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## FUNDING GLOBAL HEALTH

*Sophie Smyth and Anna Triponel*

### ABSTRACT

*Experience teaches that the Framework Convention on Global Health (FCGH) will need a financing facility if it is to garner widespread acceptance among low-income countries. The promise of financing is a well-established carrot to encourage countries to assume new convention-imposed obligations that will be costly to carry out. Promising to provide financing as part of an intergovernmental call for commitment also activates a rights-based approach. For donor and recipient countries, a funding facility embodies an actualization of their commitment to a convention's collective undertaking to address a given issue. Donors signal their commitment through their contributions; recipients signal commitment through their efforts to use any support received to achieve the convention's objectives. This essay highlights the need for an FCGH financing facility, provides a preliminary sketch of what it should look like, and urges the facility's creators to adopt a bold and innovative approach that draws upon, but improves, current precedents.*

### INTRODUCTION

Experience teaches that the Framework Convention on Global Health (FCGH) will need a financing facility if it is to garner widespread acceptance among low-income countries. The promise of financing is a well-established carrot to encourage countries to assume new convention-imposed obligations that will be costly to carry out. The Global Environment Facility (GEF), created in 1994 to fund low-income countries' implementation of obligations assumed under the United Nations Framework Convention on Climate Change (UNFCCC), drove this message home.<sup>1</sup> The message remains equally salient today. Since the GEF's creation, multi-country commitments to address a global need and/or secure an essential right have been accompanied repeatedly by the promise of financing. This promise reinforces the commitment in a concrete way. The Global Fund to Fight AIDS, Tuberculosis, and Malaria (Global Fund, established in 2002), the Global Partnership for Education Fund (Education Fund, established in 2005), and the Green Climate Fund (established in 2010) are major recent examples of this approach.<sup>2</sup>

Promising to provide financing as part of an intergovernmental call for commitment activates a rights-based approach. In education, for example, the right to education, identified in the Universal Declaration of Human Rights (UDHR), gained momentum when the Education Fund was created.<sup>3,4</sup> The Education Fund finances primary school education in developing countries, and therefore provides concrete help to developing countries to realize the right to education for their citizens.<sup>5</sup> For donor and recipient countries, the Education Fund embodies an actualization of their commitment to education as a right: the donors through their contributions and the recipients through their efforts to use the support to make education available.

Similarly, the FCGH will require rich and poor countries to collaborate on finding ways to meet their respective sovereign responsibilities to safeguard their citizens' right to health. For rich countries, acknowledging a universal right to health may well include an obligation to assist countries who lack the resources to secure that right for their citizens on their own.<sup>6</sup> Drawing from precedents in the environment, education, and global health sectors, an FCGH financing facility can encourage low-income country support. A financing facility can also provide a mechanism through which high-income countries may partially discharge the responsibilities that attach to their recognition of a universal right to health.

This essay aims to raise consciousness about the need for an FCGH financing facility. We also begin to envision what an FCGH financing facility should look like. The second section tracks the background of the financing facility phenomenon, the reasons it has emerged, the aspirations of the stakeholders who have fuelled it, and the pertinence of those aspirations to the framers of the FCGH. We show how three competing models for creating a financing facility currently coexist. In section three, we identify the essential elements that the creators of an FCGH facility will need to address, as gleaned from the precedents; namely multi-stakeholder participation, technical expertise, resource mobilization, and resource allocation. Section four provides a preliminary sketch of the preferred approach for an FCGH financing facility.

## THE FINANCING FACILITY PHENOMENON

### *Financing in context*

The emergence of global financing facilities began with the GEF's creation in 1994, springing from an ongoing quest by donors, recipients, and other stakeholders to find the optimal way to deliver financial assistance to those actors most likely to use it to address the identified global problem or need. A preliminary statement about the meaning of optimal in this context is appropriate here.

When parties agree to address a global need together, several layers of decision making are at play. At a fundamental level, the parties identify the substantive objectives of their collective international commitment, for example: universal primary school education by 2015, HIV/AIDS eradication, or reduction of greenhouse gas emission levels to 1990 levels.

This is a first order decision. International agreement on the desirability of attaining these objectives sparks the next level of decision making—the specific actions and activities that must be carried out in order to attain the agreed objectives. The decision to provide developing countries funding to undertake those actions or activities may then follow. This third level of decision making is the focus of this article. At this level, those creating the financing facility aim to identify the collective financing model that maximizes the likelihood that the facility's funds will reach the beneficiaries most likely to use them for activities and actions that the facility's contributors decide are necessary to achieve their collective goals.

