



THE OFFICE OF THE INSPECTOR GENERAL

The Global Fund to Fight AIDS, Tuberculosis and Malaria

Twenty-Third Board Meeting
Geneva, Switzerland, 11-12 May 2011

GF/B23/10
Board Information

THE OFFICE OF THE INSPECTOR GENERAL PROGRESS REPORT FOR NOVEMBER 2010-MARCH 2011

PURPOSE:

1. This paper provides an update to the Finance and Audit Committee (FAC) and the Board on the activities of the Office of the Inspector General (OIG).

PART 1: INTRODUCTION

1.1 This paper provides an update to the Finance and Audit Committee (FAC) and the Board on the activities of the Office of the Inspector General (OIG).

1.2 Items for board information included in this paper are as follows:

- i. Part 2: Preamble and clarification
- ii. Part 3: Recent completed Audits and Investigations and issued reports
- iii. Part 4: The OIG Audit and Investigation methodology: how the OIG approaches its work

PART 2: PREAMBLE AND CLARIFICATION

2.1 **Misleading media coverage:** In October, 2010, the OIG issued its Progress Report for the period March-October 2010 to the Finance and Audit Committee (FAC) detailing the results of the significant audits and investigations undertaken during the reporting period. The October 2010 report was ultimately submitted to the full Board in December 2010, and then made public by the Global Fund's Communications Unit in January 2011 through posting on the Global Fund website. Despite the fact that the report had been issued and made public for some time, the Associated Press featured a widely publicized article on 23 January 2011, which largely misinterpreted the OIG results and made broad and sweeping claims about the nature and extent of fraud and corruption in Global Fund financed programs. The article, especially the headline "Fraud Plagues the Global Fund", was factually misleading. The report was thereafter the subject of significant further media attention, which triggered significant inquiry from donors concerning the results reported, and concern that the Global Fund grant portfolio was tainted by pervasive fraud. A number of donors directed further questions, and requests for information, to the Global Fund Secretariat and the OIG. Rather than being lauded for its transparency, the Global Fund was subject to criticism and given notice of possible disruptions in funding, while other similarly situated bilateral and multilateral organizations that also operate in these high risk environments escaped scrutiny.

2.2 As set forth more fully below, the risks that materialized in the limited number of cases referred to in the Progress Report emanate from the nature of the activities funded, and the weaknesses in the entities operating the programs, and are by no means unique to the Global Fund. Indeed, other entities funding these high risk activities are likely to face similar risks and suffer from similar degrees of fraud. The Global Fund's OIG vigorously identifies such issues and losses, and truthfully reports its results.

2.3 **The actual findings:** The OIG's October 2010 Progress Report identified significant losses resulting principally from fraud and loss in four priority investigations undertaken by the OIG's Investigations Unit. In these four cases, the OIG investigations in Mali, Mauritania, Djibouti and Zambia, resulted in the identification of significant losses of grant funds. The OIG also featured the results of four country audits of particular grants, completed by the OIG Audit Unit. The losses reported in the priority cases stemmed from similar patterns of misappropriation, fraud and mismanagement in high risk activities, namely training events and associated costs, purchases of fuel, travel costs, vehicles, meals and per diem expenses, as well as the purchase of various types of motor vehicles. The use of cash expenditure was identified as especially high risk, and prone to abuse.

2.4 **The Secretariat's response:** It was unfortunate that after the publication of the Associated Press article, the loss amount identified in 11 cases was compared with the total amount disbursed for the entire portfolio (US\$13 billion), producing a figure of 0.3 percent as the percentage of fraud in the entire portfolio. This led to misinterpretations of the statistics and percentages, and a minimization of the level of fraud and loss in the portfolio overall.

2.5 **Annex 1 sets out some loss figures involving 12 OIG cases.** The Table is not exhaustive of work completed, or in the process of being completed, by the OIG. It should be noted that the OIG, in connection with this Progress Report, had updated its Loss Table to reflect additional completed work that had inadvertently been omitted from prior Tables and prior reporting, and a recently completed case. The OIG had intended to append an updated loss Table to this Report. However, the OIG was prevented from doing so as transmission of the table to the Board was blocked by the Secretariat and not forwarded to the Board on the basis that it included “new” information and loss amounts. The FAC Chair has since confirmed his agreement with this position, and has directed the OIG to exclude three cases and further remove columns in the Table showing the amounts disbursed and the amounts of grant funds reviewed for each of these twelve cases.

2.6 In addition, cases in the pipeline where losses have been identified are not included. The OIG had intended to provide an oral update to the FAC, at the request of FAC members. As such, the loss table in Annex 1 is not current, not updated, not comprehensive and missing relevant information.

2.7 Further, notwithstanding the fact that the Table is not complete, it would be wrong for results in these 12 cases to be used to reach uniform conclusions across the entire grant portfolio, either directly or indirectly. It is important to emphasize that the extent of misappropriation cannot be generalized, or calculated in any precise manner at the present time, for a number of reasons. First, Global Fund programs operate in 145 countries, all of which are of a different character, and present different material risks. While certain similar risks are prevalent in certain geographic regions and related programs, the same risks, and the same forms of misappropriation, are not universal, and are not present in the same manner or degree across the entire portfolio. It is important to recognise that no two programs are identical, and that the OIG has examined at the time of this report 42 programs, by either audit or investigation.

2.8 **The amounts involved:** The OIG has segregated the loss categories in Annex 1 into three sub-categories: 1) fraud; 2) unsupported and undocumented expenditure; and 3) ineligible expenditure. The fraud category includes fraud, theft, embezzlement and unlawful conversion. It is important to note that while unsupported expenditure is not categorised as fraud, it is often a mechanism to disguise theft and fraud, and cloud the true uses to which grant funds have been put. Ineligible expenditure can be, and has been, found to be fraud as well. As such, it is important to take undocumented expenditures seriously, and stress the importance of maintaining accurate documentation as a requirement of recipients for all Global Fund resources. Indeed, lack of documentation of grant fund expenditure violates the standard grant agreement provisions. The grant agreement must continue to specifically require that all Principal Recipients generate, maintain and provide proper documentation, and the Secretariat must enforce these provisions. In future the OIG will also call for the costs of OIG investigations to be categorised as a “loss” and recoveries sought, and that any further disbursements be conditioned on full repayment of lost sums.

2.9 Further, it has come to the attention of the OIG that efforts have been made by the Secretariat to encourage auditees and Principal Recipients that have not provided documentation to support expenditures to the OIG, to offer such documentation *after* the completion of the audit process and the issuance of the final report. The audit process provides full opportunity to present supporting documentation to establish the uses to which funds were put, and the OIG routinely grants extensions of time to present such information. The Inspector General and the Secretariat have now agreed that Principal Recipients should not be asked to submit documentation after the audit has been concluded, as such a process could facilitate fabrication and abuse.

2.10 In no case has the OIG examined the entire amount of grant disbursements, as such would be an impossible task. Audit exercises engage in sampling, and investigations focus on particular disbursements or expenditures, although often these inquiries are expansive. In addition, many more audits and investigations are underway, and not yet completed, in different geographic regions. Upon completion of more work, an accurate picture would begin to emerge.

