THE WORLD BANK GROUP

ORAL HISTORY PROGRAM

Transcript of interview with

IBRAHIM F.I. SHIHATA

May 23 & 24, 2000

Washington, D.C.

By: William H. Becker & Marie T. Zenni

ZENNI: And my name is Marie Zenni, Task Manager, Bank Oral History Program.

SHIHATA: Ibrahim Shihata. I served as General Counsel of the Bank from August ’83 to October ’98, and have been Secretary-General of the International Center for Settlement of International Disputes (ICSID) from Sept’83 and plan to step down from that latter position by the end of July 2000.

Q: Thank you very much. It's a pleasure, as I said earlier, to meet you again. We would like to begin with a few questions to follow up a bit on the oral history interview that was done with you in May 1994. In your earlier interview, you discussed your career before you came to the Bank which focused on your scholarship and your long-time interest in promoting development in the Middle East. In 1997, you published a three volume work, My Advice to My Country. Do you believe that what you recommended for Egypt applies to other countries in the Middle East and also to developing countries elsewhere in the world?

A: The book, in fact, consisted of four volumes starting in 1993 until 1997, and then it was republished in a one-volume, second edition, in 1999. Generally, the problems of Egypt are not
unlike the problems of many other developing countries, generally speaking. Of course, there are peculiarities in each country. So I would say that most of the advice that is there would generally apply to other developing countries as well.

Q: And what was your advice to your country?

A: It took about 800 pages.

Q: Well, briefly.

A: Basically, as you know, in Egypt, as in many other countries in the Middle East, Africa, and Asia, there is a strong on-going so-called fundamentalist trend which has some popularity mainly because the ordinary man in the street doesn't see a way out of the existing dilemmas. And the refuge in religion is always attractive and can be easily exploited for political purposes. So you have this trend. The book starts by an introduction which, in simple terms, states that there are basically three choices confronting Egypt. One is to walk backward, in other words, to uphold political and social values that were given centuries ago and live by them; the fundamentalist trend, or to walk in the same place, which is basically to follow other ideologies in the market that have led to stagnation, or to walk forward, liberating itself from previous taboos and designing a practical, pragmatic system that fits its own conditions and allows it to become developed.

Then, moving from this simple premise, describing at least briefly in this introduction the main components of moving forward which combine a strong state with a liberal economy. That
may be also peculiar to Egypt because historically Egypt has always needed a strong government. When it didn't, its economy declined and it was taken over by foreign powers; the main reason being its dependence on the Nile. From the beginning there was the need for a central authority to regulate irrigation, then it became a tradition since the pharaohs. A strong government seems to be a necessity. People are used to that and they want that. They even prefer that over a typical Western democracy. However, a liberal economy where the government regulates and supervises rather than produces itself is also needed to avoid too much intervention in the day-to-day work of the economy. Then moving from that, the introduction speaks of the basic need for reforming the educational system as the key to the future, addressing the population increase issue, and the details of social and economic reform. The rest of the book actually elaborates on the ideas in the introduction.

Volume 1, after the long introduction has another chapter on reorganizing the government, the center of government in particular some suggestions in this respect based mainly on studies made at the OECD and other countries.

Volume 2, entitled “The Great Challenge” addresses three main topics: population, education, and private sector development with specific suggestions on what ought to be done in each respect.

Volume 3, is about a new constitution for Egypt; advocating a much greater measure of political freedom and changing the political system to a more democratic one. There, of course, I address in detail the provisions in the constitution which were introduced in 1980 to accommodate or contain the “Islamic” or rather “Islamist” trend, which I oppose; where it provides that Sharia or Islamic law is the main source of legislation. I said that this came as a political response and a
naive attempt to contain the trend, not realizing its impact on the legal and political system, etc. In fact, it did not contain the fundamentalist trend. On the contrary. And then, the last volume is on corruption and how to address it.

Of course, when I speak of my opposition to the "Islamist" trend, it is not an anti-religious attitude, on the contrary, it is against the exploitation of religion for political purposes. Showing what it has meant in countries that have gone through that, what it would mean in the context of Egypt, and that it is not in the best interest of the country to go in that direction. What made Islam a civilization was its ability to accommodate other cultures and to be more liberal. It was only during the times of the downfall of the Islamic civilization that trends of that type prevailed. So it's not an anti Islamic, but an anti Islamist advocacy, or the use of Islam for political purposes.

Q: May I ask how the book has been received in Egypt?

A: Well, it is in its second edition. When I was in Cairo three weeks ago I asked for a copy and was told that they were out of it.

Q: That's a good sign for an author.

A: I'm not sure, because it either had been sold out or it is not being sold at all. I don't know, but the fact is, it wasn't available when I asked for it.

Q: Have you had occasion to speak to the President about the book? Do you know if he has read it?
A: I know that he read the first volume and he apparently liked it very much, because the speaker of parliament was here and he told me that. I'm sure he wouldn't like the third volume. Among other things, I argued that the term of the president should not exceed one or at most two terms.

Q: And this is his fourth?

A: The book actually came out before he got reelected for the fourth term.

Q: Well, as you said, this applies to other places as well, even in non-Islamic countries where religion is used for political purposes.

A: Including in the South of the United States.

Q: Yes. Right. Well, it's not only in the South of the United States, it is in the Congress as well. In talking again about your interview in 1994, you observed that there was a built-in tension between the Board and Management in the Bank. Do you think, in the time since we last spoke to you, there has been any change in that tension or in the nature of the relationship between the Board and Management?

A: The tension probably has increased rather than decreased. You see, when I said “built in”, I meant that it is in the nature of things. If you are appointed a member of the Board of an
intergovernmental organization like this one, you tend to see your role as criticizing what is going on with the intention of improving it. Management takes that criticism, like anybody would, as a negative comment on its performance. That creates this tension. On the other hand, the real power is in the hands of Management. Yet, board members have big titles like "executive directors" and big offices with assistants, etc. Still, the appearance doesn't match the reality and that is frustrating. So they tend sometimes to react negatively towards Management out of that frustration. But, if you allow for some tension that is inevitable, the nature of the relationship would largely depend on the persons involved and the style of Management vis-à-vis the Board and vice-versa. So it varies. In fact, I know that one of the things that disturbs Mr. Wolfensohn most is that the Board doesn't appreciate enough what he is doing. I find it normal that they tend to criticize. They see this as part of their job, and that creates the built-in tension I referred to.

On the other hand, the tension increases when the chairman of the Board, who is also the president of the Bank, acts as representing Management since his role as chairman is different from that of president, and that is another source of tension. As president, you are the chief executive officer representing Management. On the other hand, as chairman, you are supposed to be detached and let everybody speak and then sum up the sense of the meeting. But, if you interfere to defend what is proposed then you can be seen by the members of the Board as taking sides and not as the chairman. Because Mr. Wolfensohn is very much involved in what he does and feels so personal about it, he sometimes reacts in a very forceful way in the Board in defense of what is proposed, which may either inhibit members of the Board or make them feel that he is not acting as a chairman should. He is a strong person, closer in style to McNamara than to any who came after him. During the time of McNamara, even though I wasn't here but was dealing with the Bank from
the outside, you would hear that everything was decided by one man, which is also being heard now. It is a problem for any strong person to deal with others without making them feel that they have no role; to give them a sense of importance while you are still deciding.

Q: Who are the presidents you’ve worked with that you think managed the Board best?

A: I happen to like the style of a president which no one seems to appreciate very much, that is Clausen. I served under four presidents. Clausen, I think, was a professional manager and that is how I describe him in my newest book on the Bank. As you know, he came through the ranks of the Bank of America. He would never take a position up front, but rather let everyone talk as much as they wanted and then in the end he would say what he wanted. In saying what he wanted, he formulated it in a way that everybody felt included something of what they had said. So everybody was pleased at the end, even though it was somewhat different from what was originally heard. It is a natural skill. You cannot be trained in schools for that. But, as a result, people described him as weak. If you have a strong personality you tend to have little patience. I say that because unfortunately it applied to me sometimes. If you have little patience and you want a certain result, you tend to intervene too much or put your view first before hearing others, or make others feel that no matter what they say the decision is made. That is something that, once you are aware of, you try to fight within yourself. You will probably get what you want in the end, but in a nicer way.

Q: Do you think that there's any sense in Management or from outside of the Bank for a need to change or reform the basic structure, or the Articles amended?
A: I don't think there is any practical room for a change of the Articles at present, especially in that respect, because you are dealing with governments. And anything that sounds like reducing the role of governments would not be appreciated by them. Besides, to change the Articles you need first, a decision of the Board of Governors, then approval by the member governments by at least 60 percent, having 85 percent of the total votes. So, the United States or any small group of states can frustrate the process of amendment. Amendment is not seen as a practical option. In fact, in the whole history of the World Bank there were two amendments. One is to make amendment more difficult by raising the percentage from 80 to 85 percent, and the other was simply to allow the Bank to lend to the IFC. In other words, no formal substantive change took place. Short of an amendment, there is ongoing work now in the Board Committee on Procedures which tries to further streamline and simplify. Of course, there have been other ways where, for instance, all draft policy papers are discussed first in a Board Committee of the Whole where they all attend, but not as a formal board for making decisions. This can take place even without the presence of the President where they express their views and then the paper is rewritten for a formal Board meeting headed by the President. This way he is aware of all the views beforehand and can better manage the decision. Even before the draft paper is prepared, the Committee of the Whole could have the chance of a free exchange of views on its possible content. This could be introduced without any change in the Articles. Also the style of managing the meetings; not being offended if people object and being able to round up the discussion in a way that favors what the majority thinks is right.

Q: How about Lewis Preston. He, too, had a professional managerial career before he came to the
Bank. How did he deal with the Board?

A: He dealt very well, but he was very detached. You see, Preston was above what he called little things. He left these to be dealt with by others. And he would limit his interventions to what is fundamental and absolutely necessary. And, because of the scarcity of his interventions and of his taking positions, when he took a position it was taken very seriously. Wolfensohn is personally involved in what he does and very much so. He loves it, and may feel personally offended if you are criticizing in the Board what he is advocating. And that, of course, colors the atmosphere and makes it more tense, especially if some others are not in agreement. They say nothing and are inhibited or they will speak in an angry tone; reacting in a more tense way.

Q: Do you think that governments are not appointing as EDs people with stature as was the case in the early years of the Bank?

A: Yes. I think so in many cases. Generally, the level of Board membership is not very strong in terms of their background. Occasionally, you get a person who is knowledgeable and strong. And when that happens, he has a tremendous hold—he or she—beyond the size of his country. I can tell you, when I joined the Bank there was Mr. El-Naggar from Egypt which is a very small shareholder. Yet, he was the dean and the strong man of the Board. And before Board meetings the President would ask, "What would El-Naggar say?" Later we had a French ED who is now the chairman of Credit Agricole in France....
Q: There was a very strong Canadian ED at one time?

A: Potter was strong, but in a different way; he got very tense and very angry.

Q: In talking about the Board in the last interview, you talked a bit about the large role that the United States played in the Board. Do you think the U.S. role has changed in any way in the last six years?

A: If it has changed, it is to be stronger, because the role of the U.S. in the Bank reflects its role in the world. And, its role in the world has increased in the last decade or so. You see, the strength of the U.S. in the Bank has many reasons. First, it is the originator of the idea of the establishment. Second, it is the largest shareholder. Although its share in the capital is still less than 17 percent, but its role is much more than that. Third, it can sometimes easily get the majority of the votes backing its position because with Europe, Canada, and Japan you have the majority basically. Fourth, the Bank is here, next door to the U.S. Treasury, so there is an intimate relationship. Fifth, and most important, the President is American and is de facto chosen by the American government. So all of these factors give the U.S. great leverage in the Bank.

Q: Do you think the selection of the president should be changed? The procedure for selecting the president?

A: You see, legally speaking, the president is to be selected by the Board of Executive Directors. In
fact, he is selected by the U.S. government. And the role of the Board is just to give a stamp of approval while everyone knows that the candidate of the U.S. government will become the president. There is no other candidate to begin with, and it has never happened that the Board has rejected a proposal by the U.S. government in this regard. There is much talk now because it seems that the U.S. government would rather have the position in the Fund rather than that in the Bank. And, if that happens, then it would be a whole new game for the Bank because either it would become a European position or, which is more likely, it will become a free-for-all position where the best candidate can be chosen regardless of his nationality. That was the intention at the beginning that you choose the best candidate, regardless of nationality. However, there are arguments in favor of having an American because first, the support of the U.S. Government is very important for the continuation of the Bank (Government meaning also the legislative branch). And a non-American may find it very difficult to deal with the U.S. government. Second, the market that the Bank borrows from is, to a great extent, an American market, not exclusively, but we borrow a lot of dollars and we lend a lot of dollars. So, to have an American is not a bad idea. In fact, it may be a very good idea if only because of these two factors. However, it has to be the best American that can be found for the job, and not just being an American. It's like when you say that we should have a woman, it is not just because she's a woman, she has to have substance. And I think the U.S. government understands that and, given the history, has been careful in proposing a candidate for the position.

Q: Do you see the U.S. Treasury as still the driving force in American policy towards the Bank, or given the growing strength in the U.S. government of the Congress, do you see it having a larger
role?

A: Well, formally it is the Treasury, but the Treasury is influenced by other departments of government including and especially the Congress. But, the Congress cannot directly ask the Bank to do anything, however, it can, and does ask the Secretary of the Treasury to ask for, and to oppose. There exists a number of US legislation to this effect which no other country has. They can also ask the executive director of the United States in the Board of the Bank to oppose any loan to China and to countries that do this or that. This is a problem, because the Board of Executive Directors is an organ of the Bank. According to the Articles of Agreement, the Bank as a whole, and therefore all its organs, should not take political considerations into account. And only economic decisions should drive their decisions. But, if you are requested by the law of your own country to vote in a certain way and for political reasons, I personally think, and I have taken that position in a formal legal opinion in 1987, that this is counter to the requirements of the Articles of Agreement.

