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## Classification of private sector donors as non-traditional donors under General Rule XIII.4 (c)

### Draft decision\*

Having considered the document entitled “Classification of private sector donors as non-traditional donors under General Rule XIII.4 (c)” (WFP/EB.A/2022/6-C/1/Rev.1), the Board decides that private sector donors shall be classified as non-traditional donors for the purposes of application of WFP General Rule XIII.4(c), except that no resort to the WFP Fund nor to monetization shall be made, thereby ensuring that the principle of full cost recovery is ultimately still achieved by all private sector contributions.

### Introduction

1. Approved by the Executive Board in November 2019, the private sector partnerships and fundraising strategy for 2020–2025 (PSPF strategy)<sup>1</sup> continues to be implemented with considerable success. Since the launch of the strategy, average annual income from the private sector<sup>2</sup> (for 2020 and 2021) has doubled compared to the average of the previous 10 years. In addition to increased income, new needs-based impact partnerships with the business sector have been put in place, and innovative partnerships have been established with organizations such as the International Chamber of Commerce.
2. In order to maximize the potential of the private sector as a funding source, it is proposed to extend eligibility for “twinning” under General Rule XIII.4 (c) by allowing for the full operational and support costs of private sector contributions to be covered through

\* This is a draft decision. For the final decision adopted by the Board, please refer to the decisions and recommendations document issued at the end of the session.

<sup>1</sup> “Private sector partnerships and fundraising strategy (2020–2025)” WFP/EB.2/2019/4-A/Rev.1.

<sup>2</sup> Throughout this document “the private sector” refers to individuals, foundations and businesses in accordance with the definition used in the PSPF strategy.

### Focal points:

Ms U. Klamert  
Assistant Executive Director  
Partnerships and Advocacy  
tel.: 066513 2005

Mr T. Hunter  
Director  
Private Partnerships and Fundraising Division  
tel.: 066513 2702

contributions by another donor or donors. Such an arrangement will fulfil the principle of full cost recovery.

### **Donor eligibility under General Rule XIII.4**

3. Article XIII.2 of the WFP General Regulations establishes the principle of full cost recovery and states:

“[e]xcept as otherwise provided in such general rules in respect of developing countries, countries with economies in transition and other non-traditional donors, or in respect of other exceptional situations, each donor shall provide cash contributions sufficient to cover the full operational and support costs of its contributions”.

4. Further to this General Regulation, General Rule XIII.4 sets forth certain exceptions to the full cost recovery principle. One set of exceptions is described in General Rule XIII.4 (c), which reads as follows:

“Governments of developing countries, countries with economies in transition, and other non-traditional donors as determined by the Board, may make contributions that do not achieve full cost recovery, provided that:

- i) the full operational and support costs are covered through contributions by another donor or donors, through the monetization of part of the contribution and/or through resort to the WFP Fund;
- ii) such contributions are in the interests of the Programme and do not result in any disproportionate administrative or reporting burden to the Programme; and
- iii) the Executive Director considers that accepting the contribution is in the interests of the beneficiaries of the Programme.”

5. The criteria for determining donor eligibility under General Rule XIII.4 (c) were established by the Board through its endorsement of the 2004 policy set out in the document “New Partnerships to Meet Rising Needs – Expanding the WFP Donor Base”;<sup>3</sup> this decision was reaffirmed by the Executive Board in 2018.<sup>4</sup> Accordingly, private sector contributions are not currently eligible under General Rule XIII.4(c), even though the rule itself references “non-traditional donors” as being eligible. This restriction has limited WFP’s success in building sustainable impact partnerships with the private sector.
6. As the private sector is not currently considered a non-traditional donor by the Executive Board, private sector contributions have been excluded from twinning. This not only hampers the timely acceptance of contributions, particularly in emergency contexts, it also prevents WFP from engaging in innovative, efficiency-driving joint private sector partnerships, despite numerous expressions of interest in this regard from current and potential private sector partners.
7. It is therefore proposed to specify that private sector donors are considered non-traditional donors, thereby allowing for private sector contributions to be received pursuant to General Rule XIII.4(c), without recourse to the WFP Fund or through monetization.