2.11 The OIG audits, while thorough, focus upon control risks, and identify the ‘red flags’ of fraud and misappropriation. In addition, auditors sample and examine control risks, and do not investigate particular transactions or allegations. When ‘red flags’ are identified, cases are then turned over to the Investigations Unit for full investigation. The OIG Audit Unit is particularly adept at identifying risks of fraud. However, the identification of ‘red flags’ are, alone, not a substitute for in depth examination, forensic examination and analysis that the Investigations Unit subsequently undertakes.

2.12 More than 75 percent of audits now result in a referral to the Investigations Unit. As a result, the OIG Investigations Unit has 129 cases in its inventory as of 10 March 2011. Many of these investigations are resource intensive, and because of the size of the programs, the volume of documents and materials that must be examined, and the often extremely poor record and accounting systems utilized to track expenditures by implementers, full investigations are a significant undertaking. Therefore, full and complete examination has been concluded in only a handful of cases.

2.13 Of the 134 cases, 36 are under active investigation, 37 are currently being assessed for investigative merit, and 60 have undergone initial assessment and deemed worthy of investigation but are awaiting allocation and not yet assigned because of lack of resources. The OIG has finalised, meaning completed through investigation or closed as without merit, 27 cases in 2009, and 24 cases in 2010. The pace of referrals has increased. In the last four months alone, 40 cases have been referred to the OIG. Similarly, referrals from the Secretariat and the Local Fund Agent have increased exponentially. Of the 40 new cases received by the OIG in the last four months, 21 are from the Secretariat (and 9 of those are from the Local Fund Agent).

2.14 **Work in progress:** The finalization and reporting of a number of audits and investigations currently in progress and expected to be completed in the next few months will affect the statistics. The OIG will update these statistics in its next Progress Report, in the autumn of 2011. The OIG has engaged in an analysis of the current loss figures to date, and will be prepared to present the figure, and the information, to the FAC on the 9 May meeting. This information, including the current and most up to date loss calculation as well as significant cases in the pipeline, was requested of the OIG by FAC members at the last FAC session.

2.15 It should also be noted that going forward, the OIG recommends that the Board allow the OIG to publicly report detailed results once an audit or investigation has been completed, and subjects and the Secretariat have been given notice and an opportunity to be heard. This may not necessarily occur simultaneously with the issuance of the report.

2.16 **Patterns:** Several programs in certain regions suffer from similar, and sometimes pervasive, patterns of fraud and misappropriation. For example, the OIG has found, and continues to identify, significant irregularities and lapses in fiduciary oversight in some cases, as set forth in detail in the recently finalised OIG investigation Report of the Tuberculosis and Malaria grants in Mali. In these grants, the OIG has identified a loss of US\$ 5.2 million, which represents 53 percent of the US\$9.7 million examined (out of approximately US\$ 13 million disbursed). US\$ 4.3 million (42 percent of the US\$ 9.7 million) of the loss resulted from pervasive fraud.

2.17 **Extrapolation is not possible:** The results related above cannot accurately, or responsibly, be used to form universal conclusions about the entirety of Global Fund financed programs in all countries, or reach generalities that would apply across all the geographic regions that comprise the Global Fund portfolio. Neither can these figures form the basis of any finding that the problems are unique to the Global Fund, or a view that the percentages of fraud derive from solely the nature of the Global Fund model.

2.18 The losses suffered in the cases reported stem from the high risk nature of the activities funded, as well as the lack of proper fiduciary controls in some cases in country, and significant deficiencies in oversight. Nonetheless, in a broader context, in the view of the OIG, the Global Fund has been unfairly singled out for criticism on issues that are common to many donors and development entities (both bilateral and multilateral) that fund similar programs.

PART 3: RECENT COMPLETED AUDITS AND INVESTIGATIONS AND ISSUED REPORTS

3.1 Since the issuance of the last Progress Report, the OIG has released an audit report on Global Fund programs in Rwanda and one on Lessons Learned from seven Country Audits. Many of the issues raised in the Lessons Learned Report also arose in previous and more recent audits undertaken by the OIG. Highlights from both reports appear below. The Lessons Learned Report was drafted in such a way that it can provide an input to the Global Fund's "reform agenda," which seeks to identify how the Global Fund can become more efficient and effective and also how the loss of grant funds to fraud can be reduced. These Lessons Learned have already been considered by the Board's Comprehensive Reform Working Group. On the investigation side, the OIG has released its final report on the investigation of the Tuberculosis and Malaria grants in the Republic of Mali, in redacted form so that the work of the investigating domestic judge is not compromised. A brief summary of the highlights of this report is presented below as it also raises important lessons learned which are of relevance to the reform agenda. Given the media attention that the theft of drugs has received, the nature of the OIG's work in progress, jointly with other development partners, to mitigate the risk of theft is also highlighted below.

Rwanda

3.2 There have been some impressive program achievements in Rwanda. In February 2010 almost 77,000 people living with HIV were receiving anti-retroviral treatment, representing about 80 per cent of the estimated number in need. There were also many best practices observed which other countries can learn from. Rwanda had creatively used HSS grants to strengthen critical areas of the health system. A mobile phone information

system for HIV care was revolutionary in its simplicity and functionality. And a major factor contributing to the excellent results achieved by the Prevention of Mother-to-Child Transmission (PMTCT) program in the country was the almost universal HIV testing and counselling of male partners of pregnant women in the context of the prevention of perinatal HIV infection. Aside from these considerable achievements, the OIG noted some weaknesses in financial management capacity of sub-recipients as well as the Project Management Unit's capacity to provide an appropriate level of oversight and supportive supervision. Action was put in hand immediately to strengthen these aspects.

Lessons learned from country audits and investigations

The results achieved

3.3 The Global Fund supported programs had contributed to a massive scale up of interventions. Given the nature of its mandate, the Global Fund works in a number of countries with weak monitoring and evaluation systems - as evidenced by the fact that six out of seven country audits noted data quality issues, and 20 percent of data-point verifications conducted by the Global Fund through On Site Data Verification exercises in 2009 have shown "major data quality issues", impacting 27 percent of indicators. Several Global Fund initiatives have over the last few years been taken to strengthen the way in which the Global Fund - jointly with partner agencies - approaches results; not least was the introduction of On-Site Data Verifications and Data Quality Audits. The OIG and the Secretariat have agreed, moving forward, to jointly review the Fund's approach to results, and the OIG will continue - in line with its mandate - to examine results as part of its program performance audits.

High risk expenditure and activities

3.4 In all seven countries audited during this reporting period (Cambodia, Cameroon, Zambia, Nepal, Haiti, DRC and the Philippines) there were risks arising from procurement and supply chain related costs that were identified. Inadequate forecasting had resulted in expiries and stock outs; deficient procurement processes had resulted in procurement delays; there had been leakage from the distribution chain; and limited compliance with the Global Fund quality assurance policies had raised the risk of counterfeit/substandard pharmaceutical products being released to patients.

3.5 Certain activities, such as training events and associated costs, including travel, per diems, meals, and lodging pose a high risk of fraud. Coupled with a cash-based financial system and a poor accounting system, the risk of fraud and loss is high. These risks can be mitigated through requiring a viable and computerized accounting system, with appropriate software, a prohibition on cash expenditure unless critically necessary, and careful oversight, monitoring and frequent verification of high risk activities and the associated invoicing. Local Fund Agents and Principal Recipients must carefully scrutinize invoices submitted to PRs to trigger payments for claimed goods and services. Verification exercises should take place at frequent intervals to ensure activities actually take place, and individuals claiming per diem expenses truly attend. To the extent practicable, lists of approved suppliers should be formed in advance, and the legitimacy of vendors and suppliers should be established in advance of engagement of their services.

