BOD/2011/11—DOC 08

Meeting of the Board of Directors

Copenhagen, Denmark, 9-10 November 2011

POLICY AND COMMUNICATIONS PROTOCOL ON MISUSE OF TRUST FUNDS

For Decision

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1. Purpose

The purpose of this paper is to seek the approval of the Board of Directors (the "Board") of the Policy and Communications Protocol on Misuse of Trust Funds, attached as **Annex 3** to this document.

2. Background

2.1 This paper is a revised version of the paper presented to the Board at its May 2011 meeting in Kigali, Rwanda, entitled Protocol on Misuse of Education for All Fast Track Initiative Funds (BOD/2011/05 DOC 13). Partly due to lack of time for discussion, the Board did not approve the protocol at that time and it requested the Secretariat to provide a new version of the document to the Financial Advisory Committee ("FAC") for its recommendation to the Board. Some of the main points raised by Board members at the time include the following:

- a sense that the document was too "reactive" rather than "proactive";
- the document focused too much on confidentiality; and
- a general displeasure from donors who were receiving information regarding misuse in Global Partnership programs from their own colleagues prior to receiving such information from the Secretariat.

2.2 As a first step in the process, the Secretariat requested written comments from Interim FAC members on the document that had been presented to the Board. A list of the comments received and

the responses to them is provided in **Annex 1**. These comments led to major changes to the policy, which are discussed below.

2.3 In addition, in order to inform the Board about the policies of current and potential Supervising Entities and Implementers, the Secretariat sent a message to Board members representing agencies that serve or will potentially serve in these roles.[1] The agencies were requested to answer a series of questions in relation to their policies in regards to fraud and corruption, as well as on communications in this area. The Secretariat received responses from all of the current Supervising Entities and Implementers (the Netherlands, UK Department of International Development, UNESCO[2], UNICEF and the World Bank) and also France and Japan. Their *verbatim* responses to these questions are in **Annex 2** and are further discussed in Section 4 below.

2.4 The FAC discussed the document at its audio-conference held on 6 October 2011. At the time, while many FAC members were supportive of the document, most had not received comments from their legal or counter-fraud departments and so were not in a position to recommend the document. Therefore, the paper is being re-presented to the Board for its approval without a FAC recommendation.

2.5 As suggested by a delegate at the May 2011 Board meeting, the revised document has been divided into a Policy and a Communications Protocol. It can be found in **Annex 3.**

3. Decision Requested

The Board of Directors is requested to approve the following decision:

> **BOD/2011/11-XX – <u>Policy and Communications Protocol on Misuse of Trust Funds</u>:** The Board of Directors approves the Policy and Communications Protocol on Misuse of Trust Funds, attached as Annex 3 to BOD/2011/11—DOC 08.

[1] For the Global Partnership for Education Fund, these are limited to bilateral agencies that are included in the donor constituencies of the Board and multilateral agencies that are represented on the Board. See Global Partnership for Education Fund Governance Document.
[2] UNESCO is an Implementer for the position of the Chair of the Partnership.

4. Reasons for Recommendation

4.1 Context

4.1.1 The Policy and Communications Protocol on Misuse of Trust Funds is being developed at a time when the Board has been reorganized on a constituency basis and has been provided with the authority to make allocation decisions regarding all GPE trust funds.[3] It also comes at a time of increased awareness and concern about fraud and corruption at the country level, due to the findings of misuse of funds in GPE-supported programs in certain countries.

4.1.2 In addition, many of the "global funds" for health have come under particular scrutiny due to findings of misuse. While the health funds are interesting comparators, the operating models used by them differ significantly.[4] The GPE works through multilateral and bilateral agencies to supervise or implement programs in-country rather than providing direct grants to developing country governments or non-government organizations.

4.1.3 Finally, until two years ago, the only Supervising Entity for GPE trust funds was the World Bank and therefore no need for a policy was perceived, as the World Bank policies were known and accepted. With the expansion of the possibilities for agencies that can play the role of Supervising Entity or Implementer, there is a growing consensus regarding the need for a policy that uses a consistent approach and a communications protocol in this area.

4.2 The Proposed Policy

4.2.1 The Policy is based on the partnership model of the Global Partnership for Education. The new version in Annex 3 strengthens the language on setting the standard of *zero tolerance* for fraud and corruption and other misuse, making clear the expectations of the Partnership of all actors involved with

[3]The Committees of the Catalytic Fund and the Education Program Development Fund approved the transfer of their decision-making authority over those trust funds to the Board in late 2010. In addition, the Board has decision-making authority over the newly established Global Partnership for Education Fund. The change in the name of the Education for All Fund to the Global Partnership for Education Fund is effective on 7 November 2011. This paper is written assuming that the change has already occurred.

[4]The Global Fund to Fight AIDS, Tuberculosis and Malaria provides grants directly to developing country governments (usually the ministry of health or finance) and non-governmental organizations at the country level. It imposes its own policies and procedures on such recipients by means of legal grant agreements. GAVI provides 85% of its funds to UNICEF to procure vaccines and 15% of its funds in cash-based programs directly to developing country governments through the use of "aides memoire".

GPE processes, and emphasizing open communication between actors in the field in Local Education Groups, as well as with the Secretariat and the Board.

4.2.2 As before, the document contains requirements of the legal agreements that govern the transfer of funds by the Trustee to the Supervising Entities/Implementers (transfer agreements) and between the Supervising Entities and developing country partner governments (grant agreements). Those agreements require the funds to be used in compliance with the Board's decisions. It also requires Supervising Entities, Implementers and other partners to maintain "whistleblower" policies that protect employees from retaliation for providing information on a good faith basis regarding possible fraud and corruption and other misuse.

4.2.3 The main changes to the 'policy' sections of the previous version of the document include the following:

- It applies not only to situations of both fraud and corruption but to other kinds of misuse, that is, the use of funds for a purpose other than that for which they were granted (see definition of "misuse" in Annex 3).
- The section on Supervising Entities and Implementers has been expanded to include some minimum standards (paragraph 3.c.).
- The description of the Secretariat's role has been expanded to not only act as a focal point, but to support Supervising Entities and Implementers in fulfilling their fiduciary duties (paragraph 3.d.).
- The role of the Board in approving allocations and selecting Supervising Entities and Implementers in compliance with the Policy on Conflicts of Interest and minimization of risk has been included (paragraph 3.e.).

4.2.4 Changes to the communications sections are discussed further below.

4.3 Supervising Entity and Implementer Policies and Procedures

4.3.1 The role of the Supervising Entity and Implementers in the protection of funds at the country level is extremely important. Clearly, the first line of defence against misuse is for developing country partners and implementers to have robust financial management and procurement systems with appropriate internal control mechanisms. While the Policy sets out this expectation in paragraph 3.a., it

also defines in paragraph 3.c. the role of the Supervising Entity to conduct due diligence of developing country partner systems to ensure that this is the case.

4.3.2 Supervising Entities and Implementers play particular fiduciary roles with respect to the trust funds. The Board allocates to Global Partnership developing country partners funds for country-level activities through grants supervised or implemented directly by Global Partnership multilateral agencies and/or bilateral donor partners. These partners use their own policies, procedures and rules to prevent, detect, manage and respond to fraud and corruption and other misuse in relation to all funds entrusted to them, including the Global Partnership trust funds. Many of these policies are familiar to donors as contributors to multilateral agencies (such as UNICEF and the World Bank) and/or participants in delegated cooperation schemes such as the "Nordic Plus" delegated cooperation arrangements (which include the United Kingdom and the Netherlands, who are currently acting as Supervising Entities for Global Partnership trust funds).[5]

4.3.3 More information on the regimes for handling misuse of current and some potential Supervising Entities and Implementers of GPE allocations are in **Annex 2**. Some general observations from these policies are as follows:

- The Supervising Entity/Implementer policies that are described either currently apply or could potentially apply to the Global Partnership for Education Fund allocations. The proposed Policy sets some 'minimum standards' on its Supervising Entities and Implementers. These standards are by nature quite general as the steps and procedures used by each of the agencies will differ according to their norms and rules set by their own boards and management. In the future, as new agencies come forward proposing to act in those roles, their institutional frameworks will be reviewed by the Secretariat and the FAC before going to the Board with a recommendation for designation as a Supervising Entity or Implementer. The purpose of the review will be to determine whether the proposed agency meets the minimum fiduciary standards approved by the Board.
- The kinds of information that are made public also differ among the agencies. For example, the World Bank makes its audit reports public and DfID will be doing so in the near future; UNICEF does not disclose its audit reports to anyone other than Member States using particular

[5]See http://www.norad.no/en/Tools+and+publications/Publications/Publication+Page?key=109585.

procedures, although this decision is currently being reviewed by their Executive Board. Other agencies' answers regarding these issues were less clear.

