



# THE OFFICE OF THE INSPECTOR GENERAL

The Global Fund to Fight AIDS, Tuberculosis and Malaria

GF/B25/3  
Board Information

Revision 1

## THE OFFICE OF THE INSPECTOR GENERAL PROGRESS REPORT FOR APRIL 2011-OCTOBER 2011 AND PROPOSED PLAN AND BUDGET FOR 2012

### 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) and proposes a plan and budget for 2012.
2. The purpose of this revision is to provide clarifications arising from discussions at the Twenty-Fifth Board Meeting (refer, in particular, to Annex 6).

## PART 1: OUTLINE

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) and proposes a plan and budget for 2012.

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

- i. Part 2: The OIG and the High Level Panel Report - the OIG's response
- ii. Part 3: Audit and the High Level Panel Report
- iii. Part 4: Investigations and the High Level Panel Report
- iv. Part 5: OIG Initiatives - Voluntary Dispute Resolution Process and Privileges and Immunities
- v. Part 6: Progress on Audits and Investigations
- vi. Part 7: Challenges for the Investigations Function
- vii. Part 8: Proposed Audit and Diagnostic Review Plan
- viii. Part 9: Value for Money
- ix. Part 10: OIG Performance

1.3 List of Annexes

- Annex 1: Comments by the Inspector General to the Board, 26 September 2011
- Annex 2: Terms of Reference for the Voluntary Dispute Resolution Procedure
- Annex 3: Draft 2012 OIG Proposed Audit Plan
- Annex 4: Draft Code of Ethics and Professional Conduct for Staff and Contractors in the Office of the Inspector General
- Annex 5: Draft Key Performance Indicators for the Office of the Inspector General
- Annex 6: The OIG Progress Report and Plan/Budget for 2012 - Clarification on issues raised at the 25<sup>th</sup> Board Meeting.
- Annex 7: Paper on Privileges and Immunities (GF/FAC17/22)

## PART 2: THE OIG AND THE HIGH LEVEL PANEL REPORT - THE OIG'S RESPONSE

2.1 **The context:** On 19 September 2011 the High Level Panel ('HLP') issued its Report on its review of The Global Fund. The Report comes after approximately five months of intense scrutiny and analysis of the programs, operations, and functioning of this institution by the Panel Team. Both the Secretariat and the OIG were involved in the process, and expended significant effort to support the Panel's work. For both, this effort caused a change in normal operating processes during this time, and a partial transfer of resources to support the effort.

2.2 **Welcoming the report:** As stated in the Inspector General's statements at the Twenty-Fourth Board meeting<sup>1</sup>, the OIG welcomes the report, its detailed and thoughtful analysis, and its recognition of the rigour and thoroughness of the work of the Office of the Inspector General. Importantly for the institution, the Report confirms that only with a thorough, independent and fully functioning Office of the Inspector General may full confidence in the credibility of the Organization to safeguard funds and provide assurance on the proper functioning of the institution. The Panel recognized the profound importance of the need of the Organization to remain true not only to verbally espousing the principles of transparency and an independent OIG that reports directly to the Board, but adhering to these principles in practice. In this regard, the OIG welcomes the conclusion by the Panel that the OIG must continue to have the independence to craft reports that reflect its unvarnished, factually based and professional findings, free from political or other influence. Efforts to undercut or minimize this ability must, therefore, be avoided. The Inspector General's comments on the findings of the High Level Panel presented to the Global Fund Board on 26 September 2011 are at Annex 1.

2.3 **Transparency and Independence:** On the issue of transparency, it is axiomatic that the Global Fund is thus far a global leader amongst international institutions in the practice, and is the most open institution about its processes and operations in the international community. Despite the potential short term repercussions, only through highlighting deficiencies and operational challenges may confidence in the Organization by its key stakeholders, and needed changes be truly achieved. As such, it is critically important to recognize that the benefits of transparency firmly outweigh any potential harm. Ultimately, only through the firm commitment to, and execution of, full transparency and true accountability can the Organization grow, improve, inspire confidence and achieve ultimate sustainability.

2.4 It is also important to stress that many, if not most, of the deficiencies and control weaknesses identified by the OIG through its many audits and investigations afflict most, if not all, other international institutions. This has been the case in previous report periods, and it continues to be the case now, and in the reviews yet to be produced by the Office. The OIG is confident of this assertion through its own work and first hand efforts, which in most instances involves the examination of co-mingled funds of other donors. While these issues are brought publicly to light, it is the belief of this Office that this Organization has the capacity and potential to become the strongest, most well-functioning, and most advanced Organization in the field of development, and a leader and beacon for its peers. To achieve this position, however, the Organization must remain true to the principles of transparency and accountability, and the independence of the OIG. It is critically important that the communication of these words must be more than mere slogans, and the Organization must practice, as well as preach, the values of transparency and accountability. It is only through the consistent practice of transparency, and fashioning rules and procedures that confirm, rather than contradict, these principles that

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<sup>1</sup> Refer to the document entitled "Comments by the Inspector General on the Findings of the High Level Panel presented to the 24<sup>th</sup> Global Fund Board, 26 September 2011", available on the Global Fund's website at: <http://www.theglobalfund.org/en/board/meetings/twentyfourth/>

confidence in the credibility of these assertions, and of the officials who pronounce these statements, can be inspired.

2.5 The High Level Panel also stressed that the Organization should ensure that the administrative processes of the Global Fund should not interfere, even inadvertently, with the independence of the Office of the Inspector General. Procurement and recruitment are two areas of concern, and the OIG respectfully requests that the Board endorse the HLP conclusion in this regard following on from which a reworking of the OIG's Charter and Terms of Reference is proposed in the Consolidated Transformation Plan.

2.6 **The quality of the OIG's work:** Importantly, several sections of the HLP report address the work of the OIG. In its analysis of the systems and processes of the Global Fund, the High Level Panel recognized the depth of the OIG investigations and audits, the quality of its work, and its performance. The OIG welcomes the HLP Report recognition that the OIG is functioning as designed. The OIG takes much pride in such confirmations, as the Office invests incredible effort to achieve these goals.

2.7 Equally as important, the Panel also included several recommendations addressed to the OIG, which the OIG fully accepts, is in the process of implementing, and discusses herein. Because of the unique circumstances surrounding the work of the High Level Panel, its report, and its recommendations, during the period of this report, this paper will differ from previous submissions to the Board, and indeed focus heavily on the application of the Panel's insights to the on-going work of the OIG.

2.8 **Proposed changes in the scope of the OIG's work:** As such, this Progress Report addresses the HLP recommendations concerning proposed changes to the scope and breadth of the audit work, the increased reliance on Diagnostic Reviews versus full audits; the mechanics of increasing the timeliness of the issuance of audit and investigation reports; the possibility of differentiation in types of reports based upon need and audience, including potential differentiation of treatment based upon substance, the potential dangers to a misconstruction of this language, and the external changes that are required to achieve these objectives; the important relationships between the Inspector General and the OIG, and the Executive Director and the Secretariat; and the OIG's implementation of a code of conduct for its staff, consultants and contractors.

2.9 **The actions in hand:** The HLP Report and its recommendations also trigger a discussion of the needs of the Office to bring these changes to fruition, and the obstacles and challenges that are faced in the process. Many of these obstacles have been highlighted by the OIG previously, and continue to be overcome to allow these changes to be achieved.

2.10 The Office of the Inspector General is firmly committed to taking real action in response to the High Level Panel Report. Significant actions being taken by the OIG include: Routine and regular meetings and communication between the Inspector General and the Executive Director, and their respective key management personnel; agreement between the Inspector General and the Executive Director on a protocol to codify the principles and practices to be applied in the relationship between the Secretariat and the OIG; a Code of Conduct for all OIG personnel, contractors and staff alike, to govern behaviour in country.

2.11 **Improving our working processes:** Already, led by the Inspector General and the Directors of Investigations and Audit, the Office is implementing a number of changes in the way in which it works, and in connection with the areas noted by the High Level Panel, to comply not only with the letter, but the spirit of the Report.

2.12 On the Investigations side, the Office has instituted even stricter procedures to ensure factual accuracy and evenness in reporting. In preparing reports, a rigorous quality assurance process is consistently followed. All material factual assertions in reports are required to be sourced and footnoted; each draft report goes through multiple layers of review for accuracy, presentation, thoroughness and evenness of tone. Consistent with

the High Level Panel recommendation, the OIG has included sections on the process it follows with respect to the Secretariat and key stakeholders in both Audit and Investigations reports, and is including sections in the reports evaluating the feedback and comments each make to drafts. The Secretariat is encouraged to submit action plans in response to reports, and responses that address the merits of the report are appended as annexes. In addition, lawyers in the OIG with deep trial and arbitration experience, and experience in cases particular to the issues that can arise from publication of written material, review each report to ensure that reports are best placed to withstand subsequent challenge, while also setting forth the evidence identified, and required to be highlighted, to ensure that it is clear that factual findings have credible support and a full understanding is presented on the manner in which the OIG has reached its factual conclusions, and the basis for them.

2.13 In this regard, it must be recognized that it is commonplace for subjects to challenge reports, and signal potential litigation prior to report issuance and publication in an effort to dissuade an Organization from releasing reports that contain information that may be critical of the subject(s). The Organization cannot be intimidated by such claims, but must at the same time ensure that its reports are not vulnerable to challenge. While litigation cannot be prevented, and non-meritorious challenges in arbitration are often made in many contexts, the Office is cognizant of the need to ensure factual accuracy, objectivity, and compliance with established due process requirements. It is also important to recognize that the scrupulous execution of these practices will have ramifications on the time within which reports are released, and may extend the duration of the process further.

2.14 **The behaviour of the OIG teams:** On this issue, the OIG has been most proactive. Paragraphs 10.1 - 10.5 below summarise the feedback received following audit field work. Before each investigation mission, and during regular team meetings, proper conduct in the field is stressed and emphasized by OIG management. Firm guidelines are provided. Teams on mission are required to communicate regularly with the home office in Geneva to ensure that there are no issues or problems with the interaction with the Recipients and their staff, and professional behaviour is stressed. To ensure effective communication and resolution of these issues in real time, a point person in the OIG has been identified to be available 24/7 and trained in the event of any emergency or any issue that might arise; OIG core personnel are required to be present to accompany contractors during all investigation missions throughout the full process; and exit meetings are now routinely held with recipients and local offices that are visited by the OIG to ensure respect and proper diplomacy has been followed, and that acceptable interaction has occurred. In a number of cases, the OIG has invited independent third parties to be present for investigation missions, and to witness the interaction between the OIG and the Recipients and subjects. In some cases recently, officers of the CCM have been invited to be present for the OIG investigations mission. In several cases, witnesses report positive interaction between OIG staff and Recipient staff. In other cases, recipients have executed written confirmations through a standardized exit survey attesting to the proper manner in which the OIG staff has pursued their work in country.

2.15 That said, it must be recognized, as the High Level Panel does, that challenging the auditor or investigator is a practice that is often employed by some as a tactic to attempt to defeat the audit or investigation process, deflect attention, and remove the emphasis from a discussion of possible misconduct and the ramifications of such a finding. The OIG is most concerned that the substance of what it finds remains the principal focus and the central topic of discussion. This phenomenon was present in the recent release of the twelve OIG reports. In one case, one Recipient, during the process, thanked the OIG for the open communication and explanation of the process, and did not object at any time to the procedures employed or the conduct of OIG staff. After the draft report was provided containing text critical of the Recipient, the Recipient responded with challenges to the OIG procedures and practices. In such cases, these post facto challenges are not made in good faith.

2.16 Further, the possibility may exist that thorough audit and investigation efforts, which may themselves be considered intrusive, are improperly misconstrued as “inappropriate”. Assertions of inappropriate behaviour of OIG staff must be supported by proper and credible evidence. It is important to understand that conducting the audit or investigation exercise, and requiring the production of documents and materials, is not inappropriate behaviour, although it is considered to be the case by some. Rather, such efforts are standard practice, and consistent with the OIG Charter and Terms of Reference.

2.17 **The OIG and UNDP:** The High-Level Panel comments at length on UNDP and on the relationship between the UNDP and the Global Fund Secretariat and the OIG, adding that the Global Fund should consider UNDP a transitory and temporary Principal Recipient in almost all cases, and hold UNDP accountable for developing an exit strategy with concrete timelines. UNDP should prepare an exit plan from Global Fund operations within three years. In the meantime, the HLP believes that the Global Fund should seek an agreement with UNDP on regular monitoring of implementation similar to that UNDP has concluded under the FAFA between the EC and UNDP, and recommends that a memorandum of understanding be developed and signed that spells out clear detail on document access, joint investigations, and the exchange of information. The Panel also stressed, quite clearly, that the assertion by UNDP that they have Privileges and Immunities should not be a bar to effecting a suitable arrangement and procedure to promote the Global Fund access, and that P & I should not be used as a shield for appropriate access to relevant information by the Global Fund. Such a memorandum is now in place.

2.18 In addition, work at the operational level continues to be refined. The OIG has accessed the first UNDP audit reports *in camera*; we have pilot tested the remote access system to enable us to review additional reports.

2.19 **The interaction between the Secretariat and the OIG:** On the interaction between the Inspector General and the Executive Director, and between the OIG and the Secretariat generally, significant efforts are underway. The Executive Director and the Inspector General have finalized a Protocol between the respective offices. This document will form the basis, and present a foundation and framework, for the manner in which these offices interact, communicate, coordinate and engage with each other towards the mutual and common goal of achieving efficient grant programs, effective oversight without impediment, and reaching the important goals and purposes of this institution. Further, the Inspector General and the Executive Director are meeting frequently, and open lines of communication between the two exist. The two Directors in the OIG are firmly committed to supporting this process, and assisting the Inspector General to meeting his, and the Office’s, expectations and obligations. Most recently, the Executive Director was invited to meet the OIG office personnel in an open discussion. The ED accepted the invitation, and a productive meeting was held. Similarly, to promote healthier interaction between the two entities, management on both sides has committed to engage directly in person, rather than through impersonal email exchange.

2.20 **The timeliness of reporting:** To promote timeliness of reports, the OIG has, since the start of the year, implemented a practice of keeping audit teams in country for an additional week in order to develop well advanced draft reports and advance the report process to an earlier stage. Previously, in order to meet the Audit workplan, OIG Audit Team Leaders would move to the next audit following the audit exit, before completing the written work. The OIG is altering this practice, moving towards a commitment to completing the full audit process before advancing to the next audit exercise.

2.21 In addition, the OIG has been part of the working group developing and implementing the Global Fund’s Consolidated Transformational Plan, particularly in following up on the specific recommendations of the Panel to the OIG, strengthening collaboration between the OIG and the Secretariat, and in the area of risk management,

where we take a consulting role in advising the Secretariat on the development of training sessions in risk management and risk assessment protocols and ensuring that the risk management framework is of sufficient quality to address the weaknesses highlighted by the High Level Panel.

## PART 3: AUDIT AND THE HIGH LEVEL PANEL REPORT

3.1 The HLP states that the OIG should “focus inspection and audit resources in the areas of highest risk.” It calls particular attention to the procurement, storage, distribution and delivery of pharmaceuticals and health commodities, which account for almost half of the overall grant budgets, as the single-biggest category of vulnerability. In addition, the Panel highlights programmatic audit, which lies at the core of all Global Fund grants.

3.2 Sourcing well-qualified public health and procurement and supplies management experts able to work with the audit teams has proven difficult given the global demand for such skills, particularly since we have to avoid conflict of interest situations given that many experts in these fields have been active in technical support to Global Fund programs.