### **Limitations of current application of General Rule XIII.4 (c)**

8. It has become clear since the launch of the PSPF strategy that in a number of instances, the ineligibility of private sector contributions under General Rule XIII.4 (c) has created barriers to securing partnerships with the business sector and foundations that would assist WFP

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<sup>3</sup> “New Partnerships to Meet Rising Needs – Expanding the WFP Donor Base” (WFP/EB.3/2004/4-C).

<sup>4</sup> “Update on the Integrated Road Map” (WFP/EB.2/2018/5-A/1).

programmes and support timely humanitarian response. It is increasingly common practice among the private sector to engage two associated yet separate legal entities to provide contributions, whereby the corporate entity provides the in-kind component and the associated corporate foundation entity provides the financial component. However, this approach presents significant challenges for WFP, as can be seen in the following case study, based on a real situation.

9. Company "ABC Ltd" sought to partner with WFP to provide technical assistance through its employees, sharing corporate knowledge and business processes. These impact components were provided by the commercial entity ABC Ltd, and at the same time a cash component of the partnership was offered to support the implementation of the partnership and to meet WFP's full-cost recovery requirements of the in-kind support.
10. However, the cash component was offered by "ABC Foundation" (a foundation created by the company to undertake corporate giving and maximize tax efficiency). Because private sector donors are not currently classified as non-traditional, under current WFP regulations, this arrangement, which would consist of two separate contributions that together achieve full cost recovery, is considered twinning and is not permitted for private sector donors as they are not considered "non-traditional donors" for the purposes of General Rule XIII.4 (c). In general, prospective partners find this illogical and rooted in excessive bureaucracy, which reinforces the perception that United Nations agencies are difficult to work with and do not understand the business sector.
11. In the ABC Ltd case study, the joint contribution would be comprised of valuable technical resources for supply chain operations and financial support. In line with current classifications, WFP's rules for accepting contributions from the private sector do not facilitate securing such impactful partnerships and resources in support of WFP's programmes and operations. The organization therefore risks losing important opportunities to secure both funding and expertise.
12. The lack of classification of private sector donors as non-traditional donors has taken on renewed significance in light of the current response to the crisis in Ukraine and neighbouring countries. In the context of WFP's response to the crisis in Ukraine in early 2022, the restricted application of the current General Rule XIII.4(c) and its exclusion of the private sector has presented a further barrier to WFP's ability to receive substantial donations of in-kind food and other goods required for the Ukraine emergency response. Offers of food donations have been made that can be delivered by the donating company, located close to WFP's operations in countries surrounding Ukraine; however, the donating company is unable to also provide the direct and indirect support costs that WFP would require to be associated with this in-kind donation. At the same time, due to the current classification of the private sector when it comes to accepting contributions, WFP is unable to match these donated goods with a small portion of the substantial flexible cash donations made by other private sector companies to the Ukraine operation.

### **Facilitating deeper engagement with private sector**

13. It is therefore proposed that private sector donors be explicitly classified as non-traditional donors, enabling private sector contributions to be received under General Rule XIII.4(c), while ensuring that private sector contributions cannot make use of the flexibility in the current rule that permits "the monetization of part of the contribution and/or [...] resort to the WFP Fund" (General Rule XIII.4 (c) (i)). Under this approach, private-sector contributions could only be matched with contributions by another donor or donors. By not having recourse to the WFP Fund or to monetization of donations, this would ensure that private sector contributions are accepted in a manner that expands WFP's resource base, in that acceptance would be contingent upon identifying an additional financial contribution to cover the full operational and support costs of the private sector contribution.

14. If WFP were to specify that the private sector is considered a non-traditional donor, and ensure that the final arrangement achieves full cost recovery without recourse to the WFP Fund nor to monetization, WFP would be able to accept such contributions from the private sector in a streamlined and timely manner. The efficiency gains from such an arrangement would improve WFP's ability to be fit-for-purpose particularly in mobilizing resources during emergency contexts. Allowing private sector contributions to be received pursuant to General Rule XIII.4(c) will broaden WFP's donor base and contribute to overall resource diversification, while expanding WFP's work with the private sector, consistent with the objectives and organizational benefits of the PSPF strategy.