The precedents offer three competing models. This article does not purport to state which of these models is preferred on an empirical basis. The research needed to support such a claim has not been done. Instead, this article shows, from a theoretical perspective, which approaches minimize agency costs and maximize accountability and participation. These attributes provide no guarantee that funding provided by a facility that has these attributes will be effective. However, these attributes are generally associated with improving the likelihood that funding will reach its intended targets, that both the target beneficiaries and the approved action or activity will have credibility, and that there will be buy-in from those whom funding is intended to assist.<sup>7</sup> In other words, having these attributes is associated with being an optimal financing facility.

### *Fusion versus autonomy*

The threshold question that sovereign creators of any new global financing facility must address is the question whether and why they need a new facility. After all, there are legacy institutions – the World Bank (Bank), the UN, and WHO, set up to address development and health needs. Aren't these, then, the institutions that sovereigns should turn to when a development and/or health need arises?<sup>8</sup> In truth, however, the emergence of the financing facility norm that began with the GEF reflects a loss of confidence in the capacity of those institutions to address the need in question.

The precedent models reflect varying degrees of confidence in the legacy institutions. They differ among themselves according to the creators' degree of willingness to cede or withhold control to or from the legacy institutions. At one extreme, the cre-

ators of the financing facility settle for fusion with a legacy institution. They pool their contributions in a central fund which is then administered by the institution, most commonly the World Bank or the United Nations Development Agency (UNDP). This is the Traditional Trust Fund model. At the other extreme, the creators of the financing facility create an autonomous legal entity, with legal personality and legal capacity, and its own, independent policies and procedures. This is the New Legal Entity model.<sup>9</sup> In between these two extremes, the creators of the GEF devised a halfway house under the auspices of the World Bank. This model, which Professor Smyth has previously labeled the Quasi-Entity Fund, allows the creators of a fund to exercise active, ongoing control in allocating their pooled resources, while stopping short of creating the fund as an autonomous legal entity.<sup>10</sup>

### COMPETING MODELS

The choice of model, or a decision to create a new model, engages core issues of global governance.<sup>11</sup> The model determines who will control the facility's resources, what policies, procedures, and practices will apply to their use, and the formal status of the facility in the outside world.<sup>12</sup>

#### *The Traditional Trust Fund*

In the Traditional Trust Fund model, contributors agree on broad objectives for the fund but surrender control to the entity serving as trustee (typically a legacy institution) to select what projects get funded and to administer the fund in accordance with its standard operating policies.<sup>13</sup> Although this model has fallen into disfavor as being too legacy institution-centric, it is still in use. The Avian Flu and Swine Flu Facilities, created in 2006 and 2009, respectively, use this model.<sup>14</sup> The Health Results Innovation Trust Fund, created in 2007, is also based on this model.<sup>15</sup> All three of these funds are relatively narrow in scale and time bound, key factors influencing the choice of the Traditional Trust Fund model. Avian and Swine Flu have been seen as immediate but addressable and relatively short-term problems (in contrast, for example, to HIV/AIDS). As its name implies, the Avian Flu Facility aims to minimize the risk of avian influenza (and other zoonoses) and of a possible human pandemic influenza in developing countries that lack adequate domestic resources and capacity to combat the disease.<sup>16</sup> Similarly, the Swine Flu Facility aims to help control the spread of swine

flu, A/H1N1.<sup>17</sup> The Health Results Innovation Fund, meantime, pilots results-based financing schemes for health services that reduce infant mortality and improve maternal health. It was not created to be an indefinite life support. The World Bank, as trustee of these funds, makes all key decisions in their day to day implementation.

#### *The Quasi-Entity Fund*

Under the Quasi-Entity Fund model pioneered by the GEF, the fund's creators set the new facility up as a trust fund with the World Bank named as trustee. They do not, however, give the World Bank full power over the fund. Instead, the creators control the allocation of the fund's resources themselves. They reduce the trustee role to rudimentary financial management. The GEF's creators pushed for a model different from the Traditional Trust Fund because they deemed the agency costs of putting the World Bank in control of the fund too high. At that time, the Bank had a dismal record on environmental protection and the GEF's creators were concerned that the Bank, if left in control, would use the fund's resources to further the Bank's lending agenda at their agenda's expense.<sup>18</sup> At the same time, the GEF's creators wanted to avail themselves of the Bank's financial management experience.