3.3 Thus, in order to add capacity in the OIG in these two specific areas, we propose to include in the OIG office a public health expert and a PSM expert. The benefits of having in-house expertise in these two areas are that the OIG would:

- i. Develop and implement a standard methodology for PSM and programmatic audit and define clear objectives and scope for PH/programmatic audit;
- ii. Improve the audit recommendations related to PSM and public health, and thereby ensure that risks are managed more effectively;
- iii. Ensure quality control over PSM and public health auditors in the field;
- iv. Identify cross-cutting lessons learned in PSM and programmatic issues for Secretariat learning;
- v. Create a liaison with the Secretariat on PSM and public health issues; and
- vi. Provide regular in-house training to Audit and Investigations staff on PSM and public health.

3.4 In addition to the risk-based need for PSM and improved public health expertise in the OIG, the HLP suggests that the OIG differentiate written materials by need and audience, and to contribute to the training program of risk management in the Secretariat.

3.5 The OIG has already begun implementing these recommendations in the batch of audit reports released in October 2011. The internal travel audit was released in two versions (to the Secretariat and to the Board). All country audits now include annexes that articulate the position of the PR, the CCM and the Secretariat with respect to the audit or investigation. We have begun discussions with the Secretariat on a training plan for risk and risk mitigation and will provide significant inputs from a senior staff member from the OIG to Country Programs to better equip the Secretariat in understanding the true risks in the field as the OIG has the deepest understanding in the Organization of these issues based on its extensive fieldwork..

3.6 Starting in 2011, audits performed by the OIG took account only of open grants. Moving forward, and in accordance with the guidance from the High Level Panel, the OIG plans to focus in its audits only on grants signed in Round 6 or more recently. Given that a number of grants from earlier rounds are entering RCC, and many of these are large, we will consider those RCC grants signed at the time of Round 6 signing or later as well.



## PART 4: INVESTIGATIONS AND THE HIGH LEVEL PANEL REPORT

4.1 Regarding investigations, the OIG has concerns about the possible misinterpretation of the Panel recommendation to “differentiate its investigation reports by need and audience”, and is in the process of seeking further clarification from the Panel on this issue. To the extent that this recommendation may be interpreted as requiring the OIG to shorten reports to remove full description of the evidence it has identified would be problematic. Full recitation of the evidence identified is required to inspire confidence not only in the factual findings, but of the OIG effort itself, and that the Office has undertaken a thorough, objective, and full analysis of all the facts. Equally, only through a full discussion of the evidence, and an analysis of it, can confidence in the findings, conclusions and the basis for recommendations, be achieved. These principles would apply to *all* potential audiences of OIG reports, law enforcement, the Board, the public, etc. In that regard, there is no need to distinguish between different audiences.

4.2 Relatedly, there has been much discussion concerning the scope and depth of OIG investigations, including questions of the need to do exhaustive work. Deep and thorough investigation processes are required for many of the same reasons that full details of investigations must be reproduced in the written product. In addition, deep investigations fulfil the goals of the OIG, and place the Organization in the best place to identify all losses and achieve full recoveries. Without full investigations, the full nature and scope of misappropriation schemes, and those responsible cannot be identified; full losses cannot be quantified; and the location of misappropriated sums is much more difficult to be found. Also, incomplete work risks erroneous conclusions, and may expose the Organization to litigation risk by failing to demonstrate thorough work, and identify exculpatory, as well as inculpatory, evidence. To the extent that Country Programs Cluster seeks detailed information from the OIG on what it finds, such detail can only be accomplished if the OIG is allowed to complete its investigations through to their logical conclusion.

4.3 In addition, the OIG has found that in a number of circumstances, there are questions about the capacity and resources of country systems to undertake full investigation efforts, including forensic capability. Many of the investigations are extremely document intensive, and require advanced computerized systems to expedite the process. There is also a concern as to the will, and the energy and enthusiasm with which some countries address misappropriation. In instances, national governments have shown a lack of will to vigorously pursue prosecutions of episodes of misappropriation of Global Fund grant resources, as identified by the OIG.

## PART 5: OIG INITIATIVES - DISPUTE PROCEDURE AND A PRIVILEGES & IMMUNITIES PAPER

5.1 During the reporting period, the OIG was involved in two significant initiatives on behalf of the Organization. Both were initiated by the OIG with the support and valuable direction of the Finance and Audit Committee (FAC), whose mandate ends at the conclusion of this Board meeting. The OIG extends its thanks and strong appreciation to the FAC Chair for his invaluable efforts and strong commitment in ensuring these processes have come to fruition.

5.2 **The Voluntary Dispute Resolution Procedure:** In response to the concerns expressed by some Recipients, and supported by some Board Members, that there is not a sufficient cost effective mechanism to challenge the important substantive findings of the OIG in its audits and investigations, the OIG proposed the adoption of a mechanism by which Recipients could present claims to a competent and qualified independent and objective Panel for consideration, selected by the Global Fund, that would hear their disagreements attempt to mediate such disputes prior to potentially costly arbitration that is required to be held in Geneva. The three member Panel would hear material claims of Recipients, and could do so remotely so as not to impede the ability of Recipients to assert claims because of the cost of travel. The Panel would receive submissions from the Recipient and then a response from the OIG, and then offer non-binding recommendations for resolution. The process would not foreclose either party from the ability to seek arbitration, consistent with the Grant Agreement. The Panel Members would be selected based upon merit, and relevant experience, and sit for a term of two years.

5.3 The Procedure is the product of a significant effort and substantial work by the OIG and the Global Fund's Legal Unit. After much consultation and analysis, and with input from stakeholders and the FAC, a new Voluntary Dispute Resolution Procedure was agreed upon by the OIG and the Secretariat, and was approved and adopted by the FAC in this last session. The Terms of Reference for the proposed procedure are set out at Annex 2 of this Report, and will be presented to the Board in Accra for final approval and ratification<sup>2</sup>. The OIG thanks the FAC Chair for his efforts in this process. .

5.4 **Privileges and immunities:** As paragraph 7.3 of this report discussed, OIG staff have been temporarily detained at airports and faced threats to their person in a number of cases. This prompted the FAC Chair to request the OIG to prepare a detailed paper on the issues and material risks that are presented from a lack of universal Privileges and Immunities to the staff of the Global Fund and as an Organization as a whole, and the risks the Organization and its staff face as a consequence. The paper sets out the various areas, scenarios and circumstances in which a deficiency in P&Is, as enjoyed by UN agencies and most international organizations, might result in material risk to the Organization and its staff, and offers some possible short and long term solutions to address the issue, prior to ratification of P&Is by all Member States. The document also includes some recommendations to seek to protect staff in the interim, and is appended as Annex 7.

## PART 6: PROGRESS ON AUDITS AND INVESTIGATIONS

6.1 Since the issuance of the last Progress Report (May 2011), the OIG has released nine audit reports (Dominican Republic, Nigeria, Population Services International Headquarters, PSI Madagascar, PSI Sudan, PSI Togo, Sri Lanka, Swaziland, and Travel and Travel-related Health and Security at the Secretariat). We have additionally released three investigation reports, India, Nigeria and Mauretania. Highlights from these reports appear below.

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<sup>2</sup> The Board approved the procedure by its decision entitled "Approval of Voluntary Dispute Resolution Process" (GF/B25/DP12).

**6.2 Dominican Republic:** At the time of the audit, the grants to this country supported HIV treatment for 16,000 people through a network of clinics that deliver a good standard of care and produce reliable statistics. However, the Prevention of Mother-to-Child Transmission (PMTCT) program had poor results (low service coverage with high transmission rates) due to a need to strengthen the organization of maternal health services. A key challenge has been an unstable supply of ARVs with stock-outs in the summer and autumn of 2009, which would have benefitted from improved forecasting and better funding for procurement. While 85 percent of the population has access to DOTS, progress on case detection and contact tracing has stagnated. Strengthening the technical and administrative capacity of the National Tuberculosis Program is one way of mitigating this. The Dominican Republic has an interim malaria control strategy designed to prevent a major epidemic; a sustainable approach would require an island-wide strategy in close collaboration with Haiti.

**6.3 Nigeria:** Global Fund grants to Nigeria under Rounds 1 and 2 did not meet the program targets, which resulted in No Go decisions at the end of Phase I. In Rounds 4, 5 and 8, the CCM worked with the Global Fund Secretariat to make changes in implementation arrangements at PR and SR levels. This resulted in improved program performance for two civil society PRs: the Association for Family and Reproductive Health and the Society for Family Health. Our audit found that the internal control systems at the other PRs needed strengthening, given that US\$ 7,007,787 of potentially recoverable amounts were documented by the OIG. The OIG also noted significant weaknesses in the quality of services, monitoring and evaluation systems, and logistics and supply chain management. In 2009, the Global Fund Secretariat undertook a review of risks affecting grants in Nigeria. This resulted in explicit risk mitigation measures for each PR. Although the risk mitigation measure were yet to take root, the OIG commends the Country Team for these efforts.

**6.4 PSI HQ:** PSI is a key stakeholder in the management and implementation of Global Fund activities across the globe. PSI has generally instituted good policies in the management of program funds but there is scope to further improve program implementation at HQ and field office level. Specifically, urgent measures need to be put in place to strengthen the control environment for procurement of program products and services, reporting of results (to match Global Fund definitions), financial management (to ensure bona-fide, reasonable charges), and SR management. Grant oversight of programs managed by PSI is not fully operational. PSI needs to provide CCMs and LFAs with all requisite information. Specifically, LFAs should have access to necessary information and people to undertake capacity assessments and verification of program implementation. Audits should be undertaken in compliance with the grant agreement and Global Fund audit guidelines.

**6.5 PSI Madagascar:** PSI has distributed 2.4 million bed nets, almost 8 million malaria treatment kits for under-fives, and over 10 million condoms. This is commendable, despite the shortages noted in nets delivered. However, although measures of performance were generally in line with national objectives and Global Fund indicators, PSI was able to track distribution of commodities only as far as the distributor rather than the end user. None of the audit reports submitted by PSI met the audit requirements of the grant agreements, and although two thirds of expenditure took place at HQ, this was not included in the audits. There is a need for PSI to address significant control weaknesses and mitigate risks prevalent in the programs. The audit revealed costs amounting to US\$ 282,923, for which refunds are being sought. The Global Fund Secretariat developed action plans to address key weaknesses evidenced in the audit.

6.6 **PSI South Sudan:** Our audit noted a number of commendable achievements given the complex operating environment in Sudan. These included the purchase of pharmaceutical and health products from WHO certified suppliers, successful distribution of 1.6 million LLINs, and the development of comprehensive policies and procedures. These successes were constrained by difficulties in finding competent staff, insecurity in program areas, poor infrastructure, high illiteracy, and lack of indicator baselines, all of which delayed implementation. There is a need to strengthen adherence to the program manual, especially in financial, SR, procurement and supply chain management. The audit revealed ineligible and unsupported costs amounting to US\$ 265,100 and US\$ 262,295 respectively. In addition, 90 percent of expenditure was at PSI HQ, with no mechanism in place to audit these funds. The CCM, PR and LFA, in collaboration with national and international partners and the Secretariat, have begun to implement measures to address the findings and risks identified in the audit.

6.7 **PSI Togo:** PSI has had commendable achievements in implementation, which included the distribution of 48 million condoms through over 8,000 distribution points. More than 100,000 clients have been counselled and tested for HIV, largely through PSI's mobile service. In addition, PSI's "Operation High Protection" showed a strong decrease in HIV prevalence in the Togolese military (from 14.7 percent in 2002 to 9.7 percent in 2006). Unfortunately, PSI was able to track condom distribution only as far as the distributor rather than the end user. PSI's financial management system is not able to reconcile cash balances by donor. This means that the LFA cannot certify to the accuracy of the cash balance reported by PSI. We recommend the establishment of separate bank accounts for the Global Fund grants managed by PSI.

6.8 **Sri Lanka:** The Global Fund requires lower-middle income countries to focus on vulnerable populations. This conflicts with the strong ambitions of disease control and elimination in (very) low prevalence situations like Sri Lanka. Programmatically, this tension has translated into missed opportunities to make meaningful connections between the health system at large and the programs funded by the Global Fund. Nonetheless, the malaria program has seen a decrease in new cases, particularly in malaria-prone areas. The TB program has extended DOTS to all 26 districts, but suffered a drop in treatment success (from 87 percent in the 2007 cohort to 85 percent for 2008). The HIV program now includes civil society in efforts to sustain the low HIV prevalence of 0.02 percent. All PRs and SRs would benefit from strengthened management to improve compliance with the grant agreements on safeguarding resources purchased, budgeting, commingling of funds, and accounting for expenditures. These weaknesses resulted in ineligible costs of US\$ 1,665,126 and unsupported expenditure of US\$ 982,030 across the PRs.

6.9 **Swaziland:** Global Fund support contributed to achieving high HIV coverage for treatment (60,289 patients on ART) and PMTCT, 100 percent blood screening for HIV, and expanded laboratory support for CD4 testing. Treatment success rates for TB rose from 42 percent in 2007 to 68 percent in 2009 and clinical malaria cases declined from 50 to 18 per 1,000 between 2002 and 2007, with the strategy changing from control to elimination. The PR's capacity to manage Global Fund grants has improved over the seven years preceding the audit period. Nonetheless, there are still key areas in which the PR requires further strengthening, particularly in financial and asset management, procurement, and monitoring of SRs and contractors. We found a particular need to create or strengthen PR policies and procedures for managing Global Fund grants. A reinforced control environment may have prevented the finding that US\$ 5,844,219 million should be recovered to the grants due to budget overruns and unbudgeted expenses, ineligible expenses and reporting variances, assets not identified during the audit exercise, weak SR monitoring and errors in procurement and supplies management. Corrective actions have been undertaken since the audit to strengthen PR capacity.

**6.10 Travel and Travel-related Health and Security:** Travel and travel-related services are essential to Global Fund operations, with the 2010 travel budget accounting for 10 percent of the overall Secretariat budget (US\$ 20 million). The Secretariat is commended for managing the transition from the administrative arrangements with WHO in a timely and minimally disruptive way and establishing operational travel policies and procedures. Nonetheless, there are several areas that would benefit from strengthening, particularly to ensure compliance with policies that maximize savings and value for money. The Global Fund has put in place arrangements to ensure the security and welfare of its travellers. However, concerns remain with regard to security of staff while in country, particularly when traveling to high and extreme risk destinations. Current policies are only effective to the extent to which they are applied. There is a need to strengthen mechanisms to improve the productivity of service providers, reduce the workload and fees charged by service providers, and reduce the cost of fares and of transactions. Following the audit, the Secretariat began to implement promptly many of our recommendations.

### **Breaking New Ground: the OIG Reviews of Travel, IT and Human Resources**

6.11 The OIG's reporting of its review of Travel and Travel-related Health and Security has broken new ground in line with the High Level Panel recommendation. The Board has been provided with a summarized report and action plan, with the detailed report being provided to the Secretariat. The same approach has been followed with reviews in 2011 of the IT and Human Resources functions. In August 2011 we provided the Secretariat with detailed reports and will be providing the Board with summaries and action plans. This approach is consistent with that followed by 'internal audit' functions in other organizations.

### **Work in Progress**

6.12 The OIG is completing additional audits and diagnostic reviews in 2011. These include a country audit of Mozambique and Diagnostic Reviews of Georgia, the Gambia, Myanmar, Cuba, China and Peru. We foresee that these reports will be issued in early 2012. In addition, six audit reports are currently being finalized pending Secretariat and/or country input.