- Some of the agencies mention that their counter-fraud units work with those of other donors or multilateral agencies to share information. For example, the Integrity Vice Presidency of the World Bank Group, which handles investigations of fraud and corruption involving World Bank projects, has entered into memoranda of understanding with the counter-fraud units of many of the donors and one of the developing country partners currently represented on the Board, so that information can be shared by such units and they can collaborate on investigations.[6] The use of these arrangements is consistent with the Global Partnership Compact to harmonize procedures among donors. This does not necessarily lead to a flow of information to the Board because the disclosure regimes of all donors and/or multilateral organizations that could act as Supervising Entities and Implementers have limitations on disclosure of information which may jeopardize an investigation, as discussed in section 4.5 below.

4.4 The Role of the Secretariat

4.4.1 The role of the Secretariat in the management of fraud and corruption and other misuse, potential or actual, at the country level must be both strengthened and clarified. Many Board and FAC members made comments regarding the need for the Secretariat to be proactive with regards to issues of misuse. The challenge that the Secretariat faces is to ensure that it (and the Board) is brought into the processes used by the Supervising Entities/Implementers at the right time and with appropriate separation of duties. As set out in paragraph 3.d. of the Policy, the role of the Secretariat is described as taking "all necessary measures to support the Supervising Entity or Implementer in fulfilling their fiduciary duties."

4.4.2 The Secretariat has taken steps towards strengthening its role in this area including:

- improving the lines of communication with the Supervising Entities and Implementers rather than just the Coordinating Agencies;

[6] Currently, the World Bank's Integrity Vice-Presidency has memoranda of understanding with the Independent Authority Against Corruption of Mongolia. It also has MoUs with AusAID, the European Against Corruption Network, the International Criminal Police Organization (INTERPOL), the European Anti-Fraud Office (OLAF), the Serious Fraud Office (UK), the Office of the Special Inspector General for Afghanistan Reconstruction, and the Office of the General Counsel of USAID.

- strengthening the Country Support Team by adding staff and therefore, allowing focal points the scope for greater engagement with a smaller number of countries;
- training Secretariat staff on fraud prevention and detection;
- improving communications with the Board where fraud and/or corruption is suspected; and
- visiting countries where fraud and/or corruption is suspected to act as "honest broker" with government, civil society, and donors; and
- monitoring the findings of misuse by other "global funds" and agencies to enable the Secretariat to focus on high-risk countries.

4.4.3 A significant part of the role of the Secretariat, in particular the Country Support Team, is to be the communications focal point between the Local Education Groups and Supervising Entities/Implementers and the Board. After dissemination by the Secretariat of the Policy and Communications Protocol, all partners will be expected to notify each other and the Secretariat when they receive information regarding suspected misuse or evidence of misuse. This will enable a better and more consistent flow of information to the Board.

4.5 The Proposed Communications Protocol

4.5.1 The new version of the document sets out the most important principle in the Communications Protocol: **transparency**. It reminds us that this principle is set out in the foundational document of the Global Partnership, the Charter of the Global Partnership for Education.

4.5.2 As before, the Communications Protocol sets out some basic requirements for all partners to communicate on misuse of trust funds to the Board (through the Secretariat). It then sets out the procedures used by the Secretariat to communicate with the Board. When communications on misuse of trust funds are delivered to the Secretariat, the Head of the Secretariat shares the information with the Chair and they will jointly and immediately send a communication to the Board as appropriate.

4.5.3 While the Communications Protocol recognizes that communication with the Board on misuse of trust funds is crucial in order to allow the Board to act swiftly, it must also be balanced against the need for confidentiality and other obligations of the partners in certain situations. Partners that act as Supervising Entities, Implementers, Coordinating Agencies and other members of Local Education Groups, and even donors in their headquarters capacities, may be limited in the timing and content of

information that they may share related to these areas. These limitations are in place in order to protect the integrity of investigations and other actions taken in relation to suspected or substantiated misuse—including the protection of whistleblowers and investigators and prevention of legal actions. Please see the explanations of the current and/or potential Supervising Entities and Implementers in Annex 2 for more details.[7]

4.5.4 Having outlined these concerns, in response to comments from many Board members, the following two considerations to take into account prior to disclosure to the Board have been deleted (i) the reputation of the Global Partnership for Education and its partners; and (ii) maintenance of donor confidence. At the same time, the Communications Protocol contains an obligation for Board members and Alternate Board members, as well as one representative from other donors not represented on the Board, to sign a confidentiality undertaking before being placed on the list of those who will receive communications (the "Misuse Email List"). The Secretariat will provide Board members with the form of the confidentiality undertaking after the approval of the Policy and Communications Protocol.

4.5.5 Finally, the Head of the Secretariat and the Chair will also decide whether public disclosure should be made, including a press release and information on the Global Partnership website. In addition, the Secretariat will report on any on-going misuse issues at every in-person Board meeting and prepare an annual report on lessons learned from any findings of fraud and corruption over the previous year, if any.

5. Next Steps

5.1 Once the Policy and Communications Protocol are approved by the Board, it will be posted on the Global Partnership for Education website and will be implemented in accordance with its terms. The Secretariat will also send a copy to the entire Global Partnership to ensure that it is widely disseminated and will include it in the Country-Level Process Guide as well as the Board manual.

[7] It should be noted that even those agencies whose policies are considered as models of transparency, such as The Global Fund to Fight AIDS, Tuberculosis and Malaria (GFATM), includes several exceptions in its disclosure policies for final investigative reports issued by its Office of the Inspector General (and provide even more limited information on items that are merely at the level of suspicion or under investigation). (See Policy for Disclosure of Reports at: www.theglobalfund.org/en/oig/documents/). GAVI only recently began notifying its Board about misuse at the start rather than at the conclusion of its investigations. However, both the GFATM and GAVI are Swiss foundations with their own unique legal personality and both have independent counter-fraud units that are accountable to their own Boards only. The Global Partnership has no legal personality and therefore relies on the counter-fraud units of each of its partners rather than an independent unit. The counter-fraud unit of the World Bank, that employs the Secretariat, is accountable to the World Bank Board.

5.2 The Secretariat will also immediately begin working on disseminating confidentiality undertakings to those persons eligible to be placed on the Misuse Email List.

6. Costs of Initiative and Source of Funding

The Secretariat anticipates that implementation of the proposed Policy and Communications Protocol will add responsibilities to the work programs of the Secretariat and Chair, resulting in some additional costs, including potentially requiring the appointment of additional personnel. In addition, the Global Partnership for Education relies on the fiduciary and monitoring role of the Supervising Entities and Implementers, who are provided with fees to supervise the programs while they are being implemented.

7. Contact

Board members and others with questions on these matters are invited to contact Tal Sagorsky, Board Operations Specialist, at: tsagorsky@globalpartnership.org.

ANNEX 1: COMMENTS PROVIDED BY FAC MEMBERS ON BOD/2011/05 DOC 13

Private Sector/Private Foundations:

1. P. 2: "These partners use their own policies, procedures and rules to prevent, detect, manage and ~~sanction~~ punish [or discipline] fraud and corruption in relation to all funds entrusted to them, including the EFA FTI trust funds." (Question related to this edit: Why would FTI ever sanction misuse of funds?)

Response: "Sanction" was used in the sense of punish (i.e., imposing sanctions). Different terminology is used in the new version.

2. P. 4 Footnote: "The Head of the EFA FTI Secretariat is a staff member of the World Bank and therefore bound by the World Bank's disclosure regime in relation to information he or she may receive in relation to misuse of funds in programs supervised by the World Bank." (Is the head necessarily a staff member of the World Bank? Or is this note intended to recognize that the current head happens to be a staff member of the world bank?)

Response: As it currently stands, the Head is a World Bank staff member (as set out in the Charter). If the situation changes in the future, this will be changed. In any event, the footnote has been removed.

3. P. 6: "Early detection of, and accountability and transparency with regard to Misuse of all funds in the education sector: a. Prevents and deters future incidents of Misuse of funds in the education sector…" While aggressive detection has a deterrent effect, preventive controls – where feasible – are more effective overall and cost less than detective measures. We recommend adding a sentence in this section, to indicate that developing country partners should make it a priority to implement controls to prevent the Misuse of funds.

Response: While the previous version did refer to the developing country partners having a need to have robust systems, the language has been strengthened in the revised version, including the expectations of Supervising Entities to conduct proper due diligence to ensure that their financial and procurement systems meet international standards (see paragraph 3a of the Policy).

