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Sophie Smyth

Anna Triponel

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EDUCATION AS A LYNCHPIN OF DEVELOPMENT: LEGAL AND POLICY CONSIDERATIONS IN THE FORMATION OF THE EDUCATION FOR ALL – FAST TRACK INITIATIVE CATALYTIC TRUST FUND

by *Sophie Smyth and Anna Triponel**

INTRODUCTION

Many of us share a common belief in the supreme value of education as a central tool in the fight against poverty, the achievement of growth, and the empowerment of citizens in both the developed and the developing world. As put in the inimitable words of Amartya Sen, “to build a country, build a schoolhouse.”¹ But the provision of education requires resources, and finding those resources is an ongoing challenge. In the case of the developing world, where some 115 million children remain out of school – two-thirds of them girls, and most of them poor or otherwise disadvantaged, this challenge is particularly acute. This need, however, is not being ignored and efforts are being taken at several levels to address it.

The formation of the World Bank’s Education For All – Fast Track Initiative Catalytic Trust Fund is one such effort. This article describes the background to the fund and analyzes the legal and policy issues that arose in its formation. The article concludes with some thoughts on lessons learned from the formation of the fund that are pertinent to the formation of future trust funds for the provision of international development aid.

EDUCATION AS A DEVELOPMENT PRIORITY

Education has long been recognized as a lynchpin of development. Following the end of World War II, the Universal Declaration of Human Rights, the first international instrument ever to list a number of civil, political, economic, social and cultural rights, asserted that “everyone has a right to education.”² Further, in 1945, the United Nations Educational, Scientific and Cultural Organization (“UNESCO”) was founded for the express purpose of contributing to peace and security “by promoting collaboration among nations through education . . .”³

More recently, the importance of education has received renewed impetus. Stark data gathered by UNESCO throughout the 1980s showed, for example, that more than 960 million adults worldwide were illiterate (two-thirds of them women) and that more than 100 million children (60 million of whom were girls) had no access to primary schooling, spurring UNESCO to convene the World Conference on Education for All in Jomtien, Thailand in 1990. The conference, attended by 155 countries and representatives from 150 organizations, gave birth to the Education For All movement (“EFA”). EFA set as its goals a massive reduction in worldwide illiteracy by the end of the decade and, ultimately, the universalization of basic education worldwide.

Ten years later, at the World Education Forum convened by

UNESCO in Dakar, Senegal to review progress in these goals, the 164 countries participating renewed their commitment to the goals of EFA and agreed on six targets for action, the Dakar Framework of Action.⁴ These targets included a commitment to ensure that “by 2015 all children, particularly girls, children in difficult circumstances and those belonging to ethnic minorities have access to, and complete, free and compulsory primary education of good quality.”⁵ This goal was subsequently adopted as Millennium Development Goal Two, in the Millennium Declaration adopted by the United Nations Millennium Assembly in September 2000.⁶

THE NEED FOR FINANCIAL RESOURCES

But education costs money; a lot of it, and the key concern for developing countries concerning EFA was whether the developed world’s renewed emphasis on the importance of education would bring with it the badly needed resources to make access to education a reality. The rhetoric of Dakar held promise, as the Framework for Action stated that “no country seriously committed to Education For All will be thwarted in its achievement of universal primary school completion by 2015 due to lack of resources.”⁷

Further, at the International Finance and Development Conference held in Monterrey, Mexico in March 2002, the developed and developing countries present forged the Monterrey Consensus, according to which the developed countries committed to boost trade opportunities and the availability of development aid to developing countries with sound development policies.⁸ The essence of the Monterrey Consensus was the notion of “performance-driven aid,” namely, that international development aid should follow and support clear evidence of commitment to reform and improvement on the part of the recipient country.⁹ A further component of the Consensus was that international financial institutions and bilateral aid agencies should facilitate and support replication of programs found successful in one region of the world in other regions (known as the process of “scaling up”). Three months after the

* *Sophie Smyth is Senior Counsel in the Cofinancing and Project Finance Unit of the Legal Vice Presidency of the World Bank and is currently serving as Visiting Professor of Law at American University, Washington College of Law. Professor Smyth welcomes comments at ssmyth@worldbank.org.*

Anna Triponel is a Consultant at the EFA – FTI Secretariat at the World Bank and a Member of the Advisory Council of the Public International Law & Policy Group. Ms. Triponel welcomes comments at atriponel@worldbank.org. The views in this article are those of the authors and do not necessarily reflect the views of the World Bank.