Q: It was just last week that the U.S. opposed the loan to Iran, but the Board did approve that despite American opposition.

A: With the only objection coming from the United States and there were two abstentions, France and Canada.

Q: Now, is that a change? Has the Board been willing to stand up to the U.S.?
A: You see, there is legislation which requests the ED of the United States to oppose any loan to China except those that meet the basic needs of the population. So, every loan to China almost is opposed by the United States, because this is required regardless of the merits of the loan. Of course, the ED does his/her best to put their objection in technical terms, but sometimes when it is very difficult to do so the ED in fact says in the meeting, "Under such and such act, I oppose it" with no further explanation.

Q: This, of course is difficult for the U.S. government itself because the Treasury probably doesn't necessarily agree and certainly the White House wouldn't necessarily agree with objecting to all lending to China.

A: There is hardly any other democratic country where the government does not have the majority in the parliament. And if you have the majority, normally what the government agrees to is approved by the parliament. But here, you have this peculiar system where the government can say something, congress says another, and you don't know at the end what the position of the country is. I say that because, before joining the Bank, I was very involved in multilateral negotiations in the creation of IFAD. I was the coordinator of the OPEC countries' position in these negotiations and in those of UNCTAD regarding the Common Fund for Commodities. I would agree with the U.S. delegation on something and then a week later they would say, "Sorry, senator so and so said he would object to that and we cannot afford to offend him."
Q: So, in short, the chances of reforming or changing this are quite slim, I mean, changing the U.S. relationship and the way the U.S. deals with the Bank?

A: Well, to the extent that it is a reflection of the political system of the United States, we can do nothing about it. To the extent that it is simply a preference of the U.S., if it has the majority support, that's fine. That is what the system is about. But if it doesn't have majority support, what usually happens, and that's what I find very objectionable and I wrote a lot about it in the new book to come out, is to use the replenishment of IDA resources as the occasion to introduce by the force of donations what has been not approved in the Board when it was discussed in a more democratic way. Because the IDA replenishment by definition is done by the donors and not by the Board of Directors. Again, the Board will have to give its stamp of approval as a formality, because they are told in fact, "This is the agreement, take it or leave it." And since a lot of money is at stake, and a lot of countries especially the poorest are very dependent on this money, the people let go. It started as conditions related to the use of IDA and now it is not confined to IDA. In the last IDA Deputies' report you have paragraphs on what the Bank should do, what IFC should do, and what MIGA should do, and that's really counter to the whole arrangement as codified in the Articles of Agreement of these different institutions.

Q: We'll ask some questions a little later about the IDA deputies. But you say that the U.S. is the driving force in the IDA deputies, perhaps enlarging its role?

A: It depends on the issues. On issues which have great popular support in the U.S. driven by
NGO's, members of congress, etc, the U.S. is definitely the driving force, in my view.

Q: Turning to some other questions that you had talked about before and we would like to follow-up on, and that has to do with your role as the General Counsel and Senior Vice President in the Bank. How did your role change during the tenure of the four Bank presidents with whom you served?

A: It hasn't changed much because of my willingness throughout to leave if the rule of law was ignored, but the stress acquired as a result increases or decreases depending on the attitude of Management. Because I have not acted simply as the spokesman for Management, I have acted as the spokesman for the law as I understand or conceive it; not based on personal preferences but on research and analyses within the Legal Department. And, if you take that position you are not necessarily a very popular person. But, in the choice between being popular or being credible, I chose the latter. Others may choose differently, but I don't regret it. As I said, the tension was not at the same level all the time. If there is a popular demand which makes sense politically, for instance, that we should not lend to Croatia because it doesn't deliver the war criminals to the Hague Tribunal, and if say the U.S. is asking for that and is supported not only by the Europeans but also by many other countries each for its own reason, for me this is a political issue which should not be taken into account. Even though I personally sympathized very much with the U.S. position, my role as General Counsel is not to express personal sympathy, but to express what I believe is legally correct. The loan did go to the Board and a majority opposed it. But before it went to the Board, the ED representing Croatia put six questions to me to answer in writing, but, he
made a mistake in the last question in asking for my personal view on "legal and non-legal considerations" Croatia should be advised to take into account under the circumstances. So, after answering all the questions correctly from a legal viewpoint (which he liked), in the last question, I said, "Since you are asking for my personal views on non-legal considerations, and not my views as the General Counsel, I believe Croatia should deliver the war criminals!" One has to be detached in these things, otherwise, if you reflect your personal preferences that's a very dangerous thing for a General Counsel. In the Board I told them, "If you reject the loan, it will be seen as a political decision. So it would be more appropriate to defer approval of the loan." And they agreed. A few weeks later there was a loan to Bosnia, exclusively for use by the Serbian part, the so-called "Republika Srpska" and it was approved with the support of the U.S. As you know, the majority of the war criminals are there, so anyone who sees that will say that we are just like a leaf in the political winds, we go this way or that way, not even on political principles. And, a Bank that is intergovernmental, that is financial, that relies on borrowing from the market should not be subject to the vagaries of politics and the double standards of politics which are inevitable. I have expressed that position since I joined the Bank, and until now I still express it. Because I believe in it, and I think it would be the beginning of the end of the Bank if it becomes simply a political instrument serving the foreign policy of a certain government or governments. I realize the practical difficulties involved, but while we should be aware of political underpinnings we should not base our decisions on political prejudices.

Q: Now is there, within the Bank, a sentiment against that? Are there elements in the Bank that are less attentive to these political implications?
A: I would say yes.

Q: And this has varied from presidential administration to presidential administration?

A: You see, generally people like whatever coincides with their personal preferences. So, if there is political pressure for something which you like to happen, you tend to be with it. Of course, if it is against that, then you will use all the arguments, including the need for non politicization, to stop it. But the role of the General Counsel, if he takes it seriously is different, because, as I said, he should be detached from what he likes or dislikes and look into what is required in the Articles of Agreement under the applicable rule of law, and take a position that he can legally defend. It does not matter if that position is not popular. But it will matter to his own peace of mind and level of tension, because no one likes to live in a world where one is seen by others as being the obstacle. This is a feeling that I had sometimes, but not always. And that's why I said the level of tension varied, but not the positions I stood for.

Q: What were the most important issues for the Bank as an institution that you dealt with as General Counsel, internally and externally?

A: Under internal, first, the issue of a philosophy for the interpretation of the Articles of Agreement because the Bank acts under a legal framework that was written half a century ago or more. That's always a problem in any legal system, when you have provisions which are written under different circumstances but have to be applied in the new circumstances. Now, if you have a
background in Islamic law, you are well qualified to deal with that, because the main source of Islamic law is not only a text revealed in the seventh century, but that it is conceived as divine. So, if you say, "Forget about it!" you are condemned. So a whole system has been developed called "The Roots of Jurisprudence" in Islamic law in order to enable people to apply the old text under new circumstances. And that's how, in fact, the Islamic civilization was built, because you can't build a great civilization from Spain to India on the basis of rigidity in the legal system. But what has happened is that there are two schools basically, the Sunnis and the Shiites, and then under the Sunnis there are four major schools of legal thought and each school has great scholars whose opinions are based on these roots of jurisprudence through analogies and through certain principles of interpretation. They even allowed deviation from the text in conditions of necessity. So you have to use a lot of legal skills to be able to apply these old sacred provisions of the Koran to today's practice. Happily, I had a civil law education, an Islamic law education, and a common law education before I specialized in international law. It was not new for me to have a situation like that. The idea is, and I explained it in many legal opinions to the Board, what I call "purposive interpretation", where you take the purpose or objective of the Articles as your measure for that interpretation and, as long as you are not violating the explicit words of the text, you can add to it and interpret it without violating it. It was under this that many new concepts were introduced without a big fight. For instance, taking up governance issues in the work of the Bank but selecting those governance issues that can be defended as apolitical, because they apply regardless of the political situation. This whole trend on how to interpret was, I think, or I consider, an important challenge.

Under that, I have contributed to the resolution of many problems that were unresolved
when I came. The first one was the standard of value of the Bank's capital. Under the Articles of Agreement the shares are valued in gold dollars, as it says, on July 1, 1944, dollar of such-and-such weight and fineness in gold. The gold content of the dollar was abolished in the seventies. In the Fund they amended the Articles and introduced the SDR as the substitute. In the Bank they did not amend the Articles. The General Counsel before me said that the gold dollar should be substituted by the SDR as a matter of interpretation. The U.S. objected and everybody else agreed. And because of the importance of the US, the problem remained unresolved. When I came in 1983, it was still unresolved. And there was a Board committee year after year looking into this. I wrote my first legal opinion on it in December '83, in which I stated that the substitution of the SDR to the dollar is a policy decision, not the best defensible legal result. Because, on what basis do you say gold dollar? So, why do you say the dollar of such-and-such value. The fact is the gold dollar no longer existed, so you had a legal vacuum, a gap, called in legal terms a *lacuna*—the Latin word—which could be filled as it has been done by local courts. There are many international conventions which expressed a certain unit of account, the gold franc, for instance, the Warsaw convention on the liability of air carriers. All the conventions that were written in the twenties and the thirties, even in the forties, expressed the unit in gold terms. The idea was to have a unified standard of value where national currencies go up and down but your obligation is the same, in gold terms. And that was the whole concept of having a unified standard of value in the past. So I looked at what the courts had done, and it turned out that although some courts adopted the SDR, many others adopted the last value of the gold unit. They said that they were doing it to fill the *lacuna* until the legislator came up with a legislation because they could not say there was no law, they had to apply a law. This was done by a majority of courts including the U.S. Supreme Court.
Interestingly, while I wrote the opinion, the matter was pending before the Supreme Court and, its decision was made after the opinion, and to the same effect. It stated that, with respect to the meaning of the gold franc under a certain international convention to which the US is a party, the unit should be taken at its last par value--its last gold value. Which, in the case of the U.S. dollar meant $1.2 of its current value. I said that could be the answer. The problem with that, of course, is that everybody else other than the U.S. will have an open-ended obligation depending on the value of its currency in terms of $1.2. Whereas for the U.S. it will always be $1.2. So it is favorable to the U.S. I told the Board that it was up to them to take either the SDR or the last value of the U.S. dollar. And, if they take the first, I would defend it as filling a gap resulting from the lacuna. If they take the second, pending an amendment, it can be defended as a correct legal interpretation, and I cited cases in many jurisdictions. In fact, two weeks after, the U.S. Supreme Court decided in support of the latter approach. That advice was the basis of the resolution of the problem of the standard of value of the Bank's capital. It was resolved in a way that says we adopt the SDR at its 1974 value, i.e. $1.2 current U.S. dollars. So, this was a creative way of resolving an issue that looked political and seemed unresolvable.

This was followed by a number of legal opinions on different matters, again based on what you may call, creative legal interpretation. The governance issues caused a big controversy as to what the Bank can and should address. I came out in December '90 with a legal opinion saying that it depends on what we're talking about. Then deciphering the theorem and separating between governance in the political sense and governance in a developmental sense, including issues of legal reform, judicial reform, and civil service reform which enabled the Bank to address many issues that were hitherto considered as outside of its mandate. Debt reduction is another example,
as you know, there was the Baker Plan and the Brady Plan. And there was a lot of pressure on the Bank to do something, but the Bank is not supposed to refinance commercial debt. But then, under the purposive interpretation, I said again, "It depends." Of course, we should not refinance commercial debt just for the sake of helping commercial creditors. But, if the situation in a country has reached the point of economic stagnation and the credit-worthiness of the country is lost with no hope in regaining credit-worthiness and restarting development without resolving the debt issue, then the Bank's support of the resolution of the debt burden, in a material way, has to be accommodated as part of its function. But the question was, how do you define materiality? And I suggested that this was a matter that the Bank should address under guidelines to be approved by the Board. Once the Board approved that, they asked for the guidelines which were worked out between the Legal, and the Operations and Policy departments. And we came up with materiality criteria which were approved by the Board. Subsequently, there was an instance--since we are speaking about history--when the U.S. pushed so hard for a loan to a certain country in Latin America where the materiality criteria was not met, and I took a position against a proposed debt reduction loan. Everybody was pressured, but we told them we cannot go to the Board with a loan that could not be defended legally. And it was not done. So, while being very flexible and innovative and trying to find solutions, one has to respect what can be defended on sound legal basis. Otherwise, credibility is lost.

On Private investment promotion, I think there are two initiatives where I have played a role. One, is the creation of MIGA and the other are the guidelines which were requested by the Development Committee for the legal treatment of foreign investment. Although the request was addressed to MIGA, the President, also being the Bank president, decided to establish a committee
consisting of the three general counsels to prepare the guidelines: the Bank, IFC, and MIGA. It was chaired by me. I took the leading role in writing the guidelines and, again, the U.S. government wanted something that others were not prepared to accept. It was something that the U.S. itself would not accept for foreign investments in the U.S. In fact, I wrote them a note showing U.S. legislation that did not support what they were saying about foreign investment in the U.S. In the end the guidelines were prepared and were issued with the support of the Development Committee. They were used in new legislation in many countries, and were also useful in the preparation of the draft Multilateral Investment Agreement, which was prepared by the OECD but has not been completed. I should also mention, getting the Bank heavily involved in legal and judicial reform issues as a consequence of the governance opinion and, reorganizing the Legal Department to deal with this as other examples.

The creation and the conversion of the Global Environmental Facility (GEF), again an initiative taken in the Development Committee. A lot of the work on the establishment and reconstitution of the GEF was done by Legal, and by me personally. Issues on human rights and trying to emphasize that all of what the Bank does is, or should be, in support of human rights and then distinguishing between political, economic, and social and cultural rights. So all these are operational matters in which, I think Legal played an important role. On institutional matters, Board-Management relations, many opinions have been written on this. About the role of the Board, the relative powers of Management (of the President and of the Board); for instance, whether members of the Board or their assistants can attend negotiations with borrowing countries, whether they can intervene in the discussion, etc. In this, I again took an unpopular position, this time with Board members. But, what matters really in the end is that they take your word seriously
because they see that you are consistent and not saying things just to defend one side or the other.

