Report to
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Chairman of the Oversight Committee
on Fraud and Corruption,
The World Bank

Concerning Mechanisms to Address
Problems of Fraud and Corruption

"Corruption and poor governance worsen poverty directly - by diverting
resources away from the needy - and indirectly - by harming the climate for
private investment, key to growth and poverty reduction."

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A. Background

For almost 50 years the culture within the World Bank discouraged not only the taking of any action to address problems of fraud and corruption, but even the discussion of such action. Beginning in the mid-1990s under the new leadership of President James D. Wolfensohn, there has been a notable shift in priorities. A cadre of committed officials in the Bank have undertaken significant initiatives to uncover and punish fraudulent and corrupt practices by Bank staff and those bidding for Bank-financed contracts, while others have introduced sound programs to help national governments combat fraud and corruption. While these efforts are truly remarkable given the attitudes that prevailed only a few years ago, we believe that the Bank’s programs in this area could be improved by reorganizing certain of the principal structures involved in this work and by enhancing the policy and administrative coordination among the various components within the Bank responsible for these matters.

B. Principal Findings

1. The Oversight Committee on Fraud and Corruption has served the Bank admirably by presiding over the Bank’s development of an in-house capability to investigate fraud and corruption. However, Committee members’ operational responsibilities effectively preclude them from addressing general strategic coordinating functions that should be centralized within the Bank. Furthermore, the Committee’s attempted supervision of the day-to-day activities of the Secretariat of the Oversight Committee and its Investigations Unit is cumbersome and in some instances counterproductive.

2. The Bank has made an earnest commitment to uncovering fraud and corruption within the Bank and in Bank-financed contracts and has devoted substantial resources to this effort. However, the responsibility for conducting investigations of fraud and corruption has been assigned to an office that has neither the necessary stature and independence within the Bank nor adequate staffing and operating policies and procedures to perform its function effectively. The reasonably anticipated increase in its workload will exacerbate these problems.

3. The Sanctions Committee appears to be handling debarment cases in a responsible manner, and the mechanisms for detecting and addressing fraud and corruption in
Bank-financed contracts have been improved by revisions to the Bank's procurement guidelines. Nonetheless, further refinements to the Bank's procurement review mechanisms appear advisable. Certainly means should be found for overcoming the difficulties posed by the fact that (i) while most Bank-financed contracts awarded through international competitive bidding are subject to prior review, in practice, an increasing proportion of these contracts are being reviewed only in the Bank's regions and not in Washington; (ii) procurement review of Bank-financed contracts awarded through national competitive bidding is largely limited to the less effective process of post review as opposed to prior review; and (iii) the Bank's authority to investigate and debar firms does not extend to contracts that may be awarded by borrowers pursuant to the increasing number of structural and sectoral adjustment loans. Also, the Bank's internal procedures for sanctioning fraud and corruption in Bank-financed contracts has not been regularized through written guidelines. In addition, a process which involves the President in the final adjudication of such matters seems ill-advised from an administrative, as well as a political, perspective.

4. Finally, in recent years the Bank has recognized that, since systemic corruption in national governments and national economies undermines its mission of fostering development and reducing poverty, such problems cannot be ignored. Although this issue was once considered to present the potential for improper political interference, the Bank now accepts the reality that strengthening a country's commitment to the Rule of Law is an essential component of promoting free market economic development. To this end, national assistance programs, which can be particularly cost-effective, are being created with imagination and competence on the basis of a strong empirical research component. However, they are being developed with only minimal contact with the Legal Department although some of the programs would require substantive law and justice system reform in the nations involved.

C. Principal Recommendations

1. The Oversight Committee on Fraud and Corruption should be reconstituted as a true policy-making body that can focus on the development and coordination of the Bank's overall strategy for addressing fraud and corruption. Rather than playing an operational role in the conduct of investigations, the Committee should serve as the principal
vehicle through which the Bank identifies its strategic priorities for responding to fraud and
corruption in areas as diverse as the policies and procedures governing the conduct of
investigations and the conceptualization and delivery of national assistance programs.

