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### Responsibility of hybrid public-private bodies under international law: A case study of global health public-private partnerships

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## **2. OVERVIEW OF PARTNERSHIPS**

This chapter begins by describing, generally, the evolution of public-private partnerships in the area of global health and then turns, more specifically, to the global health public-private partnerships under scrutiny in this research. As explained in the introductory chapter,<sup>1</sup> this research focuses on formal partnerships or alliances, in particular the Roll Back Malaria Partnership (RBM) and the Stop TB Partnership (Stop TB), and separate organizations, in particular the GAVI Alliance (GAVI) and the Global Fund to Fight AIDS, Tuberculosis and Malaria (the Global Fund). This chapter thus provides a better understanding of how global health public-private partnerships came to be and how they work today and, in doing so, offers the necessary background for the chapters that follow.

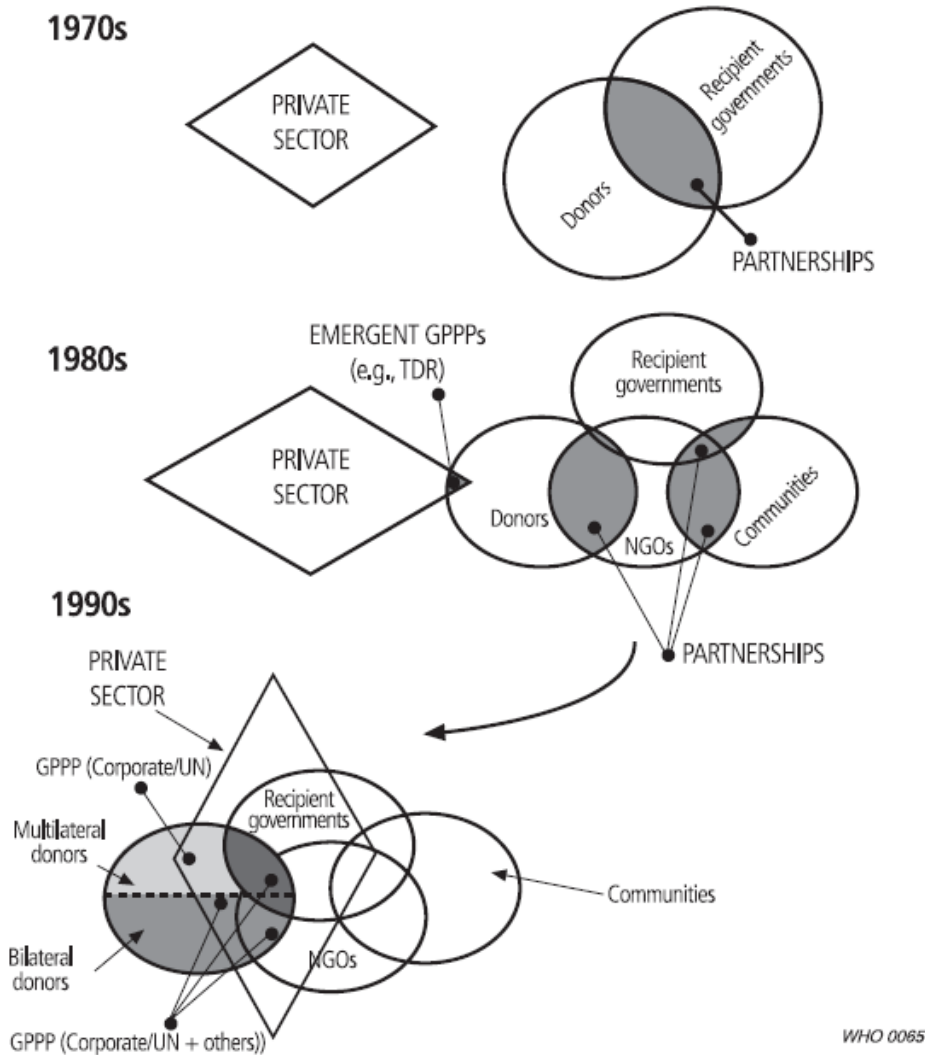
### **2.1. EVOLUTION OF PARTNERSHIPS**

Collaboration between the public and private sectors, in relation to global health issues, began initially as simple donation agreements between the recipient state and the donating entities. Partnerships, however, gradually developed into highly integrated relationships between states, international organizations, companies, non-governmental organizations, research institutes and/or philanthropic foundations. This shift is illustrated by the following diagram taken from an article written by Kent Buse and Gill Walt in the Bulletin of the World Health Organization.<sup>2</sup>

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<sup>1</sup> See Chapter 1, Section 1.3

<sup>2</sup> K. Buse and G. Walt, 'Global public-private partnerships: part I – a new development in health' (2000) 78(4) Bulletin of the World Health Organization 549, 550-551



It is difficult to pinpoint the exact point at which partnerships moved from simple donation agreements to the highly integrated relationships we see today; it was a gradual process from the 1970s onwards. It can be said, however, that partnerships in global health truly flourished in the late 1990s and early 2000s. Among the partnerships that flourished at that time and that continue to have a significant impact on global health today are the partnerships under consideration in this research – RBM, Stop TB, GAVI and the Global Fund.

The need for partnering between the public and private sectors has been noted, on numerous occasions, by leaders in the international community, generally, and the global

health community, specifically. Dr. Margaret Chan, Director-General of the World Health Organization (WHO) from 2007 to present, addressing the World Health Assembly, stated that “the drive to reach the health-related [Millennium Development Goals] unleashed the best of human creativity, bringing a host of innovations for improving health.”<sup>3</sup> She proceeded to list these innovations as including GAVI, the Global Fund and other partnerships designed to develop and/or facilitate financing of medicines and vaccines.<sup>4</sup> Speaking about partnerships more generally, Ban Ki-moon, Secretary-General of the United Nations from 2007 to present, stated that “[a]ddressing global challenges requires a collective and concerted effort, involving all actors. Through partnerships and alliances, and by pooling comparative advantages, we increase our chances for success.”<sup>5</sup> Public-private partnerships are thus regarded as a useful method to deal with pressing global issues such as those relating to health.