Q: May I ask if you were involved in conflicts of interest and the Bank's own transparency?

A: Yes, of course, the staff rules are written with a very heavy involvement of the Legal Department. I don't want to say by the Legal Department. They are drafted by the Legal Department with various other inputs, there are staff rules on “conflict of interest”, and we have issued the staff's ethics statement in 1994 under President Preston. I think that a new one is being prepared now. But the one in 1994 was written by the Legal Department. There were cases of conflict of interest and operational cases where I took a strong stand. For instance, some of the Bank loans in IBRD or IDA finance advisory work; consultants’ work. IFC wanted to compete for this work with private consultants and I opposed that to the great dislike of IFC’s staff and management. It was a great controversy because they insisted and kept coming back all the time asking. I found it is just unimaginable for any fair person to agree, as the staff of the Bank and IFC are interchangeable. The president is the same, members of the Board are the same and, if we are competing with others outside, this would no longer be a level-playing field. And, the staff who clear the results of the procurement competition are likely to be favorable to the IFC. They said that they would build Chinese walls, etc., I said, "I don't believe in Chinese walls!" When President Preston came this was also a big issue. His predecessors agreed with me as well, but IFC never gave up. They said that they have a huge reservoir of advice and we are depriving the poorest countries of the best advice, etc. Again, he said, "It can be done only in IDA countries where there is no competition," in other words, if no one else is willing or interested. Speaking of operational
conflict of interest, that was one case. There were cases where conflicts of interest could appear to exist involving, say, the President himself, and I took a very clear position on that. *Fortune* magazine wrote about one of these cases, although it was badly reported. You see, before Mr. Wolfensohn, all of the presidents who had wealth had put their money in a blind trust and appointed somebody else to take care of it. So they really were not making any decisions regarding this. Mr. Wolfensohn, mainly because of the size of his wealth, did not want that. He said, "I will give you every year, or if you want every six months, a full account of everything I have. And if you spot anything where you have questions, here is my financial manager, and if you are not satisfied come to me, I have nothing to hide." So this was done, and there was no problem at all.

But when he sold the Wolfensohn Bank in New York, one of the conditions was that if the new owners resell it he would have a percentage of the new price. It was resold to Bankers Trust, and Bankers Trust agreed to pay his portion in shares in Bankers Trust. So, all of a sudden he became a relatively large shareholder in Bankers Trust. Since Bankers Trust is one of the underwriters of the Bank, there was some apparent conflict of interest, at least people who don't know may accuse him or the Bank of some conflict of interest.

So I advised him to divest himself of these shares and he said that if he does it right away he would lose a lot of money because the market was down, but he agreed that within a period of time, until the end of the year, he will do it and I wrote a note to the files to that effect. Apparently, he or his financial manager forgot. So *Fortune* magazine came out with this story, even though I had told them the whole truth. But, at any rate, after the story came out he sold the shares. Again, this is an example that if you are the General Counsel you have to take positions whether they are nice or not.

But, to be fair, none of the presidents of the Bank did anything the General Counsel really
opposed. In fact all of them, Mr. Preston died in office, but his two predecessors either wrote or spoke to me after they left the Bank praising the positions I took, even when they felt bad about them at the time. After they left they realized that it was either in their best interest or in the best interest of the institution, saying mostly, "We respect you very much for having taken that position in spite of the fact that you knew we were not in favor of it."

Q: You were talking about the external ....?

A: Yes. You have, under that, the relationship of the Bank with its own member governments, with non-governmental organizations, the Bank-Fund relationship, and the relationship with other international organizations. Again, I have taken positions and dealt on almost all of these in legal opinions. Finally, on staff matters, where of course Legal played an important role in issuing the staff rules and reviewing the grievance mechanism. And, most importantly, advising Management sometimes that they were wrong in certain instances. Because I didn't want to lose cases in the Administrative Tribunal I would tell them, "No. If you act in this way, you will lose a case." Sometimes they would say okay, but sometimes they would feel that it is not the role of Legal to tell Management what to do. I think it is the role of Legal to tell Management the possible impact of their decision, legally, especially if it is going to result in a loss. A loss being a decision to reinstate the person who was fired, for instance. Or to pay an amount which can be $300,000—not a small amount. It is very important, in my view, for Management to know what is likely to be the legal position before they take the decision, not after. Sometimes the decision is taken at a lower managerial level and if it becomes a legal issue and reaches the higher level, the decision is not
taken that way.

Bank-Fund relationships, very interesting. I'm trying now to put my legal opinions in book form because I wrote quite a number of them. When it comes to Bank-Fund relationship, a lot of the content is not publishable, and I'm having a hard time trying to reproduce them. For instance, at one point the Managing Director of the Fund and the President of the Bank reached an agreement on how the responsibilities will be carried out and conflicts resolved which was prepared by senior staff of both institutions without my involvement. This was issued to the staff of each institution as instructions from the head of their respective institution. Members of the Board of the Bank knew about it and asked for a legal opinion on the nature of this agreement and, whether the President and the Managing Director had the right to do this without Board involvement. I wrote a legal opinion saying that it was not a binding agreement. First of all, a binding agreement is beyond even the power of the Board as it has to be approved by the Board of Governors, unless it is temporary or simply administrative and this was neither. The Board was angry that this agreement was concluded without their knowledge and without prior consultation with them. But, when I told them that it was not binding and was simply for the purpose of guiding staff work, it dissipated the tension.

Q: The relationship between the Bank and the Fund is an on-going issue.

A: It's improving a lot. It is improving a great deal, I think, due in large measure to the skills of Mr. Wolfensohn because he manages personal relationships very well, including with the Managing Director of the Fund. We don't know of anyone that's done better before him. But it is a difficult
relationship by definition I would say, because there are overlapping responsibilities and because each institution seems to like to do what the other sees as its primary function. It's true, no one will admit that, but it's true. The Fund, if you read its articles of agreement, basically should address short-term imbalances, but it likes now to address long-term issues. In fact, it is only because the U.S. government has finally suggested that the Fund should stick to its original function that this is now gaining support. I have been saying this for a long time to no avail. The Bank is mainly to finance specific projects, this is written in its articles, but the macro economists in the Bank don't like that. In fact, left alone, they would not finance projects, but would rather address policies and, if the policies are “right”, they would say why waste time and money on the financing of projects. If the policies are right, projects will become right and borrowers can do whatever they like with Bank loans! At one point they wanted to make “performance loans”; the good guys would just take the money. I opposed that. This may be the function of the Fund, but certainly not that of the Bank as described in its Articles. Our role is not to give rewards to whoever agrees with what we consider to be good policy. First of all, the Articles are against that. Secondly, what we consider good policy at a point in time may prove not to be that good at another point in time. Again, this can reduce the credibility of the institution and its standing with member governments. But it was advocated strongly, it still is actually. Each one advocates what he believes is correct and right. But there are different conceptions of what is correct and right.

Q: If we may turn to another statement. Actually, we do eventually want to get to more recent things, but I'm still dwelling on what you said in 1994. You observed that when you arrived at the Bank the Legal Department was on the margins, how has it become part of the mainstream
operations of the Bank?

A: Well, I don't want to overstate my role or to say that Legal has moved from the margins to the center, because either statement would not be accurate. But the fact is, physically, they were located in the N building, which is an old building on the other side of H Street. And for them to attend a meeting they had to cross the street and would not be consulted on major issues. I saw that situation before I came and asked that the Legal Department be moved to the main building in the E building; making sure that when I come to the Bank I would come to the E building. To me, this was important; proximity is important for practical as well as psychological reasons. Many people would rather just let go than get you involved. So, this was like a pre-condition to my coming to the Bank. People in the Board, in the Managing Committee, vice presidents, all became anxious to know Legal's views before formulating or opposing a paper; they would send it first in draft. That was my position from the beginning. Why put us in a strait jacket? Give us whatever you think, write whatever you want, and give us the opportunity to tell you what can be defended and what cannot, and then reformulate it accordingly. The leverage of course, when it comes to specific loan proposals, is the so-called Statutory Committee Report. Under the Articles, the loan is not proposed by the President, the loan is proposed by a committee of experts in which the governor of the borrowing country is represented. That's a legal requirement. In practice, that requirement has been reduced to a mere formality because a real loan committee was established, but without a representative of the governor of the borrowing country. The senior staff in the Loan Committee, now called the Operations Committee, used to discuss this. Then over time, in recent years, the role of that latter committee has been limited to adjustment and controversial loans, and all the
other loans are left to a so-called Regional Loan Committee, presided over by the regional vice president and consisting only of him, the country director, and a representative of Legal. So, for most project loans, the approval or suggestions come really from the originating department and the lawyer who is the only one from outside the department. The lawyer's importance comes from the fact that he is the only one who can say to the Committee something other than what's written, since the director can't object to what he is submitting to his vice president, and the vice president has already performed his role before the meeting of the Loan Committee (where he would have already made sure that whatever objections he may have had were met). So, either it becomes a formality, or Legal plays a role. And that, in itself, increases the dimension of the role of Legal.

In the Operations Committee, supposing I took a position which was not followed, I always differentiated between my position as General Counsel, and that reflecting my own views on policy or non-legal matters. If it is the latter, and the majority disagree with me, that's fine but, if it is the first, I would not sign the Statutory Committee Report if I felt that the legal requirements had been ignored. The Statutory Committee Report, as I said, is taken as a formality, it is circulated, everyone signs, and that's what goes to the Board. As General Counsel, I'm a member of the committee, in fact I was the highest ranking member, and if I don't sign, it doesn't go. There were occasions, not too many, few occasions where I said, "Sorry, I have told you the legal position, you have ignored it, I cannot sign." And they changed it accordingly.

Q: So you would say that Legal is now much more a part of the ordinary culture of the Bank, as well as the culture of the operations of the Bank? And if that's so, what else needs to be done?
A: Well, I think there was a year between my stepping down from the position of General Counsel and the appointment of the new General Counsel--more than a year--where there was an acting General Counsel, a very able one. An acting General Counsel, regardless of the person, does not have however the same stature of the General Counsel. In addition, the person may be expecting a promotion to the position of General Counsel. So there might have been a reduction of the role in that period. I cannot say definitely, but I noticed one thing, that fewer and fewer questions were put in the Board to the General Counsel.

I am now putting the legal opinions together in book form. I got Board approval for that. It's not an easy function because they have to be updated and some parts had to be deleted for reasons of confidentiality. I have discovered that during my 15-year tenure, or a little more than 15 years, more legal opinions have been written than ever before. Even compared with the long and rich period of Mr. Broches, who had served for 20 years as General Counsel. The frequency came basically from requests by Board members which I believe were based on their certainty that they would not just get support of whatever Management says, but an analysis of different positions, plus the background and history of the information which was not necessarily given to them before. So, it became a normal thing to ask for a legal opinion which, in turn, increased the relative importance of the role of the General Counsel. I hope this will continue, but, as I said, I saw recently a decline in the frequency of requests.

Q: Now, the trend towards decentralization in the Bank, do you see that as a possibility in lessening the role of the General Counsel?
A: Could be, because, again, proximity matters. If you are a director in Indonesia, you are not likely to seek legal advice with the same frequency as if you were in the same building. I did say, when it started to happen that if needed we would send a lawyer to be part of the mission. In general, I was not very supportive of that except in Indonesia. Because, again, a lawyer in the field is not like a lawyer here because he doesn't have the same institutional support, and he may tend to become overwhelmed by the context of where he is; seeing himself as simply defending whatever the others want. You see, there's a culture in the attitude of lawyers depending on your background also. A typical practicing lawyer in a law firm is driven by the interest of the client which in turn depends on who is your client. Sometimes, a practicing attorney defends his client even when he personally thinks the client is absolutely wrong--even if he is a murderer. But, by definition, if you are in defense of a murderer, what else can you do? That's very different if your background is, say, a law professor who cares for what he thinks is legally correct. Or, if you've always been in an institutional legal advisory position where you want to define what is and what is not legally correct, and then your client will take it from there.

In my own background, I started in a legal advisory position. The Conseil d'Etat in Egypt is based on the French system of the government's legal advisor, part of it. The other part is the administrative tribunals, when the government is sued. From that, I moved to academia--teaching. Then I moved to the position of legal advisor of the Kuwait Fund, and from that to Director-General of the OPEC Fund. So, I was never really in a position to defend a client regardless of whether he was right or wrong, I am not used to that. On the contrary, I was more in the position of advising you on how to behave, as your legal advisor, and then it's up to you to follow my advice or not. The good thing about the legal advisor is that he doesn't control you, he just tells you what he
thinks is correct and what the legal risks are. And then, like I said in the Board once, “If you want to act otherwise, do it, but on your own peril.” Sometimes, the President would ask, “Are you my lawyer or not?” I would answer him, "I'm the Institution's lawyer, which includes you. My job is to tell you beforehand what can be defended and what cannot." I think in the long term this is in the best interest of the President himself.

Q: Let me turn to something that's related to this and that's the question of your role in the creation of the Inspection Panel.

A: Yes. To be fair, I was not the forefather or the creator of the Panel as some people think. At most, I might have played the midwife's role. There was pressure to establish some mechanism of inspection, as we have with the OED which looks into projects after their completion, but no independent inspection function during implementation, or even before approval. Who will tell the Board about something that is wrong if Management is not saying it. That issue came out with the “Wapenhans” report; the need for greater precision and greater care in the preparation and implementation of projects, against the so-called approval culture where the main interest is to get as many projects approved as possible.

During that time, a proposal came from four members of the Board to establish a unit under the Director General of OED to deal with the inspection of projects under preparation or implementation. In the meanwhile, there was a lot of pressure from Washington-based NGOs to establish a totally independent unit outside the Bank, with the Bank’s role limited to financing it. And, for it to be like a tribunal which would issue binding decisions on the Bank, and anybody can
go to it. It was to be different from the Inspection Panel we now have. They ended up somehow getting the ear of an important member of Congress, the congressman from Massachusetts.

