MINUTES INTERNATIONAL COUNCIL MEETING
Geneva, 19-21 November 2004

IC Members Present: Lisa Langbein (Vice-president of MSF-Austria, representing Clemens Vlasich, president MSF-Austria) except sessions on 21 Nov; Barbara Kerstiens (Vice-President, MSF Belgium) except 19 Nov session; Soren Brix Christensen (President, MSF Denmark); Stefan Krieger (President, MSF Germany) except 19 Nov session; Lisette Luykx (President, MSF Holland); Romain Poos (President, MSF Luxembourg); Atle Fretheim (President, MSF Norway); Emilia Herranz (President, MSF Spain); PehrOlof Pehrson (President, MSF Sweden); Isabelle Ségui-Bitz (President, MSF-Switzerland) except on 19 Nov session; Greg McAnulty (President, MSF UK); Joanne Liu (President, MSF Canada); Stefano Vajtho (President, MSF Italy); Saeko Terrada (President, MSF Japan); Darin Portnoy (President, MSF USA); Jean-Hervé Bradol (President, MSF France); Rowan Gillies (President, MSF Australia and President, International Council).

Excused: Emily Chan, president MSF-Hong-Kong

Executive Committee Members Present: Marine Buissonnière (MSF, Secretary General); Christian Captier (General Director, MSF Switzerland).

Additional participants: Kostas Papaioannou (President, MSF-Greece) – participating as an observer until MSF-Greece is re-integrated in the movement

Translator: Tim Fox.

Minutes: Laure Bonnevie.

Click on icon below for the Executive Update

19 November – Open session on abortion and sexual violence

NB: with the participation of Françoise Duroch (MSFCH).

1. Abortion

Background:
The discussion was based on several documents including a draft “MSF Sexual and Reproductive Health Policy” produced by the medical directors and the outcomes from the 2004 miniAG discussions. From a legal perspective, a paper is under preparation and some responsibilities have to be left also at field level. The objectives of this discussion is:

• To come up with responses to the following questions: are field teams free to do it and where are the organisation ethical boundaries? → The IC has a responsibility to give some guidance to the field on the principles and support a consistent approach.
• To comment on the draft “MSF Sexual and Reproductive Health Policy” produced by the medical directors.
Main outcomes of the discussion:

- **A policy or not**: there is potentially an operational difficulty to have a policy as such as it may focus on an issue that is not a core part of our activities. Our response to rape / aseptic abortion is a medical response to a medical problem. But the formulation in the dirmed draft policy (“in all programmes”) is a problem as first, it is not realistic and because in some contexts, there are strict laws against abortion or groups not tolerating it → we may therefore focus on something we should not focus on. Some argued to that that by having a better policy, we allow our staff to respond to needs at least with regards to safe abortion. Having a policy would also help avoiding new comers in MSF to challenge or question safe abortion as part of our programmes and the right for women for access to safe abortion → differs from pushing for a policy for abortion everywhere.

- **Human right based approach, medical ethics vs. political positioning**: abortion cannot be justified by neither medical ethics nor human right → we can justify it as a political position. In our medical culture, it is a normal medical act (MDs in Europe have fought to have the monopoly on the act in order to avoid medical problems when clandestinely practiced by non-medical).

- **Breaking the law**: abortion is not included in the international law. Only two countries strictly forbid abortion whatever the reason for practicing it. In other countries, abortion can be justified for therapeutic reasons. A clear consensus among IC members that medical necessity should take precedent over legal necessity.

**Conclusion**:

As an organisation, we have to acknowledge that this medical act is neglected in our practice. Whether it is legal or not, abortion is practiced → no need for a policy as such → rather give the teams in the field the means / resources to do it the safest way.

It was also emphasized that management of abortion should always be part of reproductive health → abortion is only an epiphenomenon and should be part of a stronger perspective on reproductive health including political will to implement good quality family planning programmes → IC resolution to emphasize on political will to implement comprehensive reproductive health care package including abortion.

**Follow up**:

Rowan will transmit IC’s comments on the draft policy to the medical directors:

- Neither human-right approach nor medical ethics based
- The policy should not include legal elements → only medical base
- Human resources element: we should refrain from putting MDs who are against abortion in certain contexts.

On 21 November, the IC adopted the following resolution:

**The IC states that**:

1. The provision of comprehensive reproductive health care is essential in all MSF general medical programs
2. Despite recent improvements and efforts, such care is still poorly accessible to patients in MSF programs
3. The availability of safe abortion should be integrated as a part of reproductive health care in all contexts where it is relevant.
4. MSF’s role in termination of pregnancy must be based on the medical and human needs of our patients

14 in favour – 2 abstentions (UK, Denmark) – 2 absents (Austria, HK)
2. Sexual violence:
Tools such as protocols, resource persons (in each section), various guidelines (including for mental health and psycho-social care), and MSF working group on sexual violence exist: the main problem is implementation at field level → need for indicators → medical directors have started working on indicators in coordination with the sexual violence working group.

**Decision:**
IC requests the executive to report on the implementation of the tools that are already in place.

*NB: final concept paper from the sexual violence working group is already available.*
*Click on icon below for this document:*

3. Female genital mutilation:

The IC asks medical directors to remove the reference to human-right approach that is included in the draft “MSF Sexual and Reproductive Health Policy”.