Record-keeping, accounting, and co-mingling of funds by Principal Recipients

3.6 As reported previously, and continuously, by the OIG, poor record keeping, insufficient, unacceptable or non-existent accounting systems continue to frustrate audit

and investigation exercises, and prolonged the audit and investigation process in a number of investigation and audit cases in this reporting period. In five cases, the OIG had to create an accounting system or a database to identify the uses to which grant funds had been put, as record keeping was often deficient or not undertaken at all. Frequently, the OIG finds volumes of documents generated from program activities unorganized and in poor condition. In many cases, tens of thousands of hard copy documents are found without order. A proper accounting system, with appropriate accounting software, should be a precondition to serving as a Principal Recipient, and all Principal Recipients should undergo mandatory financial management training prior to serving as any form of recipient of grant funds.

3.7 Further, co-mingling of grant funds by Principal Recipients with other income and donor sources, and the utilization of numerous bank accounts to hold and use grant resources continues to pose serious problems for the OIG auditors and investigators. In many cases, this obscures the true nature of grant disbursements, and seriously prolongs audits and investigations. The OIG auditors and investigators often are required to expend significant additional effort attempting to unravel grant expenditures, when funds are co-mingled, and when multiple bank accounts are used. In some cases, this results in prolonging audits and investigations by 50 percent, ultimately resulting in the inability to verify expenditures in a number of cases at all. In one case, a Principal Recipient passed Global Fund grant resources through 68 separate bank accounts. In the view of the OIG, the Global Fund grant agreement must impose additional requirements in this regard. Otherwise, Global Fund grant resources will continue to be placed at risk, and timeliness of the completion of audits and investigations will continue to suffer.

Lack of Cooperation with Audits and Investigations

3.8 In four cases, Principal Recipients and national authorities have refused to cooperate with the OIG investigations and audits after initially agreeing to do so. In Mauritania, the lack of cooperation and failure to return the full amount of the loss has resulted in a stalemate, and ground the grant programs to a halt other than for essential services. When credible and substantive evidence of financial misappropriation has been identified by the OIG, and requests have been made to return misused grant funds, cooperation from the Principal Recipients and governments in these cases has ceased. It is critical to the OIG that in countries under investigation, the Secretariat link further disbursements (with the exception of disbursements for *life-saving activities*) to a commitment by recipients and national authorities to cooperate with the OIG and show a good faith effort to pursue meritorious cases of fraud and financial misappropriation. The Secretariat has in the past not included language requiring such commitment despite OIG requests to do so.

3.9 Looking forward, the OIG would ask the Finance and Audit Committee to underline the importance of having the Secretariat condition *a return to normal levels of activity* to full country collaboration with the OIG, including all recipients. Without full cooperation from the Principal Recipients and the host government, the OIG is unable to identify the full amount of the loss, identify the actual uses to which the grant funds have been put, and identify the individuals responsible for the misconduct. It is in the best interest of the Global Fund to explicitly require cooperation as a condition of future funding, and present this circumstance clearly in the grant agreements so there is no room for ambiguity. Further, such clarity would prevent a circumstance where grant programs are unnecessarily interrupted for lengthy periods of time while the matter is debated within the Global Fund, and externally with the Principal Recipients and in country partners and authorities.

In country oversight: The role of the Local Fund Agent (LFA)

3.10 Currently, the OIG has, through a number of completed and on-going audits and investigations, identified numerous instances where the LFA has missed significant issues and fraud schemes. LFAs should be replaced, and their fees refunded, where episodes of gross failings are identified. The Secretariat have replaced ten LFAs in the last year and clarified the scope of work to ensure that they address fraud risks in future.

3.11 In several cases, the OIG Investigations Unit has engaged with LFAs to assist in identifying evidence of fraud in expenditure documents. The effort has resulted in a marked increase in the identification of fraudulent invoicing, and an increase in referrals by LFAs to the OIG.

Financial controls, environmental risks and recipients ability to manage funds

3.12 Based on the audits and investigations conducted by the OIG to date, a serious concern exists that many Principal Recipients lack the capacity to properly manage grant funds, do not deploy adequate systems to track and monitor expenditures, and have not instituted proper fiduciary controls and oversight of the funds. Oversight of sub-recipients and suppliers is often seriously lacking. Several country audits have identified deficiencies in the capacity of Principal Recipients and Sub-Recipients that are not in line with LFA initial assessments, which were generally initially very positive. Sub-recipient management also remains a critical concern, with serious shortcomings noted in the selection, management and monitoring of Sub-Recipients through many OIG audits and investigations.

3.13 The weaknesses of Principal Recipient management identified in all the country audits raise important questions and significant concerns about the effectiveness of the oversight structures in addressing and mitigating fraud and financial misappropriation risk. These areas of concern range from the oversight structures of Principal Recipients, often found to be lacking or non-existent, (e.g. ineffective Boards of Directors and Trustees and Ministry managerial committees), the Country Coordinating Mechanisms (CCMs), LFAs and the Global Fund Secretariat. Strategically, in the view of the OIG, the Global Fund should give consideration to the following in light of the deficiencies identified through a growing number of audits and investigations:

- i. The relevance of its existing model given the environment that the Global Fund is often operating in. In this regard, the Global Fund might wish to re-consider whether it should retain its vision that it is just a financing institution, reliant upon “national ownership”. If the determination is that the model should remain as it is, consideration must be given to identifying other options to mitigate the risks identified and that are currently inadequately addressed;
- ii. Risk management must become part and parcel of the grant making process;
- iii. The Key Performance Indicator (KPI) structure, placing emphasis on the speed and quantity of disbursements, often compromises quality and adequate consideration of risks. This concept, as a measure of performance of Fund Portfolio Managers and Secretariat staff, must be revisited. The delivery of quality products, value for money and service delivery must take precedence over pushing money out;
- iv. The Global Fund must consider establishing minimum acceptable capacity standards, required thorough mechanisms to assess Principal Recipients,

- and a system to hold Principal Recipients accountable when things go wrong;
- v. The Organization must enforce the policies and guidelines that have not in practice been implemented at country level.

Strengthening oversight mechanisms

3.14 The CCM should be made more effective in discharging its oversight responsibilities, free of conflicts of interest. The OIG, in various audits and investigations, has found that the CCM lacks accountability, invariably suffers from serious conflicts of interest that render it incapable of performing a credible oversight role, and has limited time, interest or expertise, to perform such a function. As noted above, the Secretariat have replaced replaced ten LFAs in the last year for poor performance and have asserted to the OIG that they have clarified the scope of work to ensure that they address fraud risks in the future. The OIG has found that many CCMs include recipients as members, a circumstance that presents serious actual and potential conflicts of interest that compromise the ability of the CCM to perform a valid oversight function. In such cases, recipients of grant funds that also serve on CCMs are placed in a position whereby they are required to monitor and provide oversight of themselves, an obviously untenable situation that immediately calls into question the credibility of the CCM in performing proper independent and credible oversight in this circumstance.