Q: Barney Frank.

A: He happened to be at the time the ranking member or the chairman of the Appropriations Committee in the House. This was at the time of the Tenth IDA replenishment, so he made it clear, “No panel, no replenishment.” Management felt that something had to be done in response to the internal pressure be it from Wapenhans or the Board, and to the external pressure in that context. I wrote a book on the Panel in which I described all this. My role was to come out with a proposal that could be sustained in-between the two proposals; a unit independent from Management, yet not too detached from the Bank.

Q: Did the President ask you to take this role?

A: You see, at that time, we had the Managing Committee where all policy issues and papers that go to the Board were discussed, and where this issue was discussed. I don’t recall exactly whether I volunteered or was asked, but the fact is, I submitted a draft resolution. Mr. Stern, who was the Senior Vice President, Operations, asked someone in Policy, Mr. Hugh Scott, to write a policy paper on the establishment of an inspection function and I prepared the draft resolution. What was discussed in the Board, interestingly, was the only draft resolution, simply because it provided language to agree or not agree with. The policy paper was more, let’s say flexible. So the draft
resolution was the basis of the discussion and it was amended several times since the Board's initial discussion, and that of its Committee of the Whole which met at least twice on it. Then I revised the draft which was also reviewed and the final draft was approved in 1993.

In the practice of the Inspection Panel, whenever there was a big problem people came to the General Counsel for advice. The Board asked for a legal opinion twice and then I volunteered a paper when I saw that the practice was deviating so much from what was originally written. I mean the practice by Management, the Board, and the Panel. In 1998, I wrote a paper to the Board called "Commentary" which, in fact, was the basis of the review that ended up with certain resolutions in April 1999, very much reflecting what was in that commentary. Of course, this invited criticism from some NGOs, but the fact was that a deviation had occurred in practice. You see, the Panel's function as written, is to see if the Bank is or is not violating its own policies and procedures when it comes to the design, implementation, and supervision of projects. That is its purpose. It ended up, however, with the support of many Board members, doing something else. They wouldn't admit to it, but they had it in writing and I'm quoting them in the book as saying that the Panel has two functions: One, to see whether Bank action is consistent with policies and procedures; and the other, to address the harm inflicted on people as a result of Bank financed projects and find ways of redressing that harm. Then they added, in a note to the Board and in another introduction to a 1994 book edited by the Panel's chairman, that the first function is not very important because the Board had not put emphasis on it and because it was a policing function, what really is important is addressing and lifting the harm. Now, addressing and lifting the harm is certainly a noble function, but it is not the function of the Panel. And, at any rate, it would require a very different set of capabilities and a huge staff other than three people, after a two-day visit, to come and say that this
is how to address the harm. So I pointed that out to the Board, noting that the harm quite often
would not be done by the Bank, if at all, it would be done by whoever is implementing the project.
The resolution says that the Panel shall not look into any action that falls within the responsibility
of any entity other than the Bank, such as the borrower. This was the way it was approved, at the
insistence of the borrowing countries. However, we ended up questioning the borrowers’ actions
and telling them what to do about it. And that’s not the function of the Panel, with all due respect.
This was really a big issue between Part I countries, under pressure from their NGOs, and Part II or
the borrowing countries. The borrowing countries, of course agreed and said from day one that the
basis of the resolution is what is written in the resolution, and that it turned in practice into
something else.

In one case in Brazil, the government, as a result, put almost $300,000,000 of their own
money to carry out the remedial measures and said, "We don't want anything from you." The
Board established a committee to review the Panel’s practice. Three from the borrowing and three
from the non-borrowing countries. They ended up more or less agreeing with the premises
presented in the “Commentary”, in fact, reiterating what's in the resolution. I did not mind which
way the discussion went, but my concern was not to write one thing and then do something else.
Again, concern for the legality of the action.

Q: How has this Panel worked?

A: Well, it has worked well. It has three members. It was meant to be a staggering membership for
the first group. Then, after that, five years each. So the first one served for three years, then four
years, and then five years. In this way you ensure continuity, and it has worked. Of course, again, like any group of three human beings, it would depend on the personalities, knowledge, etc. of the members. And, if you have a strong member, he is more likely to influence the result.

Q: Has the Panel had an impact on issues of transparency? Does it contribute to the larger debate about the Bank being more transparent in what it is doing? In fact, can a panel of only three make much of a contribution to transparency?

A: They can, because everything they write and everything written to them is published. And they have access to all Bank files. And they publish even the contents of internal Bank memos, which, under our disclosure policy, are not published. So they have contributed a great deal to transparency in that sense. Also, they are accessible to private groups at any time anybody writes to them, or wants to meet with them. They also seek consultation with these groups so there is no doubt that they have added a great deal to transparency.

They have also made the staff more aware of the need to respect policies. They have contributed to the awareness of the staff of the need to honor the policies in their work. In many of their reports, actually, they have pointed out that the Legal Department had alerted the staff to this and that, and that yet it was not done, in their view. In that sense, they have contributed to the role of Legal because many of the problems that are flagged out by the Panel could have been avoided if, from the beginning, the operational staff had listened to legal or environmental advice. The fact is, if you are in Operations you want to get things done and done quickly, and you may not want to be bothered with the legal, social, and environmental concerns as you would be if you were in the
Legal, Social or Environment Departments. So, since most of the concerns are of a social and environmental character, and since Legal is involved in fact in the writing and clearance of loan documents, it was raising these issues as required in codified Bank policies.

Q: The issue of transparency and the Bank's policy on disclosure of information, does that force a change in policy towards disclosure of information?

A: Yes, it would. The first policy that was done in '85 was written in the Legal Department and then rewritten maybe in '89. And it may be rewritten again as there is a trend towards greater disclosure. Against that, there must be some confidentiality, otherwise no one would give you information, because a lot of sources give us information on the basis of confidentiality—that we won't give it to others. And if it is known beforehand that everything will be published the second day, then the quality of what you get would be different and, that's an important issue. There's a balance that has to be maintained. See, the U.S. is pushing very much, again under pressure from NGOs, for almost absolute disclosure, in the Fund as well as in the Bank. But, if that happens, I assure you that governments will not give these institutions the same degree of openness.

Q: This, in spite of the fact that the U.S. government has a 25-year limit on its own disclosure of information.

A: Oh, it is not uncommon for any government to advocate things that it does not do.
Q: I think that's a truism of political science--institutional studies.

A: Mr. Summers was saying in a recent speech that a professor somewhere told him that she finds it unconscionable that the U.S. government supported the Russian government in spite of this and that, etc. He told her, "You know, I've been in academia like you, and now I'm a government official, and there is a difference. In academia, if you are researching a subject and you reach a stumbling block, something that you don't like, you just leave it alone. In government you cannot do that."

Q: In other words, in government it's not going to go away. Well, the question of disclosure of information is, of course, of paramount interest to the Archives here in the Bank. It's a real issue for them so they follow very closely the whole evolution of this policy. I believe there's something to come up some time in the fall.

A: Well, I'm speaking to you very candidly on the basis that not everything said here is going to be made public.

Q2: When you sign the release agreement you can make stipulations, like you did the last time, as to what and when you want to release the information.

A: Most of what I've said, however, has appeared in my published writings.
Q: It is understood that the final copy of this is to be reviewed by you before it's turned over to the Archives with whatever restrictions you wish put on it, which, I think, is standard practice. And as you say, people feel freer to talk in these interviews if they understand that there might be some limit as to the immediate availability of this kind of information.

Q2: Because, as a rule, the transcripts are available for public access. However, this is also contingent on the restrictions you place in the release agreement. So, when we finalize this and you look it over, you may include in the release agreement whatever restrictions you wish to place.

Q: Also in the review, obviously, if you want to change something or add something to what you've said, that's obviously the time. We just have a couple of more questions for this morning, if I may. About ICSID, just briefly on international arbitration, we'd like you to talk just a little bit about the role that you played in the development of ICSID.

A: Not much. First, I reviewed the rules of ICSID and suggested changes in them. These were approved in 1984. This took place immediately after my election as Secretary-General. I have tried to put very good people in the ICSID secretariat. Few but able, and that reduced my involvement because I could rely on them. More recently, there has been a great expansion in the work of ICSID. I have played a minor role in that, basically publicizing ICSID. In '86, I started the ICSID Review which today has a wide circulation and comes out twice a year. It has two titles: ICSID Review, and Foreign Investment Law Journal. It's found in practically all the law libraries. This gave a forum for articles and debates over matters of relevance to ICSID and foreign investment in
general, from a legal viewpoint. Also, the ICSID Newsletter was issued. It comes out every three months and has a circulation of about 6,000.

So publicity helped in making people aware. There was when I came, for the first two years of ICSID, the meeting of the Administrative Council which is like the Board of Governors or the Ministers. This took place separately from the Bank in a closed room and there was very little said there, so I worked on changing this to be part of the Bank-Fund Annual Meetings. Now when you go to the annual meetings with around 15,000 people attending, they see the signs of IBRD, IDA, IFC, MIGA, ICSID and they know that it is one of the institutions of the World Bank Group. In fact, the first time this was done, everybody was wondering what it was as they had never heard of it, so it became much better known. But what really made the ICSID more usable is the multiplicity of treaties providing for ICSID arbitration. There is more than almost 1,000 treaties which have a clause that any dispute between the investor of one party and the other party, if not settled amicably, shall be settled through ICSID. Even the NAFTA agreement, interestingly, where two of the three countries are not ICSID members, Canada and Mexico. There is an ICSID Additional Facility clause where one of the parties is not a member nor a national of a member. Now we have quite a number of cases under NAFTA. When I came, there was only two ICSID cases or so per year, now we have 32 or 33 cases pending, so it is a great expansion. Also, the staff comprised one person other than the Secretary General, now there are about ten or so. ICSID has expanded with the growth of the volume of foreign investment, and therefore of investment disputes. The ICSID clause in the treaties is most important, there are also about 20 national pieces of legislation now which refer to ICSID arbitration. So, people have become aware of it and many states are now obliged to use it as a result of a priori acceptance of its jurisdiction.
Q: And do you think that it will continue to grow since it is working well?

A: Generally. There was a disturbing trend in '84-'86, where the losing party would ask for annulment of the decision and we have a procedure for that. Everybody became alarmed and all sorts of articles appeared in law journals about the demise of ICSID, but it didn't happen. In fact, since that time there have been no requests for annulment.

Q: I'd like to finish up this morning if I may, just talking a little bit about MIGA in the Bank. Since there are many guarantee agencies out there such as in the United States the Export-Import Bank has a major guarantee function, why did you think that there was a need for another guarantee agency?

A: This is explained at length in my book on MIGA. MIGA does complement the national agencies and further enables them to expand, rather than substitute for them. First of all, the main agency really for this kind of insurance and for covering this political risk is OPIC, the Overseas Private Investment Corporation. It is limited to American investments abroad, and it may refuse to cover for certain reasons. MIGA is not limited to a particular national investor and it covers investors from all member countries, and is not limited in terms of the destination whereas OPIC is as it cannot cover Cuba, Iran, Syria, etc. MIGA is not subject to the same political limitations that the U.S. agency would be by definition, and it can reinsure the national agencies as well as co-insure with the national agencies which it has done also. So, it shouldn't been seen as a substitute
for national agencies—that was the original thinking in some quarters and that's why MIGA was opposed to by many recipients and donors. But when all this was explained at length and reflected in the proposal, it was accepted.

Q: What is MIGA's volume of business, now?

A: It's quite large. You see, when we had the earlier interview, I think I told you that there was a general lack of enthusiasm towards MIGA's potential among economists in the Bank and there was little interest in establishing it as an agency.

Q: Right. And you took it on.

A: I took it on as a "dead horse". That's how it was put to me. But the main point was, there was too little foreign investment flowing to developing countries in the early eighties, three or four billion dollars, seven at most in '83. So what were we talking about? I was talking about the future. Now, we have more than a 100 billion dollars of direct foreign investment per year, not to mention portfolio foreign investments. So the volume of foreign investments has increased tremendously after the fall of the Soviet Union. And I'm speaking of foreign investments in developing countries. So much so that the main problem for MIGA became the inadequacy of its capital which has been practically doubled because the Bank gave it some short-fall support while the capital increase was discussed. The Bank made a grant of $150 million and then the capital was increased by $750 million. So, in addition to the initial one billion, they have now another almost one billion. Also in
addition, they have the reserves and not a single loss so far, and they accept one out of four requests. The demand is tremendous, unlike all what I was told by experts at the beginning. So, in that sense, you can say it has been a success.

Q: You saw in the beginning that the United States, I think the British, Canadians and others have had these kinds of guarantees but that they were too limited and they didn't cover..........

A: I did not see MIGA as a substitute for these national agencies. On the contrary, I saw it as a possible support for coinsurance and reinsurance. Besides, MIGA has other functions, like promotion of foreign investment in developing countries, and so on.

Q: Well, thank you very much.
Q: This is May 24th, 2000, and this is the second interview with Mr. Shihata. We would like to begin this morning, Mr. Shihata, with some questions about IDA, and let's begin with the broad question of, is IDA organized and governed, in your opinion, in the most effective way that it could be?

A: Well, legally its governance is not different from that of the Bank, IFC, or MIGA for that matter. But, in fact, the introduction of the IDA Deputy arrangement which started, I think, with the third replenishment of IDA and which was meant simply to facilitate agreement on the renewal of the resources of IDA, has ended up with a different de facto governance of IDA, and now, of practically the Bank group as a whole. The reason is that the Deputies' meetings, which according to the chairman of its first meeting in Paris was simply to agree on the amounts and mode of payments of IDA replenishment, ended up being a meeting to set up conditionality for the use of IDA resources; a function of the Board of IDA not that of an informal meeting of deputies who are not an organ of IDA, or for that matter, of any of the institutions of the World Bank Group.

