.1 The Board received but did not approve at its Third Meeting recommendations on supply chain management (reference: section D in Annex II of the Report of the PSM Task Force GF/B3/7d).

15.2 The PMPC observed that this entire section was deferred from deliberation during the Third Board Meeting and that the recommendations made at that time suggested very concrete policies to reduce waste and to ensure good use of Fund resources.

***Decision 4l: The PMPC has agreed to consider the previous recommendation made to the Third Board Meeting on the issue of supply chain management, based on advice from the PSM Advisory Panel and make appropriate recommendations to the Fifth Board Meeting.***

Survey of Donor Government and International Agency Policies on  
Procurement from Domestic Production  
Prepared for Global Fund to Fight AID, Tuberculosis, and Malaria  
January 2003  
(draft 9 January 2003; revised 24 January 2002)

### **Background**

The Procurement and Supply Management Task Force evaluated options for a policy domestic production. Basic principles (e.g., no compromise on quality) and policy options were presented in detail in the full Task Force Report (Section C.6, p 52-54). This analysis is included in Attachment 3.

Accepting the principle of one standard for quality, the two key issues for the Task Force were:

- (1) Should there be a price premium for locally produced products?
- (2) Should the Fund support transfer of production technology?

Reference was made to the World Bank policy on Domestic Preferences in public procurement (Guidelines: Procurement under IBRD Loans and IDA Credits, Appendix 2, Domestic Preferences). The World Bank defines "local production" based on local value added ("labor, raw material, and components from within the country of the Borrower").

At the 5-6 December 2002 meeting of the Portfolio Management and Procurement Committee was divided on the matter and requested that World Health Organization, "provide additional analysis of donor practices prior to providing a recommendation to the Board."

### **Survey Questions**

The following six questions were formulated for donor country governments and international agencies:

1. Does your agency fund procurement of pharmaceuticals and other health care products for health development?
2. If yes to #1, does your agency ever fund procurement of products from within beneficiary/recipient countries?
3. If yes to #2, is any preference given to procuring domestically produced products? (That is, products produced in the beneficiary/recipient country.)
4. If yes, to #3, what sort of preference is given? Price premium? Sole source supply?
5. Do you have written policies which guide/govern procurement of pharmaceuticals and other health care products for development? Are these policies publicly available? If YES, please include a web reference or attached file of the policies.
6. What is the name, title email address, and phone for the most appropriate person in your agency to provide additional information?

### **Responses to Date**

Responses received as at 22 January 2003 are summarized in Attachment 1 for questions 1-5 and in Attachment 2 for question 6 (contact information). Follow-up communications are underway to develop a more complete list of responses.

# Summary of Donor Government and International Agency Policies on Procurement from Domestic Production

**Part I - ANNEX I  
Attachment 1**

Country, Agency	Does agency fund pharmaceuticals & other health care products?	Does agency fund domestic procurement?	Is preference given to domestic production?	What preference is given?	Written policies exist?
	1. Does your agency fund procurement of pharmaceuticals and other health care products for health development?	2. If yes to #1, does your agency ever fund procurement of products from within beneficiary/recipient countries?	3. If yes to #2, is any preference given to procuring domestically produced products? (That is, products produced in the beneficiary/recipient country.)	4. If yes, to #3, what sort of preference is given? Price premium? Sole source supply?	5. Do you have written policies which guide/govern procurement of pharmaceuticals and other health care products for development?
Australia					
Denmark					
France	Yes	Yes	Yes - ACP Countries	Since 1998, we have a price premium of 15 % for national products and 10 % for regional products.	Cotonu agreement. EC DG Development website. Associated countries and members countries of CFA zone : guidelines for establishment of competitive bidding.
Japan	Yes	Yes	Depends on the price and the status of the available after-care (in case of equipment). Therefore, the decision is made on case-by-case basis.	Not applicable	No
Netherlands	Yes	Yes	Netherlands embassies are following the 'local/national' (or WB) tender procedures which in most developing countries include 'domestic preference'		Tender procedures in Zambia have a price preference of 15% for domestic and regional production, & 5% for imported goods held in stock in Zambia
Norway	Norwegian Emergency Preparedness System NOREPS supports UN&NGOs in supplying relief items & personnel to humanitarian conflict/disaster areas without delay		Recipients have been Africa, Asia, Central Asia, Europe and Central America		Contributes through in-kind-donations to UN-agencies
Sweden					
Switzerland	Yes, in countries such as Mozambique, Tanzania or Madagascar (the latter in the past), among others.	Depending upon the availability at the recipient's end. In the past :support for local	We systematically encourage partners to regularly purchase at best price and, according to prevailing conditions, help them to establish and/or	Not applicable	No SDC general policy. Some guidelines / working instruments on prescription and other guidelines and

Country, Agency	Does agency fund pharmaceuticals & other health care products?	Does agency fund domestic procurement?	Is preference given to domestic production?	What preference is given?	Written policies exist?
	Mechanism is central purchasing.	production of basic products / med. supply.	comply with appropriate procedures.		principles have however been developed and used at local level.
United Kingdom	Yes	Yes	Paramount consideration is value for money. In exceptional circumstances, domestically produced products may be given preference at margins, but would still need to be consistent with VFM. Exceptional circumstance might include situations demanding very rapid delivery, or products for which branding may dictate acceptability (eg some social marketing products)	DFID does not use price preferences	DFID has written guidelines, though these are not published. The gist of these is that any drugs should be registered on the WHO Essential Drugs List (though this can be waived in special circumstances) and should be procured in a way which delivers VFM and follows procurement best practice
US (additional information pending)			No rule requiring procurement from local production but often countries request this		
<b>Multilateral Agencies</b>					
European Commission	Yes	Yes	Yes - for ACP countries	Price preference of 15%- meeting certain conditions (rules of origin etc)	Cotonou Agreement - EC DG Development website
UNICEF	Procurement of pharmaceuticals is considered an important issue and UNICEF support initiatives focusing at increasing access to essential drugs. UNICEF funds are used to procure pharmaceutical products for UNICEF supported initiatives. Procurement of pharmaceuticals is centralized at UNICEF Supply Division	UNICEF Supply Division procures pharmaceuticals internationally and purchases from beneficiary/recipient countries	As unit price and do not accept lower quality or higher unit price because manufacturer is based in beneficiary/recipient country		Internal policies & procedures exist but not publically available
WHO	Yes, both for Global and Country WHO Programmes and on behalf of Member States.	Not as a rule. However if qualified, suppliers from recipient countries are invited to bid in competition with international suppliers.	No, preferential price systems are not available in WHO's Rules and Regulations		Pharmaceutical procurement follows WHO's general policy, EDM guidelines and audit recommendations. Only GMP certified

Country, Agency	Does agency fund pharmaceuticals & other health care products?	Does agency fund domestic procurement?	Is preference given to domestic production?	What preference is given?	Written policies exist?
		Consideration to domestically produced products may be given, quality and price being acceptable. This is justified by country registration requirements, delivery (geographical advantage), import restrictions, labelling in local language or other programme requirements.			manufacturers are accepted, as well as GDP wholesalers with a proven record of competence and experience. However PRS has not developed its own written policy concerning procurement of pharmaceuticals. Policies for medical equipment are currently in preparation by BCT/DCT to ensure better access to safe and effective medical devices. This will be applied to medical procurement in future.
World Bank	Yes	Yes	Yes	Up to 15%, with specific conditions as outlined in the World Bank Guidelines for procurement	Guidelines: Procurement under IBRD Loans and IDA Credits, Appendix 2, Domestic Preferences, <a href="http://www.worldbank.org/ht/ml/opr/procure/guidelin.html">http://www.worldbank.org/ht/ml/opr/procure/guidelin.html</a>

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## 6. Role of domestic production

In procuring medicines and other public health products with Global Fund resources, should any preference be given to production with in the Recipient’s own country?

To encourage the development of domestic industries, The Global Fund could choose to allow a preference in the evaluation of bids under international bidding procedures to bids offering medicines and other products manufactured within its country, if local manufacturers are compliant with required quality standards as described in section B). In such cases, the percentage granted to domestically manufactured goods (e.g., 15% such as in World Bank) should be indicated in the bidding documents. The documents should also provide the information required (if any) to establish the eligibility of a bid for such preference (e.g., 30% local content or some other criteria acceptable to the GF and the Recipient countries.)