The reasons behind the formation of global health public-private partnerships are manifold and interconnected. The foremost reason is globalization. Globalization has, for example, contributed to the spread of infectious diseases. Infectious diseases have the potential to spread at a remarkable rate due to the speed and ease of the global movement of goods and persons across borders.<sup>6</sup> The outbreak of severe acute respiratory syndrome (SARS) in 2003 and, more recently, swine flu in 2009 are prime examples of how quickly an infectious disease can spread having effects not only domestically but also regionally and globally. Challenges, such as these, are not, however, being met effectively by either the public or private sector alone. A global approach incorporating both the public and private sector, such as partnerships, is needed in order to meet these

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<sup>3</sup> Margaret Chan, Director-General of the World Health Organization, ‘Time to get back on track to meet the Millennium Development Goals’ Address to Sixty-third World Health Assembly, 17 May 2010 <[http://www.who.int/dg/speeches/2010/WHA\\_address\\_20100517/en/index.html](http://www.who.int/dg/speeches/2010/WHA_address_20100517/en/index.html)> accessed 25 May 2012

<sup>4</sup> *ibid*

<sup>5</sup> Quote on homepage of the United Nations Office for Partnerships <<http://www.un.org/partnerships/YPartnershipInitiatives.htm>> accessed 25 May 2012. Also, the United Nations Security Council, in a resolution on HIV/AIDS, noted with satisfaction “the unprecedented global response of Member States, public and private partnerships, non-governmental organizations and the important roles of civil society, communities, and persons living with and affected by HIV in shaping the response.” (UNSC Res (7 June 2011) S/RES/1983 (2011), preamble)

<sup>6</sup> Gian Luca Burci, ‘Institutional Adaptation without Reform – WHO and the Challenges of Globalization’ (2005) 2 *International Organizations Law Review* 437, 438

challenges.<sup>7</sup> In sum, globalization expedites problems but it also facilitates solutions to problems by enabling entities from the public and private sectors to work together in partnerships.

A shortage of resources is another reason for the creation of global health public-private partnerships. There is growing acceptance that global health issues can no longer be tackled effectively by either the public or private sector alone as each sector is unlikely to have sufficient resources to address these issues. Access to resources from both the public and private sector is therefore also a strong reason for partnering. Such resources may be financial, technical, scientific and/or political in nature. By working together in partnerships, resources of both the public and private sectors are pooled providing a stronger basis to deal with global health issues.<sup>8</sup>

Public-private partnerships further provide a flexible means to deal with global health matters. Partnerships are able to initiate, amend or terminate projects more simply and quickly than states and/or international organizations.<sup>9</sup> By doing so, partnerships often circumvent complaints of bureaucratic slow-down which regularly occur when states and/or international organizations take (or do not take) action.

Finally, partners of global health public-private partnerships also have their own reasons for entering into these partnerships with each other. The WHO, for example, might join a partnership in order to meet its objectives, to leverage financing, knowledge and other resources from the private sector and/or to gain further legitimacy and authority by

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<sup>7</sup> Kent Buse and Gill Walt, 'The World Health Organization and Global Public-Private Health Partnerships: In Search of 'Good' Global Health Governance' in Michael R. Reich (ed), *Public-Private Partnerships for Public Health* (Harvard University Press 2002) 169, 169, 171-172

<sup>8</sup> Buse and Walt, Global public-private partnerships: part I (n 2) 552; *ibid* 173; Michael R. Reich, et al, 'Workshop on Public Health Law and Ethics I & II: The Challenge of Public/Private Partnerships (PPPs)' (2003) 31 *Journal of Law, Medicine and Ethics* 90, 90-91

<sup>9</sup> Craig Wheeler and Seth Berkley, 'Initial lessons from public-private partnership in drug and vaccine development' (2000) 79(8) *Bulletin of the World Health Organization* 728, 731. See Eyal Benvenisti, "'Coalitions of the Willing" and the Evolution of Informal International Law' (2006) Tel Aviv University Law Faculty Papers, Paper 31, 1, 16

working together with the private sector.<sup>10</sup> A pharmaceutical company, as another example, might join a partnership in order to increase its influence on rules governing health at both the domestic and international level, to obtain financial benefits such as tax breaks, to promote its image and increase its legitimacy and authority through association with the WHO and other reputable organizations and/or to meet the demands of corporate citizenship.<sup>11</sup>

Public-private partnerships in the area of global health are forming for the aforementioned reasons, among others,<sup>12</sup> and as long as people face global health issues, it seems likely that these partnerships are here to stay. Through partnerships, the public and private sectors are achieving goals that neither could easily achieve independently and, as a result, real strides are being taken towards tackling global health issues. Partnerships in the area of global health that contribute to this result include formal partnerships or alliances, such as RBM and Stop TB, and separate organizations, such as GAVI and the Global Fund. The following section provides a brief description of these partnerships.

## **2.2. PARTNERSHIPS UNDER SCRUTINY**

The partnerships chosen as case studies in this research are RBM and Stop TB (illustrating formal partnerships or alliances) and GAVI and the Global Fund (illustrating separate organizations). Each of these partnerships is now described, focusing in particular on creation, goals, partners, governance structure and operations. These

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<sup>10</sup> Buse and Walt, *Global public-private partnerships: part I* (n 2) 553; Buse and Walt, *The World Health Organization* (n 7) 179-80; Kent Buse and Amalia Waxman, 'Public-private health partnerships: a strategy for WHO' (2001) 79(8) *Bulletin of the World Health Organization* 748, 749; Laurence Boisson de Chazournes, 'Concluding Remarks – Changing Roles of International Organizations: Global Administrative Law and the Interplay of Legitimacies' (2009) 6 *International Organizations Law Review* 655, 656-657

<sup>11</sup> Buse and Walt, *Global public-private partnerships: part I* (n 2) 556; Buse and Walt, *The World Health Organization* (n 7) 176-79

<sup>12</sup> Other reasons behind the formation of global health public-private partnerships can be found in Buse and Walt, *Global public-private partnerships: part I* (n 2) and Buse and Walt, *The World Health Organization* (n 7) 169

descriptions will provide a better picture of the partnerships under scrutiny throughout this research and will also provide necessary background for the chapters to come.

## **2.2.1. Formal Partnerships or Alliances**

### **2.2.1.1. RBM**

RBM was launched in 1998 by the WHO, the United Nations Children’s Fund (UNICEF), the United Nations Development Programme (UNDP) and the World Bank and operates within the auspices of the WHO.<sup>13</sup> Its Secretariat is hosted by the WHO which means that the WHO provides administrative and fiduciary support and facilities to the Secretariat, according to the rules and regulations of the WHO, subject to adaptations to meet the specific needs of RBM.<sup>14</sup> Further, RBM is not a separate legal entity and, therefore, cannot enter into contracts, acquire or dispose of property or institute legal proceedings. The WHO, as host, engages in these activities on its behalf.<sup>15</sup> Also, the staff of the Secretariat of RBM are staff of the WHO and also officials of the WHO and the privileges and immunities under international law applicable to the WHO and its staff and officials apply to the Secretariat staff, funds, properties and assets of RBM.<sup>16</sup>

The vision of RBM is a world free of malaria.<sup>17</sup> In order to realize this vision, RBM brings partners together, provides coordination mechanisms, facilitates interaction, supports activities and advocates to increase resource availability.<sup>18</sup> More specifically, it supports procurement and supply management efforts for nets, insecticides, medicines and diagnostics and improves access to affordable and effective anti-malarial

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<sup>13</sup> RBM Mandate <<http://www.rbm.who.int/rbmmandate.html>> accessed 25 May 2012