4. P. 7: "… detection, investigation or sanctioning of Misuse of EFA FTI Funds…." Similar to the first bullet point above, why would FTI ever sanction misuse of funds?

Response: See response to question 1.

5. General question: do developing country partners have any obligation to communicate that they have effective systems of control in place to prevent, or detect and correct, Misuse of funds? If not, is the FTI Secretariat comfortable with this?

Response: As noted in response to question 3 above, the role of the Supervising Entity is to conduct due diligence of developing country partners to ensure that they have effective control systems.

6. Is counsel comfortable there is no need to indemnify the Secretariat and / or FAC?

Response: As FAC members and Secretariat members are not serving in their personal capacity, it is unclear why they would require indemnification and from whom.

Denmark/Norway/Sweden/Ireland:

1. **The role of the FTI secretariat in proactively disclosing full details of all available information to EFA fund donors, confirmed or otherwise, audited or otherwise, is of paramount importance to protecting the replenishment prospects of the FTI:** Donors are fully accustomed to dealing with the apparent competing priorities of: on the one hand, respecting the integrity of an important audit or forensic investigation of a suspected misuse of funds; while on the other hand, assuring the political community and public at large that we are kept fully in the loop on any details or developments. If the FTI Secretariat decides to hold information until more detail is known or for any other reason, in the interests of protecting the reputation of the FTI, it should be aware that unfortunately this approach can be completely counterproductive. We know that the media does not wait for more detail, or wait to get the story right. And as bilateral donors we are fully aware that learning of cases of potential fraud through the media puts future commitments to a fund like FTI at significant risk.

Response: As requested by several Board members, we have removed the reference to reputational risk in the considerations taken not to disclose. However, given the risks involved with undermining investigations, it has been maintained. Such limitations exist in all disclosure regimes of GPE partners.

2. The draft protocol talks of partnership and how the FTI works, and we all understand that the funds are managed by a supervising entity at country level that at global level the funds are managed according to World Bank trust fund regulations. But we cannot hide behind these institutions. The Education For All Fund monies ***are*** FTI monies and it's in the interests of the fund to have a clear protocol that outlines definitive action and accountability to donors in the event of their misuse. [Maybe we need to consider a system of disclosure levels – confidential information to donors to the Trust Fund – and then more finalized detailed or audited information to the board?]

Response: The Board as a whole has overall decision-making responsibilities over the GPE trust fund moneys, as outlined in the Charter, the Contribution Agreements and the Global Partnership for Education Fund Governance Document. In order for the Board to properly exercise its power, we believe that there must be equal levels of information sharing with all Board members and not different disclosure levels between donors and other Board members.

We would like to see a stronger focus on the role of the supervising entity in reporting to donors/actors at the country level: The document has a focus on communication from the secretariat to the Catalytic Fund Committee and the EFA FTI Board of Directors. Discussions around irregularities start at the country level, and sometimes this information comes to our respective head offices at an early stage. In some cases, this is not the case. The communication can not only be with the Secretariat, and this document could potentially provide some guidance to the country level. The roles and responsibilities of the Supervising Entity could be better spelled out.

Response: We believe that the new version of the document better outlines the role of the Supervising Entity in paragraph 3.c. It should be noted that the Supervising Entity will always be a member of the LEG. Paragraph 3.b. now states that LEG members are encouraged to communicate with each other regarding these issues, which is aimed at strengthening this dialogue. The Coordinating Agency, on behalf of the LEG, should then communicate the information to the Secretariat so that proper communication with the full Board can occur.

Communication with the board close to a public statement? The document assumes that "communications with the …Board of Directors borders on making a public statement…" (bottom page 3) while at the same time indicating that Board members "may be asked to keep the information confidential …". (page 4). We would disagree that communication to the Board be considered close to a public statement. There could be language asking members to treat the information carefully when appropriate and to trust that we are partners that do not leak.

Response: The Communications Protocol now contains a provision for Board Members, Alternate Board members and a representative of other donors who are not represented on the Board to sign a confidentiality undertaking prior to being placed on a "Misuse Email List". This will reinforce the sensitivity of the information being provided.

A strong focus on misuse and irregularities is important for the reputation of the EFA FTI, and the language on page 4 "to protect the reputation of the EFA FTI and its partners" is unfortunate. Point 6B i and ii are problematic and should be taken out. It suggests that the Head of the EFA FTI Secretariat and the Chair shall consider whether the information received should be communicated to the Board and/or partnership balanced against i) "protection of the reputation of the EFA FTI" and ii) "the need to maintain donor confidence in the EFA FTI and its partners".

Response: As requested, these have been removed in the new version.

Confidentiality means excluding information about misuse to other donors within the constituency? As a donor without a place on the Board, could we risk getting questions about cases of misuse (such as the Kenya case) from our Ministry that the Board/the press has information of (but we do not?). We would like out rights as donors to be better protected within the document

Response: As outlined above, on representative from each contributor to the trust funds will have an opportunity to be placed on the Misuse Email List, provided they sign a confidentiality undertaking.

<u>Canada/UK:</u>

The Can-UK Constituency recommends that the protocol be strengthened based on the following:

- Extend the definition of misuse to include any irregularities, including fraud, misspending of funds, and missing documentation.

Response: The definition now includes any use of funds which is not authorized under the terms under which it was granted. "Missing documentation" is not actually misuse in itself, but possible evidence of misuse.

- Include a graduated scale of procedures (triggers, responsibilities and actions) for identifying and investigating irregularities.

Response: We would like to emphasize that this level of detail will be provided by the procedures and systems used by each Supervising Entity or Implementer. So as not to pre-empt those used by Supervising Entities and Implementers, the Policy states that they must have "robust policies and procedures". These will be reviewed by the Secretariat for new Supervising Entities as they come to the FAC and Board in applications for allocations.

- Expand the section on communication to provide clear procedures for "communication of findings", including who can communicate what to whom, and within what timeframe. We do not consider that the Board of Directors must be notified of allegations of irregularities, but should instead be notified if investigations commence. Our concern is that we avoid the situation in which we or our ministers are informed of an investigation from a news source rather from the Secretariat.

Response: We believe that this level of detail is not ideal. We would like to maintain flexibility in the document to be able to communicate information (including information that may precede an investigation) where appropriate. Many other Board members have requested information be provided at an earlier time than the commencement of an investigation.

- Spell out in greater detail the roles, responsibilities and accountability of the Supervising Entity to communicate allegations, initiations of investigations and findings.

Response: Section 3b of the Policy now states that Supervising Entities shall have regular, open and immediate communication with the Secretariat and the LEG regarding suspicion or evidence of misuse. As stated above, we would prefer to leave it flexible rather than prescriptive.

- Remove the text referencing the "protection of reputation" as a consideration when determining whether to withhold information from the Board of Directors. This seems to be at odds with the intention to communicate that the EFA-FTI does not tolerate the misuse of funds.

Response: This has been done.

<u>Australia:</u>

1. The Protocol must give FTI donor partners confidence that the FTI Secretariat is proactively and diligently managing risk, in particular regarding possible and actual instances of misuse of funds. It should also provide an agreed and endorsed process for managing instances of misuse of funds.

Response: We hope that the new version provides this confidence.

2. Australia advocates for the principles of 'transparency' and 'accountability' in risk management and fraud prevention. These principles are consistent with international best practice, and meet donor and public expectations. Australia does not support 'confidentiality' as a general principle of risk management as proposed in the current draft version of the Protocol.

Response: Transparency and accountability are both emphasized in the new version of the document. Confidentiality is not, and was not ever meant to be a principle of risk management but it is a consideration that must be made when dealing with sensitive information. It must be emphasized that disclosure of information at an early stage may endanger lives of investigators and whistle-blowers and may enable perpetrators to escape conviction.

3.To support the principles of 'transparency' and 'accountability', the Protocol needs to be strengthened in the area of communication and public disclosure of information. The Protocol should outline a more responsible, proactive role for the FTI Secretariat and make clear the expectations and responsibilities of supervising entities.

Response: We hope that Board members find that the current version meets expectations, including for the role of the Secretariat, but also strengthening the expectations from Supervising Entities and Implementers.

4.The Protocol should be very clear on how the FTI Secretariat will provide the Board with timely advice on instances of possible or actual misuse of funds. It should also include a formal process for reporting to each Board meeting.

Response: We hope that the new draft meets the request for clarity. It now includes a requirement for a report to be made to each Board meeting.

5.The Protocol should provide unambiguous and practical guidance. This would include clearly defined roles and responsibilities of all parties.

Response: We hope that the new draft meets this request.