4. Prostitution / code of conduct:

*NB: this topic was originally not on the agenda and was included further to recent events in DRC.*

Marine first reminded issues raised by the journalist who visited Bunia in February 04. A lot of discussions had already taken place in 2002 and the IC adopted a resolution in June that year:

**IC Resolution on Sexual Abuse (June 2002)**

The IC recognizes the seriousness of the issue of sexual exploitation by humanitarian workers, which highlights the vulnerability of refugees, displaced people and other populations in need to the abuse of power.

The IC asks that each section develop clear policies which define the means by which such abuses of power can be:
- Prevented
- Identified
- Penalised

We understand that the consequences of the inequalities between the deliverers of humanitarian aid and recipients are an ever-present danger.

We insist that the movement develops strategies to maintain continuing monitoring of the effectiveness of the policies developed.

The IC urges that the executive continues to raise the issue of the lack of adequate protection of these people with UNHCR and other responsible institutions.

The IC requires the executive to report on this issue in November 2002.

**Voting Outcome: Unanimous in favor.**
The ExCom was expected to report on this at the November 2002 IC but this did not take place.

Marine debriefed the IC on the discussion that took place at last GD18 meeting (4-5 November 2004). The five OCs first explained what they were up to on this issue and what had been put in place since the resolution in terms of both prevention and care for the victims. The main concerns and areas where additional efforts need to be put are the definition and level acceptance of practices that fall under the grey zone and follow up of victims. At GD18 level, it was also said that we should rather talk about exploitation than prostitution (more precise concept with no moral dimension) and that a code of conduct is not necessarily the solution (rather have a system in place in sections).

Further steps decided at GD18 include:
- Summary of what is in place in OCs since the IC resolution
- Look deeper into the issue of the grey zone ⇒ the SCHR peer-review process on abuse and sexual violence (starting beginning 2005) is a good opportunity to review our practice and trigger additional reflexion
- Document whether we provide medical care to victims and if there is a need to go further.

Christian also briefed in more details on the investigation done by the journalist in DRC and follow-up of the issue of sexual exploitation / violence in Bunia. But he emphasized on the fact that this effort has to be ongoing and permanent.

20 November

1. **Access Campaign (with Derrick Wong, Karim Laouabdia, Daniel Berman and Hélène Alberty from the Access Campaign)**

As the IC approved the creation of the Campaign, it is important that the IC is involved and decides on the future of the Campaign, especially because the Campaign brings one of the main external message of MSF. IC is therefore requested to look at the recommendations from the ExCom and make further decisions.

- **Evaluation process:**
Derrick was requested by both Steering committee and Karim to carry on the evaluation of the Campaign after five years of existence. This evaluation was requested for two main reasons:
  - Pragmatic: Bernard Pecoul’s departure
  - Political: a lot has been done; the Campaign has been successful in decreasing ARV prices and quite influential in the field of ACT. Now what should the Campaign do?

As agreed with the Campaign Steering Committee, the work carried out is less an evaluation and instead collects opinions and reflexion to help MSF decision-makers make an informed decision re. the future of the Campaign.

The work done was based on interviews with 146 people both inside and outside MSF between June and October, including face-to-face meetings in Amsterdam, Barcelona, Boston, Brussels, Geneva, London, New York City, Oxford, Paris, Toronto and Washington DC. It was supplemented by MSF questionnaire responses from 47 people, including 31 responses from the field.
• Main outcomes of the evaluation of the Campaign (Derrick Wong)

Six basic points:
- There is a great deal of respect from both inside and outside MSF re. the work done by the Campaign. Everyone even the most critical consider that the Campaign accomplished a great deal.
- OCs – in particular in operations departments – have a persistent question: “aren’t we going beyond our mandate, especially re. policy and advocacy?”. There is a growing concern that we may be going too far away from MSF.
- There is a growing concern from the inside of MSF → need for better coordination / communication: the Campaign has pushed too far and should be more a service provider for MSF operations.
- Very specific choices need to be made: if the Campaign is temporary, then for how long? Re. the ongoing need for the Campaign to be institutionalised, people are looking from clear answers from MSF executive and associative platforms (ExCom, GD18, ICB, IC) → whatever the decision, these bodies are expected to take their responsibilities.
- The Campaign needs to be more coherent (who does what → be better organised and managed), more streamline and more focused (prioritize strategies → work on fewer topics → work on AIDS, malaria, and more on TB, look at the quality of medicines, vaccines, diagnostics; few would mention work on neglected diseases). But at the same time, the Campaign should remain flexible, responsive, dynamic, innovative, etc.
- Access to health care: there a sense that more should be done on this issue, in particular from field working on HIV. In particular, look at health care capacity, human resources and financing issues.

There is a big difference in context between 1999 when the Campaign was officially launched and now: a lot in MSF think the issue of access to medicines is more or less solved (prices for ARV went down, Doha declaration, etc) and that there is much less of a need for high level policy and advocacy. Others would on the contrary say that the situation is now even worse (countries trying to circumvent the Doha declaration, lack of affordable 2nd line treatment) and that dangers are even greater, therefore the Campaign should even do more in monitoring the external world.