The Quasi-Entity Fund has a fund-specific governance structure that effectuates the creators' desire to stay in control of allocating the fund's resources. In the GEF, this structure includes a general assembly, a governing council, a technical advisory body, and a secretariat.<sup>19</sup> The assembly and governing council are comprised primarily of donor representatives. The assembly consists of high-level government representatives and retains the power to make any changes in the fund's founding principles. The fund's locus of power, however, is the governing council. This is the body that decides what projects and programs will receive funding.<sup>20</sup> The fund's technical advisory body, comprised of scholars as well as technical and scientific experts in the substantive areas to be funded, advises the governing council on the scientific and technical merits of funding proposals. The secretariat serves as the glue of the entire facility.<sup>21</sup>

Following the GEF's creation, the popularity of the Quasi-Entity Fund model exploded and fast became the norm rather than the exception for setting up a collective financing mechanism to achieve development goals.<sup>22</sup> No subsequent fund replicated the

GEF exactly, but the same basic components of the Quasi-Entity Fund structure and the same driving forces behind their creation apply to subsequent funds. The structure always involves: one or more governing bodies comprised wholly or primarily of contributors that meet periodically during the year to make funding decisions, a dedicated secretariat to manage the fund day-to-day, and World Bank-provided financial management services.

The driving force for using the Quasi-Entity Fund model always involves an intention on the part of the fund's creators to have the fund operate differently than it would operate if it were wholly under a legacy institution's control. For example, in the case of the Education Fund, the fund's donors had extensive experience in the education sector from previous bilateral funding efforts.<sup>23</sup> Though committed to pooling their resources in support of a harmonized approach, they were determined to stay actively involved in the fund.<sup>24</sup> They initially provided for this active involvement by creating a donor governing body (a Strategy Committee) to decide the countries that would receive financing, as well as the amount received, from the Education Fund.<sup>25,26</sup> As initially established, the fund provided funding for the education sector on terms and conditions different from those that applied to International Development Association (IDA) funding (the primary source of World Bank funding for the countries that are the Education Fund's target beneficiaries).<sup>27</sup> Education Fund grants were made without the kind of specificity regarding deliverables, measurable outcomes, and policy reforms that equivalent IDA financing would require.<sup>28</sup>

In practice, the Quasi-Entity Fund model fails to achieve the goal of doing things differently from the legacy institutions. The model has limitations that stymie its potential to reduce agency costs and that generate accountability concerns.<sup>29</sup> The Quasi-Entity Fund's limited ability to reduce agency costs arises from the fact that the structure does not provide for independent legal status. This means that a Quasi-Entity Fund has no capacity to enter into contracts on its own behalf. For example, a Quasi-Entity Fund cannot hire staff for the fund secretariat. This lack of legal capacity means that instead of a Quasi-Entity Fund's secretariat being employees of the fund, they end up being World Bank employees. This is because the World Bank, as trustee of the fund, is the only entity with formal legal capacity to act on the fund's

behalf.<sup>30</sup> Although these funds are set up as Quasi-Entity Funds precisely because their creators want to do things differently than the Bank, from the time they are hired, their secretariat staff are placed in the impossible position of having to serve two masters with conflicting agendas.

This embedded conflict of interest has led to instances of stalemate and paralysis throughout the history of the GEF and the Education Fund.<sup>31</sup> The record of conflict between the GEF Secretariat and the World Bank contributed to the Green Climate Fund creators' decision to reject the Quasi-Entity Fund model. It also contributed to their rejecting the notion of having the GEF secretariat expand to serve as the secretariat of the Green Climate Fund. These conflicts were eased in the Education Fund when the fund restructured in 2010 to integrate more fully into the World Bank's regional portfolio and to bring its policies and procedures more in line with those of the Bank.<sup>32</sup> However, the Education Fund's secretariat's dual reporting role to the fund's governing bodies and to the Bank as the host organization remains.<sup>33</sup>