In fact, interestingly, in the first meeting of the IDA deputies chaired by Mr. Burke Knapp, a former senior vice president, he started by saying, "This meeting is for reaching an agreement on the amounts of pledges allocated to IDA resources and on the balance of payment." And then, one deputy began speaking of conditions for the use of IDA money, and the Chair told him that this matter is for the Board of IDA to discuss and determine, and that this meeting was to agree on the amounts, etc. In that meeting, notwithstanding the comment by the chair, many comments were made on conditions of use of the IDA resources. And then, in subsequent meetings, the discussion of policies and conditions became more and more prevalent. In the last meeting on the IDA12, the
report included conditions on the use of, not only IDA, but IFC and MIGA resources regarding the Inspection Panel function and labor standards, notwithstanding the fact that these issues were discussed and were under discussion by the respective boards of these institutions. But interestingly, the report of the deputies goes to the IDA Board of Directors on the basis of "take it or leave it." So they take it. And then it is sent to the Board of Governors where it is to be approved. An Issue, in fact, arose of what if, after approval by the Board of Governors of the report, and the issuance of its resolution on the replenishment, the Executive Directors did not adopt the policies agreed on by the IDA Deputies. During the IDA12 group discussions some deputies asked, "Can the policies embodied in the report be changed by the Board of Directors even though they were the basis of the resolution from the Board of Governors?" Management assured them that, any change has to go to the Board of Governors. But in a discussion in the Executive Directors' Board, Management told the Board that "You are the policy makers." In other words, the issue is very blurred. I describe this in my book "The World Bank in a Changing World", the third volume. The impact of that on the governance structure is that the Board of IDA, which is meant to be the policy-making body and is delegated all powers by the Board of Governors, has in fact been stripped of its discretion since it is given the report of the deputies on a take it or leave it basis. In fact, the report of the deputies, in the standard jargon of the Bank, is called "Agreement" as if what is agreed by donors binds everybody. This would have been correct if the Board consisted only of the donors. But since it doesn't, there's something strange there. What is stranger is that the report goes beyond IDA into what the IBRD or the other affiliates should or should not do. As a lawyer, I think this is completely wrong.
Q: It seems to me that these deputies are, in fact, deputies of finance ministers, and they have basically the same function as the EDs? Is that not the case?

A: No. You see, theoretically they say, "In fact, we are the bosses of your EDs." But sorry, first of all, the ED legally has no boss because he's not simply an ambassador of his country. He's paid by the Bank, he is an official of the Bank. And that's very different from, say, the ambassador at the U.N. who as an official of his country is paid a salary by his country. The ED here, of course, is expected to reflect the views of his authorities. Many of them, in fact, a great number of them, represent many countries with conflicting views as some represent donor and some recipient countries whose views may not coincide. So, and even among donor countries in the same constituency, different views can exist. So, to assume that because somehow he partially reports to someone in the Ministry of Finance that his role can be completely ignored in favor of that someone is unacceptable. Once appointed in the Bank he is supposed to represent his own views, taking the institutional interests into account. And if he represents more than one country, he cannot divide his vote. He cannot say, "Okay, I represent five countries so 20 percent of my vote is for this and 10 percent for that," the charters of some institutions may allow this, but not here. Here, he is an official of the Bank casting his votes as a unit on whatever issues are discussed. So the argument is not there. Besides, as I said, the Board does not represent only IDA donors. What about the others who never attended the Deputies' meetings? I think that Management started this exercise in good faith by inviting representatives of donor or Part I countries only. This was done at the time by President Woods. In fact, he failed to get the second replenishment agreed, and was not renewed in part because of that failure. But, it was started like this with an attempt to facilitate
agreement on replenishment by getting the donors together to discuss the matter. However, it has slowly and quite unintentionally virtually replaced the Board on all important policy issues. Just to give you one example to show the impact of this on the Bank. There was, again, a legislation by the U.S. prompted by a member of Congress which required the Secretary of the Treasury and the ED of the U.S. to insist in the Board that no loan would be presented to the Board unless an environmental assessment is made 120 days before Board consideration of the loan. This was discussed in the Board and rejected as the majority didn't agree with that. Then the IDA replenishment came and it was insisted upon in the IDA report. Management, instead of the 120 days, managed to say "before project appraisal," which normally is more than 120 days anyway, or at least 120 days before Board consideration. So, this became a requirement in IDA. When it was discussed in the Board of the Bank, countries like Brazil, Mexico, etc., who are not IDA recipients said very clearly, "This does not apply to us, that's IBRD, not IDA Board." So, now for the first time in our detailed ODs and OPs we distinguished between them. For the IDA borrowers it would be required before appraisal. For IBRD borrowers it would also be required, but the senior vice president of Operations may, if there are objective reasons, waive this and inform Board members. That's how it was written, but later it became applied to so-called type A projects in both institutions. And, without that exception, I don't know of any environmental or social policy that differentiates; what applies here applies there because ODs are applicable by their terms to both IBRD and IDA. Even if it was not written, the two organizations have the same president, Board members, and staff members. So it's very difficult to say this applies here and does not apply there.

Then what is the Board for, and what's the role of the recipient countries if all major policy issues are decided upon and debated by the deputies of the IDA.
Q: Is there opposition to this among the recipients?

A: Well, earlier on the ED from China asked for a legal opinion and I wrote one explaining what I have just said. This was, I think, on the occasion of the sixth replenishment. But things died out. You see, the Board members are changed, for the most part, every two years and newcomers see the facts established by their predecessors. By the time they are conscious or able to challenge matters they are changed and then we start all over again. Whoever made the term of the members two years really must have meant weakening the Board. You see, from the very beginning, before the establishment of Bretton Woods, there was an argument between the Americans and the British. The Americans wanted a strong board and the British wanted a board that would meet normally once every three months and would not be a resident board; a weak board, basically. The Americans prevailed at the end in having a resident board, but with the two-year period which, in fact, made it weak. Then it became weaker when the Bank’s second president, John J. McCloy, a New York lawyer, took office. Before he even started, he wanted an agreement with the Board because his predecessor, Eugene Meyer, the Bank’s first president, had resigned after only six months due to disagreements with the Board, mainly with the American representative. So they had this so-called agreement (1947 agreement) which was changed here and there, but not since ’56, which basically gives the president the power of initiative in the presentation of loans and the recommendation of policies. In other words, the Board cannot take the initiative, and the result, of course, is that the Board is always in a responding position. When they wanted to change a loan, they have been told since the sixties, "Sorry!" In this case, the loan will have to go back to the
statutory committee. Now, this committee becomes a useful instrument only when needed because it's supposed to be the one which suggests the loan, and now if you change that, it has to go back to it. And if it is a policy matter, of course, the Board can have an input by suggesting changes here and there, but normally it can not change the core of a proposed policy.

Q: Has there been greater continuity in the IDA Deputies than in the EDs?

A: It depends, in some cases yes, since normally the deputies are either the deputy ministers of finance and their continuity depends on the political system, or they may be the heads of the aid agency in the country, which are normally more stable. Individuals may change but the policies of the donor countries are driven more by their internal politics; the demands of their parliaments, their NGOs, etc. And most of the changes, for instance, the ones related to the environment were, I would say, driven by NGOs in the donor countries. Most of the more recent demands related to labor are driven by labor unions in the United States.

Q: IDA12 was a difficult replenishment. Do you think that there is what some people have referred to as "aid fatigue" making it more and more difficult to fund IDA?

A: This question should be addressed to the donors, but one notices that practically every replenishment is more difficult than the previous one. People get tired of fund raising, maybe, but generally the so-called objective or goal of 0.7 percent of GNP given by the developed countries in aid to developing countries which was proclaimed in '64 at the United Nations meeting in Geneva,
has not been met by the majority of them, a few perhaps, like Holland and occasionally some Scandinavian countries. This has been exceeded by some OPEC countries which are not even developed countries, but, for the most part, the developed countries have not reached that. To date, I think the last figure I saw for the U.S. is 0.3 percent, which is less than half of that objective. So whether fatigue is the right word, or is it just a general anti foreign aid sentiment which you see now in some developed countries as a result say of more conservative governance. Also people, even individuals, like to see the result of their aid, and if they see it leading to nowhere as in many African countries this becomes very discouraging. They keep coming up with new ideas; governance and anti-corruption, but really poor countries remain poor. Some of them are much poorer today than 20 years ago because meanwhile the population has increased. No one has correctly found out exactly why some countries develop and some don't. There are many theories. But if you compare say Korea, which was a very poor country 30 years ago with its per capita income far less than Egypt's, now it is many times that of Egypt’s. What made the difference? I happen to believe that it is discipline; based on persuasion and conviction, not coercion. But in democratic donor countries they give less attention to advocating discipline and more attention to a typical form of Western democracy. Take Singapore, as an example.

I really believe discipline makes a big difference. I know that from the history of my own civilization whether it is ancient Egypt or the Islamic civilization. What made the Islamic civilization? It was really a very strict discipline based on faith. These were tribes in the desert, meaningless, no power, no wealth. How is it that they managed to bring about the fall of the Roman empire, the Persian empire, and the kingdoms of Spain? They had a harsh discipline of praying five times a day, and fasting with no food, drink, or smoke during the day for a whole
month every year. Those bedouins became civilization makers. Now, you have the issue of human rights, you have the issue of democracy, that is fine. You can have discipline with full respect for human rights and for democracy, but what you can't have is chaos leading to development. And many people in the West don't understand that because they confuse freedom with lack of both discipline and compliance.

What I see in my country and in many developing countries is a lack of respect for rules, whether it is traffic rules or taxation rules, or whatever. And, I don't think these countries can really develop with their mentality of lack of respect for rules. If you don't like the rules change them, but do respect them while they exist. On the other hand, in the developed countries there is a high measure of respect for rules, although this is also breaking down with all sorts of social manifestations and demonstrations. My personal belief is that discipline is extremely important for development and, unfortunately, it is lacking in many developing countries.

Q: Well, all the arguments about the development of the West, and the emphasis on the Protestant ethic and self discipline that is instilled.

A: See, the ethics are there in developing countries but they are not honored in practice. They are talked about all the time. In fact, people's senses are dulled because everything is cast in religious terms. But they have managed to live with this complete separation between what is advocated, what is heard, and what is in fact being done. You hear more about religion and ethics and morality in developing countries than in developed countries. For instance, in Arabic, you hardly have a sentence without the word "God" appearing in it somehow. The word “Allah”, meaning God,
appears in almost everything you say, it's in the culture. God is always there in the language; in the
culture. But is he really there in the practice of the people?

Q: Well, now we would like to ask you about some of the issues having to do with politics. We
have read what you've had to say and just want to follow up on some of that. Do you think in
recent years that the Bank has been able to maintain its non-political character?

A: Well, when the provision in the Articles about the Bank not taking into account political
considerations was discussed in the U.S. Senate when they were issuing the Bretton Woods Act,
some senators, especially Senator Tufts, asked how can an intergovernmental organization be
expected to act non-politically? And the Secretary of the Treasury at the time, Morgenthau, told
him, "It will depend on the men running this institution." In modern language, he would have said
men and women running the institution. No one is naive enough to think that an intergovernmental
organization would be totally isolated or insulated from politics. But the whole idea was, and mind
you at that time the Soviet Union was a participant at Bretton Woods, the whole idea was that since
the institution was going to rely on the market, it should really act as a financial and technical
institution without paying consideration to non-economic factors.

We have managed to introduce many factors, previously seen to be non-economic, as
economic factors under the term "sustainable" development. So, social and environmental factors
came into it all as required for sustainable economic development. Because, since you are speaking
of development, by definition it has to be ongoing, it has to be sustained, and therefore it cannot
ignore the social and environmental impact. All that is fine. Then, with the growing strength of
NGOs and the normal inclination of donors of not only wanting to transfer their money but also their values, came the idea of democratization, etc. And, the pressure on that particular score is there and has increased tremendously in the last few years. Now, in addition, certain governments, certain powerful governments, are always tempted to use the Bank and other places as instruments of their own respective foreign policy; rewarding certain countries because they like them, and punishing others because they don't like them politically. So, you add all this and you reach the present situation of increasing pressure to politicize the work of the Bank. A lot depends on the staff, the President, and the Board. At the end, you may say some politicization is inevitable given the facts. But this politicization can be minor or major, depending really on the strength and the inclination of those three. You have staff unfortunately who have strong ideologies of their own. They strongly believe in a certain ideology. There was a time when the prevailing trend in the Bank was “neoclassicist economics”, and whoever would argue otherwise was not listened to. For instance, when the issue of privatization came up the argument was made that, if a public sector enterprise was performing very well, should it not necessarily be privatized? Was privatization an objective in itself, or a means to ensure efficiency? And if it was the latter, why insist on applying it to public sector enterprises which were efficient and profitable. I gave at the time the example of the airlines, where I said that I found Lufthansa, Air France, and Swiss Air much more efficient than the major American airlines, at the time, TWA and Pan Am, whereas the former were publicly owned and the latter were privately owned.

The researchers of the Bank and the economists came up with a long report that ownership matters, that private per se is better than public, and that the Bank should push for privatization in all cases. I believe, personally, that this was a politically or ideologically driven approach after the
disintegration of the Soviet Union. It was politically desirable to change the power structure as fast as possible, and the easiest way was to transfer ownership of the major assets from the bureaucrats to the private sector. This happened quickly without a prior legal framework, nor an appropriate judicial function in place which led to disaster in some cases. But this is history, I have argued against that at the time saying, "Let's first work on legal and judicial reform at least to accompany, if not to precede privatization." This was not listened to at the time.

I argued that privatization should be a mechanism to ensure efficiency, not an objective in itself. That was ignored. But here, the staff themselves were ideologically prepared to accept that position even without any political pressure, because the majority of them were either from developed countries or were educated in developed countries—in fact, all of them, practically. So you have the ideology-driven staff, then you have pressure from some member countries, the NGOs, and the IDA deputies. Where would that end? I don't know because if, for instance, we end up saying that unless you have a democratic system a la West we are not going to lend to you, this will be exactly the opposite of what's written in the Charter regarding non-interference in political affairs and not taking the political character of a country into account. But it can happen, with the way things are developing. And what would the Bank be like? Obviously countries which do not have that system are not going to change their system just to receive loans from the Bank. Take China, for instance, are they going to give up their political system, their power, etc. just to get loans from the Bank? I think they would rather withdraw. And then you will end up with a very different bank from the one that exists today.