### **Investigation Reports Issued**

6.13 **A Principal Recipient of the grants to Nigeria:** In an investigation focused upon the currency exchange practices of a Principal Recipient in Nigeria resulted in the identification by the OIG of a practice by the PR to utilize the parallel currency market to conduct currency exchanges of grant funds into the local currency for use in programs. The use of the practice exposed the Organization to the risk that funds would be transferred to problematic entities. Indeed, the OIG's investigation identified that this risk materialized, in that funds were transferred to entities that had been debarred by national governments for criminal activity and entities for which Suspicious Activity Reports had been issued by their respective financial institutions. The investigation also identified that transfers had been made to relatives of a principal in the PR, and to other entities wherein the exchanged currency did not flow back into programs. Significantly, the investigation identified that a portion of the exchange proceeds were diverted by the PR to a separate bank account, and not repatriated back into the program accounts, in violation of the grant agreement between the Organization and the PR. The investigation further identified that the PR funnelled grant funds into a separate entity that was not disclosed to the Global Fund, and is not registered business in Nigeria. Ultimately, the OIG identified an approximate US\$ 824,000 loss. However, as the PR refused to provide the OIG with access to all of its bank accounts, including the vehicle to which funds from the currency transfers were transmitted, the OIG was prevented from the ability to quantify all losses. As such, based upon the patterns identified, the diverted sums are quite likely to be higher.

6.14 A significant aspect of this case concerns the OIG's recommendation that the Secretariat bar the practice of PRs using parallel markets or unregulated entities to conduct currency exchange, and the requirement that such practices occur only through established, regulated commercial financial institutions. After much discussion and debate, and approximately a year after the OIG made this recommendation, the Secretariat has recently effectively barred this practice. A clause has been drafted, with the agreement of the Secretariat, the OIG, and the Legal Unit, which will now be added in all grant agreements to mitigate against the significant reputational risk to the Global Fund posed by this practice.

6.15 **Mauritania:** In a comprehensive investigation and report, the OIG focused on allegations of fraud and misappropriation in the HIV grant programs of round 5, and the sub-recipients of the TB and Malaria programs in rounds 2 and 6. In the HIV programs, the OIG identified a US\$ 4.23 million loss (68 percent of the funds examined and 61 percent of the US\$ 6.8 million of the funds disbursed), of which US\$ 1.74 million (28 percent) constituted loss arising from fraud and financial abuse. In connection with the UNDP managed TB and malaria grants the OIG was not able to investigate at the PR level as a result of UNDP's invocation of privileges and immunities. The OIG concentrated its efforts at the SR and SSR level, where it examined all (100 percent) of the SR expenditures, and identified a US\$ 2.5 million loss, 71 percent of the amounts examined and disbursed. Of this amount, approximately US\$ 2.4 million of the loss, or 70 percent, was caused by the submission by sub-recipients of fabricated supporting documentation for the provision of purported goods and services that were found not to have been in fact rendered. Such documents were submitted to trigger payments of grant funds, as well as to support further collusion in procurement. It is significant to note that in connection with the HIV grants, the Government of Mauritania has made full restitution to the Global Fund, paying back US\$ 4.23 million. In connection with the TB and malaria grants, the OIG is recommending that UNDP similarly reimburse the Organization for the losses resulting from the SRs and UNDP's lack of oversight of the SRs, as it has primary responsibility for them. It is also significant to note in connection with this investigation that episodes of fraud were identified as on-going from 2004 through and including 2009, and the LFA in place at the time failed to identify any of the issues, despite the pervasive nature of the fabrications.

6.16 Importantly, questions remain over the vigour with which the Government of Mauritania is pursuing criminal cases of individuals responsible for misappropriation and fraud.

6.17 **A Sub-Recipient of the grants to India:** In an investigation in response to allegations of misappropriation by certain key management officials of a sub-recipient of Global Fund grants to India, the OIG identified that principals of the sub recipient had created a shell entity and transferred approximately US\$ 1.28 million in donor funds to this entity, in violation of the grant agreement with the Principal Recipient, and the Principal Recipient's agreement with the Sub-Recipient. The investigation identified that the creation of the entity was likely unnecessary, as it did not fulfil the goals set forth when it was established, and the purposes of advancing AIDS treatment to those in need in India. The investigation revealed that some of the funds instead were used for the personal benefit of the officers of the shell entity, including improvements to the residence of the President of the company, the purchase of a vehicle used by this official, and the purchase of a plot of land in the name of the entity which has sat idle, and vacant, since its purchase in 2008. The OIG also concluded that the official retaliated against critics and whistle-blowers, and those who voiced opposition to his acts. The acts of retaliation included removing the critics from positions in the sub recipient and conducting background inquiries of the whistle-blowers, likely paid for with grant funds.

6.18 The OIG had also identified the accounts to which a significant portion of the funds were transferred, and continue to sit. In March of this year, the OIG communicated the location of these proceeds to the Secretariat, and recommended that it take action to recoup the funds. To date, the funds have not been repatriated.

6.19 The OIG has also ultimately concluded that there was a breakdown in fiduciary controls, including by the Principal Recipient which did not take sufficient action against the sub-recipient and the official when these allegations surfaced, and when an audit commissioned by the CCM confirmed their merit. The subject of the investigation continues to remain in place despite the OIG's communication of its findings to the PR, the CCM and the Secretariat, and has continued to recommend that the individual be separated from any involvement in Global Fund grant programs immediately. Rather than accept the findings of two audit firms and the OIG, the Principal Recipient allowed the sub-recipient to commission yet another audit -- likely paid for with donor and grant funds. The OIG is concerned that such an exercise amounts to forum shopping, an effort to find an entity that will produce the answer it desires.

6.20 **Internal Matter:** At the end of 2010, the former Interim Director of Country Programs submitted a memorandum to the OIG outlining a series of alleged deficiencies in performance of a Fund Portfolio Manager that was deemed by the Secretariat to warrant a finding of misconduct. The lengthy memorandum alleged a series of deficiencies, including advocating and approving large grant disbursements at the very end of grants, and other alleged derelictions in performance. The OIG conducted the investigation and concluded it in September, ultimately finding 10 of the 39 allegations meritorious. The OIG prepared a confidential report of its findings and submitted it to the Secretariat for action. The matter is currently under advisement in the Secretariat. The OIG shared the draft report with the staff member prior to finalization, allowing the staff member to comment on the report. The staff member's comments were considered before the report was finalized.

6.21 **Drug Thefts and Counterfeit Medicines:** The OIG continues to devote significant energy and resources into this important issue, which the High Level Panel deemed the most significant challenge facing the Global Fund today. The OIG currently has 21 investigations in 12 countries, and is addressing these matters as a priority. The OIG is coordinating with the Secretariat, AMFm, and Interpol, and will be a participant in the Secretariat sponsored meeting of key stakeholders in Addis Ababa on 4 December. The collaboration between the Secretariat and the OIG on this issue is excellent.

6.22 **Mali:** While the OIG has completed its investigation into the TB and Malaria grants to Mali, and issued and published its report, the much larger HIV investigation faces significant challenges. A recent OIG team was required to leave the country when it faced threats, and government officials advised that the OIG investigators faced danger. The OIG's investigation of the HIV grants is therefore suspended, and has not advanced. The OIG has engaged with the Executive Director on this issue, and written to the Minister of Health to secure support for the further efforts. While the OIG is in the process of examining more than 50,000 documents, including invoices submitted to trigger payments, its field work is stalled. Preliminarily, it is evident that the same patterns of fabrication exist in the HIV grants, and the OIG has written to the Executive Director providing notice that the OIG has identified credible and substantive evidence of fraud in the grants. The Secretariat has suspended the HIV grants, other than for essential services, and is seeking a replacement Principal Recipient. Further, reimbursement for the US\$ 5.2 million in losses identified in the TB and malaria grants has yet to be repaid. The Mali case highlights the tension between the need to complete in country work in order to quantify losses, identify program weaknesses responsible parties, and the need to continue program implementation in a country that needs program assistance.

## PART 7: CHALLENGES FOR THE INVESTIGATIONS FUNCTION

7.1 The OIG has faced significant episodes of a lack of cooperation of subjects during the reporting period. The lack of cooperation has come in the form of refusal to provide relevant records, including relevant bank account records. In one instance, the OIG traced kickbacks from currency exchange transactions into an account controlled by the Principal Recipient, and into accounts of an entity created by the PR to receive such funds. While the PR refused to produce the records to the OIG, the PR demanded that the OIG provide the full details of its report upon completion, including all evidence it had identified. Such a circumstance places the OIG, and the Organization, in an anomalous position - unable to identify the full nature and extent of the scheme, and quantify all losses - but forced under its due process procedures to produce its report to the Subject/Recipient if it seeks to release it.

7.2 As the OIG has reported in previous Progress Reports, it continues to face challenging circumstances where recipients have not maintained adequate and traceable records of expenditures, or basic accounting and financial systems which would allow an efficient and more expeditious method to address allegations of impropriety. These circumstances are more the routine, rather than the exception, and it has severe implications for the OIG. In such cases, the OIG must expend significant time and resources creating systems and reconstructing expenditures and the circumstances and events surrounding them. This situation also *significantly* extends investigation timelines. Stronger language in the grant agreement, and support from the Organization on this point, is necessary to address the problem. The OIG looks forward to such commitment.

7.3 **Privileges and Immunities.** The lack of privileges and immunities continues to place all Global Fund staff at risk, and it also presents significant risks to OIG operations in country. During the reporting period, OIG staff has on a number of occasions been temporarily detained at airports carrying necessary equipment, and OIG staff and contractors have faced threats to their person in a number of cases related in country missions. The lack of privileges and immunities has significant monetary, as well as, safety, implications. The risk of civil and criminal process is real, as is adverse action against those whom the OIG contracts to supplement the in-country work. As noted in paragraph 5.4 above, the OIG prepared and submitted a paper for the FAC on these issues, proposing some short term solutions for consideration. It is attached as Annex 7.

7.4 **Disbursements to recipients in a country wherein the OIG faces a lack of cooperation and un-reimbursed losses.** In certain circumstances during the reporting period, disbursements have been granted to country recipients when the OIG is experiencing less than energetic support for its in country work, and when the significant loss sums have yet to be repaid. While the OIG has no interest in engaging in grant management, disrupting programs, or preventing needy patients from receiving essential services, disbursing into these circumstances places the funds at risk, creates a disincentive for the country to address risks and episodes of misappropriation, and reduces the incentive for cooperating with the OIG. Without full cooperation, the true risks to the Organization are not known - as the Secretariat often canvasses the OIG to help in identifying actual operational issues and challenges on the ground. If there is a perception or common understanding that refusing to cooperate with the OIG will not have repercussions, subjects will be encouraged to do so. This circumstance will also cause significant delays in cases, and cause continued disruption in country. The OIG will not close its cases when it faces a lack of cooperation.

7.5 **Recruitment.** Significantly, the High Level Panel confirmed that the administrative processes of the Secretariat should not impinge upon the independence of the Office of the Inspector General. Nowhere are the effects of such processes felt more strongly than in the area of Human Resources, and the recruitment of competent OIG staff. The ability to recruit first rate staff is perhaps the most important component of an effective and independent OIG. The lack of such an ability to have control over its recruitment exposes the OIG to influence of its operations, and the significant potential to



be weakened by outside forces. In the reporting period, the OIG has lost potential recruits who have been selected after rigorous and time consuming recruitment exercises when such candidates have turned down offers formed and made by the Secretariat's Human Resources Office. This circumstance has become the rule, more than the exception.

7.6 The OIG had 14 vacancies at the beginning of the reporting period. The OIG has expended significant effort to attempt to fill these positions. The process is lengthy and cumbersome. The OIG, with the help of HR, funded its own HR recruiter that reported to HR, but worked exclusively on OIG recruitments. The first recruiter turned out to be ineffectual. The consultant left the Organization after the OIG was forced to sever his contract for a lack of performance and other issues. A second recruiter, recently added to the OIG under the same arrangement, is a great deal better.

7.7 Through its efforts, the OIG has filled one analyst post and one investigator post. Two investigator candidates have turned down offers because the compensation was deficient, and non-competitive against sister Organizations and the private sector with whom the OIG competes for talent. The HR Department pegged the salary at the very bottom of the range, despite indicating in its offer that the permissible salary range was significantly higher. Most importantly, the Inspector General has no authority to set compensation rates, and has no ability to amend offers. This circumstance presents a challenge to the independence of the Office, and a potential mechanism to weaken the office through interference with recruitment. The Inspector General must have the ability to move within the applicable salary ranges in OIG recruitments, free of interference. Such an ability is consistent with the Office maintaining its independence from the Secretariat.

7.8 In two cases, the OIG has appealed to the Executive Director, who does have authority to grant exceptions to standard HR regulations and move within the salary range, including raising salary offers. The circumstance wherein the Executive Director, but not the Inspector General, can amend salary offers in OIG recruitments presents a conflict, and is contrary to the independence of the Office of the Inspector General.

7.9 Without the ability to offer competitive salary packages, the OIG will lose first line talent. The OIG seeks a special niche, seasoned auditors and investigators with the appropriate relevant international white collar and financial misappropriation experience. The market is not large, and there are many competitors. If the OIG cannot recruit competent staff, it will be forced to accept second tier applicants, posing risks to the quality of the work and the reputation of the Office and the Organization. In the view of the OIG, it is better to invest slightly more in staff compensation, rather than risk much larger sums for deficient investigations.

7.10 Because of the lack of a full complement of staff, the OIG has, on the Investigations side, had to rely heavily on consultants and forensic firms. The Corporate Procurement Department governs consultant contracts, and the OIG must submit memoranda seeking approval and issuance of these offers. Recently, the Corporate Procurement Department challenged, *sua sponte*, an OIG recruitment for a consultant, and included language in their memorandum questioning the OIG's need for continued employment of this individual. Such intrusion also compromises the ability of the office to hire and maintain needed staff. The OIG needs appropriate authority in managing its hires. As discussed in more depth herein, forensic firms and individual consultants are an essential component of our work. In a number of cases, investigations have been significantly delayed by the procurement process in selecting these firms, and in processing individual contracts. While the OIG supports the need for and encourages a legitimate and competitive selection process undertaken with integrity, the requirements of this process delay investigation timelines.

#### **Lack of Proper Data Analysis and IT Systems**

7.11 The OIG remains without proper and advanced data analysis and case management systems. The OIG has presented RFPs to the Corporate Procurement Department twice in the last 16 months for issuance, and they have yet to be released. The OIG has recently been informed it will have to wait until 2012 before the latest RFP is considered.

7.12 The lack of such systems significantly drives costs and is a major component of the OIG's request for a budget increase. Without sufficient IT data analysis, storage and case management systems, the OIG must depend on external firms to provide these services in the large cases. This is costly and inefficient. Most importantly, the lack of such systems and the ability of the OIG to host and search its data electronically, significantly adds to the time it takes to complete investigations. As the OIG has repeatedly stated, it often faces circumstances where the expenditure records are in a state of disarray and are not organized. The OIG then needs to reconstruct files and documents, and create systems that can house and search the data efficiently and effectively. All of the OIG's peers have such data management capabilities in house. The OIG requires these same services.

7.13 The OIG respectfully requests the Board's intervention to support the OIG to obtain the systems and processes it needs, and allow it, as an independent arm of the Board, to make determinations on the systems it needs, and an ability to obtain them. The short term costs of investment in these systems will pay large dividends in the long run, expedite investigation timelines, and save significantly more costs that are required to be spent on external firms to provide these services for the OIG.

## **PART 8: PROPOSED AUDIT AND DIAGNOSTIC REVIEW PLAN**

8.1 In 2011, the OIG had planned in its workplan for 15 country audits and ten diagnostic reviews. By the end of the year, we will have undertaken eight audits (Bangladesh, Burundi, Ethiopia, Kazakhstan, Mozambique, Namibia, Nepal and Senegal) and seven diagnostic reviews (South Africa, Georgia, Myanmar, Cuba, the Gambia, China and Peru). The OIG was not able to meet the full number of audits and reviews in its workplan for a number of reasons. Audit time and resources were diverted to investigations in order to meet the very intensive activities (see elsewhere in this report). In addition, the need to publish audit reports from 2010 took a toll on the ability to go to the field. We will have released a total of 11 audit reports by the end of the year, compared to seven in 2010.