6.Clarity on the implications of the Protocol for National Governments, Local Education Groups, Coordinating Agencies and Supervising Entities will be important.

Response: We are unsure what you mean by implications as opposed to guidance. However, we hope that the new draft meets this request.

UNICEF

With regard to the draft Protocol, we are generally in agreement with the aims of the Protocol, based on the understanding that reliance is placed on the rules, policies, procedures and practices of the supervising entity/implementer. However, we have some recommendations for FTI's consideration.

We would suggest including the words "in accordance with their own rules, policies and procedures" at the end of the sentence in Section 3(c)(iii). We would also recommend that the Protocol does not prescribe the method for communicating with FTI Board members in Section 6(c) but rather refers to an "appropriate method" for communicating with Board members. (Currently, the Protocol stipulates that communications will be sent by email, but depending on the sensitivity of the communication, email may not be a sufficiently secure method for transmitting such information). In Section 7, any decision regarding public disclosure should be coordinated with the relevant SE/implementer.

Response: The policy is designed to state principles and standards rather than exact procedures, to allow Supervising Entities and Implementers to use their existing regimes. The last sentence of the new draft states: "This policy and protocol shall not be interpreted or applied in any way that violates the policies of any GPE partner." The new draft also requires each recipient of Misuse Information to sign a confidentiality undertaking before being placed on the Misuse Email List. Decisions regarding public disclosure will be coordinated with the relevant Supervising Entity and/or Implementer.

ANNEX 2: RESPONSES TO SECRETARIAT QUESTIONNAIRE

France

1. Please briefly describe your agency's methods for collecting information on fraud and corruption in your programs and how these would normally apply to an Education for All Fund grant that you are supervising or implementing.

The supervision by AFD of an Education for All Fund grant would follow AFD's rules on fraud and corruption control. AFD has two internal policies relating to the collect of information on fraud and corruption:

- As a French financial institution, AFD is subject to anti-money laundering and counter terrorism financing laws (based on the third European directive 2005/60/CE). In compliance with this legislation, AFD is required to carry out KYC due diligences in order to know its new customers and its beneficial owners (« Know Your Customer ») and to have information on the level of integrity of the client. By collecting these documents (certificate of incorporation, article of incorporation, financial statements) and information regarding its reputation, AFD can assess the level of good governance and integrity of the client (public information on corruption, or fraud, background investigation by a third party...). AFD has also local agencies in various countries, enabling AFD to have reliable information on the client. These controls are updated annually by AFD during the implementation of the project.
- AFD has a procurement policy which describes all the controls/ checks which are meant to be done by AFD as well as the information and documents which have to be gathered during the procurement process. During the preparation of the project, AFD collects the procurement policy of the client in order to verify if it's acceptable for AFD, the procurement plan for the relevant project as well as the bidding documents. AFD gives an opinion (non objection or objection) at all stages of the bidding process, until the signature of the contracts.
- AFD has also several anti-corruption provisions in its credit facility agreement enabling AFD to cancel all or part of the loan or accelerate the credit facility agreement unless the corruption practices has been dealt with to the satisfaction of the AFD.

AFD is currently in a process of strengthening its anti-corruption and fraud policy: a new policy on combating fraud and corruption has been drafted by the legal and compliance departments. This policy should be agreed by the board before the end of the year 2011

2. Please briefly describe your agency's policies/regime for sharing information regarding fraud and corruption that would normally apply to an Education for All Fund grant that you are supervising or implementing, including:
- what information regarding audits of your programs is shared and with whom—can the EFA FTI Board of Directors receive access to all audit reports and management letters?
-what obligations do your staff members have when they acquire information regarding potential fraud or corruption?
The credit facility or financing agreements signed by AFD with its counterparts contain several anti-corruption provisions enabling AFD to cancel all or part of the loan unless the corruption practices has been dealt with to the satisfaction of the AFD or accelerate the credit facility agreement. This legal documentation follows the definitions o the UN convention of Mérida against corruption. Theses

agreements specify that the implementation of the funds allocated to the counterpart is submitted to annual audits of disbursements and procurements. These audits are to be implemented by external auditors selected by the counterpart under prior non-objection of AFD. The audits reports are the property of the counterparts.

When they acquire information regarding potential fraud or corruption, staff members have to report to AFD head quarter and to AFD compliance department, following specific internal procedures. .

-outside of an audit process, at what stage (receipt, verification, commencement of an investigation, completion of investigation, imposition of sanctions) does your agency share information regarding fraud and corruption in your programs with your own management and Board and outside parties?

AFD has no restriction on the sharing of information with its board. However, the sharing of information with a third party is subject to a confidentiality agreement.

-have you developed protocols for fielding media inquiries regarding fraud and corruption? If so, can these be shared?

AFD is currently strengthening its process in case of media enquiries (more particularly description of the conditions pertaining to the creation of a crisis management unit ad hoc).

3. If EFA FTI had a policy requiring Supervising Entities/Implementers to share information at an early stage with the EFA FTI Board of Directors, would that affect your decision about taking on the role of Supervising Entity/Implementer?

No position defined internally at the moment on that subject. However, if AFD had the Supervising Entity/Implementer role a confidentiality agreement would have to be signed in order to be able to share information.

Japan

1. Please briefly describe your agency's methods for collecting information on fraud and corruption in your programs and how these would normally apply to an Education for All Fund grant that you are supervising or implementing.

Given that Japan's ODA comes from taxpayers' money, fraudulent use of the funds provided for assistance must be avoided. Accordingly, the government and Japan International Cooperation Agency (JICA) work to ensure the transparency of procurement and other procedures.
In case improprieties are discovered relating to procurement or other stages of ODA project implementation, we have a mechanism whereby firms that commit improprieties are disqualified from bidding or receiving contracts for projects for a certain period.

2. Please briefly describe your agency's policies/regime for sharing information regarding fraud and corruption that would normally apply to an Education for All Fund grant that you are supervising or implementing, including:

-what information regarding audits of your programs is shared and with whom—can the EFA FTI Board of Directors receive access to all audit reports and management letters?
-what obligations do your staff members have when they acquire information regarding potential fraud or corruption?
-outside of an audit process, at what stage (receipt, verification, commencement of an investigation, completion of investigation, imposition of sanctions) does your agency share information regarding fraud and corruption in your programs with your own management and Board and outside parties?
-have you developed protocols for fielding media inquiries regarding fraud and corruption? If so, can these be shared?

Since March 2009, The Ministry of Foreign Affairs (MOFA) has established points of contacts for information on fraud and corruption in the International Cooperation Bureau, Japanese overseas missions in the recipient countries of Japanese ODA as well as JICA headquarters and overseas offices. Those points of contact aim to prevent fraud and corruption related to ODA projects and enable MOFA headquarters to streamline relevant information gathered from across the world.

MOFA has revised the rules of measures, which were formulated in 2000, and compiled "Guidelines for Measures against a Person Engaged in Fraudulent Practices in Japanese ODA projects, etc." in February 2011, based on the Report of the Study Panel for Preventing a Recurrence of ODA-Related Corruption in September 2009 and the results of the ODA Review in June 2010.

Regarding auditing, efforts have been made such to improve external auditing and to improve auditing based on audit results. In order to improve external audits, JICA has been implementing external audits using accounting auditors.

The Netherlands

The document *Procedure in the event of suspicions of misappropriation of funds* covers the official policy concerning fraud and abuse of funds at the Netherlands Ministry of Foreign Affairs. The policy is straightforward. All staff members have to inform HQ of any incident of fraud, even in the case of suspicion or rumors. Such suspicions are normally based on (i) audit and financial reports (or the inability of unwillingness of counterparts to submit such reports), (ii) media and press coverage and (iii) whistleblowers. To facilitate the process, the Ministry has opened a central e-mail address where staff can report the case. Reporting to this address sets in motion the necessary triggers for the involvement of relevant specialists, e.g. financial management staff, auditors or lawyers. If a case is politically sensitive or attracts media attention, senior management and the communications department will also be informed.

A report by a staff member on (suspicions of) fraud will set off a process in which payments to counterparts will be stopped while further investigations are undertaken, often in close dialogue with counterparts, government services (e.g. the Auditor-General) and/or other donors. If these investigations confirm fraud, this will lead to sanctions such as repayment and legal actions. The Ministry has a *Sanction Policy*. For each case, we find it relevant to reflect and distill lessons learned that we can apply to prevent fraud/abuse in the future.