The Quasi-Entity Fund presents accountability concerns because it shifts responsibility for use of a fund's resources away from the World Bank as trustee and onto the donor representatives and other members of the fund's governing body.<sup>34</sup> This shift is not inherently bad. But to maintain accountability in the face of this shift, donors and the World Bank need to agree upon a clear framework that articulates: (i) who of the donor governing body(ies), the secretariat, and the World Bank as Trustee will assume responsibility for monitoring the use of the fund's resources and (ii) how the responsibility the governing bodies owe to donor country citizens (whose taxes supply the resources that governments contribute to these funds) will be discharged. Clarity is also needed regarding the scope of the governing bodies' responsibilities to other affected parties for its decisions; and regarding what policies and procedures the governing body(ies) will follow in making its decisions.<sup>35</sup> In the absence of articulated standards, their observance cannot be judged. Nor can any failure to observe unarticulated and undefined standards be sanctioned. Without articulated, observable and sanctionable standards, there is no accountability.<sup>36</sup>

Having rejected the Traditional Trust Fund model and the World Bank policies and procedures that

automatically apply under that model, the creators of a Quasi-Entity Fund must enact an alternative accountability framework. Such accountability gaps have actual and potential negative outcomes. These include failure in the oversight of the funds' resources resulting from misaligned responsibilities among the fund's organs, liability and reputational risk for donors and the World Bank, and the application of ad hoc rather than optimal fiduciary practices.<sup>37</sup> The accountability gaps in the Quasi-Entity Fund model are curable once acknowledged and addressed. Accountability may be achieved by specifying what other policies and procedures apply and by creating checks and balances to ensure they are implemented. It is the unacknowledged lacuna that gives rise to an accountability deficit. The agency costs that arise from the Quasi-Entity Fund model's lack of independent legal capacity, however, are an intractable deficit.

### *The New Legal Entity*

The Global Fund is the landmark precedent for the New Legal Entity model. Its creators established it as an independent entity because they wanted to address HIV/ AIDS, malaria, and tuberculosis at the grassroots level, a level the legacy institutions were ill-equipped to serve.<sup>38</sup> The fund is a legal entity under Swiss law.<sup>39</sup> Its Board of Directors allocates the fund's resources and makes all other key decisions. The World Bank, UNAIDS, and WHO are members of the Board but do not have a vote.<sup>40</sup> The World Bank manages the fund's resources, but is not involved in deciding how they are allocated. GAVI Alliance, a public-private collaboration which includes the Gates Foundation, donor countries, the World Bank, WHO and United Nations Children's Fund (UNICEF), became an independent legal entity under Swiss law when it restructured in 2009.<sup>41</sup> Like the Global Fund, GAVI Alliance is formally and operationally distinct from the legacy institutions. The World Bank, WHO, and UNICEF have permanent seats on GAVI Alliance's board, but do not control it. Instead, they are just three members of a 28-member board where all board members have one vote.<sup>42</sup>

The Green Climate Fund is the most significant recent example of the New Legal Entity model. This fund seeks to catalyze developing countries' greenhouse gas reduction efforts, by providing resources to them for those purposes.<sup>43</sup> In marked contrast to the GEF, the Green Climate Fund's governing charter provides that it possesses juridical personal-

ity and legal capacity.<sup>44</sup> Furthermore, the fund purports to provide legal personality and capacity at both the national and international level. It improves on the Global Fund, which only has legal status at the national level and is thereby excluded from some advantages that accrue from being recognized as a legal entity at international law.<sup>45</sup>

The key drawbacks of the New Legal Entity model are the enormous commitment and costs involved in setting up an entirely new legal entity, complete with fund-specific policies, procedures, and processes. The administrative costs are also formidable. The creators of a new initiative invariably start out by declaring that the new initiative will be a lean, mean financing machine, an implicit rebuke to the legacy institutions, which are perceived as bloated bureaucracies. That goal translates initially into a skeletal secretariat staff, charged with the perfunctory tasks of serving as the repository of new proposals, convening meetings, handling logistics, and serving as the key purveyor of information about the initiative to the outside world. But quickly, the secretariat expands and frequently adds to its functions the preparation of technical papers and other substantive and qualitative responsibilities that require a substantial staff. Both the Global Fund and GAVI Alliance have followed this trajectory. The danger here is that the secretariat becomes one more bloated bureaucracy.

