Developing Country NGO Delegation
Constituency Statements on Key Issues of the 39th Board Meeting

We appreciate the updates from OBA on when documents were available but note that the Operating Procedures of the Board and Committees (2016) state that background documents will be shared three weeks in advance of a meeting (see section 15). For this meeting, many documents were not shared in advance. Our delegation requires adequate time to brief and consult with our constituency, including time for pro bono translation of summary descriptions of the issues before the committee. The Board leadership is asked to ensure that the Secretariat shares all documents three weeks in advance in future.

The 39th Board meeting comes at a critical moment. With #metoo and #aidtoo drawing attention to persistent gender inequality and abuse globally, the Global Fund has an opportunity to help to shape the public conversation in a positive direction. In Skopje, we call for the Board and Secretariat to issue a public statement underscoring our collective commitment to ending sexual abuse, harassment and violence, understanding that these are drivers of HIV and contribute to unequal access to health services for TB and malaria. Similarly, stigmatizing speech creates a hostile environment for services targeting key populations. The statement should outline the steps the Global Fund is taking to address these issues within the Board, Secretariat, in our public convenings, and through the Fund’s financing of gender equality work in countries.

The purpose of this proposed statement is to encourage pragmatic and constructive action in support of survivors and to prevent sexual harassment, violence and abuse everywhere. Gender inequality is everywhere, and all our organizations have room to improve. For our part, we commit to working with OBA to ensure that all Board delegates are trained in human rights and gender equality standards as part of their induction, so that respect for these values is fully integrated into all delegations.

- To Board Leadership: Please indicate whether a statement will be drafted before the Board meeting for input by Board Members and eventual release to the public.

We also reiterate the very serious concerns we are witnessing across all regions affected by the Sustainability, Transition and Co-financing policy. Our consultations with civil society constituencies in EECA, LAC, Asia and MENA are identifying a range of serious and increasingly urgent problems, that suggest that as the GF withdraws from a growing number of countries, countries will not sustain the gains or end the three diseases – rather, we fear a global resurgence of HIV beginning in UMICs. These problems include lack of commitment to government funding of civil society, even where civil society is providing much of the response to the diseases; lack of commitment to addressing health needs of key populations; widespread stigma and discrimination, including in the health sector; closing space for civil
society and discontinuation of multistakeholder platforms; failure to sustain market gains made under the Fund’s leadership; and overall weaknesses in oversight and coordination. As many transitioning countries have not yet made their Transition Readiness Assessments (TRAs) public, it is difficult for civil society to play its monitoring and accountability role. In short, when the Global Fund withdraws, we foresee a real risk of spiking epidemics in many countries.

- We call on Board leadership to make STC a standing item on the Board agenda; these concerns about the Global Fund’s core business are too critical to be relegated to pre-meetings.

Given the lack of funding available for countries in transition, we also remain deeply concerned about chronic problems with cash absorption in high-burden countries.

- To the Secretariat: We request a full accounting of the funds spent on ITP, which was intended to solve these problems and an update on the current efforts in place to address the cash absorption issue.

Eligibility Policy & Countries in Crisis – We recognize significant progress made in the Strategy Committee to clarify and better align the Eligibility Policy with the mission and strategy of the Global Fund, and to address the needs of countries in crisis. However, our delegation abstained from the SC vote on the Eligibility Policy due to weaknesses and unclear language which should be addressed before it comes for a vote before the full Board.

Given the chronic and serious issues with cash absorption, the NGO Rule is both a manageable and proven sound investment that is critically important for key populations in ineligible UMICs. It compensates for an exclusion that is arbitrary and discriminatory in nature, and that has nothing to do with HIV, TB and malaria in high-burden UMICs. It also helps to mitigate the very serious risk of previously transitioned countries becoming re-eligible again in the future. Any changes to the OECD DAC Rule should be matched by changes to the NGO Rule.

The language of all Global Fund policies, and especially the Eligibility Policy, should be clear, coherent and aligned with international legal standards. The Global Fund is obliged to uphold the same international human rights laws that bind all states, including Global Fund donors and implementers. This ensures that the policy can support the Fund’s mission, advancing effective control of the three epidemics and not leaving whole populations behind.