Experience with domestic production in developing countries varies widely. Local production has proven economically viable and an important element in public health policy in a number of countries with a sound industrial base and the required pool of professional managers and technicians. There are also numerous examples of domestic procurement efforts in which economies of scale have not been achieved, low volumes have resulted in high costs, local preference has kept companies from becoming efficient and competitive, and anticipated export markets have not developed.<sup>2</sup>

Application of the preference should follow the grouping of bids into three categories: bids offering goods manufactured in the country that comply with the eligibility criteria, bids offering goods manufactured in the country that do not comply with the criteria and those bids offering the goods from abroad. A simple methodology for comparison of the lowest bids of each group should follow in order to select the winning bid.

A domestic margin of preference to quality-assured local manufacturers of ARVs for instance may be a significant tool towards improving immediate access and ensuring long-term sustainability. Its application however may be limited to an initial period and should be determined by each of the Recipient countries.

A policy on domestic production must accommodate different product types. The technical and economic feasibility of domestic production may vary considerably among product categories. For example, domestic production of bed nets and condoms may face different technical requirements and economies of scale than production of ARVs.

### Options and evaluation

Options	Advantages	Disadvantages
a. Allow Recipient its own policy regarding domestic production	<ul style="list-style-type: none"> <li>Respects principle of country-led process</li> </ul>	<ul style="list-style-type: none"> <li>Could lead to higher prices and, therefore, reduced numbers of people treated</li> </ul>
b. Provide a domestic production price premium comparable to that of the World Bank	<ul style="list-style-type: none"> <li>Domestic production can promote competition and long-term sustainability in some circumstances</li> </ul>	<ul style="list-style-type: none"> <li>With limited healthcare resources, paying any more than the lowest global price for drugs of assured quality inevitably denies care to some people.</li> </ul>
c. Provide a domestic production price premium	<ul style="list-style-type: none"> <li>Provide time for local industries to improve efficiency</li> </ul>	<ul style="list-style-type: none"> <li>As above during transition period</li> </ul>

<sup>2</sup> *Managing Drug Supply*, 2nd Edition Chapter 9, pp. 108-116. Management Sciences for Health, in collaboration with WHO. Boston, Kumarian Press, 1997

comparable to that of the World Bank during a transition period (3 years following the signing of a Grant agreement)	<ul style="list-style-type: none"> <li>Does not create confusion or interrupt abruptly those programmes based on local production</li> </ul>	
c. Provide a domestic production price premium comparable to that of the World Bank AND allow use of GF resources for transfer of technology.	<ul style="list-style-type: none"> <li>Builds local capacity.</li> <li>Encourage countries already doing it with success such as Brazil, Thailand</li> </ul>	<ul style="list-style-type: none"> <li>May not result in cheaper products.</li> <li>Possible long-term solution but may be risky</li> </ul>
d. Allow no domestic production preference. Contracts should go to the least costly qualified supplier regardless of the country of production.	<ul style="list-style-type: none"> <li>Ensures lowest possible price in the immediate-term</li> </ul>	<ul style="list-style-type: none"> <li>May delay long-term development of competition</li> </ul>

### **Ranking of options**

**Note** that in this table two mutually exclusive options, (c) and (e) are both ranked high. This reflects the division of opinion within the Task Force. Both options are presented in the Executive Summary recommendations for the Board's consideration.

Options	Summary Rank	Country-led process	Lower prices	Resource implications for:		
				Recipient	Fund	Others
a. Allow Recipient its own policy regarding domestic production	NR	+++	-		-	-
b. Provide a domestic production price premium comparable to that of the World Bank	3	++	+	↑	↑	-
c. Provide a domestic production price premium comparable to that of the World Bank during a transition period (3 years following the signing of a Grant agreement)	2	+++	+	↑	↑	-
d. Provide a domestic production price premium comparable to that of the World Bank AND allow use of GF resources for transfer of technology.	4	++	-	↑	↑↑	-
e. Allow no domestic production preference. Contracts should go to the least costly qualified supplier.	1	-	+++	↑	-	-

**Tasks To Be Accomplished**

The objective of the Procurement and Supply Management (PSM) Advisory Panel is to respond to requests from the PMPC to identify the best and most appropriate options, including those based on best practice and those which represent innovative solution, for procurement and supply management that embrace the guiding principles of the Global Fund.

These options should clearly articulate the advantages and disadvantages, the implications, and insight into the resource requirements of the various options. In addition, the options should be ranked in terms of the most favourable from the perspective of the Advisory Panel. The guiding principles to be incorporated into the work of the Advisory Panel include:

- Be as "light" as possible
- Empower national systems
- Support local capacity building
- Provide grantees broad flexibility
- Manage and minimize risk
- Leverage international systems & expertise
- Ensure safety, quality and efficacy
- Enable lowest possible prices for products of assured quality
- Affirm a new/innovative way of doing business
- Create disincentives for non-compliance
- Pursue both short- and long-term options
- Focus on end results for affected populations
- Support open and competitive bidding
- Position the Global Fund as a non-enforcement agency for law
- Enable sustainability (financial and operational)

The specific areas or issues requiring the advice and consideration of the PSM Advisory Panel will be articulated on an ongoing basis by the PMPC, based on the needs of the Global Fund and explicit requests of its Board. The scope of the Advisory Panel is to provide advice on the procurement and supply management of public health products and supplies.

The Framework Document gives the broad policy guidelines for how the Fund will deal with procurement. The main task of the Advisory Panel is to propose options for making these principles operational in the context of policies adopted by the Board.

The Fund will not set strict regulations to restrict the choices made by countries vis-à-vis procurement and supply management, nor will it assume responsibilities in place of local procurement and supply management systems. However, as countries begin to apply Fund resources to these tasks and conclude grant agreements, additional principles may be required, and the PSM Advisory Panel may be asked to recommend appropriate options for PMPC consideration and policy decision by the Board.

The PMPC will direct the Advisory Panel on which issues are pertinent (i.e. within and outside the scope of the Global Fund). The following list includes a set of possible issues for which additional guidelines or policies from the Fund may be necessary. These issues will be

adjusted and expanded through the work of the Advisory Panel and in dialogue with the PMPC through the process of work:

- Develop comprehensive standards for quality monitoring of drug samples;
- Review the status of global and regional procurement and bidding mechanisms for various product categories;
- Study the impact of direct payment to suppliers and make recommendations to the PMPC;
- Study the impact of the policy on prices used for budgeting purposes and make recommendations to the PMPC;
- Study specific critical supply issues resulting from in-kind donations (Issue E.4. in main report of the PSM Task Force) and make recommendations;
- Serve as a “Sounding Board” for the PMPC and the Secretariat for all matters related to procurement and supply management.

## **Composition**

The PSM Task Force was comprised of 16 internationally recognized experts from the public sector, private sector and NGO community. The members were nominated by Board members and have experience in medical procurement, health planning, international law, economics, clinical medicines, quality assurance of pharmaceuticals and public administration.

Like the Task Force, members of the Advisory Panel should be senior technical experts whose cumulative experience includes balanced perspectives of different regions, sectors, and procurement and supply management systems. Therefore the composition of the Advisory Panel will include individuals with local procurement expertise, UN and NGO backgrounds, and draw from the private sector as well as communities living with HIV/AIDS, TB and malaria.

Members of this Advisory Panel should act in a personal capacity, drawing strictly on their professional expertise but not representing any organization or institution. They will be asked to provide objective technical recommendations on potential policies and procedures that are optimal for the Global Fund and its grant recipients. The PMPC agreed to request the previous Co-chairs to be Co-chairs of the Advisory Panel.

Members of Board delegations and recipient Country Coordinating Mechanisms will not be eligible for the Advisory Panel. Individual experts from procurement organizations, product manufacturers, ministries of health, and other institutions will be eligible, but all members will be required to sign statements to disclose any possible conflicts of interests and commit to acting in their personal capacity.

As the Board agreed, the size of this Advisory Panel should be limited to facilitate its efficient and effective operation. A size of 15-16 is recommended (at the discretion of the Chair and Vice-Chair of the PMPC, additional members may be appointed as necessary). In addition to the group of experts, a member of the PMPC may attend meetings of the Advisory Panel to ensure linkages with ongoing PMPC proceedings. The PMPC may also invite one or more members of the Advisory Panel to attend PMPC meetings to provide reports on the work and recommendations of the Advisory Panel.

## **Modus Operandi**

Between its formal meetings, the Advisory Panel, with its experts and Co-Chairs, will work independently to engage in substantial technical discussions on relevant and identified issues. The Advisory Panel will function as its members see fit, through email correspondence and teleconferences between the Secretariat and the other members of the group. All meetings shall be arranged and facilitated by the Secretariat.

To ensure transparency, maintain an ability to solicit and assess the accuracy of inputs from the PMPC, and promote communications, the Advisory Panel will document and summarize the items discussed at its meetings.