### *A preferred approach*

Taking stock of the precedent models, it is clear that none of the existing models are optimal. The Quasi-Entity Fund jumpstarted the move away from the fusion involved in the Traditional Trust Fund. It sowed the seeds for the New Legal Entity model. Its intractable agency costs, however, make it a disfavored model. The New Legal Entity model offers advantages, but the proliferation of autonomous institutions, each with institution-specific policies, procedures, and processes gives cause for concern on many levels—coordination, duplication, and high administrative costs among them. For these reasons, the creators of an FCGH financing facility should aim for a new approach that both stanches proliferation and incorporates best practices from the precedent entities. What we need is an umbrella framework that allows different global health initiatives to retain their respective identities and fill their particular niches, but provides for a single set of policies, procedures, processes, and standards to apply across the spectrum. Before considering how

the formal contours of such an umbrella framework might work, it is worth examining the essential elements it would have to incorporate.

### THE ESSENTIAL ELEMENTS OF AN FCGH FINANCING FACILITY

The precedents indicate that several elements are key to the credibility and staying power of any financing initiative. These elements include (i) multi-stakeholder input, (ii) access to cutting edge expertise, (iii) the capacity to mobilize resources from a variety of sources and mechanisms; and (iv) qualifying conditions on which the facility's resources will be allocated.

#### *Multi-stakeholder decision making*

The legacy institutions have been faulted for affording inadequate voice to developing countries, nongovernmental organizations, and civil society.<sup>46</sup> Their exclusively governmental nature also inhibits the scope of their interaction with foundations and the for-profit private sector. The GEF made strides in multi-stakeholder decision making, giving non-donor countries a say in the allocation of the fund's resources.<sup>47</sup> It also gives nongovernmental organizations observer status at meetings of its governing bodies. But the health sector has taken more radical steps towards multi-stakeholder participation.

The Global Fund represents a novel approach to multi-stakeholder participatory governance.<sup>48</sup> Its governing bodies reflect two key goals of its proponents: the capacity to function at the country level, informed by local needs and practices; and the capacity to incorporate the for-profit (especially pharmaceutical corporations) and not-for-profit (especially nonprofit organizations involved in health care delivery in developing countries) arms of the private sector.

At the global level, the Board of Directors is the fund's supreme governing body, with authority to set the fund's policies and strategies, and allocate its resources.<sup>49</sup> Twenty of its 28 members are voting members, of which four are NGO representatives, seven represent developing countries, eight represent donor countries, and one is a representative of the for-profit private sector.<sup>50,51</sup> At the country level, the fund receives proposals exclusively through a local governance process known as the Country Coordination Mechanism (CCM), which brings together within a

single structure all actors working on AIDS, tuberculosis, and malaria within a given country.<sup>52</sup> The CCMs include representatives from the government, academic institutions, multilateral and bilateral agencies, NGOs, private business, and people living with HIV/AIDS, malaria, and tuberculosis.<sup>53</sup>

As others have pointed out, the value of multi-stakeholder participation in any institution is only as good as the processes the institution employs to ensure such participation is transparently and equitably achieved.<sup>54</sup> The Global Fund has a stringent system for ensuring the competence, accountability, and ongoing representativeness of the representatives who participate in its governance.<sup>55</sup> Each constituency group represented on the board is elected in accordance with processes agreed upon by their respective constituencies in accordance with minimum guidelines set by the fund.<sup>56</sup> CCMs, for example, must document their selection processes, identifying required skills, competencies, and roles and responsibilities.<sup>57</sup>

The fund tackles potential concerns about participants' accountability by pursuing detailed procedures for selecting board and CCM participants from large pools of eligible organizations.<sup>58</sup> For example, its system for rotating NGO representatives allows for a continual monitoring of NGO representatives' bona fides. These procedures, therefore, provide reassurance that representatives who participate are accountable entities at their selection and throughout their participation.

The fund's gatekeeping also addresses conflict of interest concerns. These concerns arise when participants on the board or CCM are themselves eligible to submit proposals for funding. The fund requires board and CCM voting members to disclose their work programs as a means of managing this concern. Finally, the fund implements strict diversity criteria so that board and CCM participants will in fact represent the voice of the communities to which the fund's assistance is directed. The Education Fund followed the Global Fund's lead on multi-stakeholder participation when it restructured in 2009. Education NGOs now have a voting role in the Education Fund's decision-making bodies.<sup>59</sup>