2. The Bank's investigative function should be lodged in a newly-created
Department that reports directly to the President and has the authority to investigate
independently all matters involving fraudulent and corrupt practices. All resources within the
Bank presently allocated for investigating fraud and corruption should be redeployed to this new
Department.

3. The Sanctions Committee should continue as presently constituted, with
certain discreet modifications. In particular, the Sanctions Committee's procedures and
guidelines for imposing sanctions should be regularized and reduced to written form; the
Sanctions Committee's activities should be expanded to cover certain categories of loans that, in
practice, currently are not being brought before it; and the Sanctions Committee's decisions
should not be subject to review by the President.
I. Introduction

We have been asked by the World Bank Group (the World Bank or the Bank) to examine mechanisms to address problems of fraud and corruption relating to its operations. We have done so and we submit our report herewith.

A. Nature of the Problem

The World Bank was created in 1946 and currently numbers 181 nations among its membership. Its purpose is to reduce poverty and improve living standards for people in the developing world. To this end, during the fiscal year ended on June 30, 1999, it disbursed a total of $24.2 billion in the form of investment and structural and sectoral assistance loans, concessional credits, and development assistance to its clients.

The Bank’s Articles of Agreement, among other things, specify that “The Bank shall make arrangements to ensure that the proceeds of any loan are used only for the purposes for which the loan was granted, with due attention to considerations of economy and efficiency.”

Funds disbursed and activities undertaken by the World Bank are vulnerable to fraud and corruption by bank employees, contractors, and consultants utilized in the execution of its projects and by officials in governments to whom loans are made. The Bank has defined fraudulent and corrupt practices to include the solicitation, offering, payment or receipt of bribes, gratuities or kickbacks, or the manipulation of loans or Bank-financed contracts through any form of misrepresentation, as well as any situation in which Bank staff members have abused their position or misused Bank funds or other public funds for private gain.

While it is difficult, if not impossible, to quantify the amount of corrupt activity in any of these categories, it is not without significance that a survey conducted for the Bank’s 1997 World Development Report found “more than 40 percent of entrepreneurs reported having to pay bribes to get things done as a matter of course.” Several observers within the Bank estimated that some 20 percent or more of disbursements “leak” out of the system in one improper form or another.

An effective program to combat fraud and corruption is important not only to ensure that disbursed funds are utilized in the manner intended, but to maintain the Bank’s reputation and to assure the continued willingness of member states to support its operations.
For this reason, in 1996 the Bank explicitly put anti-corruption efforts on the development agenda. Prior to that time, as Bank President James D. Wolfensohn noted, “the Bank [had] not had a systematic framework for addressing corruption as a development issue in the assistance it [provided] to countries and in its operational work generally.”

**B. Nature of the Assignment**

We were specifically charged with “evaluating the adequacy and functioning of the structures, procedures, resources and management the Bank Group has in place to investigate allegations of fraud and corruption and, where fraud and corruption is established, to sanction those involved.” We have also considered the interrelationship between the systems devised for investigation and sanctioning of wrongdoing in the Bank’s programs and the Bank’s broader efforts to address fraud and corruption.

**C. Methodology Employed In the Assignment**

In the course of our examination, we interviewed over 50 persons, including present and former Bank employees, at both the operational and senior supervisory level; officials from other international and multi-national organizations; officials in national government agencies; and persons in the private sector from a wide range of disciplines (e.g. banking, law, auditing, investigation, public policy, and academia). We were especially aided in our documentary review, in our interviews, and in our analyses — particularly as to matters pertaining to investigations and audits — by the professional assistance of Brian M. Bruh, a veteran U.S. government official and international consultant.

We were given access to a wide range of documents by the Bank and other entities and had the opportunity to examine and analyze a sample of case files generated within the Bank.

Our access to all bank facilities was complete and we enjoyed the highest possible level of cooperation from all Bank personnel whom we encountered.
II. The Responsibilities and Activities of the World Bank Group

A. Assigned Responsibilities

The assigned responsibilities of each of the principal components of the World Bank Group are as follows:

The International Bank for Reconstruction and Development (IBRD) provides loans and development assistance to middle-income countries and creditworthy poorer countries. It obtains most of its funds through the sale of bonds in international capital markets. Its fiscal year 1999 lending amounted to $22.2 billion.