Investigation Report on the Tuberculosis and Malaria grants to the Republic of Mali

3.15 As noted above the OIG has presented to the FAC for release its final report in redacted form so that the work of the investigating domestic judge is not compromised. The OIG investigated the Tuberculosis and Malaria grants in Mali between February 2010 and February 2011. Ultimately, the OIG found that between May 2004 (soon after the beginning of the first grant) and April 2010, certain senior officials and staff in the programs' financial management and implementing agencies with the active support or knowledge of some of the regional MoH offices, together with third party vendors and suppliers—engaged in pervasive schemes to misappropriate Global Fund program resources and funds, and defraud the Global Fund programs of at least US\$ 5.2 million, or 53 percent of the US\$ 9.7 million of grant funds OIG examined. The OIG identified that more than US\$ 4.1 million (42 percent) of the funds investigated were lost through criminal acts of fraud and financial misappropriation. The schemes identified included:

- i. Misappropriation and theft of grant funds from program bank accounts through false statements, false and fictitious documents and unauthorized and improper transfers and embezzlements, including direct payments to the accountant;
- ii. Fraud through the fabrication of false supporting expenditure documentation;
- iii. Overcharging and widespread misappropriation of program assets, and
- iv. Procurement practices tainted by pervasive collusion, fraud, and other grant agreement violations.

3.16 In addition, the OIG investigation identified that at least US\$ 1.1 million (11 percent of the amounts examined) of the funds represent a loss in violation of Global Fund Grant Agreement provisions as the expenditure lacked supporting documentation (despite repeated opportunities and requests to provide such documentation), and because funds were spent on a Tuberculosis laboratory that sits idle and vacant, and does not conform to safety standards and its purchase was contrary to procurement rules and integrity

guidelines. The equipment purchased for the laboratory has sat in boxes in a storage shed for more than a year and may well be now unusable.

3.17 Through its investigation, the OIG found that the LFA failed in discharging its responsibilities to provide proper financial oversight and was negligent in failing to identify, and give notice to the Global Fund and the OIG, of the pervasive fraudulent invoicing scheme, and notice the plethora of false documents that were submitted to trigger payments from the programs. Further, the LFA, the CCM and the Secretariat did not identify that many of the training events financed through program funds may not have occurred, and were associated with pervasive fraudulent billing; and that numerous withdrawals made by the registrar and accountant went unsupported and unjustified for years on end. Notwithstanding these facts, the OIG commends the current LFA for its recent excellent cooperation with the OIG and its recent vigilance to examine and detect fraud after meeting with OIG investigators so that they could understand the methods and viable approaches that could be employed to identify fraud. Since these trainings, the LFA has referred a number of additional instances of suspected fraud to the OIG, which have been confirmed as proven fraud by the OIG. A number of the fraudulent documents presented by the LFA were already in the possession of the OIG.

3.18 A significant aspect of the process of the investigation is worth emphasizing: Due to substantial deficiencies in the programs' accounting and record-keeping, as well as the absence of supporting documentation for numerous program withdrawals in contravention of the requirements of the grant agreement, the OIG was required to expend significant time and resources recreating an electronic record of program disbursements and expenditures in order to adequately examine the grant expenditures and conduct a thorough review. Had such a system been in place to properly manage disbursements of grant funds, the investigation would have concluded much sooner, and the fraud might have been identified earlier. The OIG then organized, scanned and computerized, as well as analysed over 50,000 pages of program documentation, which had been found in loose form-often contained in trunks maintained in the basements of offices. These materials were largely disorganized. Many of the documents were soiled, and had to be manually scanned in order to be reviewed in detail. This was a very time consuming process.

3.19 In addition, the OIG investigators interviewed close to 1,000 individuals, including Malaria and Tuberculosis program staff, third party vendors named in the documents submitted to trigger grant fund disbursements, as well as the staff of the structures responsible for program oversight, including the LFA, the CCM, and Global Fund staff. The OIG conducted a deep investigation of the grant fund expenditures managed by the two Principal Recipients in order to gain a clear and complete picture of the fraud, fully identify the misappropriated funds so that restitution could be affected and responsible parties identified. As the Principal Recipient did not have a sufficient computerized accounting system, the OIG was required to create a searchable system, computerize the records, and reconstruct the grant expenditures. Confirmation of the existence, or non-existence, of fraud would not have been possible without these steps. If the OIG had not done so the true uses to which grant funds were put would continue to remain largely unknown.

3.20 The OIG found that the DAF—the entity most directly responsible for the fiduciary aspects of the grants within the Ministry of Health—was itself implicated in the OIG's findings of fraud, initial indications of which were belatedly identified by the Ministry. The OIG later learned that the accountant hired to oversee grants had a past financial criminal history. In addition, the DAF failed to implement proper segregation of duties and basic accounting tasks. The DAF accountant was afforded full access to the bank accounts, cheque-books and bank statements and was responsible for completing bank

reconciliations (which were rarely in fact ever completed). The DAF accountant was also involved in collecting and maintaining supporting expenditure documentation as well as entering transactions into the accounting system. These incompatible roles constituted a clear violation of the universally accepted standards of segregation of duties, which thereby increased the risk of fraud. Although the LFA and the Secretariat were aware that the DAF was weak and non-transparent beginning from the pre-assessment of the first grant (Malaria Round 1) through every year of the grants' implementation, this institution was repeatedly utilized to manage new grants and no one identified the DAF's systemic weaknesses and indicators of possible fraud and abuse.

3.21 Ultimately, after thorough analysis, the OIG found that the grant programs suffered from serious fiduciary control weaknesses which meant that the fraud and abuse was not discovered at an earlier stage. In Mali, five structures—(1) the Department of Administration and Finance (DAF); (2) external auditors; (3) an entity that monitors program expenditures and implementation in-country (the LFA); (4) a multi-stakeholder country-level coordinating body (the CCM); and (5) Global Fund staff—constituted the fiduciary framework that ought to have ensured that funds were used for their intended purposes. However, the OIG's review of key documents issued by these structures and interviews of key staff within them, indicates that none of these individuals or entities responded to indications of heightened risk in these specific projects when 'red flags' emerged.

3.22 The OIG found that the internal and external audit functions that the Programs were responsible for securing were severely delayed and did not initially identify risk of fraud. Over the life of these grants, the OIG found that the DAF's internal audit department performed only one audit, during the first year of the Malaria Round 4 grant. External audits were not performed in a timely manner for large portions of the Malaria Round 1 and 4 grants, and no external audits were performed at all on Malaria Round 7 until late 2010.

3.23 The LFAs (two oversaw the grants expenditures and implementation in-country over the course of the grants' lives) highlighted and communicated to the Global Fund many of the same concerns as the audit reports. Concerns included:

- i. The program staff's oversight of implementation;
- ii. The programs' failure to properly and timely submit expenditure reports;
- iii. The programs' failure to maintain adequate supporting documentation;
- iv. Significant problems and issues with the DAF.

However, despite making such observations, the LFAs also did not make the link—either explicitly or implicitly—that these issues were indicators of an elevated risk of fraud or misappropriation. Furthermore, they failed to notice obvious deletions (blanks on pages and inconsistent calculations) on bank statements submitted to them by the DAF, all of which concerned funds that the OIG ultimately found to have been misappropriated.