For issues in which policy recommendations are requested, the Advisory Panel shall present the full range of options that has been analysed to the PMPC, with explanations of the importance of the topic, linkages to other policies or processes, an evaluation of the technical advantages and disadvantages of evaluated options, summary of any input provided by the PMPC on the topic, and ranked recommendations, with clear insight as to the justification of the ranking.

The Secretariat will actively support and participate in the work of the Advisory Panel. The Global Fund Procurement Manager will represent the Secretariat in these tasks and will be the secretary to the Advisory Panel. In addition, this individual and/or other staff will lead efforts to include procurement and supply management evaluations and arrangements into ongoing processes and procedures of the Global Fund.

## **Compensation and Reimbursement**

Participation in this Advisory Panel by external advisors to the Global Fund is voluntary, and time spent fulfilling its mandate, including meetings, will not be compensated. Travel, accommodation, and per diem costs for the experts will be reimbursed in the case of live meetings. As necessary, honorariums may be made available to representatives of developing countries, where participation in the Advisory Panel would be made impossible without such additional compensation.

## **Timeframe**

The Secretariat will communicate with the members of the Task Force to ask for their availability to become a member of the Advisory Panel. At the same time, PMPC members and the Executive Director will suggest names of additional experts to be invited as members of the Advisory Panel. The willingness of these nominees to become a member of the Advisory Panel was confirmed and reported to the PMPC on January 28<sup>th</sup> 2003.

The Chair and Vice-Chair of the PMPC and the Executive Director will select members of the Advisory Panel on the basis of nominations made by PMPC members and/or the Executive Director. The Advisory Panel was approved by the PMPC on 28 January 2003.

### Introduction

The Board is informed by the Portfolio Management and Procurement Committee (PMPC) that it has developed and agreed to the following terms of reference for a design study for price reporting of products procured with Global Fund resources.

The following task was given to the PMPC committee by the Board:

“Reference 10.1: Perform a feasibility study, including a full cost analysis, to develop a pricing reporting mechanism as outlined in the pricing section that will require that information on prices paid by recipients is made publicly available through existing international pharmaceutical pricing services or be made public by the Fund. This includes determining who will publish the pricing information. Taking into account that it is a difficult matter, the Portfolio Management and Procurement Committee will study the best way of achieving this objective.”

During its December 5 and 6 meeting, the PMPC committee added:

“While several international pricing services are currently available (see PSM-TF report), none of these provide the type of system needed to implement the Global Fund policy. This is a major piece of technical work which is actually a design study not a feasibility study. Such a study might require perhaps a 2-3 person team working several person-weeks”

### Objectives

To design and implement an user-friendly web-based price reporting system for pharmaceuticals procured with Global Fund resources. This mandatory reporting by PRs will reflect their accountability and transparency. Information could also facilitate and inform decisions for Principal Receipts for future procurement.

The work is divided into two phases:

#### *Phase 1: Definitions and reporting methods*

- Briefly review existing public price reporting mechanisms currently available through the world wide web;
- Establish a clear and unambiguous definition of “price” actually paid by Grantees, as, in addition to International commercial terms (e.g. DDU, FOB), other factors may influence the price of a product;
- Determine what should be included with prices reported, i.e. product volume, strength, dose, pack size, quality, name of the manufacturer, name of the purchaser, procurement system, Defined Daily Dose (DDD), etc.
- Develop a method to incorporate other issues affecting the price, such as the procurement mechanism’s costs, geographic location (shipping cost), quantities, and available discounts;
- Specify a method of converting currencies to enable reporting in one only;

#### *Phase 2: Web-based development*

- Produce a user-friendly web-based reporting system that is transparent and easy to process administratively. If required, implementation may include training.
- Develop procedures for implementation, maintenance, quality assurance and collecting suggestions for improvements of the system.
- To advise on the role of the Local Fund Agent (LFA) and Global Fund Secretariat in the auditing and verification of the data.

## **Needs requirements**

Consultants will be contracted. Among them, they need to have extensive expertise in: international pharmaceutical price reporting; pharmaceutical procurement; and web-based technology.

## **Reporting**

The design study will be conducted independently, but will be supported by the Secretariat with technical assistance.

## **Timeframe**

It is expected that a first draft of the definitions and reporting mechanisms will be available by 15 April 2003. Allowing for a period of consultation with PMPC, PSM Advisory Panel and other experts, it is expected that a test-version will be available by 1 June 2003. It is intended that the system will be fully operational by 1 September 2003.

- 1 Technical Review Panel (TRP) Renewal. See Part II Annex I.
  - 1.1 The Board decided in its Third Meeting (reference Report of the Third Board Meeting) to request that the Portfolio Management and Procurement Committee (PMPC) to: review the functioning and composition of the TRP; define how to deal with more effectively with non-disease specific elements of the TRP review.
  - 1.2 The PMPC agreed that there was a need to review the current composition of the TRP and that a decision was required to be made by the Board on the new composition and selection of the new TRP by the 3<sup>rd</sup> Call for Proposals.

***Decision 1: The PMPC in order to ensure the sustainability and continuity of the TRP and to have a good proportional balance among the different experts recommends that:***

- ***TRP membership should be expanded from 22 to 25 members, by adding 3 cross cutting experts.***
- ***The new membership should consist of 11 cross-cutters, 7 HIV/AIDS experts, 4 Malaria experts and 3 TB experts. While there is to be a maximum of 25 members of the TRP and 11 members must be cross-cutters, the chair and vice chair of the TRP may, at their discretion, adjust the number of experts from the different fields of disease expertise, with reference to the proposals submitted and the needs of the TRP.***
- ***The current Chair and Vice-Chair retain their positions as Chair and Vice-Chair and the 5 members who joined for Round 2 retain their positions on the panel on a voluntary basis***
- ***The remaining 18 seats be filled through an open, transparent, criteria-based selection process***
- ***7 of the seats be reserved for original members who may reapply (assuming 7 or more of them do so). If more than 7 reapply, those performing best against the criteria will be selected***
- ***Members of the Secretariat are ineligible to serve as TRP experts***
- ***Board/Alternate/Focal Points and CCM members must stand down from these roles if selected***
- ***Members would serve in their personal capacities***
- ***A qualified member from the PLWA (Persons Living with AIDS) community should be actively recruited among applicants.***
- ***Following TRP renewal, approximately one-third of the TRP members will be rotated each year. Members appointed from 2003 onwards will be appointed to serve a term of three years.***
- ***By April 2003, the PMPC and the Executive Director will recommend to the Board the candidates for the TRP for approval. The PMPC may decide to call on external and/or multi-lateral agencies (WHO, UNAIDS, World Bank) for assistance as required. Further working methods will be developed on the 28th of January 2003***
- ***By the 3<sup>rd</sup> round of TRP 64% of the TRP members will be new in comparison to the TRP appointed in March 2002***
- ***TRP members must not attend Board or Committee meetings as members of their constituency.***

## 2. Revising eligibility criteria

2.1 The PMPC was requested at the 3<sup>rd</sup> Board meeting to address the issue of setting clearer boundaries for financial support by the Global Fund, including eligibility, priorities and Round budgets.

2.2 Both the PMPC and the Secretariat felt that the request for proposals should be adjusted to include eligibility criteria. The PMPC agreed that eligibility should be determined by poverty (expanded beyond the current OECD DAC exclusion) and disease-related need (which encompasses both current disease burden and risk of growth), but recognized that further work was required on the use of disease-related need. The PMPC will make a recommendation to the Fifth Board Meeting on incorporating disease-related need into the guidelines for the Fourth Round, based on input from WHO and UNAIDS. The PMPC felt strongly that poverty and disease-related need should be used to specify a clear list of eligible countries at the Guidelines for Proposals stage, rather than using them to disqualify countries that had prepared applications at subsequent stages of the process.