Meanwhile, GAVI Alliance's governance structure aims to cement a relationship between private industry involved in manufacturing vaccines, developing country health authorities, and public

and private sources of funding.<sup>60</sup> It also forges a nexus between vaccine funding and cutting edge research. Its board, the supreme governing body, is heavily weighted towards technical expertise.<sup>61</sup> Of its 28 members, 18 represent technical expertise who include vaccine industry representatives from both the emerging and the industrialized vaccine industry, one representative from a technical/health research institute, and nine unaffiliated experts.<sup>62</sup> At the country level, GAVI Alliance operates through Inter-agency Coordination Committees and Health Sector Coordination Committees. These bodies, respectively, review proposals for immunizations services, new vaccines, and injection safety support; and proposals for health system strengthening and civil society support.<sup>63</sup> Both bodies include recipient country representatives, donor country representatives, and international and local NGOs.<sup>64</sup>

These initiatives show that the governing bodies of a development initiative do not have to be government-only clubs. Representatives of donor governments may participate as equals alongside representatives of recipient countries and other entities. A norm of multi-stakeholder participation has emerged, although differing degrees of such participation are possible. The Global Fund's template serves as a possible approach for other initiatives. Whether this approach reflects best practice is controversial. The fund has been criticized for superimposing on recipient countries a new structure inconsistent with the principle that assistance should work through established country processes.<sup>65</sup> The GEF and Green Climate Funds' NGO observer approach offers a more restrained alternative.<sup>66</sup> Both templates contrast sharply with the government-only, top-down processes of the legacy institutions' governing bodies.<sup>67</sup>

### *Technical advisory body*

The technical advisory body is a core component of any new initiative's governance structure because it is the initiative's avenue to up-to-the minute scientific and technical research on which funding decisions will be based. The precedents provide insight into the kind of criteria that creators of a new initiative must set to ensure the ongoing quality of this advisory body. They also illustrate the kind of processes required to ensure that this body's input feeds into funding decisions. The GEF introduced the idea of having a scientific and technical advisory panel (STAP) as part of an initiative's governance structure.

The global health initiatives have advanced the design of such a body to a fine art.

The Global Fund's Technical Review Panel reviews all funding proposals addressed to the Global Fund for technical merit (including soundness of approach, feasibility, and potential for sustainability).<sup>68</sup> The panel is a team of forty independent scientific and programmatic experts with expertise in HIV/AIDS, tuberculosis, and malaria.<sup>69</sup> They also reflect a balance in terms of gender, regional representation, and sectoral experience.<sup>70</sup> They apply review criteria established by the Fund's board and recommend for funding only those proposals that reflect genuine, broad participation and ownership of all interested groups.<sup>71</sup>

GAVI Alliance has a heavy representation of technical experts on its board and also relies heavily on an Independent Review Committee composed of an interdisciplinary team of independent experts identified and nominated by board members.<sup>72</sup> This process was recently queried by an external review of GAVI Alliance's Independent Committees which suggested that an open and competitive appointment of members would provide greater assurance and transparency of independence.<sup>73</sup> Nonetheless, the Global Fund and GAVI Alliance offer highly evolved processes for securing technical and scientific input to inform their decision making. Other initiatives, such as the Green Climate Fund, which has yet to assemble its expert body, are likely to follow suit.

### *Resource mobilization*

Autonomy provides the freedom to avail of a range of resource mobilization devices. The use of innovative financing mechanisms in the health sector outpaces anything that has been seen in the environment or education sectors to date. The Global Fund and GAVI Alliance have taken full advantage of both old and new forms of resource mobilization. Both began with ad hoc funding arrangements but have since moved to regular replenishment cycles.<sup>74</sup> In addition, they both pursue private philanthropy initiatives. The Global Fund, for example, launched (PRODUCT) RED and Debt2Health to increase its available financing.<sup>75</sup> Though these particular programs have drawn criticism as insufficiently transparent, the idea of using creative mechanisms to attract previously untapped sources would seem a good one, subject to adequate controls. GAVI Alliance has created a US charitable organization, the US friends of GAVI

Alliance organization, to enable US donors to make tax-deductible donations to GAVI Alliance.<sup>76</sup>

GAVI Alliance is also the beneficiary of the International Financing Facility (IFFIm) and the Advance Market Mechanism (AMC), two sophisticated financing arrangements which avail of private investor interest and private industry capacity to meet niche needs in global health. IFFIm, founded by a group of government donors in 2006, serves as a financing device through which long-term government pledges of development aid are converted into immediately available cash by issuing bonds in capital markets.<sup>77</sup> The World Bank handles the mechanics of IFFIm's bond issuance and financial management.<sup>78</sup> All of the bond proceeds, however, go to GAVI Alliance.<sup>79</sup>