Monterrey Consensus was forged, the World Bank launched the Education For All - Fast Track Initiative (“EFA-FTI”), the first attempt to put the principles of the Consensus into practice in a sector-specific way.

The EFA-FTI is designed to accelerate progress towards the attainment of universal primary education by providing enhanced policy, capacity-building, and financial support to countries that have sound poverty reduction strategies and education plans.¹⁰ It is a global, decentralized partnership that includes donor and recipient countries, UNESCO, and the World Bank. It is supported by a small secretariat, housed in the World Bank, which performs a knowledge sharing and coordination role.

The soundness of a country’s poverty reduction strategy (which is developed by a country in consultation with the World Bank) is determined by the World Bank. In accordance with the decentralized nature of the EFA-FTI partnership, however, the soundness of a country’s education plan is determined by the donor agency representatives located in the country, working together as an in-country group (known as a “Local Donor Group”) with whom the country consults whilst developing the plan. Countries’ education plans are assessed by the Local Donor Group in accordance with EFA-FTI assessment guidelines and an Indicative Framework, agreed by the global partnership as a whole.¹¹ Such criteria include the requirement that universal primary education be a priority of the education plan and that the plan focus on completion of primary education and not simply on enrollment.¹²

The idea behind the EFA-FTI was that endorsement of a country’s education plan would operate as a seal of approval and a signal to donors interested in providing aid for education that a country had a plan whose implementation was worthy of support. It was anticipated that countries that had developed such plans would receive resources to implement them. It soon became apparent, however, that relying on existing resources and channels was not enough and that a major infusion of new funds was needed. But several countries worked hard and expended substantial political capital to put together plans endorsed by the Local Donor Group, only to find no resources flowing from any source for implementation. These countries complained of being abandoned and alleged that donor countries had not lived up to their commitments.¹³ The need for funds was particularly acute for those countries which, for historical reasons, have very few bilateral donors, known as “donor orphans.”

Additional pressure for funding arose from the fact that it was becoming increasingly clear to the international community that the Millennium Development Goal of universal primary education by 2015 could not be attained unless more funding was made available to developing countries for education. The Education For All – Fast Track Initiative Catalytic Fund (the “Catalytic Fund”) was formed as a preliminary step towards filling this gap.

THE EDUCATION FOR ALL – FAST TRACK INITIATIVE CATALYTIC FUND

The Catalytic Fund, which is administered by the World Bank as trustee, was initiated in November 2003 when the

Netherlands, Norway, Italy, and Belgium pledged a total of \$49.0 million to support the EFA-FTI.¹⁴ It provides short-term transitional funding to countries¹⁵ that have developed poverty reduction strategies and education plans that meet EFA-FTI criteria but who had too few bilateral donors to enable them to implement those plans, *i.e.* it is targeted to donor orphans.¹⁶ The funding provided is short term, varying from one to three years in duration, because it is intended to have a catalytic effect. The aim is to jump start the funding process for countries starved of funds, with the idea that more long-term, sustained bilateral funding will follow once a recipient of Catalytic Fund resources is seen by the donor community as serious in its commitment to education and capable of building a track record.

THE NOVEL FEATURES OF THE CATALYTIC FUND

A CENTRALIZED FUND TO FINANCE A DECENTRALIZED INITIATIVE

Creating a centralized funding mechanism for a wholly decentralized program, which depended for its credibility and efficacy on being decentralized, presented a challenge. Usually,



Courtesy of World Bank Photo Library

Bangladeshi girl at school.

the provision of funding comes with strings attached. The trick was to prevent any such strings from overwhelming the locally owned and locally driven nature of EFA.

The sustainability of the education plans endorsed by the EFA-FTI derived from the fact that the plans were designed and driven by the countries themselves in consultation with the Local Donor Groups. Ownership of the plans, commitment to, and responsibility for their implementation was vested squarely in the developing countries. The donors to the Catalytic Fund were adamant, therefore, that the fund should simply be a financing mechanism for this pre-existing decentralized process and not become a supreme governing body, dictating additional terms and requirements to countries that had already undergone considerable effort to meet EFA-FTI criteria. This overarching concern of the donors, however, had to be balanced against the concern of the World Bank that it be given adequate authority to discharge the fiduciary duties of a trustee. Managing other people’s money is serious business and the Bank, which serves as trustee for several hundred trust funds,

collectively amounting to over \$9 billion in assets, has established policies and procedures for doing so, from which the Catalytic Fund cannot lightly depart.