3.24 The OIG did not find evidence indicating that the Mali multi-stakeholder country coordinating body, the CCM, raised the risk or possibility that grant funds were not being used for their intended purposes. Rather, interviews with the CCM and others relating to the CCM suggest that the CCM had neither the capacity, nor the self-perceived responsibility to identify such risks.

3.25 Finally, the Global Fund Secretariat staff lacked the means and the capacity to detect the risk of fraud and abuse, and they were not properly incentivized or prepared to respond appropriately to the risk of fraud and abuse when it did appear. When concerns were brought to the attention of the Secretariat, primarily by the LFA, the Secretariat did not consider any of the concerns to be indicators of risk of fraud and abuse. The Global

Fund’s subject-matter experts in finance, the Finance team, did not review either the external audits themselves or the LFA’s summaries of the audits, but instead received summaries from the FPMs, the programmatic experts. Although the Secretariat responded to issues through Management Letters, bilateral conversations, introduction of conditions precedent, and in some cases non-disbursement of funds, the DAF and program offices were consistently “nonresponsive” to Global Fund efforts.

3.26 The OIG notes that, as a result of coordination and consultation with the OIG, the Global Fund Secretariat, has asserted that it has now adopted additional safeguards in 2010 and 2011 which they hope will respond to several of the shortcomings in financial control and oversight identified in the report.

3.27 Midway through the OIG’s investigation, in the summer of 2010, the President of the Republic of Mali appointed a domestic judge to investigate and criminally prosecute the individuals implicated in the misappropriation of the Malaria and Tuberculosis grant funds. The OIG has worked in close collaboration with the Investigating Judge, and has provided significant support to further assist his efforts. The OIG has shared its evidence and analyses with the Judge on an on-going basis, provided the Judge with computer forensic support and capacity, the results of the OIG forensic efforts, and many relevant documents and records. As a result of the close collaboration between the OIG and the Investigating Judge, the Malian authorities have achieved substantial progress in their prosecution. To date, at least 15 individuals—primarily consisting of program managers, but also including business owners and bank employees—have been detained pending prosecution and trial in connection with the domestic investigation.

3.28 It is critically important to emphasize that the OIG strongly supported the investigating Judge, with specialist forensic services, computer expertise and manpower. The support significantly aided the domestic investigation and resulted in the identification of further evidence and witnesses now being utilized by the Judge.

3.29 The Judge had not completed his review of the case at the time of this report’s publication. However, after the suspension and termination of some grants in Mali, there has been a marked decline in the level of cooperation provided. In going forward, and as noted in paragraphs 3.8-3.9, the Secretariat must make it clear that cooperation with the OIG in auditing and investigating grants is a pre-condition to further disbursements. This is absolutely critical in the view of the OIG. This pattern has resulted in several countries now, including Mauritania, and resulted in stalemates in investigations and the recovery of funds. To date, this has not been a priority of the Secretariat.

3.30 Through this investigation, the OIG has also examined and identified the breakdown of fiduciary controls within the LFA, the Secretariat, the CCM and the Principal Recipients. As described more fully in the report, the LFA, the Secretariat and the CCM were not focused on fraud and misappropriation risks, and many red flags were not heeded. The report, in the view of the OIG, presents a valuable resource to inform the “reform agenda” and a case study on the vulnerabilities of fraud and abuse within the Global Fund model. There also may be some valuable lessons that can be learned by other entities that heavily fund similar activities.

3.31 As a result of its investigation, and as more fully set forth at the end of the report, the OIG has recommended that the Secretariat:

- i. Make every effort to recover from all responsible parties the US\$ 5.2 million (US\$ 4.9 million outstanding) of grant funds lost as a result of the criminal acts and breaches of the grant agreement identified;

- ii. Strengthen the grant agreement to require all Principal Recipients to record and maintain key expenditure information (such as vendor names) within an acceptable accounting system, and bar cash expenditures unless there is a critical need;
- iii. Require LFAs to routinely check for financial misappropriation, and pay particular heed to training events and associated costs and activities and high risk expenses;
- iv. Reconsider using the amount and pace of grant fund disbursements as a Key Performance Indicator for Secretariat staff, and place the priority upon quality rather than the quantity of disbursements, as well as stress the importance of ensuring (through continuous monitoring) that grant funds are in fact used for grant purposes.

3.32 The OIG investigation in Mali further underscores the significant resources required to comprehensively address large investigation cases. The OIG team spent approximately one year, on a full time basis, investigating this case. Five investigators, with the help of a forensic firm, were required to conduct the work. The Accounting and document databases needed to be constructed from inception in order to properly organize, and analyse, the program documents. These documents were in a state of disarray at the outset. This circumstance also contributed to lengthening the investigation period.

Theft of medicines

3.33 There has been considerable media coverage on the theft of drugs. The OIG is currently investigating 17 cases of drug theft in 13 countries in Africa. It should be stressed that drug theft is not a problem only affecting Global Fund grants but is a perennial problem in drug delivery in a number of locations throughout the world, particularly with anti-malarial drugs such as ACTs, that can command a profit in the commercial and black markets. Theft of medicines is a serious issue as many of the thefts appear to be well organized. In a number of these cases, drugs stolen in certain countries are appearing in commercial markets significant distances away. A pattern has been identified that drugs stolen in countries in Eastern Africa are being found in commercial markets in Central and Western Africa. Further, some drug thefts do not appear to be random events, but seem to be planned, and there appears to be degrees of calculation before a number of the thefts have occurred. Certain patterns have emerged as well: including that the transportation, delivery and storage of medicines present high risk. Thefts have occurred at airports soon after drugs have arrived in country; drug thefts have involved in at least three instances the security guards hired to protect shipments; drug thefts have occurred while drugs, transported in trucks, are on route to the Central Medical Supply stores; and fraud and theft have occurred in central warehouses/supply stores where drugs are stored and maintained before dissemination to local regions. The transportation from central stores to local regions is less prevalent, but it has occurred in a few cases. Thus, two significant high risk points in the chain are evident from these cases. First transportation of the medicines from the immediate point of entry in country to the Central Store, and then storage and maintenance in the supply stores themselves.

3.34 While the percentage of loss vis-a-vis the overall distribution of medicines cannot be readily identified at this point, a number of the thefts have been extensive i.e. well in excess of US\$ 1 million in value. In at least three instances, drug thefts have been accompanied by fraud, in that records have been falsified and documents altered in the central store files to attempt to disguise the thefts and diversions. In a recent case in Togo, senior officials at the Central Medical Supply store engaged in a planned fraud scheme that operated over time and resulted in the theft of approximately US\$ 860,000 worth of artemisinin-based combination therapies (ACTs). The Government has since

repaid the loss. The amounts were repaid to the Principal Recipient, UNDP, who has since re-deployed approximately US\$600,000 of the returned funds without notice to the Secretariat and without approval from the Global Fund. UNDP has yet to disclose any information about the thefts to the OIG, despite the fact that the OIG has requested information, documents and materials in UNDP's possession relating to the thefts.