Interestingly, the EBRD (the European Bank for Reconstruction and Development), has it written in its own charter, that lending would be only to countries which have multi-party systems
and market economies. But they are lending, in fact, to all the east and central European countries which were meant to borrow. For instance, Russia, according to an annex of that charter, was supposed to borrow only in the first three years. They continued lending to it, so it's for political reasons that they are ignoring that requirement, interestingly. That is interesting, but not strange, because by definition, politics means double standards. I don't know of any politics that has not changed according to convenience. And that's exactly what worries me, because if you are a financial institution, especially one dependent on borrowing from the market, you cannot afford to have double standards, you cannot afford to change your policy overnight. But, politics can lead you to that.

Whether people will come to their senses and heed what the Americans wrote in 1943 and 1944, when they defended strongly the non-politicization of the Bank against every possible argument. Whether they will come back to that or fall prey to their short-term political objectives and conveniences is another matter.

Q: Do you see the move towards decentralization as, in one sense, risky in terms of having Bank people on the ground in the field more likely to become involved in local politics? What is it now, about 38 percent of the Bank staff is in the field?

A: Could be about that. I think there are 74 offices, at least. Well, there was concern that localizing the staff might make them more sympathetic with the recipient countries. I don't know what that means exactly, but if it means that they would be more understanding of the concerns of the recipient countries and more realistic in their assessment of the feasibility of what these countries
can be asked to do, then I think it's a very good thing. If it means they become involved in the partisan politics of the recipient countries, they should not, and they are not allowed to. There was, in fact, an argument in the Board once about a Bank mission which met with the opposition party and reported that, “Although the Government says this, the opposition says that.” I was asked for my opinion which is reflected in the "Opinion on Governance Issues" where I said that under the Articles the Bank's counterpart is the Government, in fact, under the Articles, it is the Ministry of The Treasury or the Central Bank. We have broadened it into government, so any contact with anybody else, be it opposition parties or NGOs or whatever, should be through the Government. Otherwise, we are violating the Articles. Whether this is being done strictly as stated or not, I don't know, but it would be a big mistake if Bank officers get involved in partisan politics; siding with one party against the other.

Q: So you are saying that while there might be some risks in decentralization, it is balanced off by potential benefits?

A: Yes. Decentralization has also other advantages; quicker implementation of projects because someone is there to push for it, and quicker disbursement of loans, but, mostly, a better understanding of local conditions.

Q: Turning to some other issues related to the evolving role of the Bank, which we know you've written a great deal about. What in your years at the Bank are the changes in the world that you think have most required the Bank to alter its approach to development and poverty alleviation?
A: The World Bank, by definition, is the Bank of the world, and therefore it must react to what's happening worldwide. And what's happening worldwide is a combination of things: political, social, economic, and cultural. We speak now a great deal about globalization, meaning practically a lesser role for each nation state, a lessor role for political boundaries, greater freedom of exchange of goods and services, money transfers, etc., and all this affects the Bank. For instance, the role NGOs play within the Bank now is a reflection of the role they play at least in developed countries. Management now is required to consult with NGOs under Bank policies on so many matters, and is doing that increasingly more than consulting with member countries. Board members sometimes raised that issue, "How come you had five meetings consulting with NGOs and you never consulted us?" So that's a reflection of something that's happening, not in every country, but at least in the countries which drive Bank policies.

The democratization trend again is having its effect because some donor countries are pushing for it and the resistance by others is now much weaker since many have adopted it and so they wouldn't object either. But the issue is not really whether these changes are happening. The issue is what is the function of the Bank and what should be left to bilateral aid agencies, and political international organizations. The Bank does and has to reflect changes in the world in its own way. For instance, poverty alleviation is now declared to be the objective. In fact, the word doesn't appear in the Articles of the Bank; there you are speaking more of investment, transferring resources for productive purposes, etc., but it is understood that the ultimate underlying objective is development and less poverty.

The talk about cutting the number of the absolute poor by half in 15 years to me is just talk.
As long as the population is increasing and growth is as limited as it is, I don't see that happening at all. And, in fact, in the 1991 WDR, I think there was a statement on poverty saying that the absolute poor would be reduced to 750,000,000 by the year 2000. I remember when we were discussing this in the Managing Committee I said, "I bet it will increase." And that's exactly what happened. Economists sometimes can be overly optimistic. The fact remains that things are not getting better for many countries. For some they have, but even for those where this obviously happened, we had the Asian crisis which really changed the situation. But poverty alleviation is now the slogan, it is an appealing slogan, and it's a good slogan. But the question now is whether the poor will be less poor. In my mind, that will not depend on the Bank but on the countries themselves; their internal policies, their internal politics, their degree of discipline, their degree of respect for rules, their degree of respect for the rule of law, etc. And, it will happen in some countries, but not in others. The Bank's role is a supportive one.

Now, the question is: should the Bank stop lending to countries which are badly governed? Many people say yes. I wonder myself what would be the result because the bad governors are not going to change the policies on which their power is based just because the Bank lends or does not lend to them. So you may end up hurting the poor people and doubling their jeopardy; bad rulers and cutting off aid. Personally, I would rather see targeted aid that's very strongly supervised to benefit the poor people, regardless of the form of government they have. Of course, there's this argument that money is fungible, and if you fund a project in a situation like this, you may in fact be releasing equivalent funds. This has appeared in Bank reports. I don't agree with that because the underlying assumption is that the project will be implemented anyway, and if you don't give the money it would have been spent by the government on the project. But that's not true, especially if
we're speaking of social projects targeted to the poor. If you don't fund them, the government is not likely to fund them because they have their own priorities. Take Iraq under Saddam Hussein, for instance, all the boycott and all the punishments did not change a bit the power structure in Iraq or the way he is spending on that power structure. But look at the people of Iraq who had a per capita income of about $3,000 and now it is drastically reduced to about $15. What are we doing to these people?

Q: Yeah, Cuba, too.

A: Cuba. So, are we speaking now of poverty alleviation or of politics again? If you care for people, really, your priority should be different. As much as I am against Saddam Hussein, I am very much against sanctions because the real people who pay for the sanctions are the poorest people of Iraq, especially the children. And all the talk about children's rights, women's rights, etc, is forgotten when it comes to politics.

Q: What, in your view, are the strengths or limitations of the HIPC program, and were you involved in it?

A: I was very involved at the beginning. I think, again, the pressure started from the outside. The United Kingdom government asked the Bank to do something, but they were speaking only of multilateral debt. Then, a lot of NGOs and the Church, the Catholic Church, and others were asking for this. Mr. Wolfensohn--this was in his early days--asked for a meeting where I was
involved with other vice presidents. Everyone in the meeting objected to “debt relief” quote unquote, except me. And I said, "This may sound odd that the General Counsel is the one who is objecting, but I want to ask first a question: Are these countries in a position to pay back their debt now or in the foreseeable future? Do you expect these countries to pay? And if the answer is no, then it is not relief really that we are talking about, it is management. We want to manage the situation. First, in our best interest because it is not in our interest to have arrears. Eventually people will start saying, 'Either you are not disciplined, or you are not careful in your lending, etc.' So we have to do something, and defining that something may be a technical issue. But to say we should do nothing, I'm against that." Following that meeting Mr. Wolfensohn told me, "I agree with you." Then, I think, the Chief Economist was asked to look into the matter. He assigned the task to a newly appointed woman, Nawal Kamel, who came up with a structure saying that it doesn't make sense to speak of relief of the multilateral debt while ignoring the rest of the debt. Because, either we are concerned about the country's ability to pay its creditors in a sustainable way or we are not. If it is the former, then we should speak of the debt burden as a whole, regardless of who's the creditor. And, if we are concerned about writing off or relieving a country from its debt obligation, there could be mechanisms whereby somebody else pays. And then we came up with the idea of a trust fund whereby the Bank, out of net income, and other creditors would put money in. Then, the trust fund would pay on behalf of the country or purchase its debt at present value, which would be much lower. And that's how it started.

There was not much talk of conditionality, I must say, at that stage. Mr. Wolfensohn took the position that he could not go forward unless it was both the Bank and the Fund acting together, and he asked senior staff to talk to the Fund. The Fund at the beginning was not very enthusiastic,
or let's say it was against the idea. Then, after a lot of talk and, again, Wolfensohn's skills come in here, they agreed and they put a lot of conditions which many years later are criticized by the donor countries and NGOs as too strict and too time consuming. That's how the HIPC initiative started and developed. It would not have gone without say, the "guts" of Wolfensohn, because, as I said, practically everybody within senior management, excepting me, was against it. And, for any president to act against the general consensus of his staff is not easy. But, I think Jim Wolfensohn has this, and if he's convinced he can. Then the obstacle of getting the Fund, which is different and more conservative in mentality, to be co-founder of the initiative was not easy, and you ended up with a lot of conditions. Some of them make sense, because there's no point in helping a country that doesn't help itself, and thus doesn't plan to act in a different way in the future. But by having a three-year trial period followed by another period before you even start doing anything to the debt, proved, in fact, to be too much. The Development Committee came in and asked for "broadening and deepening" quote unquote, of the initiative, meaning in fact, reducing the conditions and the time span. And that's what's being done. But, in the meanwhile, there's a strong ongoing effort by NGOs to just call for complete debt relief and start with a clean slate. Our president is on the record as saying that he doesn't have a problem with that if everybody else agrees; if the other creditors agree and are willing to pay for it.

Q: What's your opinion of this universal debt relief? And the recent demonstrations in Washington during the Spring Meetings?

A: Well, any policy based on demonstrations, in my mind, would be a bad policy. I don't base my
thinking on what people in the streets say, I rather base it on analyses of the situation. And, if a
country has acceptable policies and a reasonable system of governance, I would say complete debt
relief for the very heavily indebted and poorest countries is the right approach. If a country has
questionable policies, I would say let us discuss that first because there has to be some assurance
that the bad situation would not be repeated. And, if the fiscal situation is unmanageable, then what
assurances are there? In other words, we have to be careful in what we do, and if we are not, this
will reflect on our image and eventually on our standing in the market. So, I'm not for just "black
and white." One has to differentiate in this respect.

Q: Where do you think the Bank has been most successful in adjusting to this changing world?

A: Well, obviously, the concern for the environment has been part of the Bank system, and now it
is mainstreamed in all operations. The concern for legal and judicial reform as a prerequisite for
private sector development is a good thing especially if properly done, it would also really mean
respect for rules and discipline. The anti-corruption, I think it is too early to say. There's much talk
about it. In terms of results, I personally haven't yet seen a country that has become less corrupt as
a result of Bank efforts. This is yet to be seen. In terms of more concern for the social sector, that's
clear in our figures and our actions, but it can also mean reduced lending by the IBRD because
many governments might not be interested in borrowing on semi commercial terms at these high
interest rates for social projects, or more generally, for projects that do not generate income to
service the loan. And this is a big issue. For instance, I was recently in Egypt and I asked the prime
minister, "Why don't you borrow from the Bank?" Practically, Egypt hardly borrows from it
anymore. And he said, "We have a policy not to engage in foreign borrowing except for projects which generate income that service the loan." So I told him, "but you are excluding all social projects, unless you borrow for a private hospital or a private school, which you are not willing to guarantee." He said, "Yes, you have a point, but this is a policy that the parliament approved and the President approved." So, that is the situation there. It can mean much reduced lending by the IBRD and an overall negative effect, even on social spending. But, one thing leads to another. In my book, I've stated that change toward placing the emphasis on social lending is as much a virtue as a necessity because we're no longer financing public enterprises, and governments are not willing to guarantee loans for private enterprises. So, what's left? In other words, it became a necessity to increase lending to social projects and for structural reform purposes.

Q: Structural adjustment.

A: Structural adjustment, I have my concerns really, because I understood it when it was to get countries to meet the cost of changing their policies, but for those that have changed them why are we giving them money? Now, we speak of systemic structural adjustment, programmatic structural adjustment. Some people, as I said yesterday, spoke of "performance loans". As if giving money becomes an objective in itself. But if the adjustment has been done, by definition adjustment cannot be forever. And if you have now a market economy, what are you giving the money for? To begin with, I have always argued that you cannot give money just for policy change, because it is not a function of the Bank to give "reform money". We are giving money because, as we wrote initially, the balance of payments of the country is in very bad shape and we are enabling them to restore
balance on a longer term than the Fund does. In '96, we moved to say that even if the balance of payments is okay, still, adjustment loans could be made for budgetary and fiscal reasons which eventually would impact the balance of payments; we could give adjustment loans. Now, budgetary support is given under the terms of adjustment. In some IDA countries it was given clearly under the terms of "public expenditure loan". Now, if this is temporary, okay, you may argue for it, but if the country becomes dependent in its budget on loans from the Bank or IDA, what would be the situation when these loans stop. Especially, since governments tend to increase their dependence and so it becomes five percent of the budget, then ten, then twenty, if it reaches 30-40 percent will the government collapse after that or what? I have my personal concerns about expanding adjustment lending. Also, the Bank has far less control on the use of money of adjustment loans; we just give this money. And, while we talk about fighting corruption, etc., we should be very concerned about the use of these resources. A scandal can erupt one day and then we would be in a very bad situation.

Q: So you see these as being some of the ways in which the Bank has not adjusted very well to this changing world circumstance?

A: No, I'm not putting it in terms of whether it has or has not, because some people would reasonably argue that this is a reaction to what's happening. I'm just saying that I have concerns about non-project lending that does not address real imbalance issues, because if it is just to encourage countries not to reverse the reforms they have taken which is their responsibility, then they should not receive money for that.
Q: This gets to the question of the longer term future of the Bank and, obviously, in countries with larger private sectors and increasing private capital flows, there arises the question of what is to be the function of the Bank in the future. In 1990, you observed that you thought that one of the most important issues before the Bank was its transformation into an institution of international public policy, instead of being a project lending organization. Do you still see such a transformation as important, or likely?