***Decision 2: The PMPC, after considering the report from the Secretariat recommends the following to the Board regarding the revision of eligibility criteria:***

- ***Poverty and disease-related need (which encompasses both current disease burden and risk of growth) are the criteria that will be used to determine eligibility to apply for financing from the Global Fund.***
- ***For the Third Round of applications to the Global Fund:***
  - a. ***Countries classified as “Low Income” by the World Bank are fully eligible to apply for support from the Global Fund;***
  - b. ***Countries classified as “Lower-Middle Income” by the World Bank are eligible to apply for support from the Global Fund but must meet additional requirements, including co-financing, focusing on poor or vulnerable populations, and moving over time towards greater reliance on domestic resources;***
  - c. ***Countries classified as “Upper-Middle Income” by the World Bank are eligible to apply for support from the Global Fund if they face very high current disease burden (a list of such countries will be provided to the Board and included in the Guidelines for Proposals); further, they must meet the additional requirements, including co-financing, focusing on poor or vulnerable populations, and moving over time towards greater reliance on domestic resources;***
  - d. ***Countries classified as “High Income” by the World Bank are not eligible to apply for support from the Global Fund;***
- ***For the fourth and subsequent Rounds of applications to the Global Fund, WHO and UNAIDS will be asked to provide matrices categorizing countries based on disease-related need and poverty. These matrices will be used as the basis for categorization of eligible countries for each disease and will be presented to the Fifth Board meeting for use beginning with the Fourth Round of applications to the Global Fund.***

**See Part II Annex II.**

3 Identifying neediest and poorest countries and ensuring that they are not systematically excluded

3.1 The PMPC was requested at the 3<sup>rd</sup> Board meeting to address the issue of identifying the neediest and poorest countries and ensure that they are not systematically excluded.

3.2 It was felt by both the PMPC and the Secretariat that there is a need for clearer and more robust guidelines to ensure that the Fund is maximizing its ability to disburse resources on the basis of its principles, along the various steps of the fund portfolio management process.

***Decision 3: While the methodology for identifying the neediest and poorest countries is being developed, the Secretariat will supply information on needy and poor countries that have not received funding in Rounds 1 and 2 to the 4<sup>th</sup> Board meeting. The information presented to the 4<sup>th</sup> Board meeting on needy and poor countries will also be provided to partners to encourage them to support these countries in the process of applying to the Global Fund.***

***For the Fifth Board meeting, the PMPC will provide recommendations on mechanisms for ensuring that the neediest and poorest are not systematically excluded from funding.***

4. Setting upper and lower limits on proposals

4.1 The PMPC was requested at the 3<sup>rd</sup> Board meeting to address the issue of setting boundaries to the application process, which is currently unconstrained.

4.2 The PMPC agreed that setting upper limits on proposals would be appropriate in view of the limited absorptive capacity of countries and given the limited resources of the Global Fund. Further, setting upper limits based on existing public health expenditure would create a linkage between Global Fund financing and country commitment.

4.3 The PMPC agreed that setting lower limits on proposals would be appropriate in view of the mandate of the Global Fund to focus on scaling up programs and obtaining national coverage. The majority of Committee members felt that lower limits should apply to all proposals, regardless of their origin. However, some Committee members were concerned that subjecting non-CCM proposals to the same limit as CCM proposals was inappropriate and would have the impact of excluding NGOs (over and above the existing restrictions on NGOs applying directly to the Global Fund).

***Decision 4. The PMPC recommends that the Board endorse upper and lower limits for proposals submitted to the Global Fund.***

***The PMPC recommends that the Board endorse the strongly preferred recommendation to use a lower limit of US\$2 million per year per proposal. Alternatively, the minority option supports the use of a lower limit of US\$2 million per year per proposal on all CCM applications, and a lower limit of \$1 million per year per proposal on all non-CCM applications.***

***The PMPC recommends that the Board endorse an upper limit on all proposals of US\$50 million per year and of 50% of total public health sector expenditure per year (whichever figure is the lower).***

## 5 Recourse mechanism (appeal procedure)

- 5.1 The Board decided in its Third Meeting (reference Report of the Third Board Meeting) to ask the PMPC to consider the need for, and making recommendations about, a recourse mechanism for CCMs.
- 5.2 The PMPC has discussed the need for recourse mechanism and agreed in consensus that there was a definite need for a recourse mechanism for those countries whose proposals had been rejected for one reason or another.
- 5.3 The PMPC requested a member of the committee to formulate a conceptual paper on the Recourse process and for the Secretariat to contact lawyers and International Organizations to identify principles and best practices for establishing a recourse mechanism.

***Decision 5a: The PMPC unanimously agreed the appeal mechanism should be impartial, objective, independent, simple, speedy and well accepted by all stakeholders. However, strict criteria must be applied to minimize the number of appeal proposals.***

- 5.4 The PMPC discussed the issue of eligibility for appeal and reviewed several options.

***Decision 5b: The PMPC decided that proposals rejected through the Secretariat screening, due to clear cut ineligibility criteria, are not eligible for appeal. Only those proposals in category three and four in both the current and the last Round (repeated failure cases) can appeal. The PMPC also agreed that CCMs only submit a new proposal on a different disease component than the one going through the Appeal Process.***

***Decision 5c: The PMPC member unanimously agreed on the following criteria***

- ***Appeals must have CCM endorsement.***
- ***Applicant shall provide the specific grounds upon which it claims the TRP was in error regarding information contained in the proposal. It is not permitted to provide additional information or justification additional to that contained in its proposal.***
- ***The appeal panel should assess appeals using the same assessment criteria as used by the TRP.***
- ***To prevent unfair treatment to other failed applicants who do not appeal, and to safeguard appeal panel independence from unnecessary pressure, a face to face discussion, negotiation between appeal panel and applicants is not allowed.***
- ***The GF Board should endorse/reject the recommendation of the appeal panel via email.***
- ***GF Board decision on the appeal is final.***
- ***Appeal can be made only once.***

***The PMPC also endorsed a timeline for appeals which allows CCMs to appeal within four weeks of notification, appeal process to be finalised within four weeks and Board endorsement within two weeks after the receipt of Panel recommendations.***

- 5.5 The PMPC discussed several models of Appeal Panels. See Part II Annex III.

### **Option 1 TRP as Appeal Panel**

**The TRP Chair and Vice-Chair appoint three members who were not the first, second and third reviewers of that specific proposal. The TRP Chair, Vice- Chair and three reviewers via email discussion (if necessary teleconference) make final recommendation to the Board**

**Option 2 Board Appeal Panel**

**The Board appoints a Board Appeal Panel of 3-5 members. Members will be selected from independent technical experts or from GF partners who are familiar with GF work.**

**Option 3 Independent Appeal Panel**

**During the recruitment of a new TRP, an independent Appeal Panel of 3-5 members shall be selected from list of experts' nomination for TRP. The Independence Appeal Panel is independent from TRP.**

#### Option 4 Appeal Panel

To be comprised by three high level experts to be proposed by WHO, UNAIDS and the World Bank. These would be joined by two TRP members, one disease expert and one cross cutting expert who were not either the primary or secondary reviewer of that specific proposal. The TRP members will change based on the proposal to be reviewed.

#### Option 5 Creation of Ombudsperson

The office of an ombudsperson is an independent entity responsible for reviewing and responding to claims of perceived injustices and can be an affective facilitator of disputes. Specifically, the ombudsperson would review requests and determine if a case merits further consideration and then seeks clarification and provides additional information as needed.

***Decision 5d: The PMPC endorsed a fourth option: Appeal Panel to be composed by three high level experts to be proposed by WHO, UNAIDS and the World Bank and two TRP members, one disease expert and one cross-cutting expert, who were not either the primary or secondary reviewer of that specific proposal.***

#### 6. Additional Issues:

The PMPC recognizes that there two important issues that could not be discussed because of time limitation and agreed to defer them to the 28<sup>th</sup> of January meeting and these are:

***6.1 The need for increased contextual information to support the Technical Review process. Recognizing the need for more robust information and TRP deliberation, the PMPC will recommend to the Fifth Board meeting mechanisms to address this need.***

***6.2 The PMPC asks the Board to acknowledge the need for clarification of what the Global Fund means by “additionality”. The PMPC will come up with suggested definitions for the Fifth Board meeting.***

## CONSENSUS RECOMMENDATION

### Decision 1: That :

- I. the TRP be renewed in time to assess the third round of proposals ;
  - II. the membership be expanded to 25;
  - III. there should be 11 cross-cutters, 7 HIV/AIDS experts, 4 malaria and 3 TB experts in the new panel. While there is to be a maximum of 25 members of the TRP, the chair and vice chair of the TRP may, at their discretion, adjust the number of experts from the different fields of expertise, with reference to the proposals submitted and the needs of the TRP;
  - IV. the current Chair and Vice-Chair retain their positions as Chair and Vice-Chair and the 5 members who joined for round two retain their positions on the panel on a voluntary basis;
  - V. the remaining 18 seats be filled through an open, transparent, criteria-based selection process;
  - VI. 7 of these seats be ringfenced for original members who may reapply (assuming 7 or more of them do so). If more than 7 reapply, those performing best against the criteria are selected;
  - VII. the criteria in section 2c below be used for the selection process;
  - VIII. members of the Secretariat are ineligible;
  - IX. Board/Alternate/Focal Points and CCMs must stand down from these roles if selected;
  - X. members would serve in their personal capacities;
  - XI. A qualified member from the PLWA (Persons Living with AIDS) community should be actively recruited among applicants;
  - XII. Following TRP renewal, approximately one-third of the TRP members will be rotated each year, as outlined in Section 4/ Members appointed from 2003 onwards will be appointed to serve a term of 3 years;
  - XIII. a shortlist of 100 (and a list of unsuccessful applicants), provided by the contracted external firm, is considered by the full PMPC and Executive Director, who make a recommendation to the June Board;
- NB: the PMPC recommends to the Board that TRP members must not attend Board or Committee meetings as a member of their constituency.**

## BACKGROUND

### 1. What is the current situation ?

#### *A. The original selection process :*

The current TRP members were appointed by the mini-board meeting in March 2002, after the following process :

- a public appeal for applications to serve as TRP members was launched by the secretariat, and one thousand applications were received.