Report also includes recommendations, i.e., practical next steps for the Campaign and for MSF re. the Campaign:
- On the short term (3-6 months): a decision re. the future of the Campaign needs to be taken so as for the Campaign and liaisons to plan for the future. Also, it is recommended that the Campaign resolve the internal dissatisfaction, articulate strategies and priorities, clarify its structure, etc.
- On the medium term (6-12 months): decide upon on a process for dealing with other access issues, one which may or may not include the Campaign. Also, the new director should meet and confer with outside organizations to discuss and share issues.
- On the longer term (1-3 years): decide upon a process for considering the institutionalization of the Campaign within MSF. Also, the Campaign should work at creating educational and training tools / modules about access to drugs issues for field, operations, OCs and PSs → to make sure the Campaign is understood.

• Main outcomes and questions raised at both ExCom+Steering committee meeting (03 Nov 04) and GD18 meeting (04-05 Nov 2004) – Karim

Karim first reminded that the IC endorsed the Campaign in 1998 with the following overall goal: “provide essential medicines and other health tools to respond to the needs of neglected patients and to positively impact on medical practices, within and outside MSF projects”. It was clear from the beginning that to that end, a key component of the Campaign was to change policies through policy advocacy. Karim also reminded the general objectives approved by the ExCom in 2002 for the Campaign’s plan of action 2003-2004.
Re. the future of the Campaign, four main questions were debated at both ExCom+Steering committee meeting and GD18:

- Continuation of the campaign: as with any other MSF projects, this is a matter of consideration but is it the right time? Have all objectives been reached? And are solutions found sustainable?
- Mandate and scope: do we want to review mandate and general objectives? Do we want to broaden the scope and ask MSF to explore other gaps (e.g., weak health services, medical HR crisis, financial barriers) and make recommendations?
- Approach of the campaign: patient-centered approach with spill over to patients outside our projects?
- Nature of the structure: do we want the function of the Campaign (stimulating use and development of innovative medical tools) to be permanent?

Next steps: a three-year plan of action will be developed (also in consultation with medical and operations directors) and discussed at steering committee level before it is submitted to Executive committee in February 2005 for approval.

**ExCom recommendations to the IC (Marine):**

The Executive Committee first would like to thank Derrick Wong who performed the evaluation of the Access Campaign for his valuable work, which served as a basis for the following recommendations.

The Executive Committee supports the continuation of the Campaign on the basis of the general objectives that were re-affirmed by the Executive committee in December 2002 and included in the Campaign plan of action for 2003-2004:

- To make new “life saving or essential” medicines, vaccines and diagnosis tools affordable and accessible (including those products still patented in some countries)
- To secure the production and accessibility of quality essential medicines, vaccines and diagnosis tools that have either been abandoned, are in danger of being abandoned, or for which stock discontinuation is leading to access problems.
- To stimulate research and development activities of new medicines, vaccines and diagnosis tools.
- In addition a key function of the Campaign is to challenge and stimulate MSF to not accept status quo of sub standard medical tools.

On the third objective, the Executive committee recommends to look into what has already been taken over by the DNDi in order to clarify what the role and activities of the Campaign will be. In addition, the Executive committee recommends that the Campaign general objectives be reviewed on a regular basis (three year-term as per proposal of the evaluator of the Campaign).

The Executive committee recommends that more work be done to redefine specific objectives and to identify specific objectives that should be kept and the ones that should be abandoned. The Executive Committee therefore proposes that each section (OC as well as PS) produces a short
document summarizing what they see as key objectives for the Campaign and what they would consider as not important / relevant. The ExCom also recommends a process to be organised so as to involve various MSF platforms (e.g., directors of operations, medical directors) in the definition of the specific objectives by the Campaign. Outcomes of this process should be presented at the June 2005 IC.

- **Main outcomes of the discussion:**
  - A tremendous work has been done for the evaluation but some members of the IC feel that the outcomes and recommendations are unclear and wanted to know what Derrick would clearly suggest: where should we go with the Campaign, what would happen if decision were to stop it and what would MSF lose? Derrick pointed out at two levels of questions: 1) strategically and 2) structurally. Strategic level was not included in the objectives of the evaluation. From an organisational perspective, if the Campaign were to stop (very few people were in favour of this option), a majority of the people interviewed that the function at least should remain. If it continues with its original mandate, internal communication should at least be improved. The possibility to enlarge its mandate should also be explored (access to health care).
  - Financial contribution to the Campaign: so far, the 5 OCs contribute to the Campaign. GD18 raised the possibility of having the 18 sections contributing. But decision should first be made on governance of the Campaign before exploring / changing financial flow.
  - Institutionalisation of the Campaign – what is the risk? For Karim, a three-year commitment from the IC to the Campaign would be a minimum at least to be able to define middle-term objectives. Lisette emphasized the fact that a campaign should have a beginning and an end → there are today very good reasons for the Campaign to continue but there is a need to be clear on objectives and on what we exactly want.
  - On the decision-making process at IC level, some members of the IC raised the difficulty to make a decision at this IC on the future of the Campaign when the evaluation does not provide with clear tracks (was not its mandate) and when ExCom recommendations could not be discussed within sections prior the meeting. It was objected to this that the ExCom recommendations are mainly based on the recommendations included in the evaluation report. There is a clear consensus on the fact that current four general objectives are key ones that should remain but there are disagreements on the specific ones (e.g., access to health care), hence the ExCom proposal for a consultation with all sections. Also, if there is a clear consensus that the function of the Campaign should be permanent, the future structure / set up is also to be addressed. → IC is now requested to make decision on the continuation of the Campaign and on the general objectives (signal to provide with some stability and be clear on the duration so as to keep the dynamics of such a project). The IC will then be asked in June 2005 to decide on the specific objectives according to MSF’s mandate.