Concerning information to the outside world (press, Parliament), the Ministry has the obligation to report annually to Parliament on proven cases of fraud. These annual reports are succinct. For instance, the case in the Kenyan education sector, involving funding from FTI, WB and UNICEF, all of which are supported by the Netherlands, is summarized in about 6 lines with a description of the amounts involved, stages of investigation and follow-up, including lessons learned. The Ministry does not normally share audit reports and management letters to the outside public, unless Parliament or the press would require further information concerning a specific case.

What we have experienced is that the size of the case is not necessarily related to the public attention a case will get. There are many examples where a small irregularity in one NGO generates considerably more questions from Parliament and media coverage than larger cases. Hence, staff members in the Ministry need to make a judgment call as to whether and how the Minister or outside parties are to be informed in an early stage. In practice, most cases are not reported to senior management, but are handled at the level of the Embassy or department managing the funds in close contact with the specialists at HQs.

In line with the Dutch protocol, FTI should request Supervising Entities to be open and transparent and share with the Chair and FTI Secretariat any suspicions of fraud. It is then up to the Chair, in consultation with the Supervising Entity, as to whether and how to inform the Board. This may be necessary when suspicions in fraud delay signatures of agreements or payments, which will have to be explained to the Board, and even more so when a case attracts media attention (such as in Kenya). We recommend an annual report on fraud/abuse to the Board.

Procedure in the event of suspicions of misappropriation of funds
Procedure for dealing with suspected misappropriation of ODA and non-ODA funds

Any suspicions of misappropriation of funds made available by the Minister to third parties by means of a decision, a grant or a contract must be reported promptly to the corrupt practices and sanctions reporting office. Misappropriation by the Ministry's own employees, however, must be reported to the integrity coordinator. Well-founded suspicions of misappropriation of general or sectoral budget support must also be passed on to the reporting office. If the nature of the misappropriation renders it politically sensitive, or has the potential to do so, the budget holder must notify the Ministry's senior management as soon as possible, as well as the reporting office. If the misappropriation attracts media attention, the Communications Department (COM) must also be informed.

The corrupt practices and sanctions portal is at: http://bznet/hbbz/Content.asp?key=592535

Procedure in the event of suspicions of misappropriation
1) The budget holder receives information, from an auditor, whistle-blower or some other source, about suspected misappropriation of ODA or non-ODA funds.
2) The budget holder informs the corrupt practices and sanctions reporting office of the suspected misappropriation as soon as possible. The budget holder states the project number, the amount that may have been misappropriated, and the nature of the suspicion.
3) The reporting office registers the suspected misappropriation in its database and requests additional information if necessary. It also advises the budget holder on the Ministry's zero tolerance policy and

the steps to be taken. In complex cases, advice is also sought from the Legal Affairs Department (DJZ) and/or the Audit Department (ACD). In some instances a project team may even be set up. The budget holder remains responsible for dealing with the suspected misappropriation.
4) In the case of serious suspicions, payments are stopped immediately.
5) Further steps: carry out an investigation to verify the report (based on ToR).
6) If the situation is politically sensitive, the budget holder must inform the Ministry's senior management (this rule stems from the Mandate, Power of Attorney and Authorisation Order). If the situation attracts media attention, the budget holder must also notify COM.
7) Based on the results of the investigation, the mission may decide, if misappropriation has been proved, to:
- demand repayment of the misappropriated funds
- report the matter to the police (after consulting DJZ)
- settle the matter out of court
- institute civil proceedings.
The mission may opt to take a combination of these courses of action.
8) In the electronic appendix to the annual report, all budget holders must make a declaration on the completeness of reports to the corrupt practices reporting office.
9) Parliament is notified by the reporting office of all proven misappropriations and the number of suspected cases under investigation.
10) ACD and the Court of Audit check the completeness and accuracy of the reports to parliament.

United Kingdom Department for International Development:

1. Please briefly describe your agency's methods for collecting information on fraud and corruption in your programs and how these would normally apply to an Education for All Fund grant that you are supervising or implementing.

DFID has in place a range of procedures to promote the reporting of information relating to fraud to the appropriate people within or outside the office.

- DFID staff have an obligation to report suspicions of fraud to the Head of Internal Audit, who is responsible for the DFID Counter Fraud Unit (CFU), within one week. There is a dedicated fraud reporting email address (fraud@dfid.gov.uk) and a phone number, both of which are available on DFID intranet and external website
- The CFU have a network of Fraud Liaison Officers in DFID offices around the world, who assist them both in identifying potential instance of fraud and corruption and assist in running in-country investigations where directed by the CFU
- CFU also run fraud awareness workshops and sessions for DFID staff and externals aimed at improving understanding of the issues and ability to identify evidence of potential fraud and corruption (eg. CFU recently ran a workshop in Uganda which included representatives of NGOs, donors and other government departments)
- DFID has a Whistleblower Policy which provides guidance to staff on routes through which to report a range of concerns, including fraud

Once an allegation of fraud has been made and DFID's CFU informed, they will take a number of steps to investigate the allegation:

- Allegations will be assessed by a member of CFU who will rank them against a priority scale and recommend whether or not to pursue an investigation
- If investigating, CFU will gather information from appropriate bodies involved, including going back to the source of the allegation if possible. CFU will conduct interviews and assess the evidence available
- CFU is putting in place information-sharing agreements with a number of bodies including the World Bank Integrity Team and if appropriate, will approach these and other organisations involved to share information on the allegations we have received, to seek information from them, and to liaise on how the investigation will proceed

DFID would apply the same procedures to an EFA Fund grant that it was supervising.

1. **Please briefly describe your agency's policies/regime for sharing information regarding fraud and corruption that would normally apply to an Education for All Fund grant that you are supervising or implementing, including:**
   -what information regarding audits of your programs is shared and with whom—can the EFA FTI Board of Directors receive access to all audit reports and management letters?

The UK government has announced its intention to make internal audit reports public, in the interests of transparency. DFID IAD reports will be published on the website in due course.

-what obligations do your staff members have when they acquire information regarding potential fraud or corruption?

Please see question (1) above

-outside of an audit process, at what stage (receipt, verification, commencement of an investigation, completion of investigation, imposition of sanctions) does your agency share information regarding fraud and corruption in your programs with your own management and Board and outside parties?

This is determined through an assessment of the allegation. If it is considered severe, either in monetary terms or reputationally, CFU would immediately inform DFID's Management Board. A less severe allegation would be shared with the relevant Head of Department (who would usually be the Senior Responsible Officer for the programme).

DFID would usually inform the Counter Fraud team of an organisation where an allegation had been made against that organisation. If the organisation did not have a Counter Fraud unit, or were a small operation, then it would be reported to a senior officer unless the allegations were against that officer or someone closely related to them.

If DFID was managing pooled money on behalf of other donors and received an allegation of fraud related to the pooled funds, DFID's CFU would immediately contact the CFUs of the other donors involved to tell them of the allegation and gather any relevant information from them.

-have you developed protocols for fielding media inquiries regarding fraud and corruption? If so, can these be shared?

DFID responds to inquiries with standard lines which state that we take fraud and corruption very seriously and have zero tolerance for misuse of our funds.

We would not give information to the media about a specific case unless asked directly and would not do so if this could jeopardise an ongoing investigation. Information about resolved fraud cases would be subject to the UK's FOI legislation and we would release information in response to FOI inquiries.

3. If EFA FTI had a policy requiring Supervising Entities/Implementers to share information at an early stage with the EFA FTI Board of Directors, would that affect your decision about taking on the role of Supervising Entity/Implementer?

- The severity and sensitivity of the allegations would determine the timing of information sharing – the more severe the potential fraud, the earlier DFID would share information with partners
- DFID would not share information if it would jeopardise an ongoing investigation
- DFID would often share information early eg. at verification or commencement of an investigation, but the following would be definite milestones ahead of which DFID would share information, if we hadn't done so already
    - ahead of a planned forensic audit or investigation
    - once evidence is established to show that fraud or corruption has occurred with FTI funding
- DFID does not regard possible reputational damage as a legitimate reason not to share information
- If sharing sensitive information with the Board, we would include a note that written consent from DFID would be required in order to share the information further. This could restrict dissemination to Board Members and Alternates. The disclaimer below is an example, usually attached to internal emails:

CONFIDENTIALITY DISCLAIMER: All information relating to fraud, suspected fraud or any other criminal activity is to be treated as confidential. No information is to be disclosed or distributed internally or externally without written permission from the DFID Counter Fraud Unit. Under no circumstances should the subject of allegations be made aware of the allegations or investigation without written permission from the DFID Counter Fraud Unit.

UNESCO

1) Please briefly describe your agency's methods for collecting information on fraud and corruption in your programs and how these would normally apply to an Education for All Fund grant that you are supervising or implementing.