<sup>14</sup> Memorandum of Understanding between the Roll Back Malaria Partnership and the World Health Organization Concerning Hosting, Secretariat and Administrative Services, 15 December 2006 arts 2.1, 2.2, 7 <<http://www.rollbackmalaria.org/docs/MoU.pdf>> accessed 25 May 2012 (RBM MoU)

<sup>15</sup> *ibid* art 2.1

<sup>16</sup> *ibid* arts 3.2, 3.8

<sup>17</sup> RBM Vision <<http://www.rollbackmalaria.org/rbmvision.html>> accessed 25 May 2012

<sup>18</sup> Roll Back Malaria Partnership power point presentation, 3 <<http://www.rollbackmalaria.org/changeinitiative/RBMPartnership.ppt#353>> accessed 25 May 2012

medicines.<sup>19</sup> The work of RBM and other organizations, over the past ten years, has reduced malaria cases by 23% and malaria deaths by 38% and saved over a million lives, worldwide.<sup>20</sup>

It has more than five hundred partners, including malaria endemic countries, multilateral development partners, the private sector, foundations, *ex-officio* members, research and academia, non-governmental organizations and Organization for Economic Co-operation and Development (OECD) donor countries. Any organization that abides by the strategy of RBM and contributes to its implementation is permitted to join as a partner.<sup>21</sup>

RBM has the following governing, administrative and advisory bodies in its operating structure: the Board, the Secretariat, the Partnership Forum, the Executive Committee, Board Standing Committees, the Executive Director, Working Groups, Task Forces and Sub-Regional Networks.<sup>22</sup>

The Board is responsible for decision-making and administering the partnership. It possesses all powers not expressly delegated to other bodies.<sup>23</sup> It consists of twenty-one voting members and five non-voting *ex-officio* members, plus a Chair and Vice-Chair.

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<sup>19</sup> Malaria Commodity Access <<http://www.rollbackmalaria.org/psm/index.html>> accessed 25 May 2012; SMS for Life: An RBM initiative <<http://www.rollbackmalaria.org/psm/smsWhatIsIt.html>> accessed 25 May 2012; The Affordable Medicines Facility for Malaria (AMFm) <<http://www.rollbackmalaria.org/psm/amfm.html>> accessed 25 May 2012; ACTs <<http://www.rollbackmalaria.org/psm/acts.html>> accessed 25 May 2012; Nets and insecticides <<http://www.rollbackmalaria.org/psm/netsandinsecticides.html>> accessed 25 May 2012; Rapid diagnostic tests (RDTs) <<http://www.rollbackmalaria.org/psm/rdts.html>> accessed 25 May 2012

<sup>20</sup> RBM Press release, Roll Back Malaria report heralds record success and anticipates near-zero malaria deaths in next decade if efforts sustained, 12 September 2011 <<http://www.rollbackmalaria.org/globaladvocacy/pr2011-09-12.html>> accessed 25 May 2012; Roll Back Malaria Partnership, Progress & Impact Series, A Decade of Partnership and Results, Number 7 – September 2011, 54 <<http://www.rollbackmalaria.org/ProgressImpactSeries/docs/report8-en.pdf>> accessed 25 May 2012

<sup>21</sup> RBM Mandate (n 13); RBM Constituencies <<http://www.rollbackmalaria.org/mechanisms/constituencies.html>> accessed 25 May 2012; RBM Partnership By-Laws, November 2011, art 1.1 <[http://www.rollbackmalaria.org/partnership/secretariat/docs/rbm\\_bylaws.pdf](http://www.rollbackmalaria.org/partnership/secretariat/docs/rbm_bylaws.pdf)> accessed 25 May 2012. Note: the terminology used to describe the partners of RBM is taken verbatim from the RBM website.

<sup>22</sup> RBM Partnership Operating Framework, November 2011, art 3 <<http://www.rollbackmalaria.org/partnership/secretariat/docs/RBMoperatingFramework.pdf>> accessed 25 May 2012

<sup>23</sup> *ibid* art 3.3; RBM By-Laws (n 21) art 3



The voting members include representatives from foundations, malaria endemic countries, multilateral development partners, non-governmental organizations, donor countries, private sector and research and academia. The non-voting *ex-officio* members include representatives from the Global Fund, RBM, UNITAID, the UN Secretary General's Special Envoy for Malaria and African Leaders Malaria Alliance (ALMA).<sup>24</sup> The Secretariat, hosted by the WHO, is responsible for implementing RBM work plans and carrying out the day-to-day operations of RBM.<sup>25</sup>

The Partnership Forum assembles together all constituencies of partners and provides an opportunity for global review and recommendations.<sup>26</sup> The Executive Committee sets the agenda for Board meetings and drafts decision points for the Board's consideration, oversees the Secretariat in work plan implementation and advises on non-planned activities.<sup>27</sup> Board Standing Committees are established when an issue requires attention between bi-annual Board meetings.<sup>28</sup> The Executive Director is the global spokesperson and leader for RBM.<sup>29</sup> Working Groups are established when partners need to be aligned or when a coordinated effort is needed.<sup>30</sup> At present, there is a Malaria Advocacy Working Group,<sup>31</sup> a Communication Working Group,<sup>32</sup> a Harmonization Working Group,<sup>33</sup> a Vector Control Working Group,<sup>34</sup> a Procurement and Supply Chain

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<sup>24</sup> RBM By-Laws (n 21) art 3.2; RBM Partnership Board <<http://www.rollbackmalaria.org/mechanisms/partnershipboard.html>> accessed 25 May 2012. Note: the terminology used to describe the Board members of RBM is taken verbatim from the RBM By-Laws.

<sup>25</sup> RBM Operating Framework (n 22) art 3.8; RBM By-Laws (n 21) art 12; RBM MoU (n 14) art 3.5; RBM Partnership Secretariat <<http://www.rollbackmalaria.org/mechanisms/partnershipsecretariat.html>> accessed 25 May 2012

<sup>26</sup> RBM Operating Framework (n 22) arts 3.2, 3.2.1; RBM By-Laws (n 21) art 2; RBM Partnership Forum <<http://www.rollbackmalaria.org/mechanisms/partnershipforum.html>> accessed 25 May 2012

<sup>27</sup> RBM Operating Framework (n 22) art 3.5.1; RBM By-Laws (n 21) art 8; Executive Committee (EC) <<http://www.rollbackmalaria.org/mechanisms/ec.html>> accessed 25 May 2012

<sup>28</sup> RBM Operating Framework (n 22) art 3.6; RBM By-Laws (n 21) art 9.2

<sup>29</sup> RBM Operating Framework (n 22) art 3.7; RBM By-Laws (n 21) art 11; The RBM Executive Director <<http://www.rollbackmalaria.org/mechanisms/exdirector.html>> accessed 25 May 2012