The AMC was launched by a group of government donors and the Gates Foundation in 2007 to provide vaccine manufacturers an incentive to develop and produce affordable vaccines tailored to the needs of developing countries.<sup>80</sup> It began with a pilot scheme to create a market for vaccines against pneumococcal disease which went into effect on June 12, 2009.<sup>81</sup> The AMC effectively guarantees vaccine manufacturers a pre-agreed price for target vaccines.<sup>82</sup> Notably, the AMC's operations involve the active engagement of several of the legacy institutions, including the World Bank, WHO, and UNICEF. Under the AMC's framework arrangements, the World Bank holds donor contributions to the AMC on trust, pending their disbursement to GAVI Alliance for vaccine purchases. WHO pre-qualifies vaccines as an initial step in their being deemed eligible for AMC funding, and UNICEF handles the procurement of eligible vaccines.<sup>83</sup> However, the AMC's principal governing body, which is dominated by unaffiliated technical experts, drives funding decisions.

### *Resource allocation*

The precedent health financing initiatives are more advanced on resource allocation than other sectors and embody several core principles in their resource allocation strategies. For one thing, a range of entities are eligible to be direct recipients. The Global Fund provides its support for a particular country as a grant to a recipient (the Principal Recipient) designated by the Country Coordinating Mechanism. Though the Principal Recipient will often be a government ministry, a range of other entities, including faith-based organizations, private sector firms, and

foundations are also eligible to serve in the Principal Recipient role.<sup>84</sup>

Support for health may also be provided in innovative forms. For example, countries can apply to GAVI Alliance for five kinds of support: immunization services, injection safety, new and underused vaccines, health system strengthening, and civil society organization support.<sup>85</sup> GAVI Alliance may provide direct funding to the recipient country or its board can decide to provide the required supplies of vaccine and injection materials to the recipient country.<sup>86</sup> If GAVI Alliance's Interagency Coordination Committee is satisfied with the country's procurement practices, the country can receive cash in lieu of supplies.<sup>87</sup>

The health initiatives also demand evidence of beneficiary buy-in. The Global Fund demands the active engagement and program ownership from the recipient country.<sup>88</sup> Further, GAVI Alliance adjusts the level of required co-funding according to the recipient's poverty level.<sup>89</sup>

Grants are the sole form of support the Education Fund provides and, also, the primary form of support the GEF has provided (though its charter provides for it to provide support in other forms). The Green Climate Fund's charter, however, authorizes the fund to use a range of financing and co-financing instruments which allows for maximum flexibility as it forms its allocation strategies.

### **AN FCGH FINANCING FACILITY**

As the precedents show, the international community has changed how it mobilizes, disburses, and administers finance intended to help low-income countries address global problems. A new generation of global financing arrangements has emerged with a preference for creating new autonomous entities. The question arises, however, whether the world; donor and recipient nations; and other stakeholders, are optimally served by this host of new, autonomous legal entities designed to address a range of global needs. We suggest that the answer to this question is no. The precedent financing initiatives set in motion a vital process of change. That process began with the GEF's introduction of the Quasi-Entity Fund, progressed to the Global Fund's bold step in setting up a national legal entity under Swiss law, and culminated with the Green Climate Fund's



creation as an independent entity in both national and international law. But the time has come for the process to mature to enable all interested parties to reap the benefits of the changed norm while staunching needless proliferation.

Proliferation can result in reinventing the wheel and unnecessary costs. Incurring costs to create a new mechanism to pursue substantively new activities (such as measuring progress on climate change or the attainment of certain good health indicators) is inevitable. But it should not always be necessary to incur the costs involved in creating a whole new apparatus to conduct non-specialized, run-of-the-mill activities involved in staffing and running a new institution. Nor should it be necessary to re-devised a host of operational policies associated with monitoring and accounting for the use of funds. Proliferation can also result in imposing conflicting reporting and other demands on recipient countries. These demands fly in the face of the spirit of the Paris Declaration on Harmonization, which stresses simplifying, not multiplying reporting demands.<sup>90</sup>

So what might be an alternative to proliferation? The pre-1990s alternative was to have one model, the Traditional Trust Fund, which piggy-backed on the administrative and operational policies of the legacy institution serving as trustee while ceding all control of the initiative to the trustee. By voting with their feet, the creators of the post-1990 initiatives frequently reject that model as inadequate to meet today's needs. We want more of a multi-stakeholder approach and greater flexibility than the legacy institutions allow. What's been lost in moving away from that unitary model, however, is the ability of a new initiative to incorporate and rely on policies, procedures, and operational practices that reflect years of institutional history and work quite well.