**On 21 November, the IC adopted the following resolution:**

The IC recognizes that the Access campaign has been instrumental in achieving several important objectives, including elevating drug access issues to international agendas and global debates. Due to the campaigning, MSF’s ability to provide AIDS treatment as well as effective treatment for diseases such as malaria and trypanosomiasis, has improved. Furthermore, the campaign has played an important role for the internal functioning of MSF as a body challenging the status quo, and bringing the focus back on the medical act of humanitarian aid.

The IC believes that the need to address these issues is at least as important today as it has been.

Consequently, the IC endorses the recommendations made by the Executive Committee to continue the Access Campaign on the following general objectives:
1. To make new “life saving or essential” medicines, vaccines and diagnosis tools affordable and accessible (including those products still patented in some countries).
2. To secure the production and accessibility of quality essential medicines, vaccines and diagnosis tools that have either been abandoned, are in danger of being abandoned, or for which stock discontinuation is leading to access problems.
3. To stimulate research and development activities of new medicines, vaccines and diagnosis tools.
4. In addition, a key function of the Campaign is to challenge and stimulate MSF to not accept status quo of substandard medical tools.

**Thus, MSF commits to continue the campaign for at least another three years.**

The IC endorses the suggestion by the Executive Committee to initiate a process within the movement that addresses the following elements:

- The scope of the campaign, i.e. whether to broaden or narrow the objectives
- The governance of the campaign
- The question of institutionalizing the campaign as a permanent structure within MSF

The outcomes of the process should enable the IC to take strategic decisions in June 2005.

The IC wishes to thank Bernard Pécoul and the Access Campaign team for the tremendous efforts and achievements made over the first five years of the campaign.

**Unanimously approved by present voting members (16) – 2 absents (HK, Austria)**

*At the end of the Campaign session, Daniel Berman made a short debriefing on the latest developments re. WHO prequalification project (recent delisting of generic drugs and attacks on MSF) and Global Fund (pressure from donor governments to cancel the fifth round).*

**2. DNDi (with Morten Rostrup and Yves Champey)**

Morten first reminded of the history of MSF’s decision to participate in the DNDi (Nov 2002 IC resolution and debate around the constraints of this participation). He briefly reminded of the characteristics of the DNDi (speedy development of drugs, not an ordinary Public Private Partnership → an innovative model, multicultural set up, etc), how it functions (board, executive team, role of the Scientific Advisory Committee, etc).

He then presented his annual report as MSF member in the board of the DNDi which brings an overview of how the DNDi has evolved over the past year and where the initiative is up to including financial situation and a number of key issues that are still on progress:

- Patient representative at the DNDi board
- Financial director
- MSF liability
- DNDi Financial independence
- Advocacy
- Role of MSF in operational research and input from MSF field on the needs
- DNDi IP policy

For more details on Morten’s presentation, see his report attached.
Yves Champey (chairman of the board of the DNDi) presented an update on the DNDi R&D portfolio:

- Was already building up before official existence of the DNDi (ACT, nifurtimox+eflornithine protocol, paromomycin). Clinical trials for these drugs: have started for AS+AQ in Burkina Faso and Thailand. Paromomycin: first patients entered into protocol in South Sudan, Ethiopia and Kenya.
- Two calls for proposals have already been organised. Already four research projects have been included in the portfolio and 6 additional projects have been submitted to the board for approval (beg Dec 2004). The second call brought much more projects from Southern countries (mainly Latin America and some from India) than the first one.

The DNDi has now started reflecting on how the initiative will organise research in the 5 coming years (i.e., which activities will be done in Western countries, in the founding members countries, what place for the pharmaceutical industry, etc.).

Yves also renewed the important role MSF can play in operational research, pharmaco-vigilance, needs assessment, input in specific questions on projects (appropriate form for a given drug, lowest possible price that patients can afford, etc.). He reminded that MSF can influence the DNDi also through Marleen Boelaert who is part of the Scientific Advisory Committee.

Q&A on Yves and Morten’s briefings:

- **DNDi IP policy**: a new document has been prepared and will be submitted at next DNDi board meeting for approval (Dec 2004). The general policy is clear (drugs that will be produced should be in the public domain and be at the lowest possible price). But DNDi deals with other partners than MSF and adjustments may be needed. E.g., specific circumstances when drugs can be used for other diseases which are not neglected; in most cases, at best, DNDi will be co-owner of a patent (very few situation where the DNDi will be sole owner) → running the risk of having people stealing DNDi discovery → vigilance is needed.
- **Pharmaco-vigilance**: the DNDi is not yet at a point of implementing it but it is clearly being followed up (an obligation for the DNDi). MSF could play a role by using drugs.
- **Patient representation**: definition of a patient representative has proven difficult. A meeting has been organised with representatives from patients’ organisations in Africa, Brazil, India, etc to discuss the role of a patient representative in the board of the DNDi as well as potential profile and whether this person should receive revenue for this activity. Role and profile have been defined and identification process has now started.
- **Neglected diseases vs. neglected patients**: with the malaria drugs, there has already been a move in this direction (as malaria is not a neglected disease as such). Decision made by the board to ensure best success: focus on small number of drugs / diseases but DNDi’s mission is to “go where others do not or cannot go” → DNDi does therefore not exclude new fields if there is a clear interest and potential projects (including TB drugs).
- **Advocacy**: a first meeting has already taken place including IO, Campaign and DNDi to discuss what subject to push forward and what complementarities between MSF, Campaign and DNDi. The following was agreed on:
  - MSF / Campaign → to bring up broad picture at highest political level internationally
  - DNDi → to bring up access for pharmaceutical expertise and tools, international compound library.
- **Timeframe for fundraising**: FR has already started (1.2 M€ to be found have already been included in the 2005 budget and contacts have already started with governments, organisations,
etc.). There is a clear commitment to reduce the proportion of MSF’s contribution in the budget 2005 and ahead. Budget will be submitted to the DNDi board meeting (Dec 2004). Yves explained that the budget was not presented at this IC because it should first be presented at the DNDi board.

- **Collaboration with / input from MSF field – how does it work**: mechanisms should be found to make the field aware of the DNDi and of potential collaboration (e.g., clinical trials, information on field needs) → through the MSF DNDi board member, through joint meetings between MSF and DNDi at executive levels, etc.

- **Time frame for the corporate liability**: this has been delayed but the DNDi works on it.

**DNDi board member to replace Morten Rostrup (member until July 2005):**
Someone is soon needed to take over from Morten.
Yves Champey emphasized on the fact that MSF presence in the DNDi board should not be dictated by the financial weight of MSF in the initiative since the DNDi works at changing this. Several aspects should be taken into account when recruiting Morten’s replacement:
- DNDi seeks at building an innovative model → for this, MSF support and philosophy is needed
- Board membership is a four year-term so as to ensure relative stability
- There is a strong interface with MSF.

**After discussion, there was a consensus on the following:**
- The MSF board member should preferably have appropriate medical-technical background
- The MSF board member should be institutionally linked to MSF
- The MSF board member should have direct access to MSF decision making bodies and should be seen like that by the other partners

→ **This person should best be a member of the IC.**

**IC members to think of who could / should apply – and be available as of March-April 05.**

### 3. Approval of documents and updates

- **Approval of the International Office accounts for 2003**

  The members of the International Council unanimously endorse MSF-International’s audited balance sheet for 2003 which amounts to 4,513,104.95 Euros; the expenses and revenue amount to 3,322,586.34 Euros.

  The International Council gives final discharge to MSF-International’s board of directors / administrators for its financial management in 2003.

- **International Office budget for 2005**

  A draft IO budget for 2005 is presented to the IC: due to early schedule for the GD18 meeting, the budget could not be finalised and approved by the 18 GD. It is therefore proposed that the IC mandates the ICB for final validation of the budget after inclusion of GD18 comments.

  **Decision:**
  The IC agrees to delegate responsibility to approve the IO 2005 budget to the ICB.

- **IC/ICB treasurer**

  ToR have been agreed on by the ICB. Some more clarity was requested by ICB members with regards to the repartition of roles between the IC/ICB treasurer and the IFC.

  Additional comments from the IC re. ToR:
- IC/ICB treasurer to be accountable to the IC
- A year appointment (on 30% basis) – both ToR and part-time basis to be reviewed in a year-time
- IC/ICB treasurer is a non-voting member of the IC

Update since IC meeting: one of the two candidates has withdrawn his application. The remaining candidate will be interviewed on 09 February in Geneva by the recruitment committee (i.e., ICP, MSFCH president, MSFB treasurer).

- Approval of June 2004 IC meeting minutes

Minutes of the June 2004 IC meeting were approved by all IC members present or represented at this meeting. JH Bradol (MSFF) who was not present at the June 2004 IC meeting abstained.

- Follow up from last IC / ICB on malaria and TB:
  On malaria:
  Rowan worked with Christa Hook (malaria working group coordinator) on simple set of indicators to measure the implementation of the 2001 IC resolution. Click on icon below for outcomes:

  "Implementation of ACT in MSF projects"

  Decision:
  The IC asks the same exercise to be done in 12 months to see implementation progress.
  Rowan to send by email the global percentage of patients treated with ACT.

  Since the meeting, the percentage was calculated and reached 64%.

  On TB:
  Medical directors have developed a full TB policy and started working on developing indicators to follow up on the implementation.

- International Office registration process in Geneva
  Immediate practical solution is needed to allow the Swiss entity of MSF-International to register at the Geneva register of commerce.
  More clarity is still needed from the lawyers.

  Further steps:
  Rowan will get more information and clarity from the lawyer. It is agreed that the IC delegates the ICB to follow up on this issue so as to find a solution and get the Swiss entity register as soon as possible.