8.2 The proposed 2012 Audit Plan is at Annex 3. It has been heavily influenced by the High Level Panel report which, while recognizing the rigour and thoroughness of the work previously delivered, calls inter alia for the OIG to focus on areas of highest risk, improve the timeliness of reporting and further enhance the quality of the programmatic issues reported upon. Future audits will focus on grants no older than Round 6. Annex 6 provides clarifications to questions raised at the Twenty-Fifth Board Meeting in relation to the audit plan and other issues raised in this Progress Report.

8.3 For 2012 we plan, in line with the High Level Panel recommendations, to scale back to ten country based audits, eight diagnostic reviews and four Secretariat-based reviews. As explained, this is based on a new risk analysis and thus does not necessarily include countries from the 2011 list that had not been audited then. The number chosen is, in our view, the minimum level of coverage necessary to enable the OIG to discharge its function effectively for a grant program involving over 150 countries. But, as our budget analysis shows, we need a modest increase in budget to deliver what is planned.

8.4 Diagnostic Reviews differ from full audits in that functional areas (Finance, PSM, etc.) are not comprehensively evaluated and reported on. Instead, specific key risks are identified and recorded. For each key risk, details are provided regarding the weaknesses and gaps in the current risk response, with recommendations for risk mitigation. This is done in the interest of ensuring that findings and recommendations are timely and can be used rapidly for improving program management and implementation. SRs are not typically reviewed in a diagnostic review<sup>3</sup>, given that the focus is on management level controls. Given that in many grants the majority of funds are held at SR level, it would be inappropriate for the OIG to increase the number of Diagnostic Reviews beyond the number proposed (approx. 40%) and maintain its ability to provide reasonable assurance to the Board. Based on our experience to date, we estimate that approximately half of all diagnostic reviews will evolve into full audits or require an investigation. The amount of time spent in country for diagnostic reviews is about half that of an audit.

	Country Audit	Diagnostic Review
<b>Objectives</b>	To provide assurance regarding the proper use of grant funds and the achievement of program objectives	To identify key risks to which grant programs are exposed and make recommendations for risk mitigation where weaknesses and gaps are found in the current risk response
<b>Approach</b>	Extensive tests of detail in order to substantiate whether grant funds have been used for the purpose intended	Testing of controls over risks in order to confirm the effectiveness of the controls
<b>Scope</b>	Comprehensive evaluation and reporting on each functional area (Finance, PSM, etc.)	Evaluation of and reporting on specific key risks identified only
<b>Timeframe</b>	5-6 weeks	2-3 weeks

8.5 The selection of countries to be audited/reviewed now draws on the thoughtful country risk model developed by the High Level Panel so that we are better able to focus on the higher risk programs.

<sup>3</sup> This is not the case if the PR access is restricted in any way (as is currently the case with most United Nations PRs), in which case the diagnostic review must necessarily focus on SRs.

## **Proposed 2012 Budget for Audits and Diagnostic Reviews**

A key lesson from our work in 2010 and 2011 is that we had significantly underestimated the resources required to deliver the plans proposed on a timely basis, particularly at management level. The 2012 audit and diagnostic review plan involves a modest increase. A Director of Audit is in post but we now make provision for one additional Audit Manager and one auditor and two core specialist staff dedicated to public health issues and procurement/supply management issues (a high risk area as the High Level Panel recognizes). We are confident that the addition of these two specialists will enhance the quality of our work. We had also failed to budget previously for auditors to spend time supporting investigatory efforts when an audit has morphed into an investigation. Without this modest increase in resources at management level we will not be able to improve the timeliness of reporting. The FAC leadership has expressed its support for the increase in core staff proposed to support the work of the audit unit.

## **Proposed 2012 Budget for Investigations**

8.6 The investigation caseload is impossible to predict. Investigations by their nature are reactive, and un-planned. That said, past practice and recent trends provide the ability and a method to estimate what the OIG is likely to face. Currently, approximately half of OIG audits result in referral to the Investigations Unit for further effort. This circumstance occurs where the OIG auditors identify red flags of fraud, misappropriation or collusion in procurement. In 2011 alone, the OIG Investigations Unit has added seven large country investigations to its investigations portfolio arising out of OIG audits. Similarly, the pattern of whistle-blower complaints and LFA and Secretariat referrals has seen a spike, as set forth in the graph below. The likely cause is increased vigilance by LFAs as a result of the fraud training received, and the emphasis now placed on fraud detection.

8.7 Many of the investigations in the OIG inventory are large, document intensive, involving broad allegations that span a number of grant program activities. Large investigations require a significant investment of resources, both personnel and specialized expertise - typically in the form of forensic services and data management support. The OIG has currently 12 investigations that fit this category, and anticipate 7 to 9 more in 2012. The cases require teams of investigators, supported by forensic services firms - to assist in analysis and document and data collection, organization and mining. As stated above, the lack of organized record keeping by a number of PRs triggers a need by the OIG to provide this function. Full and accurate analyses cannot be achieved without the establishment of a mechanism (database) to efficiently analyse the information and evidence.

8.8 These 12 investigations exclude the drug theft and counterfeit cases, as well as bednet investigations. Both of these groups of cases are equally as resource intensive, requiring specialized expertise, and the significant investment of qualified investigation staff.

8.9 The current complement of investigation staff plus consultants is insufficient to meet the current caseload. It is anticipated, therefore, that the OIG will need to complement its current staff base to adequately address the priority cases. Without a sufficient resource and investigation staff commitment, cases will undoubtedly be delayed, and the thoroughness compromised.

8.10 In addition to the cases identified above, the OIG has over 100 additional matters either under assessment or investigation. There remains a significant basket of cases that are unassigned, due to a lack of capacity to address them. The large, document intensive cases require teams focused on them full time. As a result, core investigation staff can handle at most two such matters, leaving a number of priority matters unaddressed. Lack of approval of the proposed 2012 OIG budget would render a number of fraud, misappropriation and corruption matters unaddressed.

## The Proposed Overall 2012 OIG Budget

8.11 The 2012 budget is summarized in the table below:

### Overall OIG budget proposal 2012

in US\$	2011 in US\$	Forecast expenditure for 2011 in US\$	2012 in US\$
Staff Numbers	30		35
Staff costs	\$6,454,859	\$4,130,000	\$6,872,905
Consultancy costs	\$10,600,000	\$9,200,000	\$16,720,000
Travel costs	\$2,212,408	\$2,100,000	\$2,550,000
Communications	\$30,000	\$10,000	\$30,000
Office Infrastructure (IT)	\$378,000	\$150,000	\$420,000
Meetings/Other costs	\$119,500	\$30,000	\$129,500
SUBTOTAL	\$19,794,767	\$15,620,000	\$26,722,405
Additional (HR, office, etc.)	Met by Secretariat		\$1,239,816
<b>TOTAL</b>	<b>\$19,794,767</b>	<b>\$15,620,000</b>	<b>\$27,962,221</b>

8.12 The OIG's proposed budget increase would address all of the priority investigation cases in the inventory, and to meet the expected referrals in 2012. The OIG has presented the FAC with a supplemental detailed budget document, explaining the expected needs, the anticipated costs, and the bases for the proposed increase. Included in the confidential submission is an analysis of how the challenges of a lack of a sufficient case management and data analysis system is causing the OIG to expend additional amounts of funds to utilize firms to undertake these functions for the OIG in its large cases. Modest investment in such systems now, as the OIG proposes, would pay for itself multi-fold in the long run through building in house capacity and lessening reliance on costly external firms. With proper systems, the OIG budget could decrease in future years. The OIG requested FAC assistance in addressing the bottlenecks in the OIG's ability to secure the IT and systems it needs - based upon close analysis of the processes of its peers.

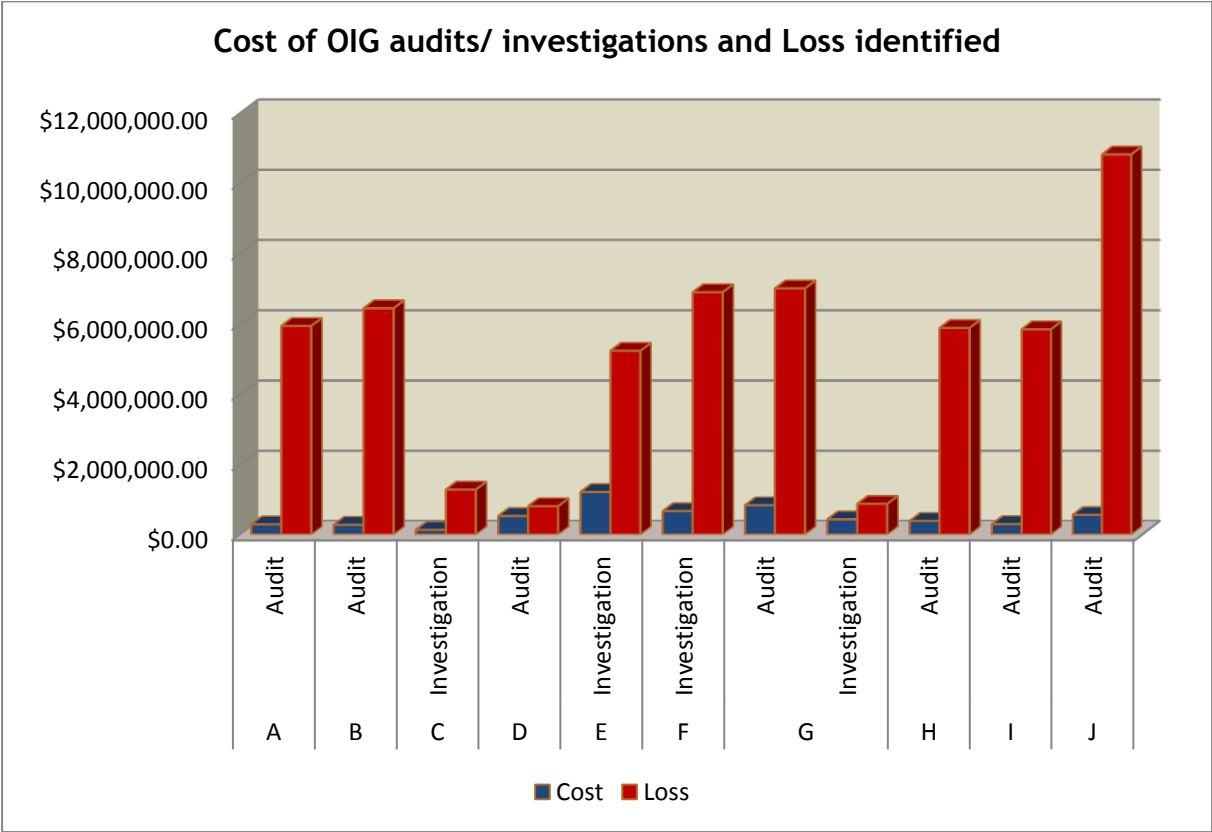
8.13 In subsequent meetings with the FAC leadership and select members of the FAC, the budget needs and the request for increase was discussed at length. The FAC carefully considered the OIG submission and request, and it is expected that the FAC will approve of a more modest increase but less than the OIG has requested. The FAC proposal is to create a contingency reserve for a supplemental amount, wherein the OIG can re-evaluate the issue and its requirements during 2012 with the Audit and Ethics Committee if the need arises. The proposed budget increase would therefore be reduced by US\$ 3 million and placed in a contingency.

8.14 Looking ahead to the likely budget for 2013 and 2014 we would expect it to be 'flat' on the audit side unless the Board calls for increased coverage. We would also expect it to be 'flat' on the investigation side unless the caseload of large cases involving significant fraud, misappropriation or drug thefts continues to rise. Our assumption is that the Audit and Ethics Committee will want to review the caseload and its resource implications on a regular basis.

**PART 9: VALUE FOR MONEY**

9.1 A question has been voiced at the Board whether it is wise to invest in the OIG. The chart below is a random selection of a number of audits and investigations conducted by the OIG. The losses identified by the OIG is assessed against the costs of its efforts. As the chart below demonstrates, the losses and potential recoveries identified through OIG audits and investigations far outweigh the costs of the OIG efforts. The OIG has identified approximately US\$ 59 million in identifiable losses, while expending jus US\$ 12 million to complete the work.

9.2 It should be stressed that this analysis does **not** include the unquantifiable, but equally valuable, intangible benefits of thorough efforts by the OIG. Such efforts provide deterrence to future misconduct, promote integrity in the management of grants, interrupt schemes that no doubt would cause further losses, eliminate problematic entities and individuals from causing damage, both in monetary terms and operationally, to grant programs. A well staffed and well resourced OIG provides confidence to donors that grant programs have proper and effective oversight. It is not possible to quantify these benefits, but there is significant value in them. The OIG respectfully submits, even if no recoverable losses were identified, full investment in the oversight function is a critical component of any public international organization.



## PART 10: OIG PERFORMANCE

### Exit Survey Results for Audits

10.1 In our effort towards continuous improvement of the OIG audit process, we have asked for feedback from auditees in-country (PRs, and CCM Chairs) as of the beginning of 2011. Feedback has looked in particular at a) the effectiveness of audit in covering the appropriate areas, b) the organization and scheduling of audit and c) the impact of the audit fieldwork on auditees. A specific focus has been auditee perception of team professionalism and team behaviour. Two survey tools were developed based on guidance from the Institute of Internal Auditors and from peer organizations. One solicits feedback at the end of fieldwork; the second will request comments once the report has been released. We have not yet used the second tool.

10.2 Responses are both quantitative and qualitative, captured in a feedback form that allows for the numerical grading of OIG performance and solicits comments on auditee expectations and observations. It is intended to help us to understand better the auditee experience and put in place any potential improvement to the OIG audit process. Numerical grades given comprise 4=good, 3=satisfactory, 2=requires improvement, 1=poor.

10.3 To date, we have received feedback from six countries, Bangladesh, Burundi, Ethiopia, Kazakhstan, Myanmar and South Africa. The performance of the OIG teams is rated very highly, with a mean score of 3.6 across the five audits. There is some variation across countries, with Kazakhstan scoring highest at 4.0 and Bangladesh and South Africa averaging 3.4. These averages are reasonably representative of the individual respondents' submissions (21 to date), all but two of which rate us at 3 or above. Two respondents give an average rating below 3 (2.9 and 2.3 respectively; the latter PR is currently the subject of an investigation.) The scores given to audit fieldwork tend to be lower than those for the other areas surveyed, not surprisingly the score for 'minimal disruption to daily activities' tends to score lowest.

10.4 Qualitative comments received tended to focus on the time taken to complete audits and the concomitant disruption to implementation, the need to plan the audit more carefully and ensure that the knowledge base of the auditors and specialists was sufficient. Respondents typically praised the professionalism of the audit teams, stating that audits were "constructive and effectively executed", that the teams "maintain[ed] very high standards and professionalism", that the OIG team leader for the diagnostic review was "professional and very easy to work with during the review", and that the "OIG consultants were all thorough and asked thought-provoking questions"; one respondent (the SR under investigation), however, complained about the behaviour of the team (this was followed up immediately by the team leader to understand the circumstances of the complaint). A number of respondents stressed that they found the audit to be a beneficial learning experience for them, that it strengthened CCM oversight and that it would likely give rise to stronger management processes in country.

10.5 Looking ahead, the OIG intends to ask auditees to send their responses to the Audit and Ethics Committee or to an independent monitor - perhaps a sister organization such as the World Bank - and to invite the monitor to come along to a sample of cases of their choice at the end of the audit fieldwork to get feedback from auditees first hand. We intend to establish the same process for investigations, but recognize that the subjects of investigations are heavily conflicted in providing objective feedback.

## Code of Ethics and Professional Conduct

10.6 The OIG is in the process of confirming in a policy document its code of conduct for all OIG team members, staff and contractors alike. The Code is a revision from the 2009 OIG Audit Manual and reflects international best practice. The code of conduct is based on the standards enshrined in the Institute of Internal Audit and International Organization of Supreme Audit Institutions Codes of Ethics and Rules of Conduct, and the Conference of International Investigators. These terms will be included in all consultant contracts with the OIG, and calls for appropriate action in the event of the presence of credible and substantive evidence of a transgression. The code of conduct is appended to this progress report in draft at Annex 4.