The International Development Association (IDA), established in 1960, is the Bank's concessional lending arm in support of its poverty reduction mission. Its assistance is focused on the poorest countries to which it provides interest-free loans (credits) and various non-lending services. Its funding is derived from contributions from wealthier Bank member countries. In fiscal year 1999 $6.8 billion was lent.

The International Finance Corporation (IFC) fosters economic growth in the developing world by financing private sector investments, mobilizing capital in international financial markets, and providing technical assistance and advice to governments and businesses. Its operations are financed by loans from capital markets and borrowings from IBRD. In fiscal year 1999 its commitments amounted to $3.6 billion.

The Multilateral Investment Guarantee Agency (MIGA) has as its objective encouraging the flow of foreign direct investment to developing member countries. It facilitates investment primarily by providing investment guarantees against noncommercial risks as well as technical assistance. It is supported by member capital. In fiscal year 1999 a total of $1.3 billion in guarantees was issued.
B. Principal Goal

The principal goal of all these activities is to assist client nations in their economic evolution. The Bank's Articles of Agreement set forth specifically that among the purposes of the Bank is "The encouragement of the development of productive facilities and resources in less developed countries."

C. Principal Activities In Support of the Goal

The principal lending activities carried out by the Bank fall into three categories. Originally, most Bank loans, often co-financed, were for specific infrastructure projects in sectors such as energy, agriculture, transportation, water supply and sewage, etc. Funds were released only against specific purchases of equipment or to cover other direct expenses of implementation as and when incurred.

More recently, reflecting the continually changing environment within which the Bank operates, structural adjustment loans and sectoral adjustment loans have been introduced to support policy changes, in addition to specific projects. Structural adjustment loans, first introduced in 1980, are completely disconnected from project financing and are disbursed, on an accelerated basis, to finance policy changes designed to reform the economy, often so that borrowers can meet balance-of-payments needs. Sectoral adjustment loans are similar but are limited to sector-specific reforms of a policy or institutional nature and are coupled with funding to meet the direct costs of specific projects.

In fiscal 1998 disbursements for sectoral and structural adjustment loans surpassed those for project loans for the first time in the Bank's history.

D. Competing Views Regarding Measurement of Success

One of the most frequently noted characteristics of the Bank's lending operations is the seeming conflict between the need to maximize the amounts and timeliness of loans and commitments to borrowers and the need to insure that funds are being utilized for the purposes intended in the most effective and efficient manner. Specifically, Bank employees hear a "mixed message" about the importance of anti-corruption efforts if they will have the effect of impeding the process of "moving money out the door." One observer reminded us that "We have to take some risks or we cannot help at all." Others feel, however, that task managers and other
operational staff within the Bank are not sufficiently incentivized to pursue anti-corruption initiatives and that "political" influences may, in the final analysis, trump efforts to deal consistently and effectively with allegations of fraud and corruption by employees, contractors, and governmental officials. As another official pointed out, although there has been a "major mind-set change" toward emphasizing the quality of projects and the need for sound financial management, bank employees are still assessed by senior management on the basis of their ability to "get the money out."

Whether or not these perceptions are accurate, they are bound to exert an inhibiting influence on anti-corruption activities within the Bank and must be squarely addressed.

III. History of the Bank's Efforts to Address Fraud and Corruption

The history of the Bank’s interest in, and attention to, problems of fraud and corruption falls into two periods so distinct as to appear to have been controlled by an off-on switch — a period of near willful blindness to the existence of any problem at all, and then a period of "mainstreaming" anti-fraud and corruption efforts into the core of all bank activities. The division between the two periods occurred in the mid-1990s, most notably at the instance of the Bank’s new President, James D. Wolfensohn.