4. ICP activity report
Rowan debriefed the IC on the following:
- His visit to Darfur (July 2004) – main highlights
- His visit to the US (August 2004) including meetings with UN officials and US department of State representatives to address MSF’s decision to leave Afghanistan, the situation and our concerns re. Darfur and Arjan case.
- His visit to Moscow (August 2004) and Arjan-related meetings
- Follow up on the Arjan case (both evaluation and legal case)
- His visit to Jordan to receive the King Hussein Foundation prize awarded to MSF
- Mediation between MSFH and MSFF boards.

Rowan also informed the IC that he will go to Bunia, DRC for four weeks in January 2005 to do surgery and also look into the sexual exploitation issue.

Rowan also reminded that the IC should start thinking of a replacement for him.

5. National Staff

Reminder (Rowan):
In November 2003, the IC took the following resolution on national staff:

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<th>The IC decided that it should look into the National Staff's participation in the decision-making processes, as well as their admission possibilities in the associations for the next International Council.</th>
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In response to this, it was decided to do a state of play in the sections. Click on icon below for the update (except MSFH) prepared by Karine Traonvouez (IO) for the IC discussion.

![Update](national_staff_update_nov04.doc)

General impression from the document is that clear emphasis is put on national staff within the HR departments but there is no common policy re. database, training, how national staff becomes expatriate, etc. As IC, how do we want to follow up and what indicators do we want? Although it will be difficult to have a crossover policy, at IC level, we should insure integration of national staff is implemented.

**Main outcomes of the discussion:**
The charter stipulates that people involved in the implementation of the projects should be involved in the association. Moreover since the beginning of the 90s, our budgets increased and MSF has been recruiting an increasing number of medical national staff.

Situation varies depending on the sections:
- In MSFF, the situation was said by Jean-Hervé to be bad (quality of work contracts, quality of the medical insurance, role / participation of national staff in the coordination and decision-making process). Example of the intervention in Darfur: a number of managerial tasks are de facto taken over by the national staff although this fact is not officially recognized → these people are not integrated in the coordination team and do not participate in meetings at HQ level.
- In MSFB, some measures have already been discussed and implemented although everything may not be perfect. E.g., interventions in remote control put a heavy responsibility on the local staff → how to ensure quality and how to ensure good decisions are made?
- In MSFCH, this issue has been ongoing over the past years and is strongly pushed by the HoM. A number of national staff has been recruited at the HQ but this should be done more pro-actively.
- In MSFS, on the occasion of different GA and at miniAGs, requests have been made for clarification and implementation of clearer policies with regards to delegation of responsibilities, training, etc. So far, the section had only dealt with the administrative level in all the fields. The section has now started working on the management and responsibility level and must work on how to involve national staff in the associative life. Progress has been made, in particular since someone is in charge of this issue at the HR department. Nevertheless, more remains to be done.
**Decision:**
Acknowledging the fact that a deeper “état des lieux” should be made to clarify what we are and what
the issues are with regards to the national staff, the IC asks the Executive Committee to make a survey
and recommendations on the following three topics:
- Their role in the associative
- The role of national staff in insuring good quality interventions
- MSF responsibilities as socially responsible employer of national staff

**In addition, the following resolution was adopted on 21 November 2004:**

The IC emphasizes that MSF must act as a socially responsible employer of national staff in its projects.

The IC recognizes that most of MSF’s humanitarian and medical actions are carried out by national staff.
It is essential that this reality be recognized by giving the opportunity, encouraging and facilitating the
involvement of national staff in the Associative aspect of MSF.

The IC supports the development of qualified national staff to positions of responsibility in the
coordination of MSF activities.

Unanimously approved by voting members present (16) – 2 absents (HK, Austria)

6. **Temoignage Case Binder**

**Background:**
In order for the IC to make a decision on the continuation of the TCB project, the TCB Editorial
Committee (EC) has requested Laure Bonnevie (IO) to make an état des lieux on the use of the TCB in
sections. This état des lieux has first been debated at EC level before it is presented to the IC.

*Click on icon below for Laure Bonnevie’s presentation:*

"IC presentation Nov 2004.ppt"

**TCB Editorial Committee Recommendations to the IC**
The TCB Editorial Committee warmly welcomes the diffusion policy validated by the ICB.
After reviewing the results of the etat des lieux and reflecting on the development of the project since
1998, it appears that:
- The first five cases – by gathering information from all sides and putting on table dilemmas faced
  by MSF – fulfilled the initial objective as central tool for institutional memory building.
- As a pedagogic tool, the results are mixed and unveiled weaknesses in the implementation of the
  TCB in trainings.

Therefore, the TCB Editorial Committee would like to recommend:
- That the IC renews their support and commitment to the TCB project which has now reached a
  satisfying methodology and rhythm, on the basis of two cases per year. Indeed, as it provides a
  good basis to understand humanitarian dilemmas, it can help reinforcing MSF’s identity and role
  in a changing world and shaping the debate outside.
- In order to improve the use of the TCB as a training capacity, that the Executive develops a plan
  for proper diffusion and integration of the TCB in training programmes and strategies. In
  particular, the TCB should be well known and diffused at least in the regions concerned by the
  existing cases (Latin America, Great Lakes)
That the IC requests the Executive to report in a year on the diffusion and use of the TCB as a training tool.