## Training Workshops Conducted by the OIG

10.7 In accordance with the standards with which we comply<sup>4</sup>, and to support management to improve the control environment (particularly in the appreciation and mitigation of business risks), the OIG has continued to contribute both within the Global Fund and among in-country partners and stakeholders to an increased understanding of risk, risk management, the principles of audit and investigation and an awareness of the red flags of fraud.

10.8 This has taken the form of running or contributing to training events and workshops, which typically cover the following areas: providing an understanding of what risk is and why it matters to stakeholders; providing guidance on how stakeholders can identify potential risks in their portfolios; providing guidance on how stakeholders can identify fraud red flags in their portfolios and what to do when that happens; and identifying possible ways to mitigate the risks identified.

- 10.9 In the last six months, the OIG has provided the following training input:
- i. Induction training for new staff on the purpose and role of the OIG, risks in grant management and their mitigation;
  - ii. Orientation and training of CCMs in Southern Africa (October 2011) and to regional PRs, SRs, partners and stakeholders in Southern Africa (July 2011);
  - iii. Training of regional stakeholders to ensure they had a good understanding of the risks and detection of fraud (Eastern Europe and Central Asia, August 2011);
  - iv. Fraud training for the Secretariat and LFAs (June and September 2011)

10.10 The training events have been received very well; informal and formal feedback from the audience rated the information shared highly and requested follow-up workshops of a similar nature. The OIG ability to share experiences and lessons learned from different countries has been a particular advantage and enhanced stakeholder learning.

10.11 For 2012 the OIG is planning, jointly with the Secretariat, a meeting with PR internal audit units in order to help strengthen capacity. This is tentatively planned for the East Africa and Indian Ocean region; we are planning to undertake this meeting jointly with the Auditors General of the countries in the region, one of whom has expressed interest in hosting it. The OIG looks forward to exploring possible mechanisms for working more close with national audit departments, in order to build capacity in the context of auditing Global Fund and other support to their country. We are considering hosting secondments from national audit offices to the OIG.

10.12 In addition, the OIG will be offering one-day training workshops to PR Finance staff at the end of in-country missions. This is an effort to strengthen PR capacity to attempt to ensure both better documentation in the future, as well as improvement in the follow-up to OIG recommendations.

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<sup>4</sup> IIA, INTOSAI, and International Standards on Auditing



## **OIG Key Performance Indicators**

10.13 In light of feedback received during the year from the Secretariat, auditees and from the High Level Panel, the OIG has decided to review its performance measures. McKinsey has been particularly supportive in identifying possible options, based on IIA and INTOSAI standards. In addition, the OIG undertook a review of performance measures used by peer institutions and participated in a discussion on this at this year's RIAS<sup>5</sup> meeting in September. The draft (appended as Annex 5) builds on existing performance measures and IIA standards. The OIG hopes that the Audit and Ethics Committee will endorse this approach. Progress against this draft performance framework will be presented to the AEC early next year.

## **OIG External Quality Assessment**

10.14 International professional practices standards require us to conduct an externally validated quality assurance review of the audit function every five years. We are contracting an external expert to guide our self-assessment and gap analysis in January/February 2012, followed by a formal external independent validation before the end of the year. A peer review of the investigation function by a qualified like body will also take place in 2012.

## **OIG Professional Development**

10.15 The continuing professional development of OIG staff is a critical component of our annual plan. All audit team leaders and managers complete a minimum of 80 CPEs to maintain their registration with the Institute of Internal Auditors and attend appropriate conferences, seminars and in-house training. On investigations, recognized experts in the relevant fields are routinely brought into the OIG to provide in house training on critical topics, both substantive and procedural. Appropriate certification courses are being sought for long term investigation consultants and core OIG investigation staff.

10.16 In addition, we held two team retreats in September to focus on the recommendations of the High-Level Panel. These covered report writing, particularly with respect to quality and tone, and considered the implementation of the High-Level Panel's recommendation to issue targeted reports; and timeliness and prioritization in the context of the increasing workload the OIG is experiencing.

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<sup>5</sup> Representatives of Internal Audit Services of the United Nations Organizations and Multilateral Financial Institutions

**COMMENTS BY THE INSPECTOR GENERAL ON THE FINDINGS OF THE HIGH LEVEL PANEL  
PRESENTED TO THE 24TH GLOBAL FUND BOARD, 26 SEPTEMBER 2011**

***Welcoming the Panel's report***

I very much welcome the Panel's report and its recognition of the rigor and thoroughness of the OIG's work. The Panel concludes that the depth of the OIG's work is "remarkable" and notes that the OIG's findings are critical to maintaining the credibility of the Global Fund with its donors.

I note that the Panel's own findings and conclusions draw heavily on the OIG's work.

I welcome the recognition by the Panel that the OIG must continue to have the independence to craft reports that reflect its unvarnished, professional findings, free from political or other interference.

I also welcome the proposal to establish an audit committee chaired by an independent member to inter alia oversee the work of my office.

***Implementing the Panel's recommendations relating to the work of the OIG***

The Panel's report makes a total of 10 recommendations that are specifically directed at the OIG. Most are helpfully captured in Annex S of the Panel's report. Many of these recommendations are already being implemented by my office.

I accept and intend to act swiftly to implement all 10 recommendations.

I will now set out some of the key actions I have already set in train as an urgent priority, and I stress the word 'urgent', to address the recommendations and issues raised.

***The relationship with the Executive Director and the Secretariat***

First, the Panel has concluded that a tense relationship between the Executive Director and the Inspector General has become an impediment to the efficient operation of the Global Fund.

When I saw this stark conclusion I immediately had a heart to heart with Michel and expressed my firm commitment to work with him transform "the nature and culture of our relationship" into a partnership that helps to strengthen the Global Fund. I stand ready to continue with such an initiative in good faith.

To take this forward:

I will schedule one to one meetings with Michel every two weeks or more frequently as needed.

I will escalate sensitive issues to Michel immediately they become apparent, even when he is travelling, and stand ready to receive feedback on urgent matters from him should he wish to raise them with me.

I offer myself up to participate jointly with Michel in Town Hall sessions with groupings of Secretariat and OIG staff.

I have already stressed to all staff in the OIG that it is essential that they also demonstrate a commitment to a more open, collaborative and trusting relationship with their counterparts in the Secretariat. To take this forward I am meeting, together with my two Directors, with Mark Edington and his unit Directors on Wednesday this week to agree on the initiatives we must take to nurture this relationship.

### ***The behaviour of OIG contractors in the field***

Although no specific recommendation is offered the Panel draws attention to reports it received regarding the behaviour of some OIG contractors in the field.

When such concerns first surfaced in December 2010, I immediately stressed to all OIG team members and contractors that I have zero tolerance of inappropriate behaviour in the field. I made it crystal clear that I expect all OIG team members to uphold the highest standards of professionalism in all aspect of their behaviour. This is now made clear to all contractors by our team leaders at the start of an assignment.

I am taking a number of other actions.

We are developing a code of conduct for all OIG team members, staff and contractors alike. This will be made contractually binding so that if there is a transgression we will take appropriate action, most likely the immediate termination of the contract.

Other action: for audits we have since the start of 2011 been sending out questionnaires to Principal Recipients and CCM Chairs asking for feedback on the way in which the audit field work has been conducted. This has focused specifically on professionalism and behaviour of OIG teams. The performance of team members was rated highly in response to these surveys. We had 20 responses, with a mean score of 3.6 (on a scale of 1=Poor to 4=Good). Respondents commented that “the audit was very educational”, that it was “constructive and effectively executed”, that the team was “maintaining very high standards and professionalism”, and that the “OIG consultants were all thorough and asked thought-provoking questions”.

Looking ahead I intend to ask auditees to send their responses to the Audit Committee or to an independent monitor - perhaps a sister organisation such as the World Bank - and to invite the monitor to come along to a sample of cases of their choice at the end of the audit fieldwork to get feedback from auditees first hand.

I intend to establish the same process for investigators, but recognise that those that are the subject of investigations are heavily conflicted in providing objective feedback.

### ***The timeliness of reporting***

Next the issue of timeliness of reporting: the Panel quite appropriately recommended shortening the length of elapsed time from the beginning of an assignment to the release of the subsequent report.

I have already taken action to address this issue. Since the start of this year I have kept audit teams in country for an additional week so that they can develop well advanced draft reports in country. We are also, as the Panel notes, leaving a set of written recommendations in country so that the auditees can agree to and immediately begin to take action in response. This has been well received by auditees.

I should perhaps note, however, that some of the Panel recommendations will in practice add to the length of time it takes to finalize OIG reports: the Secretariat and Board have called for more time to review draft reports and we will need to await review at a quarterly meeting of the Audit Committee unless some mechanism can be found for review remotely ex Committee.

On investigations the issue of timeliness is more complex and as the Panel recognises is often due to factors beyond the OIG's control. So much depends on the complexity of the case, the level of cooperation we receive and impediments to obtaining information. For both audit and investigation the whole OIG team will be coming together on Thursday and Friday this week for a workshop to enable them to devise ways in which to speed up our reporting timelines.

### ***The scope of audits and reviews***

The Panel calls on oversight mechanisms, including the OIG, to focus on more recent transactions from Round 6 onwards. The OIG have since the start of the year not included closed grants in their audit coverage but will, with immediate effect, as the Panel recommends, limit their future audit coverage to Round 6 onwards. But as the Panel acknowledges, the Global Fund should continue to pursue fraud from any period of time.

I welcome the Panel's support for the shorter diagnostic reviews that the OIG is now undertaking to drill down into areas of particular risk. 6 such diagnostic reviews will take place in 2011 and 8 are planned for 2012. The schedule for writing and releasing them is much more compressed and as the Panel recognises enable the OIG to provide advice in real time. I must stress, however, that some of these reviews could well prompt full audits or investigations and have limitations as they are not based on detailed testing and visits to Sub Recipients which the Panel recognises to be an area of high risk. Diagnostic reviews are not a substitute for audits.

### ***What gets reported***

I accept the Panel's recommendations that the OIG should not in future publish audits of internal business processes within the Secretariat but it is important, as the Panel recognises, that I should provide the Board with summaries of those reports and the actions taken in response. That approach has worked well in recent weeks. The OIG provided the Secretariat with detailed reports on our reviews of the IT and HR functions in the Secretariat. We will summarise these in our report to the Board and reproduce the Secretariat's Action Plan in response to these reviews. It is, however, important to distinguish these reviews of internal processes from reviews which are grant related. It was, for example, appropriate for me to provide the Board in 2010 with the complete report on the OIG review of the oversight of grant procurement - a high risk area as the Panel recognises.

I intend to experiment with providing separate versions of investigation reports for the Board and the Secretariat, law enforcement and the general public but do recognise that producing separate versions will be resource intensive and we need to guard against this adding yet more elapsed time to the release of reports. I also intend to reflect carefully, with immediate effect, on the tone of all reports, their size and the scope for segmentations of audit findings.

### ***The relationship with UNDP***

Finally, I welcome the Panel's call for the relationship with UNDP to be redefined to permit greater accountability to and access by the Global Fund. The Panel's analysis will help me and the Secretariat to take initiatives to move this forward, particularly the observation that Privileges and Immunities should not be used by UNDP to hold back on access. I am firmly committed to moving forward with a detailed Memorandum of Agreement with my counterpart in UNDP so that we can undertake joint investigations with the necessary exchange of confidential information and appropriate access to UNDP's internal documents. In that regard I met with my counterpart from UNDP last Friday and he asked me to stress to you that he is equally concerned to move forward collaboratively. Only time will tell if in practice UNDP is able to offer increased access and accountability.

### ***My conclusion***

In conclusion, I hope that what I have just related shows my commitment to take swift action to build the appropriate relationships with the Secretariat and those who are subject to the OIGs work, and to refine a number of our working processes whilst at the same time continuing to provide thorough and essential oversight, provide the requisite levels of assurance to the Board, and deliver high quality outputs which the Panel recognises and commends.

**TERMS OF REFERENCE FOR THE VOLUNTARY DISPUTE RESOLUTION PANEL****A. Background**

1. The mission of the Global Fund's Office of the Inspector General (OIG), led by the Inspector General (IG) is to provide the Global Fund with independent and objective assurance over the design and effectiveness of controls in place to manage the key risks impacting the Global Fund's programs and operations.
2. The OIG conducts in-country audits of internal control processes and investigations of the Global Fund's programs and operations as part of its review, evaluation and oversight of all systems, processes, operations, functions and activities within the Global Fund.
3. Upon the completion of in-country audits or investigations, the OIG issues a final report outlining its findings and recommendations. A Principal Recipient of Grant funds may present material substantive disagreements of the findings and recommendations in an OIG final report through a voluntary dispute resolution process to an independent panel in an attempt to resolve the disagreements prior to binding arbitration.
4. The Voluntary Dispute Resolution Panel (Panel) is an independent, impartial set of professionals appointed by the Global Fund Board to guarantee the integrity and consistency of a fair and open process regarding material disagreements with the OIG final reports. The Panel reviews disputes submitted by Principal Recipients that wish to challenge the material and substantive findings and recommendations in an OIG in-country audit or investigation final report.

**B. Panel Membership**

1. The Global Fund Board shall select Panel members based upon recommendations of the Finance and Audit Committee made in accordance with these Terms of Reference. The Finance and Audit Committee may seek the advice of the OIG and the Secretariat, as well as competent outside professionals to identify candidates to fill the Panel membership.
2. The Panel shall consist of three permanent members and three alternate members with complementary experience and expertise in audit, forensic accounting and legal investigations. Experience adjudicating like issues in comparable organizations is preferable. Permanent Panel members shall review written appeal submissions and facilitate settlement meetings when Principal Recipients notify the Panel of their willingness to settle disagreements with an OIG in-country audit or investigation final report. Should a permanent Panel member have a conflict of interest, an alternate Panel member without a conflict of interest will replace the conflicted Panel member.
3. Panel members may not be present or past employees, agents, contractors, consultants or affiliates of the Global Fund, any Local Fund Agent, any Principal Recipient, any Country Coordinating Mechanism, any audit or professional services firm that provided service to the Global Fund or grant recipients, or any other entity that received Global Fund grant funds. Panel members may not be associated, employed by, or affiliated with the Global Fund, either at present or at any previous time.

4. The Global Fund Board shall appoint one Panel member to serve as the Panel Chair for a non-renewable one-year term. The Panel Chair shall facilitate communications and notifications between Panel meetings.
5. Panel members shall serve in their personal capacities only.
6. Panel members shall serve a maximum term of two years. The term of Panel members shall come to an end in a staggered manner to ensure overlap and continuity across Panel decisions.
7. Panel members shall act in accord with the Global Fund's Documents Policy and Policy on Ethics and Conflicts of Interest.
8. The Panel may set internal guidelines on how to comply with the Policy on Ethics and Conflicts of Interest.
9. Members of the Panel shall sign a confidentiality agreement in accordance with the Global Fund's Documents Policy and the internal guidelines of the Panel on an annual basis.

#### **C. Scope of Work**

1. The Panel shall, based on the analysis of the documentation submitted by the Principal Recipient and the responses provided by the OIG as well as the results of the settlement meetings, make recommendations concerning the disagreement of the Principal Recipient with substantive and material findings and recommendations in an OIG in-country audit or investigation final report.
2. The Panel shall submit its recommendations after all settlement meetings, to the Principal Recipient and the OIG. If the OIG does not accept the recommendations the Board Chair and Vice Chair will be consulted.

#### **D. Frequency of Meetings**

1. Panel members shall not be in residence; rather, they will communicate by teleconference and make necessary travel arrangements to conduct mediation meetings.
2. The Panel Chair shall receive first notification of a dispute and arrange with fellow Panel members to hold a teleconference to review written submissions and review the submission for receivability. If accepted, the Panel shall set mediation meetings to consider the matter with a view to reach recommendations on the disputed issues.