UNESCO maintains an effective Internal Oversight Service and Ethics Office. The Internal Oversight Service includes three functions: investigation, internal audit and evaluation. Internal audit carries out risk-based annual audit plans with individual audits typically including detailed examination of controls associated with (1) efficient and effective programme implementation, (2) timely and accurate recording and reporting of information and (3) compliance with regulations and rules including controls for prevention and detection of the misuse of resources. Instances of potential misconduct, including fraud and corruption on the part of UNESCO personnel or partners, that are identified during internal audits are communicated to UNESCO's investigative unit and are either fully examined by the internal auditors in collaboration with the investigator or are passed to the investigative unit to be pursued through a separate investigative process.

Staff may report allegations of fraud or corruption directly to IOS, either by e-mail, telephone, in person, or postmail. Also, a web-based electronic form for reporting concerns of fraud to the IOS Investigation Unit will be soon set up.

Furthermore, the External Auditor, in his/her annual report on the financial operations of the Organization, should "[…] mention other matters which should be brought to the notice of the General Conference such as cases of fraud or presumptive fraud, wasteful or improper expenditure […]" as per the additional terms of reference governing the audit and published as an annex to the Financial Regulations of UNESCO.

2)Please briefly describe your agency's policies/regime for sharing information regarding fraud and corruption that would normally apply to an Education for All Fund grant that you are supervising or implementing, including:

2. a) What information regarding audits of your programs is shared and with whom—can the EFA FTI Board of Directors receive access to all audit reports and management letters?

Summaries of internal audit reports are published and available on-line. Where a stakeholder has legitimate need for more detailed information on a particular audit, this information is shared through in-depth briefings and/or access to relevant detailed information from the report.

All external audit reports, including those related to program activities, are presented to the Organization's Executive Board and publicly accessible on the UNESCO's website in all UN official languages. As a result, the EFA FTI Board of Directors may freely access to these reports.

2.b) What obligations do your staff members have when they acquire information regarding potential fraud or corruption?

According to UNESCO's whistleblower protection policy (Human Resources Manual, item 18.3, para. 2): All staff members have a duty to report any breach of the Organization's regulations and rules to

officials whose responsibility it is to take appropriate action. An individual who makes such a report in good faith has the right to be protected against retaliation.

2.c) Outside of an audit process, at what stage (receipt, verification, commencement of an investigation, completion of investigation, imposition of sanctions) does your agency share information regarding fraud and corruption in your programs with your own management and Board and outside parties?

The General Assembly, the Executive Board, and outside parties are normally not informed of individual investigation or disciplinary cases. With regard to UNESCO's own management, internal communication is organized as follows (Human Resources Manual, Item 11.3):

1. Where there is reason to believe that a staff member has engaged in misconduct for which a disciplinary measure may be imposed, the immediate supervisor of the staff member concerned shall immediately report the matter, as follows:

(a) If the alleged misconduct concerns an Assistant Director-General or Director of Bureau/Office or Director/Head of field office, the matter should be reported directly to the Director-General, with a copy to the Director, Human Resources Department.

(b) In all other cases, the alleged misconduct should be reported to the Director, Human Resources Department through the ADG of the Sector or through the Director of the Bureau/Office or the Director/Head of field office, or directly to the Director, Human Resources Department if the circumstances of the case require immediate action.

The Internal Oversight Service (IOS) may report directly to the Director, Human Resources Department any instance of possible misconduct as described above they have discovered within their regular audit or evaluation activities. The report shall give a full account of the facts that are known and shall attach documentary evidence, including signed written statements by witnesses or any other document or record relevant to the alleged misconduct. If the conduct appears to be of such nature and gravity that suspension may be warranted, the immediate supervisor shall make a recommendation to that effect, giving the reasons.

2. Upon receipt of the report, the Director, Human Resources Department shall examine whether there is prima facie evidence of misconduct based on the allegations and notify both the staff member concerned and his immediate supervisor normally within ten working days from the receipt of the report of his or her decision to pursue or close the matter.

3. If the Director, Human Resources Department finds that there are grounds to pursue the matter, he or she shall recommend to the Director-General to refer the matter to the Director, Internal Oversight Service (IOS) for a detailed fact-finding investigation. The amount of time it will take to complete an investigation will depend on the particular circumstances of each individual case, but all efforts will be made for the investigation report to be submitted not later than two months from the start of the investigation.

4. During the investigation, the staff member concerned shall be given a copy of the report of his immediate supervisor and shall be advised about the anticipated duration of the investigation.

5. At the conclusion of the investigation, the Director, Internal Oversight Service (IOS) shall submit the investigation report to the Director-General, with a copy to the Director, Human Resources Department. The investigation report shall contain all relevant facts, as well as documents and testimonies of witnesses.

6. On the basis of the evidence presented, the Director-General shall decide whether the matter should be pursued, and, if so, whether suspension is warranted.

7. If the case is to be pursued, the Director, Human Resources Department shall communicate to the staff member a Charge Letter issued in the form of a memorandum informing him or her of the allegations and his or her right to respond as well as advising him or her of his or her right to seek assistance from another staff member or retired staff member.

8. A copy of the investigation report of the documentary evidence and of the testimonies of witnesses and other evidence of the alleged misconduct shall be attached to the Charge Letter.

9. The staff member shall be given a specified time to answer the allegations and produce countervailing evidence. The amount of time allowed shall take account of the seriousness and complexity of the matter. The staff member shall ordinarily be allowed at least two weeks to respond to the allegations. If more time is required, it shall be granted upon the staff member's written request for an extension, giving cogent reasons why he or she is unable to comply with the deadline. If no response is submitted within the time limit, the matter shall nevertheless proceed.

10. On the basis of the staff member's response or any other further evidence brought into the case, the Director, Human Resources Department may be obliged to request that the investigation continues and to transmit further documentary evidence to the staff member, and/or to issue additional allegations of misconduct in a second Charge Letter. In either case, the staff member shall again be allowed at least two week to respond.

2.d) Have you developed protocols for fielding media inquiries regarding fraud and corruption? If so, can these be shared?

Protocol requires consultation with UNESCO's Sector for External Relations and Public Information (ERI) for all media inquiries. ERI handles sensitive questions on a case by case basis in consultation with UNESCO's senior management team. A "press line" is then adopted and two or three people are designated to handle media inquiries about the subject.

Question 3) If EFA FTI had a policy requiring Supervising Entities/Implementers to share information at an early stage with the EFA FTI Board of Directors, would that affect your decision about taking on the role of Supervising Entity/Implementer?

In principle, such a requirement would not affect UNESCO's decision with the clear understanding that investigative due process will be respected should "early stage" information be shared.

UNICEF

1. Please briefly describe your agency's methods for collecting information on fraud and corruption in your programs and how these would normally apply to an Education for All Fund grant that you are supervising or implementing.

UNICEF has a comprehensive set of controls in place over all of its programmes and operations. Details of all policies and procedures, including UNICEF's Anti-Fraud Policy, are publicly available on the internet. The Anti-fraud policy clearly states UNICEF's zero tolerance to fraud and corruption.

The Office of Internal Audit (OIA) conducts audits of country programmes, regional offices and headquarters divisions and organization-wide processes and procedures. The annual audit programme is based on a global risk model, which is reviewed by the independent Audit Advisory Committee and approved by the Executive Director. OIA reports independently to the Executive Director and the Executive Board.

The Anti-fraud policy, and other guidance and directives, obligate all staff members to report any suspected cases of fraud and corruption, to their supervisors, senior management or to OIA. In addition, OIA maintains a "hot-line" system through which all members of staff, partners, suppliers and the general public can report suspected cases of fraud and corruption. The OIA Investigation Unit, staffed by professional investigators, follows up on all reported cases.

2. Please briefly describe your agency's policies/regime for sharing information regarding fraud and corruption that would normally apply to an Education for All Fund grant that you are supervising or implementing, including:

UNICEF's policy on sharing of information is set out in its Information Disclosure Policy - see http://www.unicef.org/about/legal_disclosure.html.

What information regarding audits of your programs is shared and with whom — can the EFA FTI Board of Directors receive access to all audit reports and management letters?

OIA may only disclose audit reports subject to the Executive Board Decision 2009/8. This decision only allows Member States to view internal audit reports in OIA's office. However, the issue of disclosure to non-member state donors is before the Board at its second regular session in September 2011 and it is hoped that UNICEF will soon be able to share internal audit reports with specified non-member state donors, such as the EFA FTI BoD. However, this needs to be approved by the UNICEF Executive Board.

What obligations do your staff members have when they acquire information regarding potential fraud or corruption?

See general comments above.