- after a screening of all the applications by WHO and UNAIDS, one hundred applications were analysed by a working group (WG on proposals). 17 applicants were proposed to the board for appointment as TRP members and 17 others as TRSG members.
- 'The 17 members of the TRP were appointed to serve for the first two rounds of proposals. It was decided to re-evaluate the current composition of the TRP at the 3<sup>rd</sup> Board meeting and also to discuss the Terms of Reference as well as the selection procedure at that time. It was also agreed that for future TRPs attention needs to be given to increasing the participation of private sector candidates, as well as those with experience of broader development processes and macro-economic issues.' (Board decision)
- after the first round, 5 new members, chosen within the TRSG members, were added.

#### B. The current situation :

There are 22 TRP members : 15 disease experts disease and 7 non disease experts (or cross-cutting experts) :

- 7 HIV/AIDS experts (3 Women)
- 4 TB experts (1 Woman)
- 4 malaria experts (1 Woman)
- 7 cross-cutting experts (2 Women)

Total : 22 (7 women)

The following table presents the current distribution of TRP members by disease in comparison with the distribution of proposals received by TRP for the second round of applications :

	<i>TRP Members</i>	<i>Approved Proposals</i>
HIV/AIDS	32 %	70 % <sup>3</sup>
TB	18 %	10 %
Malaria	18 %	20 %
Cross-cutting	32 %	-----
Total	100	100

## 2. What is the proposal ?

### A. The objective

To renew the TRP in line with March and October Board decisions such that it has the skills mix required to assess both technical and broader development contextual issues.

We propose a substantial further **increase in cross-cutting skills**, and a **substantial renewal** of the original members whilst retaining sufficient members to ensure some **continuity**.

<sup>3</sup> Included 57 % HIV and 13 % HIV/ TB

The TRP will be extended to 25 members. **25 is a ceiling to make an effective job and work by consensus.**

The distribution (described below) is acceptable, with 11 non disease experts. The distribution of members by disease reflects the distribution of proposals. **So we propose this distribution : 11 non disease experts, 7 HIV/Aids, 4 malaria and 3 TB.**

**8 out of the 17 original members should be replaced after the second round**, and three additional members be recruited, based on the selection process described below.

	<i>TRP</i>	<i>Approved proposals</i>
<b>HIV/AIDS : 7</b>	<b>28 %</b>	<b>70 %</b>
<b>TB : 3</b>	<b>12%</b>	<b>10 %</b>
<b>Malaria : 4</b>	<b>16 %</b>	<b>20 %</b>
<b>Cross-cutting : 11</b>	<b>44 %</b>	<b>----</b>
<b>Total</b>	<b>100</b>	<b>100</b>

*B. The selection process :*

The new TRP should be in place and operational by June to prepare the third round.

The following process is proposed:

- January 2003 : Board decision to extend by 3 the current TRP and to renew TRP membership and composition as outlined above;
- early February : call for applications to new TRP issued ; applicants informed that, if unsuccessful, their applications may be kept on file and reconsidered in 2004 when further places become available;
- end March : deadline for applications ;
- mid April : the screening panel (3 WHO, 2 UNAIDS, 2 World Bank, and the Chair / Vice Chair of the PMP Cttee, or any other two members of that Committee as agreed by its members) is convened in Geneva to produce a shortlist of 100 ;
- late April / early May : PMP Committee and Executive Director select TRP
- June : Board appoints new TRP
- July : TRP considers third round

### C. The criteria :

The following criteria would be used to shortlist and select new TRP members. They are designed to ensure a skills mix which will enable the TRP to make judgments across all the agreed criteria by which they are asked to assess proposals. All applicants should be available for dates of TRP meetings, though this should be a pre-requisite of applying rather than a criterion.

#### Disease specific experts:

- Experience and expertise in at least one of the three diseases;
- Expert knowledge with internationally accepted best practice and ability to judge whether proposals are consistent with this and scientifically sound;
- Familiarity with international processes and national / global partnerships (eg Stop TB, RBM, UNAIDS, National AIDS Control Programmes);
- Familiarity with multi-sectoral approaches, particularly for HIV ;
- Expertise in tackling the diseases in a developing country context.

#### Cross-cutters:

- Experience / understanding of current development processes and best practice (including national planning, prioritisation, budgeting and implementation systems) and ability to make judgements on whether proposals build on, complement and co-ordinate with these;
- Experience of working in developing countries;
- Understanding of key challenges to achieving better outcomes and ability to make judgements on feasibility of implementing proposals in developing country context and likelihood of delivering increased coverage;
- Familiarity with international processes and national / global partnerships (eg Stop TB, RBM, UNAIDS, National AIDS Control Programmes) and NGOs;
- Understanding of issues around financial management, supply and distribution; ability to appraise governance and institutions ;
- Ability to assess high-level political involvement and commitment, whether this is reflected in the allocation of national resources, and whether Global Fund money is additional;
- Ability to judge whether monitoring and evaluation mechanism and indicators are realistic / appropriate;
- Basic understanding of diseases-specific issues (see above).
- Expert knowledge of health systems

The Committee would select those applicants who perform best against the above criteria. Wherever possible consistent with this, they will seek to achieve a significant proportion of members from each of the WHO regions, and sufficient representation of gender and from public and private sectors and civil society. A qualified member from the PLWA (Persons Living with AIDS) community should be actively recruited among applicants.

*We would encourage applicants with strong experience from private sector. The private experience taken into consideration should not be limited to the pharmaceutical industry : experience in managing private health systems or health care in productive firms in the developing world would be very useful.*

*All selected TRP members would be subject to the Fund's conflict of interest and confidentiality policy.*

*D. The screening and selection committees :*

The screening committee will be composed of 3 WHO, 2 UNAIDS, 2 World Bank, and the Chair / Vice Chair of the PMP Cttee, or any other two members of that Committee as agreed by its members.

The selection committee will comprise the PMP Cttee and the Executive Director.

The recommendation by the committee will be submitted for endorsement to the board in June.

**3. Why this option is consistent and should be adopted ?**

- A. The choice of this option will lead to an important renewal of TRP members (64% of the members in the TRP for the third round will be new members in comparison to the original members) :

If the Board adopts the above recommendations , **the new TRP for the third round will have only 9 original members (36 %), 5 members who joined in round two (20%) and 11 new members (44 %).** After one year, the TRP will be renewed by 64 %. The importance of undertaking this important renewal at this time fully justifies the costs of the process.

- B. But we take into consideration the work done by TRP and the lessons learnt from the first two rounds :

Lessons have been learned in the start up period. The current TRP has worked extremely hard in difficult circumstances, and deserves the Fund's gratitude and respect for doing so. The professionalism and integrity of current TRP members is highly valued, and their experience will be invaluable to incoming new members.

**The recommendation proposed is an effective and practical one** to enhance the skills mix of the TRP while maintaining continuity, taking into account the lessons learnt from the two first rounds experience. A full change of TRP members would risk losing the lessons learnt from experience.

- C. we make this renewal as part of a wider effort to enhance consideration of contextual issues : We recognise that amending the composition of the TRP will not by itself ensure that cross-cutting issues are fully addressed. In parallel, we are proposing a methodology to give the TRP access to more contextual information before assessing proposals. The new TRP will have the skills to make judgments on the basis of such information; and
- D. we prevent from sending the “wrong message” : The TRP is a panel of independent experts. It judges proposals based on performance against criteria as stipulated in the guidelines for proposal submission. A full change of TRP might have a negative impact on lesson learning, and on the credibility of the process.