INNOVATIONS IN THE DESIGN AND SCOPE OF THE CATALYTIC FUND

Balancing between these competing priorities gave rise to a need for several innovations in the design and scope of the Catalytic Fund. These included: (1) a two-tiered governance structure; (2) an expansive group of eligible recipients, (3) flexibility regarding monitoring and supervision; and (4) flexibility regarding coverage and disbursement procedures.

A Two-Tiered Governance Structure

Under standard World Bank trust arrangements, trust fund donors enter into a trust administration agreement with the Bank as trustee which sets out the broad objectives of the trust. Thereafter, the donors more or less drop out of the picture. The Bank, in its sole discretion, allocates the trust funds in accordance with the objectives, reporting after the fact to the donors on how the trust funds have been spent. The Catalytic Fund donors wanted a more active and ongoing role in the management of the fund than provided by this standard format. Consistent with the importance they attributed to the Local Donor Groups and the close working relationship between those groups and the countries where they were based, they wanted a mechanism that would reflect, in a dynamic way, the input of those groups. To effect this need, it was agreed that the Catalytic Fund should have its own *sui generis* governance structure.

The structure agreed upon provides for the formation of a Strategy Committee (the “Committee”) to define and direct the fund’s assistance strategy and for the allocation and commitment of fund resources in accordance with a two-step process. The Committee is comprised of a senior representative from each donor¹⁷ and a representative from the Bank’s senior management, who serves as the Committee’s chairperson. It meets to select which countries will receive assistance from the fund and how much each selected country will receive. All decisions of the Committee are by consensus. Criteria taken into account by the Committee in choosing between eligible candidates for assistance include: (1) demonstrated commitment on the part of the country’s government to fund primary education; (2) tangible efforts by the government towards achievement of the goal of universal primary education for boys and girls by 2015; (3) capacity to implement the education plan devised; and (4) the relative unavailability of other external donor funding for the country’s primary education program.

The Bank’s concern that it has sufficient discretion to discharge its fiduciary duties as trustee was met by separating the process of selecting recipients and allocating funds from the process of actual disbursement. The Bank wanted to retain the discretion not to disburse funds to an entity if, in its judgment, the entity did not have the financial management capacity to monitor and report on the use of such funds. Thus, although the constituent documents of the Catalytic Fund provide that the Committee will make recommendations on what entity, within a

country selected to receive assistance, should be the actual recipient of any funds provided, the Bank has the final say on who the actual recipient will be. Accordingly, following the Committee’s selection and allocation process, the Bank as trustee, in consultation with the government of the country selected to receive funds, and with the Local Donor Group, and mindful of the Committee’s recommendation, decides which entity will be the actual recipient of allocated funds.

An Expansive Group of Eligible Recipients

A broad range of possible recipients qualify as “Eligible Recipients” of the Catalytic Fund, including: (1) the ministries of “Eligible Countries” (countries that have a poverty reduction strategy and an EFA-FTI endorsed education plan); (2) country-specific trust funds established to support education in an Eligible Country; and (3) aid agencies of governments providing assistance to Eligible Countries and any other Eligible Recipient approved by the Committee. The donors’ goal in having this range of possible recipients was to achieve maximum flexibility so that the fund could function as a supplement to the ongoing coordinated efforts of the EFA partnership and respond to needs identified by the Local Donor Groups as part of that partnership rather than becoming a separate, disconnected initiative.

Flexibility Regarding Monitoring and Supervision

Countries seeking EFA-FTI endorsement of their education plans have to comply with a plethora of substantive requirements set by the EFA. Donors to the Catalytic Fund did not want to require countries that had met such requirements to comply with an additional set of requirements as a condition of receiving funding. It was therefore agreed that the progress reporting requirements on recipients should mirror those required under EFA whereas the financial reporting, which enables the Bank to fulfill its fiduciary duty of reporting back to the donors on the money entrusted to it as trustee, is set by the Bank. Hence, the review of progress is done in conjunction with the country’s regular schedule of reviews of its sector program with the participation of all other donors that support the country’s education sector development program. Team leaders then report back to the EFA-FTI Secretariat on progress concerning the Catalytic Fund, in conjunction with their reporting on Bank support in the sector. However, the World Bank steps in when it comes to fulfilling its duty of financial reporting. These accounting and auditing requirements follow standard operational policies for World Bank adjustment and investment loans and credits. The Bank then ensures the donors receive the financial reporting by making these assessments available to the Strategy Committee.