Outside of an audit process, at what stage (receipt, verification, commencement of an investigation, completion of investigation, imposition of sanctions) does your agency share information regarding fraud and corruption in your programs with your own management and Board and outside parties?

OIA informs UNICEF management immediately upon receipt of allegations of fraud or corruption.

OIA Investigation reports are confidential and not subject to the Board decision on disclosure. Management makes decisions as to how and when to report to donors and the Board on specific cases of fraud and corruption.

To the extent that the affected program involves other UN or World Bank partners, the head of OAI generally informs his counterpart at such organization at the point when an allegation has been verified and a decision to investigate has been taken by OAI.
In addition, OIA provides a statistical summary on the number of investigations into cases of fraud and corruption, and the regions in which they occurred, in its annual report to the Board. The OIA Annual Report to the Board is publicly available on the UNICEF web site.

Have you developed protocols for fielding media inquiries regarding fraud and corruption? If so, can these be shared?
UNICEF has a zero-tolerance policy for fraud and corruption and has strict regulations and monitoring in place to protect against fraud or corruption occurring. UNICEF's communications protocol is for a statement to this effect to be provided in response to any media queries regarding fraud or corruption. The response to media questions regarding specific matters is tailored to the particular circumstances, following internal consultation with relevant units.

3. If EFA FTI had a policy requiring Supervising Entities/Implementers to share information at an early stage with the EFA FTI Board of Directors, would that affect your decision about taking on the role of Supervising Entity/Implementer?
Any engagement by UNICEF with its partners must be operationalised in a manner consistent with UNICEF's Information Disclosure Policy (and all other rules, regulations and policies of UNICEF).

World Bank

1. **Please briefly describe your agency's methods for collecting information on fraud and corruption in your programs and how these would normally apply to an Education for All Fund grant that you are supervising or implementing.**

- All FTI grants receive the same scrutiny as the Bank's own lending. The fiduciary rules are laid out in the operational policies as reflected in the link: http://web.worldbank.org/WBSITE/EXTERNAL/PROJECTS/0,,contentMDK:20120722~hlPK:581478~menuPK:41392~pagePK:41367~piPK:51533~theSitePK:40941,00.html
- We think the preparation of projects and the appraisal of concrete proposals are very important to avoid misuse of funds later on (OP10.00). Those preparation activities include financial management and procurement assessments guided by OP10.02 and OP11.00. This will also include audit requirements - sometime even specific procurement audits. In the event the FTI is acting as a Financial Intermediary Fund, it is guided by OP14.40.
- When projects have been approved the Bank signs a legal agreement between the government and the Bank that will include the fiduciary responsibilities of the government as well as the reporting requirements, including audit requirements. There is also a clause on fraud and corruption in the agreement to be able to suspend further disbursement in cases of misuse.
- During implementation we are guided by OP13.05 to conduct supervision of projects. This work is documented in implementation status reports. After closing projects a completion report is prepared (OP13.55) and often an evaluation is undertaken.
- Bank Staff Rule 8.01 explains the Bank's investigative process, including staff obligations to report suspected fraud, corruption, or misconduct.

- The Bank has a dedicated investigations unit, The Integrity Vice Presidency (INT) which has as its mandate, amongst other things, the investigation of allegations of Sanctionable Practices (Fraud, Corruption, Collusion, Coercion, and Obstruction) involving Bank funded or Bank administered projects. INT receives allegations from numerous sources including but not limited to Bank Staff, civil society, and the private sector. It maintains a website which contains information on how to contact INT directly, via the internet, and also via a toll free number accessible world wide. INT will accept anonymous allegations.

2. Please briefly describe your agency's policies/regime for sharing information regarding fraud and corruption that would normally apply to an Education for All Fund grant that you are supervising or implementing, including:
-what information regarding audits of your programs is shared and with whom—can the EFA FTI Board of Directors receive access to all audit reports and management letters?
-what obligations do your staff members have when they acquire information regarding potential fraud or corruption?
-outside of an audit process, at what stage (receipt, verification, commencement of an investigation, completion of investigation, imposition of sanctions) does your agency share information regarding fraud and corruption in your programs with your own management and Board and outside parties?
-have you developed protocols for fielding media inquiries regarding fraud and corruption? If so, can these be shared?

- The general policy on access to information was updated in July 2010. We have been told that the new policy sets a new standard for international organizations in this area. Information on the status of projects (mentioned above) are now available, and audit reports are also being made publicly available - to mention a couple of the improvements related to the FTI partnership.
- INT has its own policy on disclosure of information. Some of the questions you have outlined are answered in this Q and A.
- http://siteresources.worldbank.org/INTDOII/Resources/Disclosure_Q&A.pdf
- These policies are covering only INT activities to protect the ongoing investigations. The Bank has agreed with a number of "sister" forensic institutions to share information, and senior management in the Bank is briefed on ongoing investigations, but under strict confidentiality rules.
- Problems during implementation are extremely varied and the task teams, including the fiduciary teams, will encounter and discuss many different issues with the governments during supervision of projects. Sometimes this may lead to further investigations by the governments' own audit etc. or it might lead to further work by the fiduciary teams without necessarily leading directly to an investigation by INT. However, per Staff Rule 8.01, Bank staff have an affirmative obligation to report to their manager or to INT, allegations related to Sanctionable Practices. Managers, if informed by staff of such allegations, are obligated to inform INT. If the task team is working directly with other donors they will often be informed about the steps taken to gather more information. We think a good example of this is the KESP program in Kenya. While the Bank's obligation to ensure sound fiduciary reporting and immediate reporting to INT in accordance with Staff Rule 8.01, such discussions with the government on which steps to take as well as a discussion with other donors might even be parallel to formal forensic audits.

3. If EFA FTI had a policy requiring Supervising Entities/Implementers to share information at an early stage with the EFA FTI Board of Directors, would that affect your decision about taking on the role of Supervising Entity/Implementer?

The Bank's and INT's own disclosure policies govern this matter.

ANNEX 3: POLICY AND COMMUNICATIONS PROTOCOL ON MISUSE OF TRUST FUNDS

Definitions. In this Policy and Communications Protocol:

a. "Board" means the Board of Directors of the Global Partnership for Education

b. "Charter" means the Charter of the Global Partnership for Education approved by the Board.

c. "Contribution Agreement" has the same definition as in the Global Partnership for Education Fund Governance Document adopted by the Board.

d. "Implementer" has the same definition as in the Global Partnership for Education Fund Governance Document adopted by the Board.

e. "Grant Agreement" has the same definition as in the Global Partnership for Education Fund Governance Document adopted by the Board.

f. "Local Education Group" (LEG) has the same definition as in the Global Partnership for Education Fund Governance Document adopted by the Board.

g. "Misuse" means any fraudulent and corrupt practices including the solicitation, payment or receipt of bribes, gratuities or kickbacks, or the manipulation of contracts through any kind of misrepresentation and any use of funds which is not authorized under the terms under which it was granted.

h. "Secretariat" means Global Partnership Secretariat members.

i. "Supervising Entity" has the same definition as in the Global Partnership for Education Fund Governance Document adopted by the Board.

j. "Transfer Agreement" and "Transfer Memorandum" has the same definition as in the Global Partnership for Education Fund Governance Document adopted by the Board.

k. "Trust Funds" means all funds transferred to a Supervising Entity or Implementer from the Global Partnership for Education Fund, the Education for All Fast Track Initiative Catalytic Fund and the Education Program Development Fund.

A. POLICY ON MISUSE OF TRUST FUNDS

1. Zero Tolerance of Misuse. The Global Partnership and each of its partners (donor countries, developing country partners, civil society organizations, the private sector and private foundations, and multilateral agencies) have zero tolerance for fraud and corruption and other kinds of Misuse. Partners will take appropriate action where one of its personnel or partners commits fraud or engages in corrupt practices or Misuse and where they are the victim of a fraud or a corrupt practice or Misuse.

2. Rationale. Partners operate in developing countries that often have weak systems which present high levels of risk. At the same time, fraud and corruption and other types of Misuse are one of the major causes of poverty and constitute a barrier to reaching the Millennium Development Goals and the Education for All Goals. Early detection of, and accountability and transparency with regard to Misuse of funds in the education sector as a whole and the Trust Fund funds in particular:

a. prevents and deters future incidents of Misuse of funds in the education sector;

b. contributes to knowledge and understanding of the nature of fraudulent and corrupt activities and builds institutional capacity within governments to strengthen internal systems for detection and accountability for all public funds;

c. builds donor confidence in the Global Partnership and its partners and therefore contributes to resource mobilization for the education sector; and

d. increases the efficiency and effectiveness in the use of the Trust Funds in order to deliver maximum results in the work of the Global Partnership to reach the Education for All goals as set out in the Charter.