## THE OIG PROPOSED AUDIT<sup>6</sup> PLAN FOR 2012

### Summary

1. The OIG is proposing to undertake ten full country audits, eight diagnostic reviews, and two Secretariat-based reviews in 2012. In addition, the OIG will publish updates on the VPP and disbursement audits, which were initiated, but not published, in 2010. The specific audits and reviews were selected based on input from the Secretariat, the risk matrix and recommendations from the High-Level Independent Review Panel on Fiduciary Controls and Oversight Mechanisms, and the OIG's internal risk analysis. Annex 6 provides clarifications on questions raised at the 25<sup>th</sup> Board Meeting in relation to this plan.

### Background

2. The proposed 2012 Audit Plan has been heavily influenced by the High Level Panel report which, while recognizing the rigor and thoroughness of the work previously delivered, calls *inter alia* for the OIG to focus on areas of highest risk, improve the timeliness of reporting and further enhance the quality of the programmatic issues reported upon.

3. The 17<sup>th</sup> Session of the Board approved "The Priorities for the Office of the Inspector General" (GF/FAC10/03) with the following as priority areas:

- (a) Providing assurance on grant processes;
- (b) Providing assurances on other main business processes;
- (c) Supporting key managerial/governance initiatives in the Secretariat;
- (d) Investigations and related initiatives;
- (e) Building appropriate capacity in OIG; and
- (f) Creating awareness about OIG.

4. The OIG applies the Standards for the Professional Practice of Internal Auditing promulgated by the Institute of Internal Auditors (IIA) and International Organization of Supreme Audit Institutions (INTOSAI). The preparation of an annual audit plan is in compliance with the International Standards for Professional Practice of Internal Auditing.

5. Audits will typically take two forms: Planned/routine audits and specific/*ad hoc* audits. Planned audits are identified in the annual OIG audit plan. Typically about 80% of audit time will be spent on these assignments. The specific *ad hoc*/focused audits are not indicated in the annual OIG plan but occur due to emerging issues on which the OIG has to provide assurance. These may take up about 20% of audit time. These *ad hoc* audits are also budgeted for in the annual audit process.

6. The audits will take place at two levels, viz. Secretariat and country level: Secretariat audits involve the audit of processes and systems at Secretariat level, and country audits are undertaken to cover the use of Global Fund resources at a country level. The audits will cover functional areas where risk factors have been identified either at Secretariat or country level.

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<sup>6</sup> Please note that this document uses the term "audit" to mean both audit proper and diagnostic review. The latter is defined in paragraph 6.



**Diagnostic Reviews**

7. As of 2011, the OIG has distinguished between full country audits and diagnostic reviews. Diagnostic reviews differ from audits in that functional areas (Finance, PSM, etc.) are not comprehensively assessed and reported on. Instead, specific key risks are identified and recorded. For each key risk, details are provided regarding the weaknesses and gaps in the current risk response, with recommendations for risk mitigation. This is done in the interest of ensuring that findings and recommendations are timely and can be used rapidly for improving program management and implementation. Based on OIG experience to date, we estimate that approximately half of all diagnostic reviews will evolve into full audits or require an investigation. The amount of time spent in country for diagnostic reviews is about half that of an audit.

	Country Audit	Diagnostic Review
<b>Objectives</b>	To provide assurance regarding the proper use of grant funds and the achievement of program objectives	To identify key risks to which grant programs are exposed and make recommendations for risk mitigation where weaknesses and gaps are found in the current risk response
<b>Approach</b>	Extensive tests of detail in order to substantiate whether grant funds have been used for the purpose intended	Testing of controls over risks in order to confirm the effectiveness of the controls
<b>Scope</b>	Comprehensive evaluation and reporting on each functional area (Finance, PSM, etc.)	Evaluation of and reporting on specific key risks identified only
<b>Timeframe</b>	5-6 weeks	2-3 weeks

8. The audits and reviews that are undertaken by the OIG take on different forms; they are driven by the objectives. They cover one or more of the following:

- (a) *Financial reporting*, which involves a review of the auditee's<sup>7</sup> records and reports in order to confirm that financial transactions are properly recorded and reported;
- (b) *Procurement*, which involves verifying that procurements have been undertaken in accordance with established procedures and best practices;
- (c) *Operating processes*, which involves a review of the auditee's operating processes, procedures and associated internal controls;
- (d) *Compliance*, which involves verification of whether or not the auditee is in compliance with established contractual requirements, policies, procedures, laws, regulations;
- (e) *Grant management*, which ensures that the systems, processes and controls in place were efficient and effective in supporting the achievement of grant objectives;
- (f) *Information systems*, which analyses the results achieved and the effectiveness, efficiency, confidentiality, integrity, availability, compliance, and reliability of data and programs in computer and communication systems;
- (g) *Internal controls*, which covers the adequacy of the internal control structure in ensuring that grant assets are safeguarded against possible loss, misuse and abuse;
- (h) *Value for money reviews*, which assess whether value for money was obtained from the funds spent. This entails verifying whether funds were used economically, efficiently and effectively; and

<sup>7</sup> This report uses "auditee" as shorthand to mean "subject of an audit or diagnostic review".

- (i) *Follow-up engagements*, in which the OIG team reviews management's implementation of action plans from a previous audit.

### **Definition of the process**

9. The IIA standards recognize that due to resource constraints it is impossible to have 100% coverage of an audit population and therefore call for the prioritization of audits on the basis of risk but require the work undertaken to be sufficiently comprehensive to ensure the effective and regular review of all operational, financial and related activities.

10. In order to provide practical guidance and an authoritative framework for the development of the risk assessment model and audit plan, this plan was developed based on the following basic principles:

- (a) Audit resources are limited, thus prohibiting one hundred percent audit coverage each year. This limiting factor makes it essential to utilize risk assessments to help OIG prioritize audits.
- (b) This plan is viewed as a flexible and dynamic tool that can be amended throughout the year to reflect changing Global Fund risks and priorities. In particular, it may be modified based on information on risks communicated to the OIG by the Secretariat.
- (c) This plan gives consideration to work performed by other auditors e.g. the audit work that will be undertaken by UNDP.
- (d) This plan also considers technical reviews undertaken by partners, e.g. the external reviews under the auspices of the TERG.
- (e) This plan is developed with the understanding that there are inherent risks and limitations associated with any method or system of prioritizing audits. As a result, the risk factors and scoring process will be periodically evaluated and modified, in order to improve the audit plan.
- (f) The risk assessment criteria used in the ranking of the audit proposed places an emphasis on perceived or actual knowledge of systems of internal control.

### **Country Audits and Diagnostic Reviews**

11. The objective of the process of risk assessment is to identify and prioritize potential audit areas which pose the greatest risk and liability to the Global Fund. The most important basis for selecting an entity/process for an audit is the application of a risk assessment model, based upon specific risk factors related to an auditee's operations, internal controls, and liability to the Global Fund. Risk is a function of the probability that such consequences will occur, their magnitude, and their imminence. This process resulted in the allocation of limited available resources to areas of the Global Fund's activities that are most critical to the success of the organization in reaching its goals.

12. Overall the OIG's efficiency and effectiveness is increased when the audit effort is matched to risk in the various auditable entities/processes of the organization. A rating as "high risk" does not necessarily mean that the unit is perceived to have control problems, but rather is a reflection of the criticality or impact of the unit to the Global Fund's mission. Areas with the greatest risk exposure therefore become priority audits.

13. Given the recent very thorough risk modelling undertaken by the High-Level Independent Review Panel on Fiduciary Controls and Oversight Mechanisms of the Global Fund to Fight AIDS, Tuberculosis and Malaria, the OIG has decided to adopt this model as the primary lens through which to view grant portfolio-related (country) risk. In addition, we follow the HLP's advice to focus our audit activities on countries with high risk.

14. The secondary factor taken into account is the OIG's risk assessment model, which ranks all countries according to six objectively verifiable, quantitative indicators that together determine the overall risk to the achievement of the Global Fund country program objectives:

- (a) perceived risk of grants to fraud and misappropriation based on the Transparency International Perception Index;
- (b) size of grants;
- (c) number of grants per country;
- (d) burn rate of the grants;
- (e) the LFA rating; and
- (f) if any allegations have been received from the country.

15. To supplement these two risk analyses, the OIG has included input from the Secretariat both on operational risk at the country level and on process risks at the Secretariat. This has been provided us by the Office of the Executive Director and by the Director of Quality Assurance in Country Programs in the form of annotated lists of countries and processes proposed to be included in the 2012 audit plan.

16. Based on this rigorous model that combines OIG perspectives and Secretariat perspectives on risk with the model developed by the High-Level Panel, portfolios and processes are selected for audit. Countries with greater risk will be audited more frequently, but it is important to audit lower risk countries as the risk assessment process is not an exact science. The process is a dynamic and continuous process. Throughout the year, the OIG obtains current information about grants for use in the risk assessment process. Additionally, the Office obtains input from key stakeholders e.g. Secretariat, Board members, and other stakeholders throughout the year to identify any emerging key risks. The risk factors and scoring process are reviewed and refined as needed.

17. Great care is taken with the selection of these audits to ensure that there is comprehensive audit coverage, taking into account the resource restrictions such as staff and budget. The approach also builds ample hours into the plan for specially requested audits not originally captured in the plan, and for urgent audit issues that arise throughout the year. This approach provides the OIG with flexibility to address emerging issues in a timely manner.

18. In 2011 the Board approved an OIG plan which comprised 15 country based audits, ten country-based diagnostic reviews, and four Secretariat-based reviews. For 2012 we plan, in line with the High Level Panel recommendations, to scale back to ten country-based audits, eight diagnostic reviews and two-three Secretariat-based reviews. This is, in our view, the minimum level of coverage necessary to enable the OIG to discharge its function effectively for a grant program involving over 150 countries and is realistic in terms of the resources available.

19. This plan includes countries selected as offering best practice (i.e. low risk). In addition, the OIG plans, as in 2011, to release a report on lessons learned from recent audits conducted.

20. The country audits will be led by a team leader from OIG. They will be supported by financial auditors, a procurement and supply chain management specialist and a public health specialist. Other experts e.g. engineers may be co-opted onto the audit depending on the program activities.

21. A typical audit report is presented by functional area, i.e., (i) governance and institutional arrangements; (ii) financial management; (iii) Sub-grant management; (iv) procurement and supply chain management; (iv) public health and (v) oversight functions. Good internal control practices or significant achievements found during the audit will be highlighted in the report, but they will not discussed in depth given that the purpose of the audit is to identify important risks and issues that need to be addressed.

22. Country diagnostic review reports will provide overviews, with recommendations, of the controls that have been put in place by the Global Fund and PRs to safeguard Global Fund resources. They will help identify systemic risks and seek to find high level solutions

to challenges identified in the countries. Good practice noted will be shared. Diagnostic review reports will also be a basis for identifying high risk countries that may warrant an in-depth audit in the following year.

23. Recommendations will be made to address areas of identified risk. The recommendations will be prioritized. The prioritization has been done to assist management in deciding on the order in which recommendations should be implemented. However, the implementation of all recommendations is essential in mitigating identified risks and strengthening the internal control environment in which the programs operate.

#### **Secretariat reviews**

24. For the Secretariat reviews, the OIG has reviewed the clusters, units, transactions and processes and assessed them based on a number of key risks such as:

- (a) Financial risks that cover assets (plant, equipment, human, etc.), budgets, cash, expenses, financial records (accurate, timely, useful information), investments, inventories, operational effectiveness, quality products and services, reserves, revenues, and separation of duties.
- (b) Reputational risks arising from the oversight responsibilities assigned to the Secretariat for example oversight of grant procurement and whether adequate oversight is exercised to manage the risk of compromised products egg counterfeit drugs being distributed by recipients.
- (c) Technology related risks that cover access privileges, audit trails, authentication, authorization, backup procedures, business continuation, change management (software and hardware), code (secure code so that data is not compromised), data conversion, data integrity, disaster recovery, infrastructure, information security, interfaces, network security, physical security, reconciliations, standards (policies, procedures, guidelines), and reputation (compromised data).
- (d) Managerial risks deal with alignment with the Global Fund mission (mission, vision, and goals), authorization, decision-making, delegation, policies and procedures, project management, oversight and monitoring, roles and responsibilities, reporting (useful, reliable, and timely information for decision making), reputation, and operational efficiency (minimize processing time, etc.).
- (e) Behavioural risks deal with communication and information sharing, human assets (knowledge, experience, and training of staff), managing and leading people, work environment, and public relations.
- (f) Legal risks deal with applicable laws and regulations (release of personal data to unauthorized people, compliance with applicable laws and regulations, etc.).

25. Several risk factors have then been considered during the assessment and these have affected the decision to include a unit or process in the audit plan such as:

- (a) Whether it is a core business processes;
- (b) Quality of internal controls;
- (c) Financial materiality;
- (d) Expected results not achieved;
- (e) External sensitivity, e.g. political or adverse publicity;
- (f) Management accountability and oversight;
- (g) Complexity of operations;
- (h) Risk of financial loss;
- (i) Technology that may affect data integrity, security, recovery etc.;
- (j) Emerging compliance issues;
- (k) Major changes to structures, systems or processes;
- (l) Alleged irregular conduct;
- (m) Request from the Board or the Secretariat; and
- (n) Length of time since the last audit.

26. The OIG has selected two key Secretariat business processes for audit in 2012 based on the above risk analysis. Both of these areas identified for review in the Secretariat will require specialist skills and the OIG will identify suitably qualified experts to work alongside the auditors to undertake the relevant reviews. These are the AMFm initiative and a review of bed net procurement, distribution and utilization. We will have the capacity to add an additional *ad hoc* review based on Secretariat requests and/or new risks identified in 2012.

- (a) Procurement of bed nets: The Global Fund investment in the purchase of bed nets is very high. The OIG hotline has picked up many alleged cases of flawed procurement processes with regard to the purchase of nets and has documented a number of such processes in previous audit and investigation reports. The OIG will undertake a review of net procurement across various countries and identify ways in which the procurement processes can be strengthened.
- (b) Affordable Medicines Facility for malaria: This large (over USD 200 million) initiative has been in Phase 1 implementation for more than a year and is scheduled for an independent evaluation in 2012. Given that the AMFm is by design a financing mechanism, the OIG will review the financial and procurement and supply management aspects of this initiative.

27. In addition, the OIG will conduct a follow-up on two preliminary audits undertaken in 2010, *viz.* Voluntary Pooled Procurement and Disbursements. The reports drafted at that time were not released given that 1. The VPP process had only recently been instituted and sufficient time had not elapsed to understand how modifications to early controls in place would function in practice to mitigate risk, and 2. The Country Program Cluster represented to the OIG that new controls regarding disbursements were being put into play which meant that assessing these once put in place would add greater value than looking backwards.

### **Innovations in Reporting and Training**

28. The High Level Panel has suggested that the OIG differentiate written materials by need and audience, and to contribute to the training program of risk management in the Secretariat.

29. The OIG has already begun implementing these recommendations in the batch of audit reports released in October 2011. Going forward, all country audits will include annexes that articulate the position of the PR, the CCM and the Secretariat with respect to the audit or investigation and show where disagreements remain and how they will be addressed. In addition, we will have a stronger tracking mechanism of recommendations arising from audits and diagnostic reviews in 2012, which we will follow-up jointly with the Secretariat and report on to the Board.

30. The OIG will continue to contribute to training of Secretariat staff in risk analysis and risk mitigation and is considering the secondment of a senior staff member from the OIG to Country Programs to better equip the Secretariat in understanding the true risks in the field based on the OIG's extensive fieldwork.