A. From 1949 to the Mid-1990s

The Bank’s Articles of Agreement, as noted, describe its principal purpose as assisting the economic development of countries, which may be achieved through loans, investment guarantees, and other means. (Article I.) The emphasis is on economic development. Indeed the Bank and its officers are specifically prohibited from interfering in, or being influenced by, the political affairs of the nations assisted. (Article IV, Section 10.) This prohibition against political interference was historically interpreted by the Bank, and Bank members, to preclude consideration of the fact that a prospective loan by the Bank might well fall within the control of a corrupt governmental official in the member country to which the loan was to be extended — a problem assumed to be quintessentially "political." Although Bank officials privately may have been troubled by these problems, their concerns usually seemed to
have been outweighed by the views of a number of economists who stressed the short-term goal of getting funds into a developing country and then relying upon econometric theory to assure that corruptly diverted monies would eventually filter down for the benefit of the general populace.

The Bank, as an institution, thus tried to ignore the problem of fraud and corruption. When it proved to be too prominent to be completely ignored, it was usually masked by a passing reference to "rent seeking," "leakage," or some similar euphemism. Many of the Bank’s employees were troubled and embarrassed by the situation, but they received little encouragement from senior management to address the subject. As one employee noted, the problem "was hard to address, since it had been intentionally avoided." Nonetheless, there began to be stirrings within the institution with regard to suggesting the direct correlation between good governance and economic development. In 1991 a memorandum by the Legal Department pointed out that not all aspects of "governance" were precluded from the Bank’s consideration. This was followed within a few months by a discussion paper prepared by a Task Force on Governance. A booklet on governance and development was published by the Bank in 1992 and another in 1994, both of which included paragraphs relating specifically to problems of corruption. These efforts, however, were at the initiative of mid-level Bank employees with seemingly little in the way of support from their supervisors.

B. From the Mid-1990s to the Present

Beginning in the mid-1990s a dramatic change took place within the Bank, causing it not only to recognize the importance of the problem of fraud and corruption, but to begin to develop remedial and preventive measures.

1. Recognition and Proclamation of the Fundamental Importance of the Problem

In 1995 an employee with extensive experience in Africa wrote a memorandum to the effect that the continent was rife with corruption and that Bank monies were being misdirected and squandered as a result. In October of that year President Wolfensohn spoke candidly about the issue at the Annual Meetings. In November the Controller’s Office prepared a forthright and detailed paper on the subject entitled "The C--------- Word." In early
1996 the President held a general meeting with the Bank vice presidents to encourage systematic addressing of the problem of corruption. There followed papers to the Executive Directors in 1996, a speech by the President at the Annual Meetings in 1996, a paper to the Board in 1997, an extensive paper in 1997 by the Poverty Reduction and Economic Management Network (PREM) on Helping Countries Combat Corruption that set forth a comprehensive framework for future Bank actions, Annual Action Plans, and general evolution of the Bank’s “mainstreaming” of its approach to the problem. Today, according to one of the participants in the process, the Bank has largely succeeded in “conceptualizing corruption as a public sector developmental challenge, rather than merely as a private criminal activity.”

2. Development of Remedial Measures

As a central component of the Bank’s new efforts to address fraud and corruption, the Bank adapted existing administrative structures, and developed new ones, to investigate and redress instances of wrongdoing falling within its areas of authority. With regard to corruption by Bank employees, one staff member who embezzled Bank funds was investigated by the Bank, dismissed, and turned over for national prosecution, which resulted in restitution to the Bank and imprisonment of the employee; another staff member who accepted kickbacks from a Bank contractor was sued by the Bank for civil fraud, which led to a substantial default judgment against the employee. With regard to corruption by contractors, within a recent one-year period the Bank had debarred 12 firms and 2 individuals from future contracts. With regard to corruption by officials in client governments, the Bank currently is investigating a number of such cases. The Bank’s mechanisms for pursuing these remedial measures, many of which have been established in the past three years, are discussed below.

3. Development of Preventive Measures

Recognizing that it is far more cost-effective to prevent fraud and corruption in the first instance than it is to try to remedy and sanction particular cases of such conduct when it occurs, components of the Bank also began to undertake preventive efforts. Principal among them were the National Assistance Programs by PREM and the World Bank Institute (WBI). Also noteworthy were the ethics instructional programs undertaken by the
Professional Ethics Office and the efforts to improve national procurement programs undertaken by the Legal Adviser for Procurement.