These policies, procedures and operational practices include, for example, operational policies covering both fiduciary and social safeguards. In the area of fiduciary safeguards, for example, they cover procurement policies; practices for assessing potential recipients' financial management capacity; and financial reporting standards. In the area of social safeguards, they address such matters as minimum environmental standards and the treatment of indigenous groups. The unitary model also has well defined administrative policies, such as human resources policies to govern the terms and conditions

of employment governing a secretariat staff.

What we need, therefore, to replace the unitary model, is an umbrella framework that does not subjugate a new initiative to a legacy institution, but offers a template of policies, procedures, processes and standards. Different financing initiatives set up in accordance with the framework could retain their respective identities and fill their particular niches without reinventing standard processes and while still availing of best practices. One can visualize the umbrella framework operating like a food court in a mall: a cluster of distinct initiatives with distinct agendas and funding sources, but all availing of choice of template forms for their governance structure and standard operating procedures provided for under the framework. As done by the Global Fund and Green Climate Fund, initiatives created within the framework could draw upon the financial management services of the World Bank, again, avoiding the need to reinvent boiler plate financial management services.

The templates available under the umbrella framework could be devised using a mix and match approach that borrows liberally from different aspects of precedent initiatives that reflect best practices. For example, in the area of multi-stakeholder input, the uniform framework could include a template that sets standards for assessing and monitoring representatives based upon vetting processes devised by the Global Fund. The precedents show this kind of cherry picking of policies and practices can be done at an initiative level. The AMC, for example, has a multi-stakeholder governing body like the Global Fund. It also avails of the basic financial management practices of the World Bank, the procurement policies of either the Bank or UN, and the technical know-how of WHO. At the same time, the AMC's use of these pre-existing practices is supplemented by additional specialized vetting committees, customized by the AMC, to conduct AMC-specific, specialized reviews. The fluidity of this kind of approach enables a new initiative to incorporate best practices based on the lessons of experience.

Though the precedents at an initiative by initiative level have laid the groundwork for an umbrella framework approach, the formal embrace of such an approach by the international development community and international legal order has not yet occurred. So how should the supporters of an FCGH financing facility

proceed in the meantime? They could, of course, create a new autonomous FCGH financing entity that would operate alongside the Global Fund, GAVI Alliance, and other smaller global health initiatives that currently exist. This would follow the approach taken by the Green Climate Fund's creators. The Green Climate Fund's charter establishes a wholly new institution and provides for it to devise a host of new policies and procedures. This charge presents significant potential for reinventing the wheel at great cost. It therefore seems an ill-advised course for the supporters of a FCGH facility to follow.

Alternatively, the supporters of an FCGH facility could expand the size of the Global Fund and the mandate of its governing bodies to become the FCGH Fund. The difficulty here might be that the Fund's singular focus on HIV/AIDS, malaria, and tuberculosis and its public persona as a fund dedicated to those diseases may make it an inadequate anchor for a facility that is much broader in scope.

A third alternative would be to pioneer the umbrella framework approach described above, as an umbrella framework for global health financing. Under this approach, the different global health financing initiatives would retain their respective identities and fill their particular niches. The framework, however, would provide ready templates for new initiatives created to fill the gaps. The precedent initiatives form a robust base from which to build the template governance structures and administrative and operational policies for such a framework. Moreover, the precedents have forced the legacy institutions to open up to the possibility of change. Key stakeholders, including representatives of the Global Fund, GAVI Alliance, WHO, the World Bank, along with donors, would have to agree on how to divide responsibility for devising and maintaining the framework.

Ideally, this framework approach would allow for an FCGH financing facility that reflects the optimal degree of fusion and autonomy without adding further to institutional proliferation. The goal would be to achieve an integrated approach that (i) makes use of the legacy institutions' services in those areas where they have a comparative advantage, and (ii) draws upon the considerable investment that has already been made by a range of new and old institutions to devise standard operating procedures.

## CONCLUSION

The FCGH is a bold and innovative move in global health. It could also pioneer a bold and innovative move in international financing for development.

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