The ultimate victims of any Misuse of funds in the education sector, including but not limited to the Trust Funds, are the intended beneficiaries of such funds, the citizens in developing countries who stand to benefit from improvement of education programs in their countries.

3. Principle of Accountability; Prevention and Protection from Misuse. The Global Partnership for Education operates on the principle of accountability. All persons involved with Global Partnership processes, in particular those related to the funding of country-level activities through the Trust Funds,

are expected to be alert to Misuse of funds in the education sector, and in particular the Trust Funds. The following is a description of the principles and standards of accountability that are expected from each of the actors involved in the use of Trust Funds:

a. Developing country partner governments, civil society organizations and private organizations implementing education sector programs supported by Trust Funds have an obligation under their Grant Agreements to establish robust financial management and procurement systems with strong internal controls that seek to prevent, detect and respond to Misuse and to communicate any findings of Misuse to the Supervising Entity.

b. As set out in the Charter, **members of Local Education Groups (LEG), comprising of developing country partner governments, local donors, civil society organizations, multilateral agencies the private sector and private foundations** have a role to play in monitoring the implementation of the education plan of developing country partners. LEG members are encouraged to communicate with each other regarding any information they may have regarding possible or suspected Misuse of funds in the education sector. The LEG, acting through the Coordinating Agency, is expected to be in regular and open communication with the Secretariat regarding suspicion and/or evidence of Misuse of funds in the education sector, and with regard to Trust Funds in particular, including steps taken to address the Misuse.

c. Multilateral and bilateral agencies acting as Supervising Entities and Implementers have special fiduciary duties over Trust Funds and are responsible pursuant to the Transfer Agreements for making all efforts to prevent, detect and respond to Misuse when it occurs. The Board will only choose agencies with robust policies and procedures for addressing Misuse to act as Supervising Entities or Implementers. Supervising Entities and Implementers shall:

i. be familiar with the types of improprieties that might occur and be alert for any indication of irregularity;

ii. ensure that strong risk management and procedures to prevent Misuse exist at every step of the grant life cycle;

iii. have regular, open and immediate communication with the LEG and the Secretariat regarding any suspicion or evidence of Misuse;

iv. as set out in the Contribution Agreements, recover and reimburse any funds from the Trust Funds that have been misappropriated due to Misuse;

v. as set out in the Transfer Agreements and Transfer Memorandum, ensure that they comply with the decisions of the Board; and

vi. encourage the pursuit of perpetrators of Misuse under the appropriate legal mechanism.

In addition, Supervising Entities have a duty to conduct appropriate due diligence of developing country partner governments to ensure that their financial and procurement systems (including internal control mechanisms) meet international standards.

In cases where multilateral and bilateral agencies are also contributing their own funds to the education sector in a developing country partner, it is expected that such agencies communicate information with the Secretariat regarding suspicion and/or evidence of Misuse in the sector as a whole.

d. **The Secretariat** shall be the focal point for communications on suspicion or evidence of Misuse of Trust Funds and shall communicate information to the Board in accordance with the Communications Protocol set out in part B below. The Secretariat shall be in regular communication with the LEG and with the Supervising Entities to monitor the use of Trust Funds in order to prevent and detect Misuse and to address Misuse when it occurs, including actions taken to recover and reimburse funds to the Trust Funds. At all times, the Secretariat shall take all necessary measures to support the Supervising Entity or Implementer in fulfilling their fiduciary duties as described in paragraph c. above.

e. **The Board** approves all allocations from the Trust Funds, including the Supervising Entity identified by the LEG. The Board shall exercise its responsibilities in compliance with the Policy on Conflicts of Interest and in a way that minimizes the risk of Misuse.

4. Requirements in Trust Fund documents, etc.

a. Transfer Agreements. The Trustee for the Trust Funds shall include in the Transfer Agreements, Transfer Memorandum or other documents transferring funds to Supervising Entities or Implementers an obligation for the Supervising Entity or Implementer: (i) to use its framework to manage Misuse in relation to Trust Funds; (ii) to provide prompt information regarding suspicion or evidence of Misuse of Trust Funds to the Secretariat; and (iii) to comply with the decisions of the Board. The communication of information provided under (ii) to the Board shall be subject to the Communications Protocol in part B below.

b. Grant Agreements. Supervising Entities shall include in their Grant Agreements with developing country partners: (i) anti-fraud provisions; (ii) obligations to comply with the decisions of the Board; and (iii) obligations to provide prompt communication from the grantee to the Supervising Entity of any suspected Misuse of Trust Funds.

c. Whistleblowing. Supervising Entities, Implementers and other partners shall ensure that they maintain policies to protect employees from retaliation due to providing information in relation to Misuse of Trust Funds on a good faith basis.

5. Communication of Policy. The Secretariat shall disseminate this policy to all partners, post it on the Global Partnership website and include it in the Board manual and Country-Level Process Guide. In addition, a copy of this Policy shall be sent to all LEGs upon notification of an allocation from the Global Partnership for Education Fund.

B. COMMUNICATIONS PROTOCOL

1. Principle of Transparency. The Global Partnership for Education, a partnership of developing countries, donors, civil society organizations, the private sector and private foundations and multilateral agencies, operates in a transparent manner. As set out in the Charter, "Relationships and communications among developing country partners, donors, multilateral agencies, civil society organizations and the private sector and private foundations are built on clarity and transparency."

2. Communication to Secretariat. As set out in the Policy in Part A above, the partners in the Global Partnership have zero tolerance for fraud and corruption and other kinds of Misuse. All partners

are expected to communicate information regarding suspicion or evidence of Misuse in the education sector, and with regard to the Trust Funds in particular, to the Secretariat at their earliest possible opportunity.

3. Communication to the Board. It is essential that information be shared with the Board as soon as possible regarding potential or actual Misuse of Trust Funds. Early disclosure enables the Board to act swiftly in response to information on Misuse and be prepared for further enquiries from stakeholders.

4. Procedures for Communication to the Board; Confidentiality.

a. Board Members, Alternate Board Members and one representative of each donor to the Trust Funds are eligible to receive official communications from the Secretariat regarding Misuse of Trust Funds. All persons eligible to receive such information are required to sign a confidentiality undertaking, in the form provided by the Secretariat. Persons having signed an undertaking shall be placed on the Misuse Email List.

b. Upon receipt of information relating to the suspicion or evidence of Misuse of Trust Funds, the Head of the Secretariat shall advise the Chair of the Board of the content of the information. The Chair of the Board and Head of the Secretariat shall immediately send a joint communication to the Misuse Email List disclosing the information unless, under exceptional circumstances, the source of the information requests that the information be kept confidential in order to:

i. protect an ongoing investigation of those involved in the potential Misuse;

ii. avoid compromising any legal or other action taken by the national authorities of the country involved;

iii. protect the personal safety of those undertaking the investigation;

iv. protect persons making reports of Misuse (“whistleblowers”); and/or

v. avoid legal and other action (defamation, etc.) due to the release of detailed and possibly unsubstantiated allegations against those potentially involved in the Misuse.

5. **Public Disclosure.** Where appropriate, the Head of the Secretariat and the Chair of the Board will issue a public statement about Misuse of Trust Funds, including through a press release and/or a posting on the Global Partnership website. Some considerations that may be taken into account in a decision not to issue a public statement include those listed in paragraph 4.b. above, as well as a situation where an allegation of Misuse is not confirmed. Except under exceptional circumstances, it is expected that no public disclosure will be made by the Secretariat or by the LEG, the Supervising Entity or Implementer, or other partner without first providing such information to the Board and advising the Board that a public statement will be made. Any public disclosure will be made in coordination with the relevant Supervising Entity and/or Implementer.

6. **Report at Board Meetings.** The Head of the Secretariat shall provide a verbal report at every in-person Board meeting, in executive session if necessary, regarding information known at the time regarding Misuse of Trust Funds, subject to paragraph 4 above.

7. **Lessons Learned.** On an annual basis, starting with the first meeting of the Board in 2012, the Secretariat shall prepare a paper for consideration by the Board of the lessons learned from the findings of Misuse of Trust Funds, if any, over the previous year. Such reports shall include recommendations based on the lessons learned for the Board's consideration.

8. **Policy and Sources.** The policies and procedures outlined in this document are an elaboration of the principles set out in the Charter and the Global Partnership for Education and the Global Partnership for Education Fund Governance Document. All partners are encouraged to support the full implementation of this policy. This policy and protocol shall not be interpreted or applied in any way that violates the policies of any partner.