IV. Current Mechanisms to Address Fraud and Corruption

The Bank's current mechanisms to address fraud and corruption fall into two broad categories: remedial measures to investigate and sanction activities involving fraud and corruption and preventive measures aimed at fostering an environment in which instances of fraud and corruption are reduced.

A. Remedial Measures

Presently, there are three components of the Bank that were created principally to deal with some aspect of investigating and sanctioning fraud and corruption within the Bank or under Bank-financed contracts: (i) the Oversight Committee on Fraud and Corruption (the Oversight Committee or the Committee), which supervises all investigations of fraud and corruption; (ii) the Anti Corruption and Fraud Investigations Unit (the Investigations Unit or the Unit), which is sometimes referred to as the Secretariat to the Oversight Committee, and which reviews and investigates all allegations or complaints involving fraud and corruption according to criteria established by the Oversight Committee; and (iii) the Sanctions Committee (the Sanctions Committee), which determines whether bidders, suppliers, contractors or consultants that have engaged in fraud or corruption should be rendered ineligible to be awarded Bank-financed contracts.

In addition to these entities, other components of the Bank respond to instances of fraud and corruption as a part of their broader responsibilities. These entities include: the Legal Department; the Internal Auditing Department (IAD); the Professional Ethics Office (PEO); the Ombudsman; and the Legal Adviser, Procurement and Consultant Services (the Legal Adviser for Procurement or the Legal Adviser).

1. Principal Structures Involved

The three principal structures involved in the Bank's efforts to address fraud and corruption within the Bank or under Bank-financed contracts were each established in
1998 from different sources of authority and have evolved incrementally to their current composition and method of operation.

a. Oversight Committee on Fraud and Corruption

(1) Background

The Oversight Committee was established in two separate Staff Announcements in 1998. The original mandate of the Oversight Committee, set forth in a May 12, 1998 Staff Announcement from Managing Director Shengman Zhang, was limited to the oversight of investigations involving Bank staff. This mandate was expanded in an October 15, 1998 Staff Announcement from the President to encompass responsibility for the oversight and supervision of all investigations into allegations of fraud and corruption (including those involving Bank staff and Bank-financed contracts) and for ensuring that these investigations are thorough, prompt, and responsibly carried out. In addition, the October 15, 1998 Staff Announcement established a telephone hotline (the Hotline) to receive anonymous reports of fraudulent and corrupt practices.

(2) Membership

The Oversight Committee is composed of a Managing Director who serves as Chairman; the Deputy General Counsel of Administration, Finance and Institutional Affairs who serves as Vice Chairman; the Auditor General; and the Manager of PEO. The Vice President of the Operations Core Services Network (OCS) was to participate as needed to deal with systemic operational issues, but withdrew from Committee attendance to avoid any appearance of a conflict of interest. The Chief Counsel for Administration and Institutional Affairs presently attends Committee meetings as an adviser, as does the Legal Adviser for Procurement and the Director of Procurement within OCS. The senior managers from IFC and MIGA and the Chief of Security also are to participate whenever matters relating to their areas of responsibility are before the Committee. The two co-managers of the Investigations Unit, one of whom serves as Secretary of the Committee, attend all Committee meetings.
(3) Procedures

The Oversight Committee initially met on a weekly basis and presently meets every other week. At its meetings, the Committee receives reports from the Investigations Unit (and, where applicable, other investigators involved in open cases) on pending investigations, as well as on new allegations that have been received by or referred to the Investigations Unit. A written summary of each active case is circulated for review and those cases that involve significant matters or recent developments are discussed. The Committee also makes decisions on whether to open new investigations and to close completed matters, the appropriate level of funding for newly opened cases, and a variety of other matters concerning the conduct of investigations, as well as determinations about whether the findings of the Investigations Unit justify possible referral for criminal prosecution or civil action. In addition, members of the Committee meet periodically with the President to report on the status of particular matters and to discuss its recommendations for further action. From our observation of several Committee meetings, it appears that decisions of the Committee are reached by consensus.