<sup>30</sup> RBM Operating Framework (n 22) art 3.9; RBM By-Laws (n 21) art 10

<sup>31</sup> Malaria Advocacy Working Group (MAWG) <<http://www.rollbackmalaria.org/mechanisms/mawg.html>> accessed 25 May 2012

<sup>32</sup> Communication Working Group (CWG) <<http://www.rollbackmalaria.org/mechanisms/cwg.html>> accessed 25 May 2012

<sup>33</sup> Harmonization Working Group (HWG) <<http://www.rollbackmalaria.org/mechanisms/hwg.html>> accessed 25 May 2012

<sup>34</sup> Vector Control Working Group (VCWG) <<http://www.rollbackmalaria.org/mechanisms/vcwg.html>> accessed 25 May 2012

Management Working Group,<sup>35</sup> a Case Management Working Group,<sup>36</sup> a Monitoring & Evaluation Reference Group<sup>37</sup> and a Malaria in Pregnancy Working Group.<sup>38</sup> Task Forces are voluntary groups of RBM partners that come together to provide recommendations to the Board on a particular issue.<sup>39</sup> Finally, Sub-Regional Networks of RBM facilitate and support coordination among partners in certain regions.<sup>40</sup> Four sub-regional networks have been created in Central Africa,<sup>41</sup> East Africa,<sup>42</sup> Southern Africa<sup>43</sup> and West Africa.<sup>44</sup>

### 2.2.1.2. Stop TB

Stop TB was established in 2001, building upon the Stop TB Initiative that was created in 1998, and operates under the auspices of the WHO. Its Secretariat is hosted by the WHO which means that it manages its administrative, financial and human resources matters according to the rules and regulations of the WHO, subject to adaptations to meet the specific needs of Stop TB.<sup>45</sup> Further, Stop TB does not have legal personality and, as a result, does not have the capacity to contract, to acquire and dispose of immovable and movable property or to institute legal proceedings. Instead, the WHO, as host, acts on its

<sup>35</sup> Procurement and Supply Chain Management Working Group (PSMWG) <<http://www.rollbackmalaria.org/mechanisms/psmwg.html>> accessed 25 May 2012

<sup>36</sup> Case Management Working Group (CMWG) <<http://www.rollbackmalaria.org/mechanisms/cmwg.html>> accessed 25 May 2012

<sup>37</sup> Monitoring & Evaluation Reference Group (MERG) <<http://www.rollbackmalaria.org/mechanisms/merg.html>> accessed 25 May 2012

<sup>38</sup> Malaria in Pregnancy Working Group (MPWG) <<http://www.rollbackmalaria.org/mechanisms/mpwg.html>> accessed 25 May 2012

<sup>39</sup> RBM Operating Framework (n 22) art 3.10; RBM By-Laws (n 21) art 9.3

<sup>40</sup> RBM Operating Framework (n 22) art 3.11; RBM By-Laws (n 21) art 13

<sup>41</sup> Central Africa Roll Back Malaria Network (CARN) <<http://www.rollbackmalaria.org/mechanisms/carn.html>> accessed 25 May 2012

<sup>42</sup> East Africa Roll Back Malaria Network (EARN) <<http://www.rollbackmalaria.org/mechanisms/earn.html>> accessed 25 May 2012

<sup>43</sup> Southern Africa Roll Back Malaria Network (SARN) <<http://www.rollbackmalaria.org/mechanisms/sarn.html>> accessed 25 May 2012

<sup>44</sup> West Africa Roll Back Malaria Network (WARN) <<http://www.rollbackmalaria.org/mechanisms/warn.html>> accessed 25 May 2012

<sup>45</sup> Our History <<http://www.stoptb.org/about/history.asp>> accessed 25 May 2012; About Us <<http://www.stoptb.org/about/>> accessed 25 May 2012

behalf in these capacities.<sup>46</sup> Also, the staff of Stop TB are officials of the WHO and are, accordingly, granted privileges and immunities under international law.<sup>47</sup>

The stated purpose of Stop TB is to obtain a world free of tuberculosis.<sup>48</sup> It strives to achieve this purpose by improving access to accurate diagnosis and effective treatments; increasing the availability, affordability and quality of anti-tuberculosis drugs; and promoting research and development for new anti-tuberculosis drugs, diagnostics and vaccines.<sup>49</sup> Stop TB's achievements include, among others, the development of the Global Plan to Stop TB 2011-2015<sup>50</sup> and the delivery of 16.5 million anti-tuberculosis treatments by Stop TB's Global Drug Facility.<sup>51</sup>

The partners of Stop TB number over a thousand and this number is not subject to a cap.<sup>52</sup> It is self-described as being a “dynamic, loose and evolving partnership.”<sup>53</sup> Partnership is open to any organization committed to the measures necessary to eliminate tuberculosis as a global health problem.<sup>54</sup> Partners include international organizations, donors from the private sector, governmental organizations, non-governmental organizations, foundations, academic/research institutions and patient organizations.<sup>55</sup>

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<sup>46</sup> Stop TB Partnership Secretariat, Basic Framework for the Global Partnership to Stop TB, Section III <<http://www.stoptb.org/assets/documents/about/STBBasicFramework.pdf>> accessed 25 May 2012. Note: there is no memorandum of understanding or other official document setting out the relationship between Stop TB and the WHO (E-mail from Anant Vijay, Stop TB Partnership to author (11 April 2010))

<sup>47</sup> Stop TB Partnership, Request for Proposals, Independent Evaluation of the Global Stop TB Partnership, 20 March 2007, 15 <<http://www.stoptb.org/assets/documents/news/announcements/RFP20Mar.pdf>> accessed 25 May 2012

<sup>48</sup> Basic Framework (n 46) Section I (1.1)

<sup>49</sup> *ibid* Section I (1.3)

<sup>50</sup> The Global Plan to Stop TB <<http://www.stoptb.org/global/plan/>> accessed 25 May 2012

<sup>51</sup> Stop TB News Stories 2010, Global Drug Facility reaches 16.5 million mark for tuberculosis treatments, 6 May 2010 <[http://www.stoptb.org/news/stories/2010/ns10\\_027.asp](http://www.stoptb.org/news/stories/2010/ns10_027.asp)> accessed 25 May 2012; Global Drug Facility <<http://www.stoptb.org/gdf/>> accessed 25 May 2012

<sup>52</sup> Welcome to the Stop TB Partnership Partners' Directory <<http://www.stoptb.org/partners/>> accessed 25 May 2012; Join the Partnership <<http://www.stoptb.org/getinvolved/joinus.asp>> accessed 25 May 2012

<sup>53</sup> About Us <<http://www.stoptb.org/about/>> accessed 17 October 2011

<sup>54</sup> Join the Partnership (n 52)

<sup>55</sup> Welcome to the Stop TB Partnership Partners' Directory (n 52). Note: the terminology used to describe the partners of Stop TB is taken verbatim from the Stop TB website.