### **Staffing in the Audit Unit**

31. No audit unit is of a sufficient size to carry out all the necessary audits simultaneously, or even within the time span of one fiscal year. A fundamental principle to be applied is that the audit unit be of a sufficient size and capability to address the areas of concern to the Board and Secretariat, with an adequate frequency, over a reasonable time horizon, i.e. usually three to five years. If risk factors reflect management concerns, then they can be used as a basis for establishing the audit unit's required staffing to address the highest risk areas or those with the highest risk/audit cost payoffs. Nonetheless, the High Level Panel recognizes that "[i]n the last few years, the volume of the OIG work approved by the Board has increased significantly."

32. Based on OIG experience in 2010 and 2011, implementing our audit plan of ten full audits and eight diagnostic reviews with current resources has meant that timeliness has suffered in order to maintain quality. This has a number of reasons, including the frequent lack of cooperation at the country level, which has meant that the length of time spent in-country has had to be extended. Poor or non-existent record-keeping and financial tracking mechanisms have similarly extended audits.

33. PRs and CCMs submit documentation a number of months after the audit has closed when this should have been made available to the audit team at the initiation of the audit. To date, the OIG has been forced to return to some countries (e.g., Ethiopia, Georgia, Nigeria) in 2011 to complete document review.

34. The current level of budget/staffing jeopardizes our ability successfully to implement the HLP recommendations and simultaneously meet the audit goals for 2012. In order to accommodate these new requirements and continue to increase the quality of our deliverables, we have requested from the FAC an additional audit manager (G06) and an auditor (G04). In addition, we seek a replacement of the staff member seconded to the Secretariat; preferably a senior Fund Portfolio Manager with extensive in-country implementation experience.

35. In addition to our need for experienced audit professionals, it has proven difficult to source well-qualified public health and procurement and supplies management experts able to work with the audit teams. This is due to the global demand for such skills, particularly since the OIG has to avoid conflict of interest situations given that many experts in these fields have been active in technical support to Global Fund programs.

36. The High Level Panel indicates the need for the OIG to strengthen its capacity in the assurance of procurement and supply management, which accounts for almost half of the overall grant budgets, and in programmatic audit, which lies at the core of all Global Fund grants. In order to strengthen the OIG's capacity in these two specific areas, we have proposed to the FAC to include in the OIG office a public health expert and a PSM expert.

37. The benefits of having in-house expertise in these two areas are that the OIG would:

- Develop and implement a standard methodology for PSM and programmatic audit and define clear objectives and scope for PH/programmatic audit;
- Improve the audit recommendations related to PSM and public health, and thereby ensure that risks are managed more effectively;
- Ensure quality control over PSM and public health auditors in the field;
- Identify cross-cutting lessons learned in PSM and programmatic issues for Secretariat learning;
- Create a liaison with the Secretariat on PSM and public health issues; and
- Provide regular in-house training to Audit and Investigations staff on PSM and public health.

38. If approved, the Audit Unit will comprise a Director of Audit, three Audit Managers, six Audit Team leaders and experts in public health and PSM. All team leaders will be responsible for undertaking 3 country audits/diagnostic reviews and a process review per year. That will on average put them in the countries for about 18 weeks in the year. This will allow the team leaders ample time to plan for the country audits and also to finalize the audits, prepare the working papers and reports.

## 2012 PROPOSED REVIEWS AND AUDITS

Directorate	Audit Type	Objectives
Country Programs	10 Country audits  8 Country diagnostic reviews  1 Lessons learned Report	<ul style="list-style-type: none"> <li>a. Assess the efficiency and effectiveness in the management and operations of the grants;</li> <li>b. Measure the soundness of systems, policies and procedures in safeguarding Global Fund resources;</li> <li>c. Confirm compliance with the Global Fund grant agreement and related policies and procedures, and the related laws of the Country;</li> <li>d. Identify any other risks that the Global Fund grants may be exposed to and measures in place to mitigate such risks; and</li> <li>e. Make recommendations on management of the Global Fund grants based on a-d above.</li> </ul>
SPE	Audit of bed net procurements across countries	<ul style="list-style-type: none"> <li>a. Measure the soundness of systems, policies and procedures in safeguarding Global Fund resources in the procurement of nets;</li> <li>b. Confirm compliance with the Global Fund grant agreement and related policies and procedures, and the related laws of the Country;</li> <li>c. Ensure that value for money is obtained from the procurement of nets;</li> <li>d. Identify any other risks that the Global Fund grants may be exposed to and measures in place to mitigate such risks; and</li> <li>e. Make recommendations on management of the Global Fund grants based on a-d above.</li> </ul>
Cross cutting	Efficiency and quality of the disbursement process	<ul style="list-style-type: none"> <li>a. Review the appropriateness and soundness of established structures, policies and procedures established by the Global Fund in managing risks pertaining to disbursements;</li> <li>b. Review and give assurance on the risk</li> </ul>

Directorate	Audit Type	Objectives
		<p>management processes and that risks are appropriately identified, analysed, prioritised and mitigated.</p> <ul style="list-style-type: none"> <li>c. Review the mechanisms in place to manage and report the key risks.</li> <li>d. Make recommendations on management of the Global Fund grants based on a-c above.</li> </ul>
SPE	VPP	<ul style="list-style-type: none"> <li>a. Follow up on the preliminary audit of the VPP model in light of lessons learned since its rollout;</li> <li>b. Assess the robustness of the VPP model against the principles of the Global Fund model and its ability to meet the objectives for which it was established as well as its contribution to the overall objectives of the Global Fund;</li> <li>c. Review the appropriateness and soundness of established VPP structures, policies and procedures established by the Global Fund;</li> <li>d. Review the compliance of the VPP with the policies and processes that have been developed;</li> <li>e. Assess the operations of the VPP by reviewing a sample of procurements undertaken and assessing whether they meet the objectives for which the VPP was set up;</li> <li>f. Identify any risks that the VPP may expose the Global Fund to and the adequacy of measures taken to mitigate them; and</li> <li>g. Develop recommendations to address any shortcomings identified.</li> </ul>
SPE	AMFm	<p>Measure the soundness of systems, policies and procedures in safeguarding Global Fund resources in the rollout of the AMFm initiative;</p> <p>Ensure that value for money is obtained through the AMFm initiative;</p> <p>Identify any other risks that the Global Fund grants may be exposed to and measures in place to mitigate such risks; and</p> <p>Make recommendations on management of the Global Fund grants based on a-c above.</p>



## DRAFT CODE OF ETHICS AND PROFESSIONAL CONDUCT FOR STAFF AND CONTRACTORS IN THE OFFICE OF THE INSPECTOR GENERAL

This Code of Ethics and Professional Conduct (Code) sets forth the principles and expectations governing behaviour of individuals, teams and organizations in the conduct of OIG business. It describes the minimum requirements for conduct and behavioural expectations rather than specific activities.

1. All OIG staff and contractors are required to follow the letter and spirit of the OIG Code of Ethics and Professional Conduct. The purpose of the Code is to promote professional practices and ethical culture in the pursuit of audit and investigation activities in the Office of the Inspector General of the Global Fund.
2. Staff and contractors are responsible for conducting themselves at all times in a professional manner and for striving to achieve the highest standards of behaviour, competence and integrity in their work.
3. Staff and contractors are expected to apply and uphold the following principles, which are based on the standards developed by the IIA and Intosai:
  - (a) **Integrity:** The integrity of staff and contractors establishes trust and thus provides the basis for reliance on their judgment. The conduct of staff and contractors should be above suspicion and reproach. Staff and contractors should:
    - Perform their work with honesty, diligence, and appropriate responsibility;
    - Observe the legal requirements of the profession;
    - Act professionally at all times, displaying proper respect for auditees and subjects of investigation;
    - Not knowingly be a party to any illegal activity, or engage in acts that are discreditable to the profession of internal auditing or to the organization; and
    - Respect and contribute to the legitimate and ethical objectives of the organization.
  - (b) **Objectivity:** Staff and contractors should exhibit the highest level of professional objectivity in their work. Staff and contractors should make a balanced assessment of all the relevant circumstances and should not be unduly influenced by others in forming judgments. Staff and contractors should:
    - Not participate in any activity or relationship that may impair or be presumed to impair their unbiased assessment. This participation includes those activities or relationships that may be in conflict with the interests of the Office;
    - Not accept anything that may impair or be presumed to impair their professional judgment; and
    - Disclose all material facts known to them that, if not disclosed, may distort the reporting of activities under review.

(c) **Confidentiality:** Staff and contractors should:

- Be prudent in the use and protection of information acquired in the course of their duties. They will not discuss any matters pertaining to the audits performed by the departments other than in an official manner. Staff and contractors will take adequate measures to prevent the unauthorized release of confidential materials or information. Such materials should be adequately secured from theft, reproduction, or casual observation; and
  - Not use information for any personal gain or in any manner that would be contrary to the law or detrimental to the legitimate and ethical objectives of the organization.
- (d) Competency: Staff and contractors should apply the knowledge, skills, and experience needed in the performance of auditing and investigation services. Staff and contractors should:
- Engage only in those services that are within the scope of their assignment;
  - Perform auditing services in accordance with the International Standards for the Professional Practice of Internal Auditing;
  - Perform investigation services in accordance with accepted international standards and the principles espoused by the Conference of International Investigators; and
  - Continually improve their proficiency and the effectiveness and quality of their services.
4. Staff and contractors should be independent and objective both in actuality and perception. In order to maintain objectivity on an assignment, staff and contractors should inform the IG or the Directors of Audit and Investigation of any factors that may be perceived to impair their objectivity on an assigned task. Staff and contractors should also take great care to prevent even a perception of partiality by maintaining a professional distance from the subjects of an audit or investigation. Staff and contractors should not accept anything of value from a subject of an audit or investigation, which would impair or be perceived to impair their professional judgment or objectivity. Any gifts accepted should immediately be disclosed to the IG.
  5. Staff and contractors shall not prejudge an audit or investigation. Objectivity is a crucial characteristic of the OIG's relationship with entities subject to an audit or investigation; therefore OIG staff and contractors must always maintain an independent, objective, and factual perspective in their work.
  6. Staff and contractors should not assume operating responsibilities. Persons transferred to or temporarily engaged by the Inspector General should not be assigned to audit or investigate those activities they previously performed until a reasonable period of time has elapsed. Such assignments are presumed to impair objectivity and should be considered when supervising OIG work and reporting results.
  7. Staff and contractors should conduct themselves professionally at all times, displaying the proper degree of respect for subjects of investigations and auditees. Forceful, abusive and inappropriately aggressive behaviour is prohibited.

#### Complaints Procedure

8. Claims of inappropriate behaviour by Global Fund Secretariat staff or contractors working with the Office of the Inspector General may be brought to the attention of the Inspector General and/or the Chair of the Audit and Ethics Committee by the interested parties.
9. Upon receipt of a complaint against a staff member of the Office of the Inspector General, the Chair of the Audit and Ethics Committee, in consultation with the Inspector General, will agree on a way forward. In exceptional cases in which a preliminary assessment of the allegation demonstrates that the allegation has

sufficient indicia of credibility, and the matter is of a truly serious nature, an external entity, such as an oversight office in a peer Organization, may be called upon to undertake an assessment of the allegation. In cases where such matters are referred to the external entity, and the preliminary assessment of the entity reveals that there is a prima facie basis to proceed to a full investigation, the external entity may be called upon to conduct the investigation in full.

10. In cases in which the Inspector General is the subject of the complaint, the Chair of the Audit and Ethics Committee in consultation with the Chair of the Board would undertake the assessment without consultation with the Inspector General, and make a determination on the way forward employing the same analysis and using the same framework as set forth above.
11. Upon receipt of a credible complaint against a contractor, action appropriate to the transgression, which may include immediate termination of contract, will be taken by the OIG.

**DRAFT KEY PERFORMANCE INDICATORS  
FOR THE OFFICE OF THE INSPECTOR GENERAL**

**AUDIT****1. Conducting audit activities**

- (a) Adherence to audit plan (number of reports released)
- (b) Timeliness: from completion of audit fieldwork to submission of draft report to Secretariat
- (c) Impact of findings and cost effectiveness of OIG
- (d) Recoveries/savings identified versus cost of operating OIG audit function
- (e) Operating cost of the audit function versus grant amounts under management
- (f) Actual costs versus budgeted costs, adjusted for work volume

**2. Quality of work**

- (a) Audit and Ethics Committee review of quality of audit work, including findings and recommendations
- (b) Externally validated quality review of the audit function (IIA QAR)

**INVESTIGATION**

1. Audit and Ethics Committee review of quality of the investigatory work, including findings and recommendations

2. Peer review of the investigation function conducted by a competent, objective and established like body with capability to perform such a quality review e.g. a solid track record;

3. Number and significance of investigations undertaken during the period. Note: Significance is measured by taking into account size of the grant program under investigation, nature and extent of alleged improprieties, potential referrals to national authorities for criminal prosecution, losses arising from fraud and/or corruption, and obstacles encountered during the investigation exercise

4. Recoverable losses identified through investigations, and cost effectiveness (cost of investigation versus the losses/potential recoveries identified). Note: The potential recoveries identified also have an intangible deterrent value as does administering justice to the individuals responsible for misappropriation.

**THE OIG PROGRESS REPORT AND PLAN/BUDGET FOR 2012  
CLARIFICATIONS ON ISSUES RAISED AT THE 25<sup>TH</sup> BOARD MEETING**

**Audit plan:**

1. The 2012 OIG Proposed Audit Plan attached to the OIG Progress Report and endorsed by the FAC (Annex 3), proposes the number of country grant programs to be audited/reviewed and lists the Secretariat processes to be reviewed; explains the mandate of the OIG with respect to audits and reviews; distinguishes between audits and diagnostic/Secretariat reviews; and proposes the staffing and budget needed to deliver the plan. It is explicitly linked to risk exposure.
2. The Audit Plan does not revisit the audit strategy, which is described in the document “The Priorities for the Office of the Inspector General” (GF/FAC10/03, March 2008) and in the 2010 and 2011 audit plans which were endorsed by the FAC and approved by the Board. The previous papers and plans also propose reports on ‘lessons learned’ from this work and consider the level of coverage and cyclicity that would be appropriate, benchmarking the OIG with three development partners.
3. Through the FAC’s approval of the 2008 priorities paper the Board asked that the greatest priority be given to country level audits/reviews: calling for the proposed coverage of 6 country audits in 2009 to be increased to 11 and to 20 in 2010.
4. For 2011, 15 country audits and 10 diagnostic reviews were proposed and approved. The OIG did not have the capacity to undertake all the audits and reviews planned in 2011. In practice fieldwork on 8 audits and 7 diagnostic reviews was undertaken. For 2012, 10 audits and 8 diagnostic reviews are proposed which points to an average cycle of coverage of once every 10 years, with some higher risk programs being audited/reviewed more frequently. Over the preceding three years we have audited/reviewed 17 of the 20 countries with the highest overall disbursements. All four Secretariat based reviews proposed for 2012 have been endorsed previously by the FAC and approved by the Board, based on risk assessments of all business processes. As the plan points out this is, in the OIG’s view, the minimum level of coverage necessary to enable the OIG to discharge its function effectively.

**Diagnostic Reviews:**

5. The High-Level Panel commended the OIG’s Diagnostic Reviews as : “...shorter exercises aimed at drilling down into areas of particular risk....[This] provides advice in close to real time, in a way that can help guide risk assessments of the broader portfolio by the Secretariat and the Board.” Diagnostic reviews focus on risks/areas for improvement and make recommendations to address them rather than providing assurance on the use of grant funds. To date we have undertaken fieldwork for seven diagnostic reviews (South Africa, Myanmar, Georgia, Cuba, Gambia, Peru and China). We intend to take stock in January 2012 to assess how this approach has worked in practice.

**Lessons learned reports:**

6. In March 2011, the OIG released its second lessons learned report that highlighted the most important findings and recommendations related to grant management/operations. This was well received and immediately used by the Global Fund Secretariat and the Board’s Comprehensive Reform Working Group. Its value was also recognized by the High Level Panel. We plan to release an update in mid-2012, based on an additional year’s analysis.