#### **4. The future ?**

If the June Board is content with this important initial renewal, we propose that from 2004 onward one-third of TRP members rotate off the panel each year. An appeal for new applications need only be run once every two years, with candidates considered for two renewal processes.

## Diagram of TRP renewal

	<i>Recruited March 2002</i>	<i>Recruited Sept 2002</i>	<i>Recruited 2003</i>	<i>Recruited 2004</i>	<i>Recruited 2005</i>	<i>Recruited 2006</i>
<i>TRP 1st Round</i>	17	--	--	--	--	--
<i>TRP 2<sup>nd</sup> Round</i>	17	5	--	--	--	--
<i>TRP 2003</i>	9	5	11	--	--	--
<i>TRP 2004*</i>	2	4	11	8	--	--
<i>TRP 2005</i>	--	--	9	8	8	--
<i>TRP 2006</i>	--	--	--	8	8	9

\*From 2004, the TRP is invited to select a chair and vice chair from amongst their own members, based on the principle that one should be a disease expert and one a cross cutter.

## **Terms of Reference for the Selection of TRP for the Global Fund**

### **Objective:**

To manage for a transparent and extensive recruitment and selection of a new TRP for the Global Fund.

### **Plan of Action**

- a) Design of a standard web-based application form which can facilitate systematic analysis of the applicants according to the selections of criteria (see attachment)
- b) After approval of the application form by the PMPC, an extensive public announcement for a call for applications will be made by the end of February 2003
- c) Collect and systematically analyze the applications, to achieve a concise report, to facilitate further screening.

Based on the agreed criterion and the information in (c), select 100 candidates most relevant to the selection criteria, to be submitted to the PMPC for selection of the TRP

<b>Country categorization: [disease name]</b>					
	<b>No data</b>	<b>Low</b>	<b>Medium</b>	<b>High</b>	<b>Highest</b>
<b>Low</b>	100% eligible: [list of countries]	100% eligible: [list of countries]	100% eligible: [list of countries]	100% eligible: [list of countries]	100% eligible: [list of countries]
<b>LMI</b>	100% or partially eligible: [list of countries]	Partially eligible: [list of countries]	Partially eligible: [list of countries]	100% eligible: [list of countries]	100% eligible: [list of countries]
<b>UMI</b>	Ineligible: [list of countries]	Ineligible: [list of countries]	Ineligible: [list of countries]	Partially eligible: [list of countries]	Partially eligible: [list of countries]
<b>High</b>	Ineligible: [list of countries]	Ineligible: [list of countries]	Ineligible: [list of countries]	Ineligible: [list of countries]	Ineligible: [list of countries]

### Rationale

In the first round of reviewing proposals, more than two hundreds components were reviewed which only one-fourth were approved by the Board. As a consequence, many countries raised concern about the reviewing process whether their proposals were adequately considered and the process of reviewing was appropriated. As operation of the Global Fund is a learning process, many activities are not yet perfect, including the process of the TRP. The time constraint posted on the TRP in the process of reviewing, unclear guideline of proposal, unclear guideline for reviewing, and limitation of experts in some aspects among TRP members in the first round may resulted in the GF supporting low quality proposals or excluding good proposals. There were also some cases of the proposals excluded due to secretariat management problems. The GF Board has thus decided, in its third meeting, that..... “(b) Considering the need for, and making recommendations about, a recourse mechanism (appeal procedure) for countries”. The Board also requested PMPC to address this topic, among others, for the 4<sup>th</sup> Board meeting in January 2003<sup>4</sup>.

### Outline of issues

This paper will provide recommendations based on PMPC meetings in Geneva from 5-6 December 2002 and 10-11 January 2003. Five aspects will be addressed:

- A. The need for recourse mechanism
- B. Principle of the Recourse mechanism
- C. Eligibility criteria
- D. Appeal process
- E. Appeal panel

#### A. The need for recourse mechanism

##### Consensus Recommendation.

PMPC has discussed the need for recourse mechanism and agreed in consensus that there was a definite need for a recourse mechanism for those countries whose proposals had been rejected for one reason or another.

#### B. Principle of the Recourse Mechanism

##### Consensus Recommendation.

The PMPC unanimously agreed that the appeal mechanism should be *impartial, objective, independent, simple, speedy and well accepted by all stakeholders.*

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<sup>4</sup> Refer to Report of the third Board meeting agenda item 9, decision 6.

However, strict criteria must be applied to minimize the number of the appeal proposals.

### **C. Eligible applications<sup>5</sup> for appeal**

#### Consensus Recommendation.

Only proposals passed the screening by the secretariat, considered by TRP but felled into category 3 and 4 can be appealed. Those proposals rejected through the secretariat screening, due to clear-cut ineligibility criteria, are not eligible for appeal.

#### Alternative Recommendations.

For eligibility criteria of proposals in categories 3 and 4, four options were proposed by PMPC members:

#### **Option 1**

Any proposals in category three and four for the current round can appeal.

#### **Option 2**

Only those proposals in category three and four in both the current and the last round (repeated failure cases) can appeal.

#### **Option 3**

Only the neediest (measured by prevalence and potential epidemics of the three diseases, and poverty) applicants in categories three and four in current round can appeal.

#### **Option 4**

Only neediest applicants in category three and four in current and the last round (repeated failure cases) can appeal.

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<sup>5</sup> Application refers to the whole application or one or more components in the application.

Options	Pro	Con	No of eligible Countries
1. Any proposals in categories 3,4 in current round	<ul style="list-style-type: none"> <li>• Provide equal opportunity for any unsuccessful proposals to be appealed</li> </ul>	<ul style="list-style-type: none"> <li>• Possibility of leading to high workload, time and cost implications for the GF if all categories three and four decide to appeal</li> </ul>	<ul style="list-style-type: none"> <li>• 109</li> </ul>
2. Any proposals in categories 3,4 but only for both current and previous round (repeated failure)	<ul style="list-style-type: none"> <li>• Provide equal opportunity for any unsuccessful proposals to be appealed but focus to only countries with less technical capacity</li> </ul>	<ul style="list-style-type: none"> <li>• May send false message that GF provide more opportunity to countries with less technical capacity</li> </ul>	<ul style="list-style-type: none"> <li>• 31</li> </ul>
3. Only neediest countries in categories 3,4 in current round	<ul style="list-style-type: none"> <li>• <i>Provide rooms for re-considerations by failed applicants only for those from the neediest countries.</i></li> <li>• Reasonable workload of the TRP to only those in need</li> </ul>	<ul style="list-style-type: none"> <li>• Limit equal accessibility for non-neediest proposals to appeal which might create unfairness</li> </ul>	<ul style="list-style-type: none"> <li>• 35</li> </ul>
4. Only neediest countries in categories 3,4 but for both current and previous round (repeated failure)	<ul style="list-style-type: none"> <li>• Provide opportunity to the most neediest both in term of disease burden, economic situation and technical capacity</li> <li>• Most restricted criteria thus reduce workload of the TRP to only those in need</li> </ul>	<ul style="list-style-type: none"> <li>• Limit equal accessibility for non-neediest proposals to appeal which might create unfairness</li> </ul>	<ul style="list-style-type: none"> <li>• 13</li> </ul>

In any option the GF must, by all mean, ensure the TRP has good practice and highest standard of review, justify decision, clear and thorough feed back information to applicants. It is strongly recommended that the chair and vice-chair of TRP provide information on experiences learned in the review processes, to prevent unnecessary appeals.

#### **D. Appeal Process**

##### Consensus Recommendations.

1. The PMPC member unanimously agreed that proposals must have CCM endorsement in order to appeal.
2. Applicant shall provide specific information, clarification on the points of weakness cited by TRP based on the original application (not a full flesh resubmission of new proposal to the appeal panel) to the secretariat. The secretariat shall submit to the appeal panel.

3. To prevent unfair treatment to other failed applicants who do not appeal, and to safeguard appeal panel independence from unnecessary pressure, a face to face discussion, negotiation between appeal panel and applicants is not allowed
4. The GF Board endorses recommendation by the appeal panel via email.
5. GF Board decision on the appeal is final.
6. Appeal can be made only once.

#### Timeline

1. The CCM shall submit for appeal within 4 weeks upon notification of the failed result.
2. The appeal process shall be finalized by 4 weeks.
3. The Board shall endorse recommendations by the Appeal Panel within 2 weeks

### **E. Appeal Panel**

#### Alternative Recommendations

#### ***Three options were proposed by PMPC members:***

##### *Option 1 TRP as appeal panel*

1. The TRP chair and vice-chair allocate re-review to three members who were not the first, second and third reviewers of that specific proposal.
2. The TRP chair, vice chair and three reviewers via email discussion (if necessary teleconference) made final recommendation to the Board

##### *Option 2 Board Appeal Panel*

1. The Board appoints a Board Appeal Panel of 3-5 members. Members selected from independent technical experts or from GF partners who are familiar with GF works. The Board Appeal Panel is independent from TRP.
2. Based on investigation of TRP review process and its recommendation and arguments by the appeal applicants, the Panel makes its recommendations to the Board on the result of appeal.