The structure of Stop TB includes the Coordinating Board, the Secretariat, Working Groups and the Partners' Forum.<sup>56</sup>

The Coordinating Board is responsible for providing leadership; monitoring implementation of policies, plans and activities; and coordinating the components of the partnership. Its composition is limited to thirty-four members representing the constituencies of the partnership including high burden countries; the WHO; the World Bank; the Global Fund; international organizations; regional representatives, including from non-high burden countries; working groups; financial donors; foundations; non-governmental organizations and technical agencies; communities affected by tuberculosis; the WHO Strategic and Technical Advisory Group; and the corporate business sector.<sup>57</sup> The Secretariat is hosted by the WHO. Its role is to support the administrative, operational and strategic aspects of Stop TB in order to achieve its goals.<sup>58</sup>

Working Groups are set up to implement the research, advocacy and/or operational activities in relation to the target of the particular working group.<sup>59</sup> There are, at present, seven working groups: the DOTS Expansion Working Group;<sup>60</sup> the TB/HIV Working Group;<sup>61</sup> the Stop TB Working Group on MDR-TB;<sup>62</sup> the Working Group on New TB Drugs;<sup>63</sup> the New Diagnostics Working Group;<sup>64</sup> the Working Group on New TB Vaccines;<sup>65</sup> and the Global Laboratory Initiative.<sup>66</sup> Finally, the Partners' Forum is a consultative meeting of representatives of all the partners. It brings partners together in

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<sup>56</sup> Our Structure <<http://www.stoptb.org/about/structure.asp>> accessed 25 May 2012; Basic Framework (n 46) Section II

<sup>57</sup> Coordinating Board <<http://www.stoptb.org/about/cb/>> accessed 25 May 2012; Basic Framework (n 46) Section II (2). Note: the terminology used to describe the Board members of Stop TB is taken verbatim from the Stop TB website. The Basic Framework indicates thirty-two members.

<sup>58</sup> Secretariat <<http://www.stoptb.org/about/secretariat.asp>> accessed 25 May 2012); Basic Framework (n 46) Section II (4)

<sup>59</sup> Our Structure (n 56); Basic Framework (n 46) Section II (3)

<sup>60</sup> DOTS Expansion Working Group <[http://www.stoptb.org/wg/dots\\_expansion/](http://www.stoptb.org/wg/dots_expansion/)> accessed 25 May 2012

<sup>61</sup> TB-HIV Working Group <[http://www.stoptb.org/wg/tb\\_hiv/](http://www.stoptb.org/wg/tb_hiv/)> accessed 25 May 2012

<sup>62</sup> Stop TB Working Group on MDR-TB <<http://www.stoptb.org/wg/mdrtb/>> accessed 25 May 2012

<sup>63</sup> Working Group on New TB Drugs <<http://www.newtbdrugs.org/>> accessed 25 May 2012

<sup>64</sup> New Diagnostics Working Group <[http://www.stoptb.org/wg/new\\_diagnostics/](http://www.stoptb.org/wg/new_diagnostics/)> accessed 25 May 2012

<sup>65</sup> Working Group on New TB Vaccines <[http://www.stoptb.org/wg/new\\_vaccines/](http://www.stoptb.org/wg/new_vaccines/)> accessed 25 May 2012

<sup>66</sup> Global Laboratory Initiative <<http://www.stoptb.org/wg/gli/>> accessed 25 May 2012

order to encourage support, assess progress and serve as a place for information exchange.<sup>67</sup>

## 2.2.2. Separate Organizations

### 2.2.2.1. GAVI

GAVI was established in 2000 under the auspices of UNICEF.<sup>68</sup> After being hosted by UNICEF for almost a decade, it became, in 2009, a foundation and an international institution under Swiss law and recognized as having international legal personality and capacity with privileges and immunities in Switzerland.<sup>69</sup>

GAVI's mission is to save lives and protect health by increasing access to immunization in poor countries.<sup>70</sup> Its stated purpose is to promote health by providing vaccines and the means to deliver vaccines, facilitating the research and development of vaccines and strengthening health care systems and civil society groups.<sup>71</sup> In working towards this purpose, GAVI contributes to achieving the Millennium Development Goals to end poverty and hunger, achieve universal primary education, promote gender equality and empower women, reduce child mortality, improve maternal health, combat HIV/AIDS,

<sup>67</sup> Our Structure (n 56); Basic Framework (n 46) Section II (1)

<sup>68</sup> Origins of GAVI <<http://www.gavialliance.org/about/mission/origins/>> accessed 25 May 2012; Press Release WHO/GAVI, Children's Immunization Campaign Launched at World Economic Forum, 31 January 2000 <<http://www.who.int/inf-pr-2000/en/pr2000-GAVI.html>> accessed 25 May 2012

<sup>69</sup> GAVI Alliance Statutes, 29-30 October 2008, art 1 <[http://www.gavialliance.org/resources/GAVI\\_Alliance\\_Statutes.pdf](http://www.gavialliance.org/resources/GAVI_Alliance_Statutes.pdf)> accessed 25 May 2012; Governance and legal structures <<http://www.gavialliance.org/about/governance/legal-structures/>> accessed 25 May 2012; The Federal Act on the Privileges, Immunities and Facilities and the Financial Subsidies granted by Switzerland as a Host State (Host State Act) 22 June 2007 <<http://www.eda.admin.ch/etc/medialib/downloads/edazen/topics/dipl/diplin.Par.0009.File.tmp/Host%20State%20Act.pdf>> accessed 25 May 2012; Host State Act website <<http://www.eda.admin.ch/eda/en/home/topics/intorg/chres/reslaw.html>> accessed 25 May 2012; GAVI Press release, GAVI recognized as an international institution, 23 June 2009 <<http://www.gavialliance.org/library/news/press-releases/2009/gavi-recognised-as-international-institution/>> accessed 25 May 2012; Agreement between the GAVI Alliance (Global Alliance for Vaccines and Immunization) and the Swiss Federal Council in order to determine the legal status of the GAVI Alliance in Switzerland, 1 January 2009 (on file with author). Also, GAVI has public charity status in the United States.