A: Well, at the moment it is both. It is a financing institution, although the portion of project financing is becoming less and less. You see, under the Articles there is a provision which says that, “except in special circumstances, the Bank’s loans and guarantees shall be for specific projects.” But under this exception “special circumstances”, last year 63 percent of Bank loans was for non-project lending. And while you may defend that because of the exceptional Asian crisis and its aftermath, you cannot defend that forever. It can be an exceptional period, but again we go back to the issue of whether or not you follow the rules. And if you follow the rules Bank financing should normally be for specific investment; specific projects. I have interpreted the word "project" very broadly but not to the point of meaning “non-project”.

I was giving a lecture at the American University about political considerations, etc., and a professor of international law said that we should be able to interpret prohibition of political activities to mean the accommodation of political rights and democratization. I told him, "I may be able to interpret “white” to mean “colored”, but I cannot interpret white to mean black." Prohibition of political activity, how can I interpret it to mean admission of political activity? And
if it says your lending shall be for specific projects (except for special circumstances), how can I interpret it to be your lending shall not be for specific projects? We have to be reasonable, there is a limit to credible interpretation. There is also an issue of credibility and of following the rule of law. You cannot advocate the rule of law in borrowing countries and then disregard it within the institution. No one would listen to you. But there is this trend, part of it, I think, is concern for the volume of lending because people say, and maybe there is truth in that, that even the advisory role, the public policy role, will be weakened if the volume of lending goes down because you become like a preacher in a church or a mosque. Understanding all this, still it doesn't mean to me just giving a check to a country in order for it to follow your advice. We have to find good projects to finance. We have to see that the money is going to be put to good use, productive use. Because, for all I know, without being careful this money can end up in unproductive use. In non-project loans only. God knows how the money received from the Bank is really being spent, and it is an issue of concern. If we are more flexible in the ownership issue and are willing to finance good projects, even if they are publicly owned, our volume of lending will not necessarily go down. But, it has been a self-inflicted thing, that regardless of the efficiency issue we have practically stopped lending except in social projects for publicly owned enterprises. There are some exceptions, China, but not many.

Q: So, where do you see the Bank in ten years? What do you see the Bank's role to be in ten years?

A: It depends, really. It could be a bigger and better performing institution. It could be a lesser and much less efficient institution, depending mainly on how it is governed internally, how it is
supported by the countries concerned with it, and how these countries also refrain from using it for political purposes. If donor countries give less money and press for more politicization and this coincides with weak internal governance, then the Bank may either disappear, disappear is not a likelihood in ten years, but may become less impressive, less influential, and a less useful institution. And, exactly the opposite may happen if more money is given with lesser intervention for political ends, and there is a stronger internal structure with greater emphasis on competency. Then it will be a much better institution.

Q: You have alluded to human rights as an issue. You've alluded to it in several contexts and you've written a lot about it, I must say, to me, quite persuasively. But I would like to ask you again, what is the Bank's role in promoting human rights as an integral part of development?

A: You see, different people have different perceptions of what the term "human rights" means. Many people think of human rights only in terms of political rights. But if you take human rights in the aggregate, then I think that all of what the Bank does is promoting human rights: the right to food, the right to education, the right to health, the right to a good environment, the right to development; these are human rights. And there are all sorts of U.N. proclamations, declarations, covenants, etc. But, if you speak of human rights as the right to vote, the right to free expression, etc., I went as far as saying that since participation by affected people has proven to be very useful for the design and implementation of projects, then the right of free expression and the right of assembly, in that context, is needed for Bank purposes. And, if a country doesn't allow it, the Bank will be right in denying lending to it for that project. But I have not gone beyond that to say unless
the country as a whole is democratized and has free elections etc., then the Bank should not lend to it, because I think the language of the Articles does not allow for that and, because, that's the legal argument. There are, of course, other non-legal arguments by economists, sociologists, etc. They say, for instance, that human rights are indivisible and you cannot have this part and not that part. This may be true, but it doesn't mean that every international organization must address all human rights. There is the principle of specialization. Why then do we have all these international organizations and not just one? Because of specialization. And if you are a specialized agency, which we are, and our mandate is economic development, then we should leave the political issues to other organizations whose mandate is political reform and political rights, such as the U.N. Commission for Human Rights and the High Commissioner for Human Rights. You strengthen these institutions instead of weakening the Bank by getting it involved in something outside of its mandate. I have written and argued a lot about this, but advocacy groups are advocacy groups no matter what you tell them. They will lose their *raison d'être* if they stop advocating. So the arguments are there, the pressure is there, and there are people who honestly believe that unless you have a Western type democratic government you will not develop. Now, there are all sorts of studies, empirical studies, some of which support that and many which do not, it all depends really on the background; the cultural background of the researcher and if he is biased or not. If he starts his research with a preconceived conviction then the research will support that. On the other hand, if you start in a very neutral way, just seeking the experience and what it proves. Many studies have said that really it is not the political system per se. I have read about 26 or 27 studies, empirical studies, the majority of which say that it doesn't matter, however, about 12 say that it does.
So, if you ignore the political aspects as in the Articles you have this debate. In other words, there are many arguments both ways. But as General Counsel, my concern is the Articles and not the arguments. And the Articles are clear that you should not take into account the political character of governments or the political system as such. We have tried, I have tried, and the Bank has tried under the cloak of governance to de-politicize many elements of the political system such as civil service reform, judicial reform, fiscal discipline, legal reform, and fighting corruption. I have defended all that as part of the mandate of the Bank, but there is a limit as I said. If you go now and say, "Show me your election roll, or, I will give you a loan to convert the system into a western type democracy." I would say, "Sorry, that's not our function, let those concerned with that do it." The trouble is, some donor countries may not be willing to give money to the U.N. for this, or they give very little, but they are willing to push the Bank to do it and, in my conviction, that's not the right approach.

Q: In mentioning the U.N., how has the Bank's relationship with the U.N. changed in recent years?

A: There is much greater cooperation and a much better and smoother relationship now than in the past. In the past, when I joined the Bank in the early eighties, there was what you might call an anti U.N. culture. The U.N. was seen as too political, too inefficient, so the further removed from it the better. The relationship began to improve, I think at the time of Mr. Preston, but has been much enhanced under Jim Wolfensohn. So much so that the man who was partly in charge of relations with the U.N. ended up being the head of the UNDP (United Nations Development Program), Malloch-Brown. And, the personal relationship between the Secretary General of the U.N. and the
heads of the Bank and the Fund improved a lot under Butros Ghali and more so now. Under Butros Ghali, interestingly, there is something called AAC which is a U.N. committee where all the heads of the specialized agencies and the Secretary General meet once a year to discuss administrative and coordination matters. Before Butros Ghali, the heads of the Bank and the Fund did not attend but would always send a representative. Butros Ghali made the rule that for the formal meeting if you're not the head of the institution you cannot attend. So they would have an informal meeting for the representatives of the Bank and the Fund and then at the formal meeting they were excluded. The heads of the Bank and the Fund did attend after that.

There was one exception where I attended instead of Mr. Preston and Butros Ghali did because he wanted a loan from the Bank and I had written that it couldn't be done. The opinion is more nuanced, but the conclusion was that it couldn't be done. So the President told me that the best thing was for me to go and persuade Butros Ghali. So he let me attend for that reason, but the fact is, if you were not a president you could not attend the formal meeting. And he took it very seriously by saying, “either you are serious or you are not, if you are serious you come. If you are not, forget it.” So they attended and discovered that after all it is not a bad thing, because you need a good image with all these institutions where the politicians come. Even legally speaking, under the charter of the U.N., the Economic and Social Council of the U.N. (ECOSOC) is to coordinate the work of the specialized agencies. We have not really paid much attention to that before and we have managed in the Relationship Agreement with the U.N. to practically ignore that part. We normally send a report to the ECOSOC every year, and now Mr. Wolfensohn personally attends to present the report to the ministerial meeting.
Q: So, over all, you think it's desirable that the relationship is closer?

A: As long as it doesn't get politics to drive the work of the Bank, who would argue against it?

Q: Yeah. But, is there the danger that being involved with a U.N. mission some place would involve the Bank in politics?

A: Well, the risk of political involvement is always there. It depends on how our staff are trained and instructed to behave. Because, if they see the clear message that our job is developmental, not political, that it is written in the law and this is how to behave, they will behave accordingly whether they are alone or with somebody else. So, clearly it depends more on us rather than on having or not having ......

Q: On the Bank's culture and the way it trains its staff?

A: Also, on instructions.

Q: In talking about the evolving role of the World Bank, I want to turn to the Comprehensive Development Framework and the interest in a more holistic approach to development. What do you think are the costs, or should we start with the benefits and then the costs, perhaps, of the CDF approach?
A: The approach makes a lot of sense, and in a way it's not new. Many people have always said that you cannot isolate a certain sector of the economy and concentrate on it. You have to look at the sector within the overall framework. In fact, there's a statement to that effect in the 1951 Annual Report of the World Bank. So, in that sense, it is not new. What is new really is placing the emphasis on it and doing it, because there's always a difference between what you say and what you do. The Bank now is saying two things really, and if these things are honored in practice, I'm all for it. First, that you should have a more broad picture of the whole situation; what needs to be done overall, and then the country should participate. I was saying that if the Comprehensive Development Framework is implemented the way it is written, I'm all for it because it basically says that the country will identify what is needed in each sector and then will identify who is best qualified to provide assistance in each respective sector according to its respective mandate, charter, resources, qualifications, etc. And, that the country will have, quote unquote, the "driver's seat" in making this framework. The Bank can only play a supportive role in providing the experience of other countries, technical advice, etc, and then this framework will be discussed internally and externally so that the assigned role for donors is acceptable to the donors. For instance, if a country under a framework sees that the political system reform is a priority, fine. Who will assist in that is an important issue. There is an office in the U.N. for electoral reform, there is an intergovernmental organization in Stockholm called IDEA International (the International Democracy and Electoral Reform Agency) and it could be assigned that role. And then when it comes to social and economic development, the World Bank, the Regional Development Banks, the bilateral donors can be assigned that role and the country decides on this with full conviction because implementation will depend on its conviction. However, if somebody else tells them to do it, a current government may
agree but the following one may not. But if it is with full conviction as a result of consultations with those who are going to support economic development, who can reasonably object to this, especially, if the matter is presented simply in these terms. If, on the other hand, it is somehow understood differently by different people, by emphasizing that this is a new approach and a new philosophy, there are many people who are against anything that is new because they are so conservative. But really, if the CDF is put in these simple terms, I don't see how any reasonable person can object to it.

Q: Now, there are 12 pilot countries. Have they reported back yet?

A: It's continuous, in the form of an on-going progress report to the Board on what's happening in each country, but there were problems because again the language used sometimes leads to confusion. One country director, for instance, was saying that for his country he doesn't want any project lending and wants projects to be approved by the director. I don't think anyone has questioned the basic approach. Besides, it's being tested, so we will see. And if the tests prove very good results, and if it is really the country that is in charge. You see, it is again the emphasis, because when we say the country will be in the driver's seat, we may be also deceiving ourselves. To begin with, in many countries you may not have the capacity to do all this. So under the cloak of assisting the country you will be writing everything for them. That happened under the PFP before. And this may not happen say in India or in China or Brazil, but it can happen in Burkina Faso. So you have to be careful, because, unless the country feels that it is really its framework I don't see how it would be sustained.
Now people ask in which way is this different from central planning? Why should we make that an issue? Call it what you like, the idea is don’t act haphazardly, act according to a broader scheme that is carefully analyzed and carefully discussed and agreed upon. If you want to call it a central plan or a framework or a third name, it does not matter. But if you are ideological you do care, because you are dead against central planning. And that was part of the discussion.

Q: You mentioned that in 1951 what we call the holistic approach was talked about even as early as that. But in looking for the genesis of this, under Mr. Preston there was a vision paper produced. Do you see that as having been the first step towards the CDF, or were these ideas so broadly current in the Bank that Mr. Wolfensohn picked up on these wider ideas?

A: It doesn't really matter. You see, the fact is the Bank has evolved and the vision paper was part of this evolution, the CDF was part of this evolution. Whether the one who came up with the idea based his thinking on something he read before or it just came to his mind is really irrelevant, because it could be either, who knows? And a person might. I personally sometimes believe that I have invented a certain thought and then discover that something like it was written in the tenth century BC. It doesn't matter. I was reading recently a book on ancient Egypt, and somewhere around the tenth century BC some Egyptian writer was saying that people were becoming so corrupt and the system was collapsing and an anti-corruption campaign should be in place; reminding you of things you read every now and then, as well as of now. Now, who the real author is, is irrelevant. When things go bad, some people tend to think that way. So we shouldn't really concern ourselves with the originality of the idea. The question is, "Is it a good idea? Is it
workable?" I think the CDF is good if implemented as originally conceived, and only time will tell. My only fear is that because of the weakness of the internal structure and capabilities in certain countries or their misconception that unless they follow what the Bank staff says in the Bank they will not get Bank assistance, we may end up in a repeat performance of the PFP experience. I hope this is not going to be the case.

Q: If I may, I'd like to turn to again looking at the Bank in its relations with other institutions and in the larger world context. How would you assess the Bank's role in the Asian financial crisis?