The footnote on “barriers that seriously limit and/or restrict” provision of evidence-based services is poorly-written and inconsistent with international human rights standards. These standards do not excuse donor states from their obligation to provide aid to developing states that helps them to meet minimum core standards of the right to health. The footnote is vague language (what is ‘seriously limit’ and how does it differ from ‘restrict’?) that could describe any government regulation of medicines, medical facilities or personnel. If the Secretariat cannot identify a logical and legal basis for the “barriers” provision, then given the very serious health concerns for key populations, all three countries...
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that are excluded under the OECD DAC provision (Russia, Bulgaria and Romania) should be eligible for 
the NGO Rule. The footnote should clarify when and how the Secretariat consults with UN partners to 
determine eligibility for the NGO Rule. “As appropriate” is also not a clear policy standard.

While the amended Eligibility Policy represents a compromise, it fails to address the serious weaknesses 
of GNI per capita as a measurement of country resources for health. We call on the Secretariat and the 
Strategy Committee to identify other ways of assessing fiscal space.

As a delegation, we believe the decision point on countries in crisis is important to open a window of 
opportunity to help people in an unprecedented and extremely difficult situation who are suffering from 
the complete lack of HIV and TB medications, with sky-rocketing malaria resurgence and who are, in 
some cases, desperately fleeing to neighboring Global Fund-eligible countries for their own survival. 
While the Secretariat’s workload is of genuine concern, all of us, including civil society engaged in Board 
service, work exceptionally hard because we believe our work saves lives. This decision falls clearly 
within the Global Fund’s founding principles, strategy and mandate.

- To the Secretariat: Please provide a revision of the “barriers” footnote that clarifies its 
grounding in international legal standards, before the Eligibility Policy goes to a vote.

On human rights and gender equality, the CRG report clearly indicates that more should be done to 
address human rights concerns in grants. While the 20-country initiative is ground-breaking, we need a 
strategy to address human rights in the other 100+ countries that receive Global Fund financing. The 
CRG report also indicates that there is an overdue need to roll out information about the human rights 
minimum standards in grant agreements and the complaints procedure, which are not used because 
they are still not widely known.

In addition, our work on the Eligibility Policy has highlighted that Global Fund policies may not be 
aligned with international law, including human rights standards. We recommend a comprehensive 
review of Global Fund policies to identify where they may need to be revised to align with these 
standards, ideally before the next round of funding.

- To Board Leadership: Human rights and gender equality are strategic objectives of the 
Fund, so please confirm that this will be a standing item of the Board agenda and not 
relegated to pre-meetings.

- To the Secretariat; Please advise on plans to inform PRs, SRs, SSRs and end users 
about the minimum human rights standards and the complaints procedure, as 
recommended in the assessment CRG commissioned.

On the replenishment and the partnership framework – We appreciated Peter Sands’ commitment to base the replenishment plan on a real estimate of needs. In this light, new partnerships will be critical,
but recent controversies have highlighted the need for a review of the partnership framework by the AFC. The framework was last reviewed in 2011, and as the Fund begins to prepare for replenishment and outreach, it is urgent that this be updated and brought to the next Board meeting.

- We call for a review and revision of the partnership framework by AFC, to be presented for adoption at B40.

**CCM Evolution** – Our delegation strongly favors option 4 for CCM evolution. Civil society, key population, youth and women’s engagement must be integrated throughout the Development Continuum as a requirement, both to uphold our human rights commitments as an institution, and to make CCM membership consistent with the expectations we have of ourselves on the Board. This is especially critical in countries on the brink of transition, in order to ensure focused and coherent responses are sustained in UMICs.

CCMs should assess and align their community representation with the country’s epidemiological profile (in particular, to ensure that youth are represented, as well as TB and malaria-affected communities). Meaningful participation of civil society in the HIV, TB and malaria response can’t exist without voting power on funding requests and a right to access strategic information, both at global and country levels.

In our own experience, CCMs are often the only mechanism of their kind for multi-stakeholder discussions, and sustaining that role is key to ensuring countries continue to make progress towards ending HIV, TB and malaria after transition. However, CCMs are rarely supported to function fully: for instance, in Zimbabwe, which must consult with women and girls from all corners of a large country, a CCM constituency is allocated one feedback meeting annually with 20 participants. It is imperative that the Fund supports existing structures so that they continuously and consistently engage and hold duty bearers and implementers accountable. We call on the US to reinstate partner funding for CCM strengthening.