In its role as Trustee, the World Bank is also traditionally required to supervise the activities financed under the Grant Agreements. The provisions relating to supervision within the Catalytic Fund allow for a certain flexibility as the Bank supervises only when it is best placed to do so. The Bank therefore supervises when the recipient of the funding is a country government or a country specific trust fund for which the bank already acts as trustee. If the money is granted to

another recipient, the Bank is not liable for any supervision, unless the Committee decides to the contrary. As the Steering Committee makes decisions by consensus, this leaves the Bank the last say on whether it is best placed to supervise the activities in question.

Flexibility Regarding Coverage and Disbursement Procedures

Prior to 2003, the Bank's policy was not to finance recurrent expenditures, as by definition, these expenditures were ongoing and a specific objective would never be achieved. This changed in 2003 with the realization that certain objectives could only be met if recurrent costs were financed. Education provides an example of such an objective, as financing teacher's salaries and wages is key in the goal of achieving universal primary education. The Catalytic Fund was established shortly after the change in Bank policy and was hence the first fund in the Bank to finance recurrent expenditures.

The disbursement procedures used by the Catalytic fund are also innovative. When the Bank acts as trustee, grant agreements traditionally follow a project based model whereby funds are disbursed on the basis of receipts of evidence of expenditure. The Catalytic Fund however uses as a preference a policy based lending model that allows for a disbursement directly into the budget. Recipients therefore do not report back on a particular project with receipts of expenditures but report instead on the achievement of certain targets related to education. This enables a fast disbursement and allows the recipient country to use the funding in line with national priorities. This policy based lending however also requires extra caution as there is less certainty on where exactly the funds are being used. Therefore, when there is a high fiduciary risk to using the government's budget systems, the Catalytic fund allows other disbursement methods to be used.

THE EXPERIENCE OF THE CATALYTIC FUND

Total pledges and commitments to the Fund reach \$288 million for the period 2003-2007. Nine developing countries

have been allocated grant assistance from the Fund, including Gambia, Ghana, Mauritania, Guyana, Niger, Nicaragua, Yemen, Madagascar, and Kenya.¹⁸ Additional related trust funds have been established within the EFA-FTI partnership to further the goal of universal primary school completion. In November 2004, for example, the multi-donor Education Program Development Fund was created to make grant funding available to those countries without education plans and weak capacity to provide technical support and build the capacity required to prepare and implement a sound education plan. That fund also finances knowledge sharing activities, designed to spread information on best practices and developing countries' experiences towards the goal of achieving universal primary education. A separate trust fund has also been established to fund the costs of the EFA-FTI Secretariat. More recently, certain donors are pursuing the creation of an EFA-FTI Expansion Fund to provide ongoing support to countries' primary education programs beyond the short-term horizon of the Catalytic Fund.

CONCLUSION

The formation of the Catalytic Fund illustrates how the concrete nature and accompanying timetables of the Millennium Development Goals can serve as a basis for galvanizing action and mobilizing resources. To the extent that such effect results in the flow of additional resources to development aid, the goals serve a positive role. To the extent, however, that the goals result in the re-allocation of existing resources with consequential distortions in priorities, their effect is clearly problematic. Independent of the merits of that debate, however, it is clear that the financing modalities used to handle a spike in aid to an area targeted by the Millennium Development Goals, need careful thought. The goals place a high priority on local ownership and control that has to be balanced against fiscal responsibility. The compromise achieved by the Catalytic Fund's structure, scope and policies, is a starting point for finding the appropriate middle ground between those competing priorities.



ENDNOTES: Education as a Lynchpin of Development

¹ Amartya Sen, *To Build a Country, Build a Schoolhouse*, N.Y. TIMES, May 24, 2002.

² See Universal Declaration of Human Rights, G.A. Res. 217 (III), at 71, U.N. GAOR, 3d Sess., 1st plen. Mtg., Supp. No. 13, U.N. Doc. A/810 (Dec. 12, 1948), at art. 26.