<sup>70</sup> GAVI's mission <<http://www.gavialliance.org/about/mission/>> accessed 25 May 2012

<sup>71</sup> GAVI Statutes (n 69) art 2

malaria and other diseases, ensure environmental sustainability and develop a global partnership for development.<sup>72</sup> Over the past eleven years, GAVI has committed US\$7.2 billion to vaccines and immunizations leading to the vaccination and immunization of 326 million children and the prevention of over 5.5 million future deaths.<sup>73</sup>

The governance, administrative and advisory bodies of GAVI are the Board, the Secretariat, the Executive Committee, Auditors, Standing Board Committees and Advisory Committees.<sup>74</sup>

The governance of GAVI is managed by the Board. It has the highest and most extensive authority over the decision-making and administration of GAVI. Among other functions, it establishes policies and strategies, oversees operations and monitors program implementation. It further possesses all powers not expressly delegated to other bodies.<sup>75</sup> GAVI's partners with representative membership and voting rights on the Board include developing country governments,<sup>76</sup> industrialized country governments,<sup>77</sup> research and technical health institutes,<sup>78</sup> the industrialized country vaccine industry,<sup>79</sup> the developing country vaccine industry,<sup>80</sup> civil society,<sup>81</sup> the Bill & Melinda Gates Foundation,<sup>82</sup> the

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<sup>72</sup> Millennium Development Goals <<http://www.gavialliance.org/about/ghd/mdg/>> accessed 25 May 2012

<sup>73</sup> GAVI's impact – Saving lives <<http://www.gavialliance.org/about/mission/impact/>> accessed 25 May 2012

<sup>74</sup> GAVI Statutes (n 69) art 8

<sup>75</sup> *ibid* art 13; GAVI Board <<http://www.gavialliance.org/about/governance/gavi-board/>> accessed 25 May 2012

<sup>76</sup> Developing country governments constituency <<http://www.gavialliance.org/about/governance/gavi-board/composition/developing-country-governments/>> accessed 25 May 2012

<sup>77</sup> Industrialised country governments constituency <<http://www.gavialliance.org/about/governance/gavi-board/composition/industrialised-country-governments/>> accessed 25 May 2012

<sup>78</sup> Research and technical health institutes' constituency <<http://www.gavialliance.org/about/governance/gavi-board/composition/research-and-technical-health-institutes/>> accessed 25 May 2012

<sup>79</sup> Industrialised country vaccine industry constituency <<http://www.gavialliance.org/about/governance/gavi-board/composition/industrialised-country-vaccine-industry/>> accessed 25 May 2012

<sup>80</sup> Developing country vaccine industry constituency <<http://www.gavialliance.org/about/governance/gavi-board/composition/developing-country-vaccine-industry/>> accessed 25 May 2012

<sup>81</sup> Civil society constituency <<http://www.gavialliance.org/about/governance/gavi-board/composition/cso-constituency/>> accessed 25 May 2012

<sup>82</sup> The Bill & Melinda Gates Foundation <<http://www.gavialliance.org/about/governance/gavi-board/composition/bmgf/>> accessed 25 May 2012

WHO,<sup>83</sup> UNICEF<sup>84</sup> and the World Bank<sup>85</sup>.<sup>86</sup> Private individuals, i.e. individuals with no professional connection to GAVI, serve as unaffiliated members with voting rights on the Board.<sup>87</sup> And the Chief Executive Officer of GAVI serves on the Board as a member without voting rights.<sup>88</sup> The Secretariat is responsible for day-to-day operations including, but not limited to, mobilizing resources, coordinating program approvals and disbursements, developing policies and implementing strategies, monitoring and evaluating, managing legal and financial matters and administering the Board and Committees.<sup>89</sup>

The Executive Committee was established in order to make time-sensitive decisions between regular Board meetings.<sup>90</sup> Auditors are independent and conduct annual audits of the accounts of GAVI.<sup>91</sup> Standing Board Committees<sup>92</sup> include the Executive Committee,<sup>93</sup> the Programme and Policy Committee,<sup>94</sup> the Governance Committee,<sup>95</sup> the

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<sup>83</sup> WHO <<http://www.gavialliance.org/about/governance/gavi-board/composition/who/>> accessed 25 May 2012

<sup>84</sup> UNICEF <<http://www.gavialliance.org/about/governance/gavi-board/composition/unicef/>> accessed 25 May 2012

<sup>85</sup> The World Bank <<http://www.gavialliance.org/about/governance/gavi-board/composition/the-world-bank/>> accessed 25 May 2012

<sup>86</sup> GAVI Statutes (n 69) art 9; Board composition <<http://www.gavialliance.org/about/governance/gavi-board/composition/>> accessed 25 May 2012

<sup>87</sup> GAVI Statutes (n 69) art 9; Board composition (n 86); Independent individuals <<http://www.gavialliance.org/about/governance/gavi-board/composition/independent-individuals/>> accessed 25 May 2012

<sup>88</sup> GAVI Statutes (n 69) art 9; Board composition (n 86). Note: the terminology used to describe the partners of GAVI is taken verbatim from the GAVI Statutes.

<sup>89</sup> GAVI Statutes (n 69) art 17; GAVI Alliance By-Laws, 29-30 October 2008, Revised 19 March, 16-17 June and 1 December 2010, art 7 <<http://www.gavialliance.org/about/governance/gavi-board/composition/>> accessed 25 May 2012; GAVI Secretariat <<http://www.gavialliance.org/about/governance/secretariat/>> accessed 25 May 2012

<sup>90</sup> GAVI Statutes (n 69) art 16; GAVI By-Laws (n 89) art 3; Executive Committee <<http://www.gavialliance.org/about/governance/gavi-board/committees/executive-committee/>> accessed 25 May 2012

<sup>91</sup> GAVI Statutes (n 69) art 18. Also, in November 2009, GAVI created an independent internal audit function to evaluate and strengthen risk management, control and governance processes. (GAVI Internal Audit <<http://www.gavialliance.org/about/governance/internal-audit/>> accessed 25 May 2012)

<sup>92</sup> GAVI Statutes (n 69) art 19; GAVI By-Laws (n 89) art 4; Board Committees <<http://www.gavialliance.org/about/governance/gavi-board/committees/>> accessed 25 May 2012

<sup>93</sup> Executive Committee (n 90)

<sup>94</sup> Programme and Policy Committee <<http://www.gavialliance.org/about/governance/gavi-board/committees/programme-policy-committee/>> accessed 25 May 2012

<sup>95</sup> Governance Committee <<http://www.gavialliance.org/about/governance/gavi-board/committees/governance-committee/>> accessed 25 May 2012

Investment Committee,<sup>96</sup> the Audit and Finance Committee<sup>97</sup> and the Evaluation Advisory Committee.<sup>98</sup> Finally, Advisory Committees are advisory only and do not have any decision-making power.<sup>99</sup> One example of an Advisory Committee is the Independent Review Committee which comprises an independent group of experts in the area of health that provides advice to GAVI.<sup>100</sup>

GAVI employs two innovative financing mechanisms in order to achieve its aims: the Advance Market Commitment (AMC) and the International Finance Facility for Immunisation (IFFIm).<sup>101</sup> The AMC focuses on expediting the development and manufacture of vaccines. Funding commitments are made by donors, through an AMC, in order to guarantee a low price for vaccines once they are developed and manufactured. These funding commitments provide pharmaceutical companies, who make vaccines, with an incentive to invest in the development and manufacture of vaccines. Pharmaceutical companies then supply vaccines at a low price in the long-term.<sup>102</sup> The IFFIm focuses on the need for available and predictable funding, which allows states to plan and implement immunization programs. States make long-term, legally-binding commitments to donate funds and the IFFIm then borrows against these commitments and issues bonds on capital markets. The funds raised are then distributed amongst GAVI's immunization programs.<sup>103</sup> Other sources of funding for GAVI include direct funding from states making multi-year pledges and commitments and also personal and private sector philanthropy.<sup>104</sup>