3.35 As a result of these episodes, therefore, it is the view of the OIG that LFAs need to carefully monitor record keeping in the stores, and undertake frequent checks of drug supplies to ensure that the medicines can be tracked, and verified. Further, the OIG recommends that focus be placed upon securing the transportation, delivery, and storage of medicines. In addition, that the integrity of the supply and distribution system be safeguarded to the maximum extent possible. Parallel systems should be considered. The case in Malawi is a positive example of this, including excellent collaboration with USAID.

3.36 The OIG is collaborating closely with partners, and other oversight offices, to address these cases through a combined response. The OIG investigators have met with partners, including World Bank's Institutional Integrity Unit (INT), USAID, UNDP, and representatives of some national authorities to coordinate investigations in countries of commonality. Only through a coordinated and combined investigation response, and a coordinated and combined operational response, can this issue be addressed comprehensively and effectively. The OIG has also recently worked alongside the Secretariat in its initiative to bring partners together in a joint effort to mitigate drug theft.

PART 4: THE OIG AUDIT AND INVESTIGATION METHODOLOGY: HOW THE OIG APPROACHES ITS WORK

Audit: The audit process is evolving

4.1 The OIG audit process is evolving in the light of experience. A significant issue that is being addressed is the timeliness of reporting. Three factors impact timeliness in the release of reports:

- i. As noted above 75 percent of OIG audits result in follow on investigatory work. To preserve the integrity of the follow on investigatory work the draft audit reports cannot be released before the investigatory work has been completed. But some recommendations pointing to areas in which grant management can be immediately improved are not impacted by the follow on investigations and the OIG will in future leave a listing of such recommendations with the Principal Recipients at the end of the in country field work so that action can be set in train. The OIG audit teams will also stay in country for an extra week so that they can advance the drafting of the audit report. Interaction with the Principal Recipients will help to facilitate the drafting process.
- ii. Most Principal Recipients experience extreme difficulty locating documentation to support expenditure and the OIG audit team often have to stay on in country whilst the documentation is found. In other cases, audit teams have to return, often months later, to review records. As noted in paragraphs 3.6 and 3.7, the bad state of financial records and the absence of proper accounting systems often prolong the audits as records often have to be reconstructed and reconciliations undertaken before audit fieldwork can be undertaken. The OIG will now undertake a one or two week planning mission before the main audit fieldwork to ensure the Principal Recipients fully understand what documentation and

financial records need to be made available. The OIG has also decided that in future it will in most cases focus its audits on current grants i.e. it will not go back to closed grants where it is often particularly difficult to locate the documentation. But if irregularities are suspected the OIG Investigation Unit may still need to go back to the documentation supporting closed grant expenditure, particularly if recoveries need to be sought.

- iii. There have often been requests for extensions in the time requested to respond to draft audit reports. In future the OIG will be encouraging the application of much tighter deadlines.

4.2 Other initiatives that have been taken are:

- i. Ensuring that Principal Recipients are always given feedback on the OIG's treatment of the responses they have provided on draft audit reports before the reports are finalised.
- ii. Care will always be taken to ensure that final reports reach the country before they are released to the Board and put on the Global Fund web site.
- iii. The OIG has introduced feedback questionnaires as mandatory practice for all 2011 audits, seeking feedback at two points in the process: at the end of in country fieldwork and again once the final report has been released. Principal Recipients are being asked to give feedback on the conduct of the audit process and on the scope to enhance the process.

Investigation

4.3 Referrals: Because of possible confusion about the OIG's methods and operations, it is necessary to set out the manner in which OIG undertakes its work. The OIG's investigations are triggered through either a referral from an OIG audit, the Secretariat or Local Fund Agent, a whistle-blower allegation or witness complaint, an in country partner, other multi-lateral organization Inspector General counterpart, or law enforcement authority. All allegations are assessed on a preliminary basis for investigative merit. While prima facie proof of an allegation is not required, allegations must have some credible basis before a full investigation is launched.

4.4 The approach: The Investigations Unit undertakes the utmost discretion in pursuing its investigations in order to:

- i. Protect the due process rights of subjects;
- ii. Protect the safety and interests of witnesses, whistle-blowers and its own investigators;
- iii. Ensure the integrity of the investigation process;
- iv. Prevent the destruction of records, evidence and availability of witnesses;
- v. Provide greatest opportunity to trace missing and misappropriated funds and to safeguard funds that might be placed at risk.

4.5 Depth of investigations: Thorough and in-depth investigations substantially increase the likelihood that misused funds will be fully identified and fully repatriated; and that the full nature and extent of the fraudulent scheme is discovered. Comprehensive investigations also increase the likelihood that parties responsible for theft, fraud, mismanagement and waste be fully and responsibly identified. Suggestions have been made, and proposals offered to the various review panels currently underway, to severely limit and restrict the scope, depth and thoroughness of OIG investigations.

The genesis of these proposals, and the reason for them, have not been explained to the OIG. The issue does not logically follow from the issues that gave rise to the need for these reviews in the first instance.

4.6 Cutting OIG investigations short and making preliminary referrals to national authorities before a matter is complete, will without a doubt compromise the achievement of the goals of identifying losses and securing recoveries. National authorities have and continue to depend upon the OIG for many investigative tasks, including forensic assistance, gathering of electronic evidence, searching computer records, organizing and managing hard copy documents and computer evidence, and identifying red flags of fraud and presumptive findings of misappropriation. The interaction between the OIG and national authorities has worked exceedingly well and has led to significant results. Without deep investigations by the OIG, the identification of the full amount of the loss, the identification of all responsible parties, and acceptance of referrals to national authorities is a much less likely prospect as national Prosecutors, typically, are more willing to pursue cases if evidence is provided which supports allegations. Mere referrals, without evidence, will very often result in cases not being pursued further. In consequence the prospect of recovering misused funds would be greatly diminished. Recent proposals by the Secretariat, including the inclusion of the issue on the FAC agenda and raising it as an issue for the High Level Review Panel and the Comprehensive Reform Working Group, that the OIG hand over its investigations earlier to national authorities is unwise, short-sighted and exceedingly dangerous. The OIG perceives this as an effort to restrict its efforts so that it does not uncover misappropriation. The OIG strongly recommends that the FAC, the High Level Panel, the Comprehensive Reform Working Group, and the Board reject this suggestion forcefully, and in its entirety.

4.7 **Coordination with peers and execution of Memoranda of Understanding:** The OIG has sought to combine efforts with oversight offices in other organizations so that a coordinated approach can be pursued with intelligence and lessons learned of mutual benefit being shared. To that end, the OIG has executed a Memorandum of Understanding with the World Bank's Office of Institutional Integrity (INT), and negotiations for similar agreements are in advanced stages with UNOPS and the European Anti-Fraud Office (OLAF). The OIG is collaborating closely with the World Bank on a number of matters of mutual interest, including drug thefts and issues surrounding bed net procurement and distribution. The OIG is also working closely with counterparts in USAID on drug theft cases, and other matters. The OIG has enjoyed close collaboration in the past with OLAF on a number of cases of mutual interest, including a significant misappropriation case in Uganda. In these cases, productive information sharing has occurred that has fostered solid advancement in these cases. Without such close collaboration, effective advancement and significant results is much more difficult to achieve, if at all. Contrary to public assertions, the OIG does not have a MOU with UNDP, and is not close to executing such an agreement - as explained in more detail below.