³ United Nations Educational, Scientific and Cultural Organization ("UNESCO") Constitution, Nov. 16, 1945, at http://portal.unesco.org/en/ev.php-URL_ID=15244&URL_DO=DO_TOPIC&URL_SECTION=201.html (last visited Nov. 21, 2005).

⁴ UNESCO, World Education Forum, *The Dakar Framework for Action. Education for All: Meeting our Collective Commitments* (2000), at ¶ 15. The Six Education for All Goals are: expand and improve comprehensive early childhood care and education; ensure universal access to and completion of free and compulsory primary education of good quality; improve learning opportunities for youth and adults; increase adult literacy rates by fifty percent; achieve gender parity in primary and secondary

education by 2005 and gender equality by 2015; and improve all aspects of the quality of education.

⁵ See *id.*, at ¶ 7.

⁶ United Nations Millennium Declaration, G.A. Res. 55/2, U.N. GAOR, 55th Sess., Supp. No. 49, at 4, U.N. Doc. A/55/49 (2000). The United Nations Millennium Assembly was an historic meeting at which 145 world leaders expressed a global determination to end some of the most challenging and vexing problems inherited from the twentieth century. See also, JEFFREY D. SACHS, *THE END OF POVERTY: ECONOMIC POSSIBILITIES FOR OUR TIME* 210 (Penguin Press 2000).

⁷ UNESCO World Education Forum, *supra* note 2, at ¶ 48.

⁸ International Conference on Financing for Development, Mar. 18-22, 2002, *Report of the International Conference on Financing for Development*, U.N. Doc. A/CONF.198/11 (2002).

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⁹ *Id.*

¹⁰ WORLD BANK, FOCUS ON SUSTAINABILITY 2004, 65 (2005).

¹¹ Local agencies involved in supporting the education sector nominate a Coordinating Agency to lead the FTI assessment and endorsement process and serve as a liaison with the Ministry of Education and the EFA-FTI Secretariat.

¹² FOCUS ON SUSTAINABILITY 2004, *supra* note 10, at 65. EFA-FTI criteria also require that an education plan focus on the quality of the education to be provided and on the sustainability of a country's education system.

¹³ Oxfam International, *Education for All: Fast Track or Slow Trickle?* (2003).

¹⁴ The Netherlands pledged the lion's share of the funding with \$39.5 million. Norway pledged \$5.9 million, Italy \$2.4 million, and Belgium \$1.2 million for the years 2003-2004. These countries also committed money in 2005 and were joined by \$5.3 million from Sweden and \$6.1 million from Spain (still outstanding). In 2006-2007, pledges have also been made by the EC for \$76.2 million, Ireland for \$1.5 million and the UK for \$64.8 million.

¹⁵ Funding from the Catalytic Fund is available only to IDA-eligible countries. The World Bank operates through two main windows: the International Bank for Reconstruction and Development ("IBRD"), which provides loans on near-market terms to middle-income countries, and the International Development Association ("IDA"), which disburses

highly subsidized loans to poorer countries. Countries are classified for IBRD or IDA funding based on two criterion: 1) income levels, with the IDA cutoff at approximately \$900 (with a few exceptions); and 2) credit-worthiness, based on Bank staff judgments about a country's ability to borrow on private capital markets.

¹⁶ In March 2005, the Strategy Committee of the Catalytic Fund agreed that for the purposes of Fund eligibility, a donor orphan would be any IDA-eligible country who received funding from four or fewer bilateral donors contributing a maximum of \$1 million each to that country's education sector. *See Minutes of Catalytic Fund Strategy Committee Meeting, July 2005* (on file with authors).

¹⁷ Only donors who contribute a minimum of one million dollars may appoint a representative to the Strategy Committed. To date, however, all donors have contributed this minimum amount.

¹⁸ To date, Gambia has been allocated \$19.0 million of which \$4.0 million has been disbursed, Guyana \$8.0 million of which \$4.0 million has been disbursed, Mauritania \$9.0 million of which \$7.0 million has been disbursed, Nicaragua \$14.0 million of which \$7.0 million has been disbursed, Niger \$21.0 million of which \$9.0 million has been disbursed, Gambia \$8.0 million of which \$4.0 million has been disbursed, Yemen \$20.0 million of which \$10.0 million has been disbursed, Madagascar \$35.0 million of which \$6.0