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<sup>96</sup> Investment Committee <<http://www.gavialliance.org/about/governance/gavi-board/committees/investment-committee/>> accessed 25 May 2012

<sup>97</sup> Audit and Finance Committee <<http://www.gavialliance.org/about/governance/gavi-board/committees/audit-finance-committee/>> accessed 25 May 2012

<sup>98</sup> Evaluation Advisory Committee <<http://www.gavialliance.org/about/governance/gavi-board/committees/evaluation-advisory-committee/>> accessed 25 May 2012

<sup>99</sup> GAVI Statutes (n 69) art 20; GAVI By-Laws (n 89) art 5

<sup>100</sup> GAVI By-Laws (n 89) art 5.1

<sup>101</sup> How GAVI is funded <<http://www.gavialliance.org/funding/how-gavi-is-funded/>> accessed 25 May 2012; Innovative finance <<http://www.gavialliance.org/funding/how-gavi-is-funded/innovative-finance/>> accessed 25 May 2012

<sup>102</sup> Innovative finance (n 101)

<sup>103</sup> *ibid*; Overview <<http://www.iffim.org/about/overview/>> accessed 25 May 2012

<sup>104</sup> How GAVI is funded (n 101); Direct contributions <<http://www.gavialliance.org/funding/how-gavi-is-funded/direct-contributions/>> accessed 25 May 2012; Public-private partnerships <<http://www.gavialliance.org/funding/how-gavi-is-funded/public-private-partnerships/>> accessed 25 May 2012



### 2.2.2.2. The Global Fund

The Global Fund was established in 2002 as a foundation under Swiss law<sup>105</sup> and signed an Administrative Services Agreement with the WHO whereby the WHO provided the Secretariat for the Global Fund.<sup>106</sup> In 2004, it became recognized as having international juridical (i.e. legal) personality and legal capacity with privileges and immunities in Switzerland<sup>107</sup> and in 2006, it was designated a public international organization with privileges and immunities in the United States.<sup>108</sup> Further, several other states have recently accorded it juridical (i.e. legal) personality and privileges and immunities pursuant to the Agreement on Privileges and Immunities of the Global Fund to Fight AIDS, Tuberculosis and Malaria.<sup>109</sup> This agreement has not yet entered into force but will do so two weeks after the date of deposit of the tenth instrument of ratification.<sup>110</sup> In

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<sup>105</sup> Our History <<http://www.theglobalfund.org/en/about/whoweare/history/>> accessed 26 May 2012; The Global Fund to Fight AIDS, Tuberculosis & Malaria By-Laws, 21 November 2011, art 1 <<http://www.theglobalfund.org/en/about/structures/board/>> accessed 26 May 2012

<sup>106</sup> Global Fund to Fight AIDS, Tuberculosis and Malaria, Report of the Second Meeting of the Board, 38, GF/B2/13 version 2, 22-24 April 2002, 14 May 2002, 38 <<http://www.theglobalfund.org/en/board/meetings/second/>> accessed 26 May 2012

<sup>107</sup> Agreement between the Swiss Federal Council and the Global Fund to Fight AIDS, Tuberculosis and Malaria in view of determining the legal status of the Global Fund in Switzerland, 13 December 2004 <<http://www.theglobalfund.org/en/>> accessed 26 May 2012

<sup>108</sup> Executive Order 13395 of January 13, 2006 Designating the Global Fund To Fight AIDS, Tuberculosis and Malaria as a Public International Organization Entitled To Enjoy Certain Privileges, Exemptions, and Immunities, 13 January 2006 <<http://www.gpo.gov/fdsys/pkg/FR-2006-01-19/pdf/06-554.pdf>> accessed 26 May 2012; 22 USC §288f-6: Global Fund to Fight AIDS, Tuberculosis and Malaria; extension of privileges, exemptions, and immunities <<http://www.gpo.gov/fdsys/pkg/USCODE-2009-title22/pdf/USCODE-2009-title22-chap7-subchapXVIII-sec288f-6.pdf>> accessed 26 May 2012

<sup>109</sup> A template of this agreement can be found at The Global Fund, Twentieth Board Meeting, 9-11 November 2009, GF/B20/4 Attachment 1, Annex A: Agreement on Privileges and Immunities of the Global Fund to Fight AIDS, Tuberculosis, and Malaria <<http://www.theglobalfund.org/en/board/meetings/twentieth/documents/>> accessed 26 May 2012. A copy of the actual agreement is not available to the public.

<sup>110</sup> *ibid* art 8. To date, Moldova has signed and ratified and Montenegro, Rwanda, Swaziland, Ghana, Ethiopia and Georgia have signed. (Global Fund Press Release, Moldova Signs Agreement to Grant Privileges and Immunities to the Global Fund, 28 September 2010 <[http://www.theglobalfund.org/en/mediacenter/pressreleases/Moldova\\_signs\\_agreement\\_to\\_grant\\_privileges\\_and\\_immunities\\_to\\_the\\_Global\\_Fund/](http://www.theglobalfund.org/en/mediacenter/pressreleases/Moldova_signs_agreement_to_grant_privileges_and_immunities_to_the_Global_Fund/)> accessed 26 May 2012; E-mail from Joseph Chiu, Legal Officer, the Global Fund to Fight AIDS, Tuberculosis and Malaria to author (27, 29 July and 2 August 2011 and 29 May 2012))

2009, the Global Fund became administratively autonomous by terminating its Administrative Services Agreement with the WHO.<sup>111</sup>

The Global Fund was set up to attract, manage and disburse resources to support programs in the prevention and treatment of AIDS, tuberculosis and malaria in countries in need.<sup>112</sup> It is the leading multilateral funder of global health in the world.<sup>113</sup> It has approved funding of US\$22.6 billion covering over 1000 programs in 150 states.<sup>114</sup> These programs funded by the Global Fund have provided antiretroviral treatment for HIV for 3.3 million people, tuberculosis treatment for 8.6 million people and 230 million insecticide-treated bed nets to prevent malaria.<sup>115</sup>

The core structures of the Global Fund include the Board, the Secretariat, the Technical Review Panel, Country Coordinating Mechanisms, Local Fund Agents and Principal and Sub-Recipients. It also has a Trustee, a Technical Evaluation Reference Group, an Office of the Inspector General, a Partnership Forum and a Market Dynamics Advisory Group.<sup>116</sup>

The Board is responsible for overall governance. Its functions include strategy development; governance oversight; commitment of financial resources; assessment of organizational performance; risk management; and partnership engagement, resource

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<sup>111</sup> Global Fund Press Release, The Global Fund becomes an Administratively Autonomous Institution as of 2009, 19 December 2008 <[http://www.theglobalfund.org/en/mediacenter/pressreleases/The\\_Global\\_Fund\\_becomes\\_an\\_administratively\\_autonomous\\_institution\\_as\\_of\\_2009/](http://www.theglobalfund.org/en/mediacenter/pressreleases/The_Global_Fund_becomes_an_administratively_autonomous_institution_as_of_2009/)> accessed 26 May 2012. This set-up enabled the Global Fund to get to work and begin providing funding less than a year after its establishment. It was, however, always intended to be a temporary arrangement. This arrangement has now been terminated leaving the Global Fund in control of its own human resources, finance, administration, procurement and IT services. It is said that this move will provide the Global Fund with greater flexibility, enabling it to shape itself according to its needs.