Main outcomes of the discussion:
- Re. question of the methodology: the right format has now been found and according to the feedback of the survey, there is no question about the need to review it. Also the ICB had requested that people who were interviewed were informed that their name would appear in the document → the IO sent prior to the IC meeting individual letters to all interviewees to inform them that they were quoted in the document. These letters also included a clarification on the diffusion policy.
- Re. option to have an alternative section to develop the project → was not addressed in the survey.
- Re. use of the TCB as a training tool → IC members were informed that there was a plan for a meeting between the EC and the trainers’ group so as to explain them how to use the TCB in trainings.
- Re. budget: it amounted Euros 350,000 for the first five years of the project (2000-2004).
- Re. continuation of the project, what would be the next cases and on what criteria would they be chosen? → Three types of criteria are taken into account:
  o Dilemma
  o Institutional risk for MSF
  o Concern linked to speaking out

On the upcoming cases: two cases are being looked into for 2005:
  o Kosovo 1998 (operational dilemma linked to speaking out, refugee camps and funding issues)
  o North Korea (dilemma linked to lack of access to people in need, manipulation of humanitarian aid, financial issue and conflicting vision with other humanitarian actors)

**Decision:**
Based on the état des lieux requested by the IC and on the recommendations made by the TCB editorial committee, the IC approved the continuation of the TC project and the overall recommendations of the editorial committee on the basis of two cases per year.
Moreover, the IC members will encourage diffusion and use based on the two agreed objectives (institutional memory and training tool) and ask the executive to look for indicators to assess the implementation (Executive to report to the IC in a year).

However, the IC asks the TCB editorial committee for a two-page clarification on the following:
- Criteria to choose the cases
- Methodology used
- Reminder on the role and composition of the editorial committee
- Decision-making process
- Arguments to support the choice of the next two proposed cases (North Korea and Kosovo).

7. MSF-Greece (with Manuel Lopez – re-integration coordinator MSF-S; Dino Astropoulos – GD ad interim and re-integration coordinator MSF-Gr)

Manuel Lopez first presented outputs and achievements re. re-integration since the process started on 2003. He emphasized that this re-integration had two dimensions:
- Re-integration within the operations of MSFS: the operational cell in Greece is functioning. Emergency and advocacy units remain in Barcelona but are shared with Athens. Projects in Greece have now been indeed over to Praksis. Normal collaboration between the two sections is expected for 2006 even if phase one of the re-integration is over a lot still needs to be done including ongoing monitoring and follow up. But a lot has been done and all (HQ and field level) are ready for the re-integration.

- Re-integration as a section in the MSF movement involvement is needed from the other sections as well.

Kostas Papaioannou then presented the facts and issues that were raised few days before the IC meeting. The proposal to the IC is either to delay the re-integration until next ICB meeting or to make decision at the IC after discussion. He made clear that MSF-Gr has to leave no doubts and that MSF-Gr AC is ready to assume their responsibilities and proposed the following action plan:

a) The assumption of responsibility for the decision that created the problem and the reflection about the current moral values of MSF by all parties

b) The immediate destruction of the list and the safeguarding of MSF-GR from any such actions in the future

c) The harmonization of policies and procedures for all Governance practices that would safeguard the section.
   i. Review all policies regarding the chain of supply and suppliers of the section
   ii. Review all policies regarding financial accountability
   iii. Review all auditing process, audit committee
   iv. Review all policies regarding cash flow
   v. Review all policies regarding data protection including electronic lists of donors

d) A new and updated approach to all matters of the roles of the associative and executive sides of the section in accordance with the current view of the movement
   i. Design of a Board charter
   ii. Design of a Management Team charter
   iii. Review of the decision making processes

e) Request by the AC for an extraordinary GA to be convened after all necessary preparation have taken place in an expedite manner. In that GA the issue will be presented, the accountability from the AC will take place and the organization will move forward free from this burden.
   • The invitation of members of other sections to participate in the formation of the new board will be addressed.

In this process MSF-GR requests the full support from all sections to move on the re-integration. Kostas also emphasized on the fact that this vision was shared by all and that all people (HQ and field) had tried very hard, had experienced a lot of changes and are very enthusiastic.

Click on icon below for full text of Kostas’ presentation:

Questions for clarification and discussion followed Kostas’s presentation.

Conclusion of the discussion and resolution (voted on 21 November 2004):
After a presentation on the developments of the integration process the IC recognises a very positive outcome of this process and of the work done by MSF GR and MSF S. Because of irregularities in MSF
GR regarding the purchasing of databases in the past and the hiding of this information to MSF S and recently unveiled, and in the light of the severity of these irregularities the IC adopted the following resolution:

Reintegration will be effective as for 15 of January 2005, provided that there will be a positive recommendation from the board of MSF S, after studying the resolutions and recommendations from a committee consisting of members of MSF S board, members of the reintegration team and a member of the International Council that will monitor and evaluate the evolutions of MSF GR during the next months, especially those concerning the unacceptable irregularities discovered during the last days or related ones.

If the decision of MSF E board at that time (15th of January) were to not recommend reintegration, the decision will be postponed to the IC meeting in June 2005.

Unanimously approved by voting members present (16) – 2 absents (HK, Austria)

Update since the meeting:
Click on icon below for the final recommendations made on 21 January 2005 by the board of MSFS

Moreover, on 09 February 2005, representatives from the International Office and from MSF Greece have signed an agreement granting MSF Greece the license to use all MSF trademarks and related distinctive signs, thus reintegrating the Greek section into the International Movement of MSF. As a result, MSF Greece is back to being one of the 19 sections of the movement, having agreed to share, with all other sections around the world, MSF’s humanitarian and operational principles.