## **Resource requirements for the Audit Unit:**

7. In 2010 and 2011 the OIG had significantly under-estimated its audit/review resource requirement. On the recommendation of the FAC, the Board has approved a more realistic budget for the audit/review unit. The audit universe at the Global Fund comprises 150 country portfolios and around 50 Secretariat processes. At the staffing level currently approved (six audit team leaders, three audit managers, one audit director, one assistant), we can perform approximately 20 country audits/diagnostic reviews and 4 Secretariat process reviews per year, i.e., as noted above it will take us about ten years to cover the universe were we to audit/review every country grant program and process. However, in reality, and according to the international professional standards for audit, we apply a risk-based model to the choice of audit/reviews. Some processes/countries would never be reviewed because their risk is too low and/or we can find assurance through some other mechanism.

## **Quality Assessment:**

8. The OIG Progress Report (paragraph 10.14 above) relates that international professional practices standards require us to conduct an externally validated quality assurance review of the audit function every five years. We are contracting the Institute of Internal Auditors to guide our self-assessment and gap analysis in January/February 2012, followed by a formal external independent validation before the end of 2012. A peer review of the investigation function will also take place in 2012. These independent assessments will be provided to the Audit and Ethics Committee for consideration.

## **Inappropriate behavior:**

9. The OIG takes allegations of inappropriate behaviour extremely seriously and acts immediately should specific examples of inappropriate conduct be brought to our attention. The Inspector General's message to OIG staff and contractors is strong and unequivocal: inappropriate behaviour towards the subjects of an audit or investigation is abhorrent and unacceptable. We have drafted a code of conduct that can be found in our Progress Report (Annex 4 above). We welcome the Board's feedback on this.

10. In addition, since the beginning of 2011, all audits and diagnostic reviews have been followed up with an exit survey, that is submitted by PRs and the CCM to the Inspector General (we propose in the Progress Report that going forward this should be sent to the Audit and Ethics Committee). To date, of 24 such exit surveys received, all but two have been strongly positive and commented on the good behaviour of OIG staff and contractors. In the case of the two that were not positive, I immediately took steps to understand what had gone wrong.

11. I strongly encourage anyone, especially Board members, to bring to my attention or to the attention of the Board Chair or the Chair of the Audit and Ethics Committee (once appointed) any examples of inappropriate behaviour. We are also taking steps to have third-party observers join our missions.

John Parsons  
Inspector General

21 December 2011

**THE OFFICE OF THE INSPECTOR GENERAL  
PAPER ON THE RISKS OF LACK OF PRIVILEGES & IMMUNITIES  
OF THE GLOBAL FUND UPON THE ENTITY AND ITS STAFF**

**PART 1: OUTLINE**

1.3 As requested at the last FAC meeting, this paper presents views on the vulnerabilities of Global Fund staff arising from an absence of privileges and immunities (P's & I's) afforded to the Global Fund and its personnel. The document further provides background on the importance of privileges & immunities to the Global Fund (and the Global Fund staff in particular), identifies key shortcomings in the existing privileges & immunities framework, and proposes an action plan for addressing the existing problems in the absence of a universal ratification by all recipient countries and clear language in the form grant agreements. While the OIG certainly understands that efforts have been on-going for some time to resolve this issue, the discussion may benefit from a reminder of the importance of the issue and a discussion of interim measures that might be considered to address the risks in the near term. The document also presents, for consideration, some thoughts on the most significant and likely risks from a lack of such protection for Global Fund staff.

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

- x. Part 2: The Current Status
- xi. Part 3: Risks to the OIG
- xii. Part 4: Potential Measures
- xiii. Part 5: Conclusion

## PART 2: THE CURRENT STATUS

3.7 To-date, little progress has been made on achieving the Board's objective. This is not necessarily unusual given the experience that has been faced by other non-United Nations-affiliated organizations. In order for the Agreement on Privileges and Immunities of the Global Fund to enter into force, 10 countries must not only sign it, but also submit their instruments of ratification. So far, only 7 countries<sup>8</sup> have signed the Agreement on Privileges and Immunities and not a single one has submitted its instrument of ratification. And there is little indication that the full ratification and implementation of the Agreement will change in the near-term. Only 2 countries<sup>9</sup> have completed the domestic legal process required before submission of their instruments of ratification, suggesting that the submission of instruments of ratification by the existing signatories -- not to mention by the 3 additional parties needed to bring the Agreement into force - is not likely to happen any time soon. Finally, even if the instrument comes into effect for the existing signatories, barring the addition of a major donor or recipient state, the Agreement will do little to address the Global Fund's risk: the current signatories of the Agreement represent a very small percentage of the Global Fund's annual grant dollars received and 0% percent of donations. [note: it is important that the Global Fund seek P's & I's not only from recipient countries but also donor countries, like France, where the risk of litigation against the Global Fund is significant given the number of staff members who are French nationals or residents.

3.8 In sum, the Global Fund does not enjoy any greater P's & I's today than it did when the Board made its 2009 decision and it is unlikely that - given the current trajectory - the situation will improve significantly in the foreseeable future. As the Board's 2009 decision stated, "P's & I's are *necessary* for the effective exercise of its functions and efficient use of its resources." Thus, the continued lack of P's & I's is unacceptable, as it affects significantly the capacity of the Global Fund to exercise its functions effectively or use its resources efficiently.

3.9 The High Level Panel (HLP) report highlighted the Global Fund's lack of P's & I's in most jurisdictions as an "operational risk around the world". According to the HLP, specific risks include:

- (i) The Global Fund is potentially vulnerable to civil or criminal litigation, including lawsuits that might be politically motivated;
- (ii) Drugs, bed nets and other supplies imported for programs financed by the Global Fund are often subject to customs duties;
- (iii) Global Fund staff have little protection against possible harassment in hostile environments, against frivolous civil and criminal processes in country, and are exposed to significant personal risk -safety, monetary and liability;
- (iv) The recovery of diverted or inappropriately spent grant funds can be complicated.

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<sup>8</sup> Ethiopia, Georgia, Ghana, Moldova, Montenegro, Rwanda and Swaziland.

<sup>9</sup> Swaziland and Moldova



## PART 3: RISKS TO THE OIG

3.1 Given its role as an independent oversight mechanism, the OIG and its personnel are in particular need of P's & I's to "guarantee the autonomy, independence and functional effectiveness of international organizations and protect them against abuse of any kind."<sup>10</sup> The mission of the OIG, as stated in its Charter and Terms of Reference, "is to provide the Global Fund with independent and objective assurance over the design and effectiveness of controls in place to manage the key risks impacting the Global Fund's programs and operations." The OIG's work - by shedding light on fraud, abuse, mismanagement, and fiduciary control weaknesses - inherently pose a threat to those responsible. Those individuals (who often enjoy a great deal of influence) may seek to interfere with the OIG's work, including through frivolous lawsuits, searches and seizure of property, and intimidation of personnel. There is no protection, for example, for OIG staff to defend against being detained at airports for any number of reasons, including for reasons that would not pose an issue for United Nations staff (who carry laissez-passer).

3.2 In the past year alone, the OIG has faced detention at ports of entry, searches of OIG property, and numerous threats of physical harm to its personnel. Other incidents - including lawsuits, the confiscation of OIG property, or the arrest of Global Fund personnel- could easily take place in the future. These actions interfere with the OIG's mission to provide independent and objective oversight and mitigating these risks is costly and reduces the OIG's efficiency. The Global Fund should not wait until additional risks materialize, but should act now to address untenable gap in its legal status. P's & I's would enhance the OIG's effectiveness as an independent oversight body by providing, among other things, immunity from lawsuits, from searches and seizures of property, and protection of personnel against certain civil and criminal charges. Given that the OIG is most likely to evaluate funding - and encounter problems - in high risk recipients countries, recognition of P's & I's in those countries would provide the most significant risk reduction.

## PART 4: POTENTIAL MEASURES

### Permanent

4.1 The High Level Panel offered the following recommendations to address the Global Fund's highly problematic lack of P's & I's:

*"Given the large sums of money at stake, the Global Fund should make the [recognition of international organization P's & I's for the Global Fund] a higher priority. At a minimum, nations that sit on the Global Fund's Board should expedite their domestic processes to grant the organization privileges and immunities, and the Executive Director and Chair and Vice Chair of the Board should include appealing for enhanced legal status as a routine part of their diplomatic outreach. The Global Fund should also consider making the concession of international-organization status a factor in the negotiation of the grant agreements that follow awards made in Round Eleven."*

4.2 The OIG fully supports the HLP's recommendations. In order to implement them, the OIG proposes that the Board consider the following:

- (i) Reaffirm the necessity of P's & I's on behalf of the Global Fund and its staff, consultants and contractors for "the effective exercise of its functions and efficient use of its resources".

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<sup>10</sup> ILC Special Rapporteur.

- (ii) Establish recognition of international organization (or equivalent) status for the Global Fund (via domestic legal enactment and/or ratification of the Privileges and Immunities Agreement) as a top priority for the Global Fund.
- (iii) Make new participation in the Global Fund's board, as of January 2013, conditional on granting the international organization (or equivalent) status to the Global Fund.
- (iv) In cases of a national/government Principal Recipient, include language in the grant agreement strongly encouraging the recipient country to recognize the Global Fund as an international organization (or equivalent) and recognizing the pursuit of P's & I's in favor of the Global Fund by the Recipient with the host country as a condition of continued disbursement.
- (v) Require that the Executive Director, Chair and Vice Chair include appeals for international organization (or equivalent) status a central and ongoing part of their diplomatic outreach.
- (vi) Requiring the Executive Director to report at each Board meeting on the status of P's & I's both in law and practice.

### **Interim Measures**

4.3 Recognizing that the above measures will not result in full P's & I's coverage in the near-term, the OIG further proposes some interim measures that would ensure the independence, effectiveness and efficiency of Global Fund officials.

4.4 If Global Fund officials enjoyed privileges and immunities akin to those of officials of other international organizations, they would be immune from legal process in respect of all acts, including words spoken or written, taken in their official capacity. The Legal Unit advises that current insurance policies cover Global Fund staff in such situations, protecting them from lawsuits and incurring legal fees in the pursuit of their official duties. However, consultants and contractors are not covered by this policy. In the absence of Ps & Is, the OIG proposes the Board agree to indemnify consultants and contractors performing official duties on behalf of the Global Fund from any lawsuits (including attorneys fees, fines or other fees) related to acts taken by the individual in his/her official capacity.

4.5 Encourage CCMs to issue a firm statement in support of the recognition of the Global Fund as an international entity with full diplomatic privilege, and seek assurances from the national government that the Global Fund staff will not face risks in country and be subject to legal process.

### **Other Issues**

4.6 Even if member states recognize P's & I's for the Global Fund akin to those enjoyed by other international organizations, there are two additional issues that the Global Fund should consider. The first relates to travel. UN staff receive "laissez-passers" which are travel documents that entitle the holder to certain conveniences, including priority processing. If the Global Fund were granted P's & Is (whether through national legislation and/or pursuant to the P's & I's Agreement), Global Fund officials would not automatically be entitled to laissez-passers. Rather, this would require a separate agreement with the United Nations, which is the issuer of laissez-passers. Because this is separate from the issue of recognition of the Global Fund's other P's & I's, an effort to reach such an agreement with the UN can and should be pursued immediately.

4.7 A second, important issue is that for an individual affiliated with an organization to enjoy full P's & I's, he/she must be an "official" of the organization.<sup>11</sup> Because the OIG

<sup>11</sup> See Agreement on Privileges and Immunities of the Global Fund to Fight AIDS, Tuberculosis and Malaria, Article 4; Convention on the Privileges and Immunities of the United Nations, Article V.

frequently relies on the expertise of consultants, including during most in-country missions, it is very important for the OIG that “official” be interpreted to encompass them. Because of the ambiguity of the term, including the possibility that it could be interpreted narrowly to mean only full staff members, the OIG urges the Global Fund to make an official interpretive statement to each country which has recognized the Global Fund’s P’s & I’s (whether by national legislation, ratification of the P’s & I’s agreement, or both) describing the categories of individuals covered by the term “officials” and specifying that consultants are covered. This interpretation is necessary to ensure the independence, effectiveness and efficiency of the OIG and is consistent with Article 4 of the P’s & I’s Agreement, which grants the Global Fund the authority to identify the personnel covered by the Agreement.<sup>12</sup>

4.8 The following table summarizes the key areas discussed in this memo, along with the proposed permanent and interim solutions, where appropriate.

Issue/Event	W/out P’s & I’s	With P’s & I’s	Permanent Solution	Interim Measure
<b>Officials of the Global Fund</b>				
Lawsuits (civil or criminal) against GF officials for acts taken <u>in</u> official capacity	Liable	Not liable (absent waiver)	National legislation and/or ratification of Ps & Is Agreement	GF indemnifies its officials for any attorneys fees, fines, and other fees
Lawsuits (civil or criminal) against GF officials for acts taken <u>outside</u> of their official capacity	Liable	Liable	National legislation and/or ratification of Ps & Is Agreement	N/A

<sup>12</sup>See also Article V of the Convention on the Privileges and Immunities of the United Nations, which defers to the international organization to “specify categories of officials to which the provisions of [the agreement] apply.”

Issue/Event	W/out P's & I's	With P's & I's	Permanent Solution	Interim Measure
Lawsuits against representatives to meetings of the GF (and its constituent bodies)	Liable	Not liable for any acts, whether official or not, (absent waiver)	National legislation and/or ratification of Ps & Is Agreement	GF indemnifies its officials for any attorneys fees, fines, and other fees;  Seek Affirmation of Governments for unofficial recognition
Travel	Normal travel document	"laissez-passer"	Agreement with UN	Agreement with UN
Ensuring Coverage of Consultants on Global Fund Business	Liable	Not liable, provided considered "official"	Interpretive statement by Global Fund that "officials" encompass consultants	Interpretive statement by Global Fund that "officials" encompass consultants
<b>The Global Fund (Institution)</b>				
All Lawsuits against GF	Liable	Not Liable	National legislation and/or ratification of Ps & Is Agreement	N/A
Enforcement Against Global Fund Assets	Liable	Not Liable	National legislation and/or ratification of Ps & Is Agreement	N/A
Search/Seizure of Global Fund Property and Documents	Subject to search and seizure	Immune	National legislation and/or ratification of Ps & Is Agreement	N/A
Taxes and Customs Duties on GF Assets, Income and other Property	Liable	Immune	National legislation and/or ratification of Ps & Is Agreement	N/A

Issue/Event	W/out P's & I's	With P's & I's	Permanent Solution	Interim Measure
Safety and Security		UN coverage		Contract suitable sub
Harm/Injury to Staff		UN coverage		Medical and Legal

#### 4.9 Some possible claims that could be pressed:

- (i) Liability of Global Fund staff as allegedly responsible for an act - injury, reputational damage, accident;
- (ii) Global Fund staff as a victim of an accident, subject to an arrest and prosecution for a claimed criminal act, detention, or civil claim in country;
- (iii) Global Fund itself as a subject of a civil claim for monetary damages, including under a theory of vicarious liability (the principal of the staff member/agent) for acts of Global Fund staff.

## PART 5: CONCLUSION

5.1 In order to ensure its efficacy and efficiency, it is necessary for the Global Fund to act promptly and resolutely to seek international organization (or similar) status from its member states, and provide adequate protection for its staff. In the interim, the Organization should confirm the right of indemnity to its personnel from civil and criminal processes related to or arising from actions taken in their official capacities; seek affirmation from countries that Global Fund staff will be accorded the benefits of diplomatic status in country; affirmative statements of CCMs expressing equal support; seek an agreement with the UN to provide its officials with "laissez-passer" travel documents and it should clarify that its "officials" include consultants working for the OIG.