Time to take stock of the Global Fund's Challenging Operating Environment Policy

Introduction

Two activities have been initiated in the Global Fund ecosystem, both related to the implementation of Global Fund grants under the Challenging Operating Environments (COEs) Policy: the evaluation, commissioned by the Technical Evaluation Reference Group (TERG), of Global Fund performance in countries under the COE Policy, and the 22-23 June meeting organized by the African Constituency Bureau (ACB) in Lomé for representatives of Francophone countries, also on the topic of COEs.

COE countries met to analyse and make recommendations on the COE Policy

The first virtual session proved to be very instructive in terms of how countries classified under this category of difficult intervention contexts understand and perceive the parameters of the Policy that is of most concern to them. For the most part, they expressed unfamiliarity with the provisions and principles underlying the Policy, which was adopted in 2016 by the Global Fund Board. There is not only a lack of awareness of the Policy but there is an over-interpretation of its repercussions, which generally (but not systematically) include restrictive measures aimed at mitigating the financial risk attached to poor governance and inappropriate management of funds.

During this preliminary session, most of the countries mentioned the Additional Safeguards Policy (ASP) found in the Operational Policy Manual. The safeguards range from the imposition of a fiscal agent responsible for verifying and validating all commitments upstream of activities, to procedures for requesting a no-objection notice from the Global Fund, to audits of the Local Fund Agent (LFA).

The ASP is a set of measures that the Global Fund introduces whenever “the existing systems to ensure accountable use of Global Fund financing suggest that Global Fund monies could be placed in jeopardy without the use of additional measures”. Examples of criteria for invoking ASP include: significant concerns about governance; the lack of a transparent process for identifying a broad range of implementing partners; major concerns about corruption; a widespread lack of public accountability; recent or ongoing conflict in the country or region of operation; political instability or lack of a functioning government; poorly developed or lack of civil society participation; financial risks such as hyperinflation or devaluation; or lack of a proven track record in managing donor funds.

All of these measures, although recently relaxed (for example, the 0 cash policy that prohibited the circulation of cash is no longer practiced and has been replaced by a “limited” cash policy or measures such as payment by mobile money, which avoids the use of cash and allows funds to be traced), have left their mark. They have effectively slowed down implementation and posed very concrete problems for beneficiaries in implementing activities and paying providers. They also indicated the Global Fund’s distrust of country actors, suspicion of fraudulent intent, and a ‘trusteeship’ of countries under ASP.

Partnership, innovation, and flexibility: the three key principles underpinning the COE Policy

In recent years conditions have evolved and some safeguard measures have been relaxed or even disappeared. Moreover, while it is certain that all countries under the ASP are, or have been, classified as COEs, the COE Policy is not limited to aspects of good financial management. It is even radically different in spirit, since the three principles that underlie it are partnership, innovation, and flexibility.

As is often the case at the Global Fund, there is no clear definition of what each of these concepts means.

Innovation is, by definition, a concept that must be considered in its context and, as such, it is relative. What is new for one context is not necessarily new for another, and innovation is not only about modus operandi but also about new subjects never before addressed, new actors, or new partnerships. To a certain extent, this notion is an umbrella for the two other principles of the COE Policy: partnership and flexibility.

Partnership is one of the Global Fund’s key principles and is therefore not specific to COEs. Hence it is important to understand that the kind of partnership mentioned in the Policy is to allow solutions to be found in contexts where there are many obstacles and bottlenecks that are difficult to remove relying on classical partners.

The same is true for flexibility because while the concept is clear – being responsive and adapted to contexts – the operational translation does not tell us what is considered a reasonable time frame for implementing flexibility measures. Nor does it give examples of what could be an exceptional measure compared to what the Global Fund authorizes in classic implementation.

The COE representatives present at the first virtual meeting expressed surprise at the suggestion that a roadmap for exiting the ASP is now possible. Discussions had not taken place between the Global Fund Country Teams (GFCTs) and the Country Coordinating Mechanisms (CCMs), and none of the Principal Recipients (PRs) or CCM representatives present were able to point to any easing measures that would point to an exit, even a gradual one, from the ASPs.