21 November

1. Arjan Case (with Jonathan Little – co-evaluator with Stefano Vajtho – and Chus Alonso Lormand – member of MSFCH board and of the evaluation steering committee)
   - Update on the court case (Marine Buissonnière):
     Latest developments: the case will be judged under the Swiss Law. MSF lawyer sees this decision as a “small victory” (in terms of cost and because there is no interest on the due amount in the Swiss Law).
     This decision has direct consequences on future sequence of events:
     - The Dutch government is given until 15 December to review the legal argumentation of their request to make it compliant to the Swiss Law.
     - MSF then has until 27 January to reply to the Dutch government
     - The second audience with the judge is planned on 03 Feb
     \(\rightarrow\) Process is therefore longer than expected.
     The lawyer together with MSF team has started preparing the answer to the Dutch government including four parts:
     - Point by point answer to the request of payment \(\rightarrow\) prepared with people involved in the case
- Political statement: indeed the political dimension does not appear in the request of the Dutch government → importance that the judge gets the picture (MSF was present in the Caucasus with EU funds. As there are very few NGOs present on ground, MSF mission was all the more important – as witness of the situation with regard to the “normalisation” process, Western governments having political and economical interests in the region – rather buying into the normalisation than challenging it, Dutch Government unwilling to push their economic partners, finally pressured to move and negotiate with Russian counterpart, paid 1 million, now suing MSF as a face saving exercise because they went against their official no negotiations no ransom policy and are being questioned on the domestic scene.)
- “Avis de droit” on the international law → prepared by Françoise Saulnier on the issue of the protection of humanitarian aid workers (including Geneva conventions). Françoise networking with International law experts to help build the argument.
- Answer to the request based on the Swiss law → will be prepared after December 15th.

In addition, in our response, we will ask for payment of the 230,000 euros back.

**Re. Budget:** the process can be expensive. As IO was given mandate to follow up on the case (international project), it is proposed that the whole movement financially supports it through the IO budget.

Yearly budget is estimated to Euros 200,000 – 250,000 including HR and legal fees.

**Decision:**
The proposal to share the cost of the court case among all sections (through IO budget) was approved by 15 IC members – 1 abstention (Belgium) – 2 absents (HK, Austria).

- **News from Arjan (Isabelle Segui-Bitz)**
  Arjan visited MSFCH the week before the IC meeting. Isabelle said he was doing well. He is still under contract with MSFCH. The section is still trying to look at the best package that MSFCH will propose him. Negotiations should be finalized in December.
  The book that is being written with the Dutch journalist should be out in April 2005 (one year release anniversary). Some channels of communication are opened with the journalist but it was made clear that MSF does not want to be associated.
  There is also a plan for MSF to slowly rebuild relationships with his family.

- **Arjan evaluation:**
  Rowan first reminded the role of the evaluation steering committee.

  **Availability of the evaluation report:**
  - The final report will remain internal with eventually few copies given to selected externals
  - Annexes including confidential information / documents will only be made available to GDs of the OCs

In addition, a brief presentation was made highlighting the main points that had arisen thus far with the evaluation process. A constructive discussion followed.

2. **Governance**

**Background:** Rowan Gillies presented his proposal.

Click on icon below for the comprehensive proposal (sent by email to IC members prior to the IC meeting).
Decision:
IC agrees to go on with the process as proposed by Rowan.

This process will include two tracks:
- A chantilly-type of meeting to revisit our principles in an changing environment – based on a number of papers
- Governance reflexion process to be based on concrete case studies including:
  o Arjan case
  o DNDi
  o Speaking out on Darfur

Timing:
- Identify people to meet in the coming weeks and start working → IC members to send names to Rowan by end of November.
- This group will report to the ICB at next ICB meeting (26 February 2005)

Full time person will be hired to organize meetings, workshops, etc

Re. MSFH AGE on 11 Dec 2004:
The IC proposed to have a number of representatives at this AGE so as to explain the IC process on governance.
- PehrOlov from MSF-Sweden
- Barbara Kerstiens from MSF-B if available
- A representative from the MSF-USA board

Re. MSFF-H board-to-board meeting:
This meeting took place few days after the IC meeting. Greg McAnulty (MSFUK) agreed to be the chairman of this meeting.

3. MiniAG

NB: Due to lack of time, this topic could not be extensively discussed. Nevertheless, the following was decided by IC members who were still present at this part of the meeting.

Decision:
The following topics will be proposed for the 2005 miniAG:
- Is the HIV pandemic changing MSF mandate, what is the scope of our responsibility with HIV patients
- Topic related to MSF governance → this discussion will have to be further developed so as to be adapted to miniAG discussions and scope.
Upcoming meetings

- ICB meeting                      26 February (Barcelona)
- Tentative schedule for a joint ICB+ExCom 08 April (to be confirmed as well as venue)
- ICB meeting                      09 April (to be confirmed as well as venue)
- IC meeting                       24-26 June (Berlin)

Approval of the minutes

Rowan Gillies       Isabelle Segui-Bitz
President         President MSF-Switzerland
International Council  ICB Member