4.8 **Timeliness and dissemination of information:** Frequently, the OIG receives requests to share information with the Secretariat, in country partners, such as the CCM, Principal Recipients and LFAs, before investigations are finalized. Often, the OIG is provided with notice that a grant disbursement is imminently planned in a country where the OIG has an active investigation. The OIG is, in a number of these cases, in possession of information or evidence that could affect its view of the propriety of a grant disbursement. However, the investigation is often not completed, and a report has yet to be prepared or issued. These circumstances present significant complications for the OIG. While the OIG might be able to provide a recommendation, the information supporting the recommendation often can only be provided in summary form. As can be expected, Secretariat staff often desire more detail and sometimes do not understand when the OIG cannot provide it. There are several reasons for this.

4.9 First, the OIG cannot intelligently provide information on cases until it has examined the issues thoroughly and exhaustively, and completed its inquiry. Thorough examination and investigation takes time, and, in most cases, requires in country visits. Investigations routinely require the gathering and analysis of significant information and evidence. As set forth above, collection, organization and analysis of the evidence gathered (hard copy and electronic) is a challenging and time consuming process, as OIG often finds documents poorly kept, disorganized and the implementer has not utilized accounting software, or an accounting system. Reconstructing evidence into a usable form takes time and effort.

4.10 Further, early and premature dissemination of evidence and information can pose serious risks, to the success of the investigation, to preservation of evidence, to safety, security and trust of witnesses and whistle-blowers, and to ensuring due process is scrupulously followed. In some cases, real safety risks are present. Often, these cases involve significant sums of money, and lives have been threatened. In one recent case, a prospective witness's life was threatened shortly before he was scheduled to meet with the OIG. Dissemination of information that could be linked with this person not only risks the witness's safety, but the OIG team as well.

4.11 The OIG wishes to cooperate with the Secretariat and to assist FPM's and Team Leader's in grant management and making sound decisions. Identification of risks certainly furthers this goal. To the extent possible, the OIG has, and continues to be committed to, advising the Secretariat of risks emerging from audits and investigations. Details, however, often cannot be provided until the matter is completed, for the reasons set forth above. In these cases, the Secretariat must be flexible and accept less specificity and general overviews of risks perceived by the OIG, and understand when the OIG indicates it cannot provide specific detail in some cases.

4.12 Once an investigation has been completed, the OIG will inform the Secretariat of its findings before a report is made public in order to give the Secretariat an opportunity to act.

Audits Commissioned by Principal Recipients, Sub-Recipients and the Secretariat

4.13 In a number of recent cases, Principal Recipients and even some Sub-Recipients have commissioned external audits or "enhanced financial reviews" through the hiring of audit or similar firms upon the receipt of an allegation of financial misappropriation, without providing notice to the OIG. In some of these cases, notice to the OIG has not happened until significantly after the audits have been completed and the reports issued to the CCM, the Secretariat or the Principal Recipient. In other instances, Principal Recipients have commissioned audits without engaging with the OIG on the terms of reference. In many of these cases, the audits do not satisfactorily address the significant issues, namely the full nature and extent of the fraud, the full identification of the loss, and the identification of the responsible parties. In such circumstances, the OIG needs to do follow-on work. Also in these cases, unnecessary costs are incurred, and unnecessary delays result. In other cases, mistakes are made, subjects are advised of the inquiry, and results are shared prematurely. This can pose as a serious problem in a follow on effort by the OIG that later results in different findings.

4.14 In other cases, the Secretariat has, without notice to or approval from the OIG, commissioned "financial reviews" in countries that have been selected for an OIG audit, in advance of the OIG's arrival. China is an example wherein the Secretariat had

commissioned an “enhanced financial review” of the grant programs there, ahead of the OIG audit. The OIG was unaware of this effort, until the review had been completed, and the results disclosed to the PR. This practice is dangerous in that it could cause complications for subsequent OIG audit and investigation efforts, risk premature disclosure of evidence and findings, result in incurring of unnecessary expenditures of grant funds through the duplication of efforts, lead to audit “fatigue” and prompt loss of critical information and documents.

4.15 Further, in some instances, the firms selected suffer from a conflict of interest, either because they have a relationship with the auditee or the entity selecting the firm, or they have other connections to the entities involved. This has happened in two cases recently. In ensuring a sound, cost effective and timely process, Principal Recipients and Sub-Recipients who receive allegations of financial misappropriation, as well as the Secretariat, must coordinate with the OIG in fashioning the way forward, and determining whether contracting an external audit firm makes sense. In such cases where it is determined that contracting such a firm is appropriate, the OIG must be included in drafting the Terms of Reference, and in the selection process, to ensure that it occurs with integrity, that it is thorough, and that it is devoid of conflicts of interest so that the results will be reliable and relevant. The OIG should also be included in determining whether, and to whom, the report is shared. The OIG should determine the need for redaction-- as full disclosure could have significant impact on any follow on work by the OIG.

Recoveries

In each audit and investigation, a central feature of the work of the OIG is to identify sufficient information concerning misused grant funds, including the present location of misused sums, the identity of responsible parties, and the quantification of the amounts. The OIG puts significant effort into this issue. The responsibility for effecting the recoveries lies with the Secretariat. To date, some recoveries of losses identified by the OIG have been attained, and others have been promised. It is important that the return of lost funds be pursued with energy and enthusiasm, and that a consistent willingness and effort to offset further grant disbursements to a country where losses have been sustained be made.

UNDP

4.16 No progress has been made with UNDP towards agreement for disclosure of information in the possession of UNDP that is relevant to OIG audits and investigations. No MOU exists with UNDP, and execution of such a document is not a current prospect, despite assertions by UNDP to the contrary. The lack of access to records, reports, documents and relevant information in the possession of UNDP continues to be a significant hindrance and major impediment to OIG audits and investigations where UNDP serves as a Principal Recipient of Global Fund grant resources, and seriously hampers the ability of the OIG to trace misused funds, identify responsible parties, and achieve recoveries. To be clear, to undertake its mandate effectively, the OIG is not only seeking access to audit reports prepared by UNDP of Global Fund grant programs, but access to relevant documents and financial records in the possession of UNDP, including, often, materials submitted to them by Sub-recipients, suppliers and other implementers and individuals that may impact upon larger investigations or audits being conducted, or contemplated, by the OIG. For example, UNDP serves as a Principal Recipient in Togo, where the Global Fund was subject to a US\$ 860,000 loss of medicines through theft and fraud perpetrated by a senior official and others in the Central Medical Supply store. Publicly, the Global Fund is blamed for the loss.

4.17 The lack of access to relevant information not only affects the OIG's efforts in Togo to investigate the thefts, but could impact related theft of medicine investigations elsewhere. As set forth above, patterns of drug thefts in the continent of Africa have emerged that indicate thefts may be organized, related, and encourage black market sales of stolen medicines. Information in the possession of UNDP is critical to the larger investigation efforts the OIG is undertaking with its partners and to OIG's efforts in other countries where the evidence and information is likely to be relevant.