The other observation from the countries concerned the negotiation of flexibility measures. The country representatives acknowledged that they were not always able to name flexibility measures for their country, and they did not know at what level discussions about flexibility measures were taking place. The initiative rests with the GFCTs, and discussions are usually held with the PRs or directly with the actor who is the subject of or concerned by the flexibility measure. For example, in the case of specific partnerships such as the one between the Global Fund and humanitarian non-government organizations (NGOs), discussions have taken place with the NGOs to define the framework for their interventions, their targets, and their programmatic and financial reporting, which differs from those usually required by the Global Fund.

What can COEs expect from these discussions?

A major change? Perhaps, if the representatives of the COEs manage to define what they want and what role they intend to play in the operationalization of the COE policy in the future. Indeed, there are different levels of discussion and strategy development. Do COEs mandate African representatives on committees and the Board to advocate for and participate in a review of the COE policy? With what recommendations?

It is indeed time to take stock of the Policy in the countries, and to analyse what can be expected from a Policy review.

First, this discussion is closely linked to that concerning risk appetite, in a context where many countries have seen their political, economic and security situation deteriorate further. Examples are the 10-year-old conflict in Syria, the war raging in Yemen, and the ongoing abnormal situation in Afghanistan and Iraq. In the Sahel, massacres of civilians and coups d'état have weakened governments, against a background of terrorism and banditry. In operational terms, this means an increase in humanitarian needs and responses in contexts where operations are dangerous and risky.

Second, countries must define the processes that can help them to obtain flexibility measures. Do they wish to take the initiative? Who should be the actors involved in the discussion? Does this mean involving upstream actors who are currently not very involved, such as the Office of the High Commissioner for Refugees (UNHCR), the United Nations Population Fund (UNFPA) which coordinates the 'Gender-Based Violence' sub-cluster, and/or the United Nations Office for Humanitarian Affairs (OCHA)? On the other hand, how do countries relieve themselves of cumbersome procedures that do not necessarily guarantee the proper management of funds but can significantly delay program implementation? When and in what form will country actors be involved in these specific discussions on risk management measures? They are currently excluded from these discussions, even though they are the main guarantors.

Finally, following the French President Macron's advice, countries will initiate discussions on the 'simplification shock' that should allow implementers, but also GFCTs, to focus on more flexible and rapid implementation. This 'simplification' is intended to address "overcomplicated standards and unnecessary laws". For the COE countries, it will include a review of all risk management measures to ensure that only the most effective tools are retained, because as one participant said, "too much control kills control". It will also free up the mental space to develop solutions without the fear of lengthy and burdensome validation processes that often deter teams from introducing flexibility measures.

Conclusion

In Lomé, COE countries had to decide where they wanted to travel on the road to implementation. Didthey want to continue to occupy the back seat of the car? That seat leaves little visibility of the road, andlittle power to decide which route to take, with the initiative in the hands of the PR and/or the GFCT. Didthey want to be in the co-driver’s seat? The co-driver’s seat offers better visibility, but if the driver makes a mistake, the co-passenger is the most exposed in the car, which is why the seat is called the “dead man’s seat”. In Global Fund parlance, this means that if the PR makes a mistake or takes too much risk, the country has to pay the bill, both in terms of reimbursing ineligible expenses and imposing new risk management measures. Finally, countries could decide to be the pilots, and to do so they must look at a map, choose a route, and make sure that their vehicle is equipped, safe, and able to make the long-awaited trip. Recommendations and decisions make us think that they chose the pilot seat.

The exchange of practices proved to be very fruitful: the representatives of the PRs noted that flexibility measures vary greatly from one country to another, but that they most often respond to common problems and bottlenecks encountered almost everywhere: how to pay providers and activities in hard-to-reach areas? What framework for collaboration can be negotiated with UN agencies and humanitarian NGOs for the delivery of services in areas of great insecurity where the state no longer intervenes? How can we better collaborate with community-based organizations to verify activities in areas where spot checks are not possible? Each country presented the measures that have been put in place as part of the grant and analysed the results and value added.

In addition, participants discussed the difficulties associated with risk management procedures that are sometimes considered too restrictive in relation to the results obtained. Ways to reduce the burden of these measures were outlined, and a change in the current unbalanced power between risk management actors and implementers was called for.

A roadmap and an Outcome Statement came out of this meeting so rich in content. For the next 12 months, and under the leadership of the African Constituency Bureau, the 13 countries present committed to evolve the COE policy, the implementation framework, and the current dynamics that give country teams the initiative to propose flexibility measures, so that this initiative is shared with country actors for better ownership and leadership.

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