A: Our role came after the crisis. We hardly played a role in preventing it because, like everybody else, we were so enchanted with the tigers in Indonesia and the success story of this country. I remember, again in a management meeting with the president and the vice presidents, I did ask, "How come we never realized that this could happen and therefore we didn't alert the countries that something like that could happen?" The answer I heard was not convincing. But the fact is, neither the Bank nor the Fund knew. More interestingly, not even the private rating agencies who should at least know more about private debt and private corporate governance rang the bell. We really had no experience in managing this. The fundamentals were strong-based, so no one could really question that. But it is really things like the proportion of the private debt to the total debt; the debt-equity ratio in the private corporations which went out of proportion; the use of the borrowed private money which mainly went to real estate and things like that. No one was questioning this except after the crisis. And the vulnerability of the capital markets; everyone was pushing for establishing and extending capital markets. The fact is the money, you push a button and the
money is there; electronic transfer. If, say, two billion dollars went into a small country one day it would change that country, but if they went out another day the economy collapses. What happened in Malaysia was something close to this. So there was little knowledge and little concern before the crisis. The role started after the crisis. I think, to be fair, before the crisis the concern for strengthening the financial sector was started in the Bank as early as in the eighties, '89 or so, when a paper was written about it. But Wolfensohn felt that what we have was a weak capacity to handle the financial sector. I remember his words because it was before the crisis, and he said, "The financial sector is like the heart, it's like the central nerve of the system of the economy, and what do we have? How many experts do we have on this?" And a whole department, which later became a vice presidency, was established for this purpose to acquire knowledge and expertise. When the crisis came at least we had some capacity. We had also in the Legal Department a unit for this. I had already recruited lawyers just for banking because things happened in Mexico and in Argentina before the Asian crisis.

When the Asian crisis came that effort doubled and tripled to strengthen our own capacity in the banking and financial sector more generally, and in the so-called corporate governance. And, we became involved with the Fund, although I must say the Fund played the major role, we were secondary, sometimes to my chagrin because they were addressing things such as judicial reform in Indonesia with very little prior knowledge on the matter. With the Fund approach, for instance, in Indonesia a new bankruptcy law was required to be issued by a certain date. You can't make new laws this way. It's not like you change the exchange rate by April 1st. Laws have to come out of conviction of the social structure that supports them. And, if you just come out and say with a Chapter 11-like law that doesn't fit with the rest of the legal system that no one wants and no one
believes in, that the judiciary is against, how can it work? And for these things to happen you need time, so you can't say by April one or April two, you have to allow for it. But at any rate, I had my disagreement with the Fund on that. This is what happened, the Fund played a major role. But then an agreement was reached between the Fund and the Bank on the division of labor as well as on primary responsibilities in the financial sector recognizing that it is an overlapping competence, because each institution can validly argue that it has a role. But the main point I am making is that our main role came after and not before the crisis.

Q: Do you think the Bank has a role in preventing such crises in the future?

A: Definitely, because by strengthening the financial systems in the borrowing countries, strengthening the corporate governance, promoting international standards for the regulation of financial transfers, or at least, some internationally coordinated frameworks and standards to govern this totally unregulated phenomenon, by doing that we help prevent the crisis. Interestingly, even Mr. Soros who was one of the main actors of these unregulated transfers wrote strongly arguing for international regulation. He said, "Don't blame me if I benefit from the lack of regulation because I'm a businessman, and anyone in my place would do the same. But I'm telling you there is no regulation, and I'm telling you this is bad and there is a need for it." The main objection comes, interestingly, from the United States. So, if you don't want international regulations because the banking community in the United States doesn't want it, at least have some standards to be agreed upon internationally and then leave it for each country to follow. This is happening in the banking sector through the Basle Committee, which is a committee of the governors of the Central Banks of
the Industrial Countries. But borrowing countries, developing countries, do in large measure adopt these standards. So let's have something similar for capital market transfers. And now I think, with the establishment of the "Group of Twenty" to look into the international financial architecture this could be a good platform to argue this matter and come up with something. The developing countries are strongly asking for this now through their so called G15 summit which comprises 18 heads of state representing the non-aligned countries. So, if that happens, and if the Bank plays a role in this, I think a preventive role of the Bank would be a useful one.

Q: Also it becomes clear that one of the Bank's roles here has been, in fact, to help cope with these crises. Do you see that as a future task of the Bank?

A: Yes. You see, this was agreed upon from the beginning, because in '46 the Board issued a formal interpretation which I quoted to the Board in '97/98, under the "special circumstances" exception, that the Bank could provide long-term stabilization loans because the Fund by its Articles supports only short-term. The fact is, the Fund did go beyond the short term since the seventies and now it is being asked to return to it. But they were arguing that the Fund is a "development institution." The line between the Bank and the Fund became increasingly very blurred and now there is a correct attempt to return to the basics.

Q: That is our next question. Do you see the need for clarifying the role of the IMF?

A: The roles are clear, it is the people who work in the institutions that don't want to clarify them.
I've written so much on this, but it's all in internal documents. You read the Articles and follow them, that is what's required. But the fact is, the Fund people wanted to do what the Bank does, and the Bank what the Fund does. And, in a situation like that, you end up with overlaps and conflicts. But, it is really an evolution in the thinking of economists and in the way they react to changes in the world and, you have to see it also from their perspective. One of the former General Counsels of the Fund, Sir Joseph Gold, wrote about this after he left saying, "The majority of the staff of the Fund are economists, and they shape the attitude of the Fund." But, economists have come to the conclusion that you cannot really make the distinction between short and long term perspectives, and you cannot address the short term unless you have a very clear picture about the long term, and vice-versa. So, the people who are supposed to address short term are addressing the long term, and the people who are supposed to address the long term are addressing both. And, in a way, this has become sort of inevitable. But the member governments must have a say in this because they created the two institutions. Either they merge them into one and solve the problem this way, or, they tell each institution to do only what is written in its charter and make sure the delineation will be respected.

Again, for the Bank Group, I wrote a recent paper in Volume II of my book "The World Bank in a changing World" that having so many institutions was fine at the time of their creation, but now, is it still just fine? It's a question, a good question. I said that thought must be given to the idea of merging IFC and MIGA in the Bank, and of making IDA a trust fund. At least, in that way, the deputies may be involved only in the management of trust fund resources like any other trust fund. Of course, this may be wishful thinking, but, at least, when you write as a thinker it's not like writing as an official. And you are entitled to your thoughts.
There are some people, including important ones like George Shultz, the former Secretary of the Treasury and of State, who said that the Fund and the Bank should be merged. That is one way of solving the issue of overlapping competencies. There are other ways, as I said, sticking to rules. It is only lately that Mr. Summers has spoken vehemently about that, and the newly-appointed managing director of the Fund has supported it. We will see.

Q: In some ways, it's a matter of the relationship between the head of the Fund and the president of the Bank that they rein in their staff to keep the rules.

A: Yeah, as I said, the relationship has improved a great deal.

Q: Beyond development itself, what do you see as the broader influence of the Bank in the world?

A: It depends really on the country we have in mind. On the degree of Bank involvement in the country, on the size of the country, the size of lending to the country, the degree of development of the country, the degree of dependence of the country on foreign aid, and on the Bank. This varies tremendously. Take China, it has been for some years and in some way our largest borrower, but, it is not dependent on the Bank. If the Bank does not lend to China, it would not disappear, it would not collapse, the system would be the same and we tend to forget that. India, poor as it is, again, two or three billion dollars a year will not change India one way or the other. Because you have to take that amount in the context of the overall, the GNP. China has reserves in excess of 150 billion dollars, then what difference would three billion do? We have to understand sometimes. Once I
was told that in Egypt, "You talk as if dealing or not dealing with the Bank would change our country. It won't." they said, "We appreciate very much what you are doing, what the World Bank is doing, but you should understand your size and your limits. To us you're a very little actor, and if you act this way or that way it does not matter much." You see, it's only when you sit with the heads of state that you get that perspective. I was told by the president of Venezuela, in fact I was there just to give a speech a few years ago, but he asked to see me and he was very angry. He said, "I want to understand on what basis does a junior staff of the Bank insist on seeing me as the President of the country, and then comes to lecture me about what the country should do." He said, "I'm a physician. I'm a doctor. I know nothing about economics and I have to rely on the advice of my minister of finance, the minister of the economy, and experts. And, it doesn't matter what this man tells me because I'm not going to listen to him. But I just want you to know that I'm offended that you feel you have the right to send me a junior person to lecture me." I told him, "First of all, I don't believe we have that right. And if that happened it was a mistake by a staff member, he should talk at most to the Minister of Finance, why should he see you?" You see, the fact that you are giving the country not only money but advice also can erroneously make you feel that you have the right to lecture the president of the country. These presidents are elected, they have their own constituencies and are accountable before their parliaments. We have to understand all these things and not give the impression that if they don't follow they don't get money from the Bank nor from any other donors who might be influenced by the Bank's position. Unfortunately, some little countries may get that impression. I think it is better now that the president of the Bank does visit these countries quite often and talks to the heads of states and gets from them a better impression as well as gives them a better impression of the Bank. Whether junior staff still do that in small
countries, I don't know. But the Bank cannot be all things to all countries. Its role and influence will depend on the country, on the degree of development in the country, the degree of dependence of that country, and the degree of the Bank's involvement in the country.

Q: You've mentioned a number of times the different Bank presidents. I wonder if you would just, after all of your experience at the Bank with different presidents, talk about what qualities do you think are needed to be an effective president of the Bank?

A: It's a difficult question because you have to be, I think, first a man of substance. You have to have good knowledge of the processes and work of the institution, of what works and what doesn't. You have to be a realist and a good manager because you have this large staff. You have to be very cool because you're dealing with different constituencies; different views. You have to be a man of principles to stand up for what you believe in so that governments don't feel you are a card to be played with. You have to know how to handle the Board without tension and without getting them to disagree with you frequently. You have to know how to handle the staff by being correct, impartial, straightforward, and by not spoiling the staff. I believe in discipline. And, you have to respect the rule of law because you cannot advocate it and not respect it, internally. So, there are many requirements, it is closer to the requirements of a head of state, but with a big difference. The head of state by definition is a politician who has to seek the consent of the majority of the people. The Bank president should not be a politician, and should not be in a beauty contest. I have a very low opinion of politicians who are willing to sell themselves, their parents, and their principles to get votes.
Q: I wanted to ask just two questions on further personal reflections. One point that you didn't really mention in terms of the president of the Bank is a great knowledge of the financial markets, unless I missed that. Is that less important? In the early years of the Bank that was considered to be really quite important in the appointment of the first three or four presidents.

A: You see, technical capabilities can be acquired, but personal characteristics cannot. You either have them or you don't. I was speaking of the personal characteristics. It is definitely an added advantage if you have good knowledge of the capital market, but if you don't, you can appoint good people who know how to deal with the capital market. Some of our presidents like Conable, practically had no knowledge of the capital market, but they had other good capabilities. You see, a perfect person doesn't exist. We know that, in any field. But, I think it is very important for whoever heads the institution to be a strong man or woman, to be able to tell a government, including the strongest government, "Sorry! I cannot do that. Period!" If not, he could be used to the detriment of the institution. Because a government, any government, acts according to political interests and some governments may be benevolent sometimes, but not every government all the time. And you cannot rely on that. Besides, you have different governments. Which one would you follow? When I was head of the OPEC Fund, at one point as Indonesia is a member, it asked that we should not give loans to Vietnam. I said in the Board with the finance ministers attending, "You are 13, each one country inevitably has its friends and enemies. It would be a great coincidence if all of you have the same friends and the same enemies all the time. But if you want me to take decisions according to who is the friend and who is the enemy of whom, every minute, every day, sorry! I resign!" And they agreed. When I took a strong position they agreed. Because
at the end I speak of reason, otherwise how can I act. I said this with 13 members and here you have 183. But not everyone has it in himself to say that, because many people want to continue in their job and feed their children which is legitimate and I am not blaming them. Other people are not like that, however, they feel strongly about principles and they act accordingly no matter what happens to them. In my case nothing wrong happened, I left the OPEC Fund with great cheers. I think I’m respected here, in spite of all the stands that I took. In the end, people respect you for that.

I saw Mr. Summers recently at a social event and he said, "Ibrahim, you really should not leave the Bank." Even though I have taken very strong positions in previous dialogues when he was the Bank’s Chief Economist, but, he respects me and I respect him. So, my final word is, getting a strong person who believes in what he says is very important for any institution.

Q: May I ask just one or two other questions here related to this. What would you consider to be your major contribution to the Bank?

A: I would let others talk of this because inevitably if I talk about it I would be biased. But you should ask others.

Q: Okay. Maybe I can ask you one last question then. What did you find to be the most difficult and most frustrating situation during your tenure?

A: Taking positions, when almost everyone is willing to let go. Because I’m also human. I mean, no one likes to be seen as the obstacle. But if you believe that it is not an obstacle, it is just
following the rules. I think that I've been criticized in some scholarly writings of being too flexible in my interpretations, although within the Bank that is not my image. But people who know how to interpret laws, including Joseph Gold in his book “Interpretation: The IMF and International Law”, implied that I was too flexible. I think I'm flexible in the sense that I tried to serve the objectives of the Institution as long as I do not really violate its explicit working. Within that limitation, I have allowed a great expansion and a great broadening of the mandate of the Bank in my work, and in my reading and writing of the law, and I've told the Board and the President accordingly. Some people see that and some do not. It does not concern me how others see it. But I think, on the whole, my approach to interpretation was much more flexible than many people think.

Q: I must say, as a writer myself, I'm quite awed by the number of works that you've published while having a very full other life. Which of the books that you've written do you find the most important, or that you're the happiest with?

A: I think the book in Arabic on.....

Q: On Egypt?

A: It's important in the sense that I'm in a position to write things that people living in Egypt cannot write, not because of any punishment, but because of self control. Everyone has an objective or wants something from the government, so he or she is not as free to write as I am. There I wrote all of what I feel, I may be wrong, but all what I feel should be done for the country and, as I said, it
applies really to many other developing countries and not just to Egypt. So, in that sense, I feel it is more relevant and more practical, and it has had an impact on people in a great way. Add to that, work-wise, whatever I wrote in terms of my work, whether at the Bank or before, I am proud of. I'm happy that I did it, even though sometimes it was stressful.

Q: Well, thank you very much for your invaluable contribution to the Oral History Program.

A: Thank you very much.

Q: It has been a privilege.