##### *Option 3 Independent Appeal Panel*

1. During the recruitment of a new TRP, an independent Appeal Panel of 3-5 members shall be selected from list of experts' nomination for TRP. The Independence Appeal Panel is independent from TRP.
2. Based on investigation of TRP review process and its recommendation and arguments by the appeal applicants, the Panel makes its recommendations to the Board on the result of appeal.

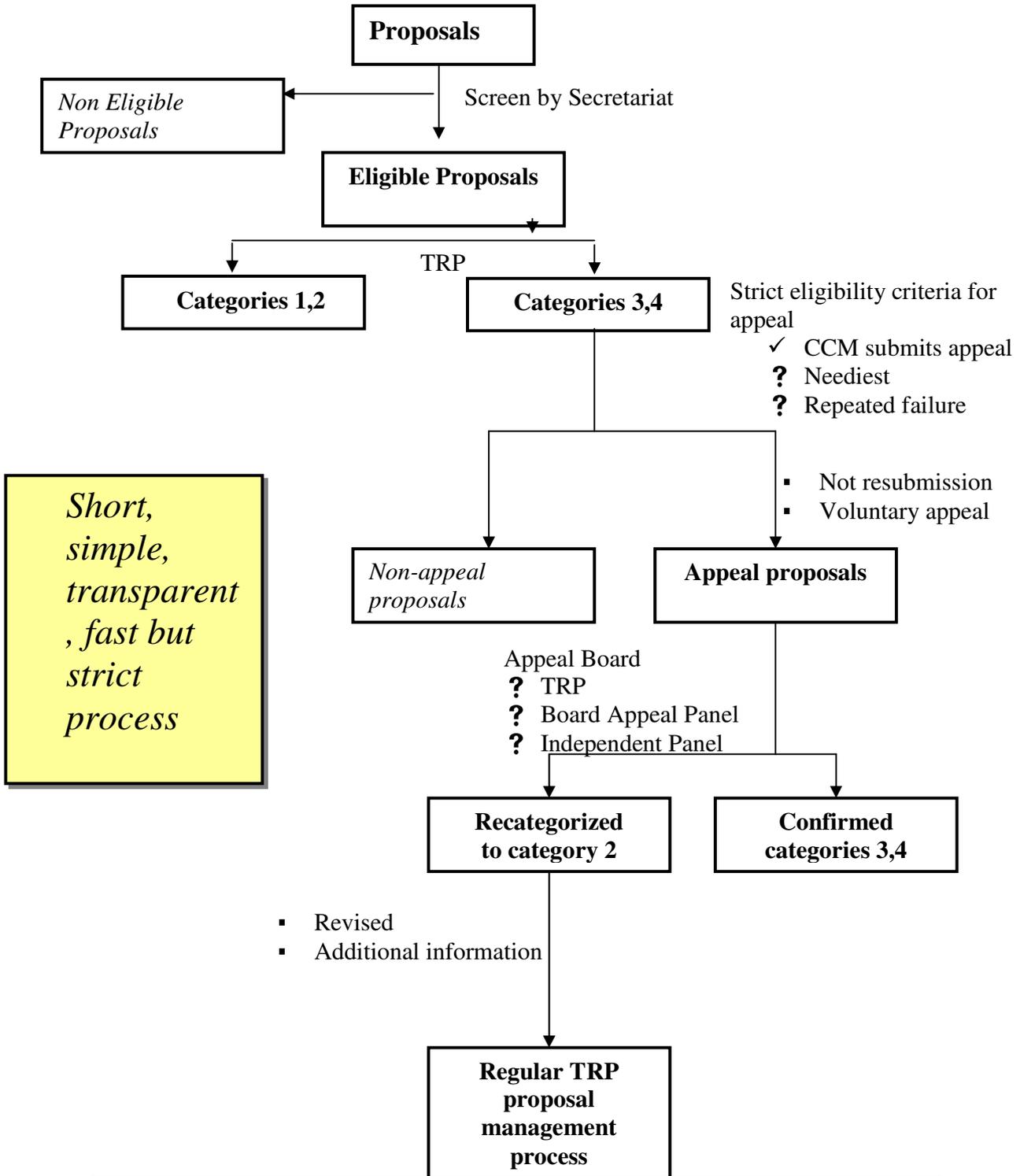
Options	Pro	Con
1. TRP as appeal panel	<ul style="list-style-type: none"> <li>• Same standard of measurement will be used but soliciting second opinion from different members of reviewer thus recommendations will be comparable using similar standard of measurement.</li> <li>• Fair treatment for non-appeal proposals so that the appeal proposals did not receive different measurement</li> </ul>	<ul style="list-style-type: none"> <li>• First group of reviewer may feel offended if appeal recommendations differ.</li> <li>• Appeal applicants lose trust in the TRP measurement, thus refuse to accept the recommendations</li> </ul>
2. Board Appeal Panel	<ul style="list-style-type: none"> <li>• Using higher level of appeal panel (than TRP) ensures acceptability by all constituencies.</li> <li>• Using different measurement will reduce the conflict between the recommendations made by TRP and the appeal panel.</li> </ul>	<ul style="list-style-type: none"> <li>• Different measurements may create questions on fairness between TRP review process and appeal panel process especially among non-appeal proposals</li> </ul>
3. Independent Appeal Panel	<ul style="list-style-type: none"> <li>• Ensure independence between of Appeal Panel from TRP</li> </ul>	<ul style="list-style-type: none"> <li>• Newly appoints Appeal panel members might not be familiar with the GF operation, thus it may be difficult to understand the principles of the Fund and make good judgment.</li> <li>• This can not be applied immediately after the second round.</li> </ul>

### Actions by the GF Board at the 4<sup>th</sup> Meeting

The Board is asked to

1. Endorse the recourse mechanism and appeal process, which is consensus recommended, proposed by PMPC members.
2. Make decision on options of eligibility criteria for TRP rejected proposals.
3. Make decision on options of appeal panel.
4. Assign the secretariat on the process of implementation of the recourse mechanism. The Secretariat should insert information on recourse mechanism in the guideline of proposal, make necessary announcement to applicants, and prepares for secretariat support to the appeal processes.

## 5. RECOURSE MECHANISM



## **Appeal / Recourse Mechanism**

A small working group of the PMPC has provided a working paper on the establishment of a recourse mechanism in which the following objectives and options were discussed.

### **Objectives**

- To provide opportunities for re-considerations by the TRP
- To provide recommendations on weaknesses of the applications for future resubmission of high quality proposals.

Only proposals which passed the screening by the secretariat and were considered by TRP can be eligible for an appeal. Those proposals rejected through the secretariat screening, due to clear cut ineligibility criteria, are not eligible for appeal.

### ***Option 1***

- Any proposals in categories three and four for Round 2 can appeal.
- Only those proposals in category three and four in both the current and the last round (repeated failure cases) can appeal.

<b>Pros</b>	<b>Cons</b>
<ul style="list-style-type: none"><li>• Provides an equal opportunity for any unsuccessful proposals to be given another chance</li></ul>	<ul style="list-style-type: none"><li>• Possibility of leading to high workload, time and cost implications (there are 130 components in categories 3 &amp; 4 from Round 2 ).</li><li>• Secretariat has to devise Appeals Form, then screen the appeals through a kind of data base, assuming that one person process 10 appeals a day this means two weeks of work</li><li>• One week is needed for preparing proposals for review by the Appeal Panel and preparation for the Appeal Panel to convene (i.e. identify venue, arrange travel and accommodations and the actual support of the Panel)</li></ul>

### Option 2

- Only the neediest (measured by prevalence and potential epidemics of the three diseases, and poverty) applicants in categories three and four in current round are eligible for appeal.
- Only neediest applicants in categories three and four in current and the last round (repeated failure cases) are eligible for appeal

While this option is a very viable and important option for basing the recourse mechanism in the future, at present a decision cannot be made without the results of the ECON study. The ECON study will help us to define the items mentioned below

Pros	Cons
<ul style="list-style-type: none"><li>• Provides room for re-considerations by failed applicants only for those from the neediest countries.</li><li>• Reasonable workload of the TRP to only those in need.</li><li>• This option is not ready for consideration in the absence of the needed data on neediest countries.</li></ul>	<ul style="list-style-type: none"><li>• Limit equal accessibility for non-neediest proposals to appeal which might create unfairness</li><li>• Under this pro and con, the GF must, by all means, ensure the TRP has good practice and highest standard of review, decision, clear and thorough feedback information to applicants. It is strongly recommended that the chair and vice-chair of TRP provide information on experiences learned in the review processes, to prevent unnecessary appeals.</li></ul>

## **Appeal / Recourse Mechanism**

### Appeal Panel Options

*Option 1 – an appeal panel made up of existing TRP members:*

- The TRP chair and vice-chair allocate re-review to three members who were not the first, second and third reviewers of that specific proposal. A work schedule has to be agreed upon, proposals to be sent by the secretariat to the new review team and given two weeks to finalize their work and send their recommendations to the secretariat.
- The TRP chair, vice chair and the three reviewers will confer via email discussion (if necessary teleconference) and make a final recommendation to the Board .