<sup>112</sup> The Global Fund By-Laws (n 105) art 2

<sup>113</sup> Fighting AIDS, Tuberculosis and Malaria <<http://www.theglobalfund.org/en/about/diseases/>> accessed 26 May 2012

<sup>114</sup> Who We Are <<http://www.theglobalfund.org/en/about/whoweare/>> accessed 26 May 2012

<sup>115</sup> Portfolio and Grant Performance <<http://www.theglobalfund.org/en/performance/grantportfolio/?lang=en>> accessed 26 May 2012

<sup>116</sup> Core Structures <<http://www.theglobalfund.org/en/about/structures/>> accessed 26 May 2012

mobilization and advocacy.<sup>117</sup> The partners of the Global Fund with representative membership and voting rights on the Board include developing countries, donors, a non-governmental organization from a developing country, a non-governmental organization from a developed country, the private sector, a private foundation and a non-governmental organization representative of the communities living with the diseases. The partners of the Global Fund with *ex-officio* membership but without voting rights on the Board include the Board Chair, the Board Vice Chair, the WHO, the Joint United Nations Programme on HIV/AIDS (UNAIDS), the Partners constituency, the trustee, a Swiss citizen with domicile in Switzerland authorized to act on behalf of the Global Fund to the extent required by Swiss law and the Executive Director of the Global Fund.<sup>118</sup> The Secretariat is responsible for day-to-day operations such as mobilizing resources; managing grants; providing financial, legal and administrative support; and reporting to the Board and the public.<sup>119</sup>

The Technical Review Panel is an independent group of experts in health and development who review applications for grants based on technical criteria and provide funding recommendations to the Board.<sup>120</sup> Country Coordinating Mechanisms facilitate local ownership and participatory decision-making within the Global Fund. They develop and submit grant proposals, nominate the Principal Recipients and oversee grant implementation.<sup>121</sup> Local Fund Agents exist to counter the absence of the Global Fund on the ground. They are contracted to oversee, verify and report on grant performance.<sup>122</sup> As funding from the Global Fund is performance based,<sup>123</sup> the role of Local Fund Agents

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<sup>117</sup> The Global Fund By-Laws (n 105) art 7.4; Board <<http://www.theglobalfund.org/en/about/structures/board/>> accessed 26 May 2012; Core Structures (n 116)

<sup>118</sup> The Global Fund By-Laws (n 105) art 7.1. Note: the terminology used to describe the partners of the Global Fund is taken verbatim from the Global Fund By-Laws.

<sup>119</sup> The Global Fund By-Laws (n 105) art 10.2; The Global Fund Secretariat <<http://www.theglobalfund.org/en/about/structures/secretariat/>> accessed 26 May 2012; Core Structures (n 116)

<sup>120</sup> The Global Fund By-Laws (n 105) art 12; Technical Review Panel (TRP) <<http://www.theglobalfund.org/en/about/structures/trp/>> accessed 26 May 2012; Core Structures (n 116)

<sup>121</sup> Country Coordinating Mechanisms (CCMs) <<http://www.theglobalfund.org/en/about/structures/ccm/>> accessed 26 May 2012; Core Structures (n 116)

<sup>122</sup> Local Fund Agents (LFAs) <<http://www.theglobalfund.org/en/about/structures/lfa/>> accessed 26 May 2012; Core Structures (n 116)

<sup>123</sup> Performance-based Funding <<http://www.theglobalfund.org/en/performancebasedfunding/>> accessed 26 May 2012

is important. Local Fund Agents are not, however, agents of the Global Fund and there are a number of activities they are expressly not allowed to carry-out.<sup>124</sup> Principal Recipients are chosen by the Country Coordinating Mechanism and are the signatories of the grant agreements with the Global Fund. They receive the funding and use it and/or pass it on to Sub-Recipients for use.<sup>125</sup>

The Trustee of the Global Fund is, at present, the World Bank. It manages the money, including making payments, at the behest of the Secretariat, to recipients of the funding.<sup>126</sup> The Technical Evaluation Reference Group provides an independent evaluation of the business model, investments and impact of the Global Fund. It also advises the Secretariat on technical and managerial aspects of monitoring and evaluation including evaluation approaches and practices, independence and reporting procedures.<sup>127</sup> The Office of the Inspector General reports to the Board directly and is independent from other structures of the Global Fund. Its mission is to provide independent and objective assurance regarding the design and effectiveness of controls in place to manage risks.<sup>128</sup> The Partnership Forum meets every twenty-four to thirty months and participation is open to stakeholders that support the objectives of the Global Fund. It provides a venue to discuss policies and strategies of the Global Fund. Specifically, its functions include reviewing and providing feedback on progress made; recommending on strategy, policy and practice; and mobilizing and sustaining political commitment.<sup>129</sup> Finally, the Market Dynamics Advisory Group advises on policies and initiatives to improve the ability of the Global Fund to influence the markets of health products and ensures that the buying

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<sup>124</sup> Local Fund Agents (n 122); Core Structures (n 116)

<sup>125</sup> Principal and Sub-Recipients <<http://www.theglobalfund.org/en/about/structures/pr/>> accessed 26 May 2012; Core Structures (n 116)

<sup>126</sup> Core Structures (n 116)

<sup>127</sup> The Global Fund By-Laws (n 105) art 13; Technical Evaluation Reference Group (TERG) <<http://www.theglobalfund.org/en/about/structures/terg/>> accessed 26 May 2012

<sup>128</sup> The Global Fund By-Laws (n 105) art 11; Office of the Inspector General <<http://www.theglobalfund.org/en/about/structures/oig/>> accessed 26 May 2012

<sup>129</sup> The Global Fund By-Laws (n 105) art 6; Partnership Forum <<http://www.theglobalfund.org/en/about/structures/partnershipforum/>> accessed 26 May 2012

power of the Global Fund is leveraged in order to promote the development and manufacture of health products.<sup>130</sup>

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<sup>130</sup> The Global Fund By-Laws (n 105) art 14; Market Dynamics Advisory Group (MDAG) <<http://www.theglobalfund.org/en/about/structures/mdag/>> accessed 26 May 2012