Recipients Code of Conduct

4.18 The OIG initiated an effort to draft a Code of Conduct for Recipients, modelled after the Code of Conduct for Suppliers, already approved by the Executive Management Team and now enacted and publicized on the Global Fund website. The Code for Recipients, as for Suppliers, sets out the ethical expectations of all recipients and provides a clear outline of the standard to which Recipients would be held. The Code outlines in explicit terms the definitions of the forms of ethical and legal issues that would give rise to a violation of the Code, the procedure that would be employed in addressing allegations of violations, and provides a link to the Sanctions Procedure that outlines the possible penalties for violations. The Code, duly endorsed by the Ethics Committee with inputs from the Portfolio and Implementation Committee, and was re-submitted to the EMT for approval. The EMT has twice declined to pass the Code, including most recently on 12 April 2011 after the Ethics Committee and the PIC had approved it. The EMT has indicated a series of reasons for their position, including that the ethical obligations proposed would "contradict" the country ownership principle and would create an unnecessary burden for recipients. The EMT has indicated that it will present its concerns to the Global Fund Board Committee Leadership at the next Board meeting.

Complaints Procedure & Mediation Mechanism

4.19 The Board Chair and Vice-Chair have requested that a complaints procedure be instituted in cases of allegations of inappropriate behaviour by OIG staff or consultants engaged in audits or investigations and the FAC recognized it was important to expand the Policy to include allegations of inappropriate behaviour by Secretariat staff in pursuit of their functions. The OIG and the Legal Unit have drafted a proposed procedure to address these issues and propose to link the proposed procedure in so far as it concerns OIG staff and consultants to the dispute resolution panel in the following paragraph which will also address substantive disagreements with audit and investigation outcomes.

4.20 The OIG and the Legal Unit have proposed a pre-arbitration resolution procedure for recipients to voice substantive concerns or disagreements about the findings of OIG audits and investigations prior to full blown arbitration as provided in the grant agreement. It is envisaged that a three member independent panel, selected by the Board, would be formed to hear such cases which should be pursued in a timely manner. The two proposed procedures have been reviewed by the FAC, and subject to any modifications proposed, will be presented to the Board in the May session for approval. The approved procedures would be posted on the Global Fund website thereafter.

Disclosure Policy

4.21 The current Disclosure Policy regarding OIG reports is based upon the concept of full transparency, and requires the Inspector General to publicize its reports promptly after notice to the Board has been made that a report has been finalized. The policy clearly envisions that full disclosure of all OIG reports be made, and exceptions to the

policy, in the form of redactions to reports, would be pursued rarely, and sought only in exceptional circumstances. The current policy identifies 7 categories of exceptions that might require a redaction.

4.22 In such circumstances, the current policy requires the OIG to seek approval from the FAC to not publish a full unrestricted report, but to redact the information that would meet the criteria of an exception. Upon consultation with the Legal Counsel, and approval by the FAC, the redacted report would be presented to the full Board to endorse the redaction. The only question is whether a redacted report, along the lines proposed, or a full report, should be released.

4.23 Some members of the FAC are presently proposing significant modifications to the policy, to broaden the review of OIG reports by the Board to all reports, including unrestricted and unredacted reports, which would currently not be subject to review. The proposal will also give all Board members an ability to review and weigh in on the issue of publication, prior to release. This last modification would grind the process to a halt, and result in a circumstance wherein no OIG report would likely be released, at least in a timely fashion.

4.24 Importantly, it is extraordinarily dangerous to seek to amend the Disclosure Policy at this most sensitive time with several reviews of the adequacy of the Global Fund's fiduciary controls currently under way, as it signals that the Global Fund is walking away from full transparency. True credibility, both of the Organization and the OIG, can only truly be attained through a fully independent Inspector General that is allowed to reach conclusions and publish his or her results, without interference, pressure, and the fear of reprisal and retaliation. The proposed policy seeks to restrict the Inspector General's independence and seriously risks limiting transparency - presently a beacon of light for the Global Fund. Full transparency is one of the greatest assets of the Global Fund, and an attempt to restrict it, now, would be seen as an attempt to conceal OIG results that could be interpreted negatively and as a purposeful effort to suppress material information. Such an effort is most unwise, and should be rejected in full.

The ability of the Office of the Inspector General to report to the Board

4.25 The Inspector General and the Office of the Inspector General report to the Board, through the Finance and Audit Committee (FAC). The OIG Progress Reports are first reported to the FAC, and then sent on to the Board along with a FAC Report, drafted by a Secretariat official. The OIG has not previously sent its reports directly to the Board, and has not communicated its results directly to the Board, but through the FAC and the Board Relations Team, that is now part of the Office of the Executive Director. The OIG has been hampered in its ability to report fully and completely to the Board, without modifications, edits and changes to its reports and information (paragraphs 2.5 and 2.6 refer). The transmission of this OIG Progress Report was held up by the Secretariat, and not presented to the Board as the Inspector General had requested. The OIG was then required to amend its report and directed by the FAC Chair to exclude certain results and factual columns in its Loss Table.

4.26 For the Inspector General and his or her office to have true independence, there needs to be a direct reporting line to the Board, and an ability to communicate information without interference, alteration of information in its reports, and without being directed to compromise its commitment and professional obligation to provide truthful and complete information. The OIG recommends that it be allowed to report directly to the Board in the future.

This document is part of an internal deliberative process of the Fund and as such cannot be made public. Please refer to the Global Fund's documents policy for further guidance.

Country (or PR)	Fraud (US\$)	Unsupported (US\$)	Ineligible (US\$)	Income/drugs not accounted for (US\$)	Other (US\$)	TOTAL (US\$)
Uganda ¹	-	-	-	-	1,600,000	1,600,000
Mali	4,074,444	1,034,935	-	-	122,106	5,231,485
Djibouti ³	145,893	4,262,288	857,827	-	-	5,266,008
Mauritania ³	6,755,000	-	-	-	-	6,755,000
Cambodia ³	-	222,706	-	1,362,466	-	1,585,172
Cameroon	33,455	2,199,530	3,370,322 ²	-	-	5,603,307
Zambia ³	13,000	5,808,446	4,998,389	-	-	10,819,835
Tanzania	-	-	-	819,000	-	819,000
Haiti	-	519,326	1,253,869	704,730	-	2,477,925
DRC ⁴	-	1,110,107	933,586	-	-	2,043,693
Philippines	-	-	2,021,280	-	-	2,021,280
Rwanda	-	-	-	-	-	-
Total (US\$)	11,021,792	15,157,338	13,435,273	2,886,196	1,722,106	44,222,705

1: The amount is based on recommendations in the Ugandan Government White Paper endorsed in November 2006 for refunds amounting to Ushs 2,745,143,224 which approximates to US\$ 1.6m. The OIG has been supporting on-going investigations in a number of cases.

2: As documented in paragraph 115 of the OIG Cameroon country audit report dated 5 October 2010, this amount relates to overpayments as a result of over-billing by a procurement agency.

3: The OIG is in the process of conducting on-going investigations of fraudulent activities in these countries. As these investigations are still on-going, we are unable to fully quantify the amounts involved. But we are of the opinion that the amount of reported fraud will increase following the outcome.

4: Due to recent and on-going OIG investigations, please note that the amount of discovered fraud in the DRC has now increased by approximately US\$ 1.75m which has not been reflected in the amounts above.

****This table is not comprehensive and does not reflect all of the countries and the programs the OIG has examined to date, and does not include all known loss amounts.**