- To prevent unfair treatment of other failed applicants who do not appeal and to safeguard TRP independence from unnecessary pressure, a face-to-face discussion and negotiation between TRP and applicants is not allowed.
- The secretariat will forward recommendations to Board members by e-mail for full approval. In case there is no consensus the chairman of the Board will make the final decision.

Pros	Cons
<ul style="list-style-type: none"> <li>• Same standard of measurement will be used but soliciting second opinion from different members of reviewer thus recommendations will be comparable using similar standard of measurement.</li> <li>• Fair treatment for non-appeal proposals so that the appeal proposals did not receive different measurement</li> </ul>	<ul style="list-style-type: none"> <li>• First group of reviewer may feel offended if appeal recommendations differ.</li> <li>• TRP members will feel constrained to contradict their colleagues .</li> <li>• Appeal applicants lose trust in the TRP measurement, thus refuse to accept the recommendations</li> </ul>

### *Option 2 - Mini-TRP*

If a mini -TRP or a group of new experts are to review the appealed proposals, then the Secretariat has to process the appeals and prepare them for the Board Appeal Panel. These members have to be selected and briefed about the Global Fund. A group of five experts is needed, one for each disease, in addition to two cross-cutting experts. This group will have to travel to Geneva and will need two weeks to review 130 components from Round 2. They will have to read the proposals and review attachments and arguments made in the appeal, as well as TRP comments, and then make their recommendations to the Board . This will cost the Global Fund honorarium, in addition to travel and daily allowance that will total approximately \$60,000 ( or \$5,000 per person) in addition to the Secretariat support.

Pros	Cons
<ul style="list-style-type: none"> <li>• Ensure independence between of Appeal Panel from TRP</li> </ul>	<ul style="list-style-type: none"> <li>• Newly appointed Appeal panel members might not be familiar with the GF operation, thus it may be difficult to understand the principles of the Fund and make good judgment.</li> <li>• This can not be applied immediately after the second round, unless these are selected from the alternate TRP members.</li> </ul>

### *Option 3 – Board Appeal Panel*

A Board Appeal Panel of 3-5 members is appointed by the Board. Members are selected from independent technical experts who are familiar with the work of the Global Fund. The Board Appeal Panel is independent from TRP.

Their work would be based on investigation of TRP review process and its recommendations, as well as the arguments made in the appeal. The Panel would then make its recommendations to the Board based on the results of their investigation.

<b>Pros</b>	<b>Cons</b>
<ul style="list-style-type: none"><li>• Using higher level of appeal panel (than TRP) ensures acceptability by all constituencies.</li><li>• Using different measurement will reduce the conflict between the recommendations made by TRP and the appeal panel.</li></ul>	<ul style="list-style-type: none"><li>• Different measurements may create questions on fairness between TRP review process and appeal panel process especially among non-appeal proposal. They are going to be paid on yearly basis.</li></ul>

Once a decision is reached by the Appeal Panel, a unanimous endorsement would be required by the Board. The Secretariat would be charged with sending out all Appeal Panel recommendations to the Board via email. All Board members must endorse a recommendation in order for the appeal to be successful. In the case of non-consensus, the chairperson will be charged with making the final decision.

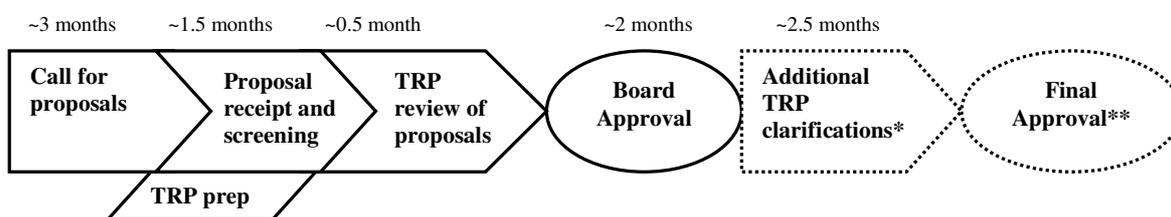
### **Recourse Mechanism**

#### **Background**

At the Third Board meeting decided to request the Committee on Portfolio Management and Procurement to address the need for, and making recommendations about, a recourse mechanism (appeal procedure) for countries wishing to submit proposals to the Global Fund. During the December 5-6, 2002 Committee meeting held in Geneva, a working paper was presented by a member of the Committee. Subsequently, the Secretariat was asked to commission a study to identify the principles and best practices being followed in the design of an appeals procedure.

To better understand how an appeal process would work, and more importantly, when it would could be applied, it is important to ensure there is an understanding of the proposal process itself. The following diagram shows illustrates the steps from the submission of proposal to final Board approval.

## Proposal Process



\* For approved category 1 & 2 proposals needing further TRP clarifications

\*\* Some proposals may require a final approval by the Board

Proposals must be submitted through a Country Coordinating Mechanism (CCM) to the GF Secretariat.

The Secretariat is then responsible for:

- Registering proposals
- Screening, focusing on eligibility of applicants
- Ensure completeness of proposals
- Prepare logistics and documentation and forwards proposals to TRP for review/recommendations.

Note: The TRP is made up of members who have a wide range of both scientific and programmatic experience. This team of experts is drawn from a larger, geographically diverse pool of reviewers from a broad range of organizations in both developed and developing countries. Members also include technical experts having specific country-experience and expertise in the role of Civil Society in the field of three diseases. The TRP reviews and grade proposals in four categories: Category One is recommended for approval with no changes; Category Two recommend for approval with minor changes; Category Three not recommended in its current form but strongly encouraged to re-submit following major revision; and Category Four rejected.

Following the review of the TRP, proposals grouped in Categories One and Two are submitted to the Board for approval. For proposals in Categories Three and Four, the TRP notifies the respective CCM that the proposal should be resubmitted or has been rejected. Proposals grouped in Categories Three and Four are not submitted to the Board for review.

Other than the opportunity for CCMs to resubmit a Category Three (or Four) proposal during a subsequent Round, there is no formal appeal process built into the Global Fund.

### **Major Findings from Review:**

To provide guidance to the PMPC committee members, the Secretariat was asked by the PMPC to contact a number of leading lawyers and relevant staff from other international organizations to identify principles and best practices for establishing a recourse process.

Although recourse mechanism exist in some fields, such as law, the multinational and international development agencies which were contacted by the Secretariat do not have a recourse mechanism; these include The Green Light Committee (GLC), Global Alliance for Vaccines Initiative (GAVI), USAID, ILO, WHO, and the World Bank do not have a recourse mechanism in place. Note: Subsequent to this review the Secretariat was informed that the EU did have in place a recourse mechanism.

Although the use of a formal recourse mechanism appears to be limited, some agencies use a mechanism that includes an ombudsperson. The office of an ombudsperson is an independent entity responsibly for reviewing and responding to claims of perceived injustices and can be an affective facilitator of disputes. Specifically, the ombudsperson would review requests and determine if a case merits further consideration and then seeks clarification and provides additional information as needed.

Independent legal advice sought by the Secretariat also indicated that appeals are difficult to implement, especially when an appeal is made based on technical standards rather than on procedure or process.

### **Guiding Principles**

In discussing possible recourse mechanisms the Secretariat identified a number of guiding principles that should be considered in developing a recourse mechanism for the Global Fund.

A sound and responsive recourse mechanism should be impartial, objective, independent, simple, speedy and well-accepted by all stakeholders. It is necessary to fix strict and transparent criteria to ensure only responsible appeals are submitted for review. This will ensure that legitimate claims are given due process and minimize the number of unsupportive claims.