b. Investigations Unit of the Oversight Committee

(1) Background

The Secretariat of the Oversight Committee was created in the same October 15, 1998 Staff Announcement from the President that expanded the mandate of the Oversight Committee. Initially, the Secretariat, under the supervision of the Vice Chairman of the Oversight Committee (the Deputy General Counsel of Administration, Finance and Institutional Affairs), was intended to be the operational arm of the Committee. In this capacity, the Secretariat was given responsibility for receiving all incoming reports from the newly-created Hotline, as well as reports or allegations coming from any other sources; providing an initial screening function; reviewing all allegations or reports according to criteria established by the Committee; ensuring that the directives of the Committee are carried out; exercising control over all matters forwarded by the Committee to the Investigations Unit of IAD, PEO, or specialized outside investigators for investigations; and presenting findings of such investigations to the Committee.
At the time of the creation of the Secretariat of the Oversight Committee, investigations into allegations of fraud and corruption were primarily being handled through PEO and a recently-established Investigations Unit within IAD. The Investigations Unit within IAD had been established in 1997 with four full-time professionals. As additional resources were required, the Bank retained an international “Big 5” accounting firm to provide full-time professionals (up to as many as 20 at the height of its activities) to work with the Investigations Unit within IAD. In addition, a number of outside law firms were also retained to handle specific investigations. These investigations had resulted in findings of wrongdoing by contractors and staff, leading to debarments and termination, as well as criminal prosecutions and civil actions in the U.S. courts.

In July 1999 these offices were reorganized into a single unit. The IAD Investigations Unit professionals, and the sole professional within the Secretariat of the Oversight Committee together with a consultant hired by the Secretariat, were reassigned to the newly-created Anti Corruption and Fraud Investigations Unit reporting directly to the Oversight Committee and retaining the responsibilities of the Secretariat. As such, the Unit and its day-to-day operations come under the supervision of the Vice Chairman of the Oversight Committee (the Deputy General Counsel of Administration, Finance and Institutional Affairs). While the Investigations Unit routinely reports to the Oversight Committee at its biweekly meetings, the Unit is also regularly called upon to brief a variety of Bank officials on the status of its investigations. Among those are the President, regional vice presidents, country directors, the Legal Department, and the Professional Ethics Office.

(2) **Budget and Staffing**

The budget for the Investigations Unit during the Fiscal Year ending June 30, 2000 is $6.9 million. The Investigations Unit is co-managed by a former U.S. federal prosecutor, who joined the Bank in March 1999 as the Secretary to the Oversight Committee, and by an auditor with 26 years of service in the World Bank, mostly recently as head of the IAD Investigations Unit.

In addition to its two co-managers, the Investigations Unit is presently staffed by two former IAD auditors, two analysts, and five contract investigators.
(including a retired agent of the U.S. Federal Bureau of Investigation, a former U.S. Postal Inspector, a former Scotland Yard investigator, and a former officer of the French Defense Intelligence Services) for a total professional staff of eleven. None of the Unit’s auditors has an extensive background in forensic accounting or contract auditing. In addition to its current staffing, the Unit anticipates hiring approximately four more investigators. All of the Unit’s personnel are located at the Bank’s headquarters in Washington.

(3) Cases

The Investigations Unit presently has 58 open investigations involving allegations of fraud and corruption, of which six are being investigated by outside law firms on a contract basis. Each of these cases came to the Unit as the result of a report from one source or another; the Unit does not presently have the capability to operate in a proactive manner by identifying areas in which there is a particular risk of fraud and corruption and then pursuing investigations in those areas. The Unit also maintains a “watch list” containing matters that have been reported to the Unit but that have been referred to another office within the Bank or to an outside agency for further action. Such matters appear on the watch list until the Unit receives a report from the office to which the matter has been referred as to how the matter has been resolved.

(4) Access to Information

The Investigations Unit has no law enforcement powers either in the United States, where currently its entire staff is based, or anywhere else in the world. This limits the Unit’s ability to use certain investigative techniques available to many national investigative agencies, such as subpoenas, grants of immunity, and electronic surveillance. As a result, the Investigations Unit must rely exclusively on the rights and prerogatives it derives from the Bank’s own documents in gaining access to information and individuals.

In cases of staff misconduct, Section 5.04 of Staff Rule 8.01 permits a Bank investigator (a) to call upon any staff member for the production of documents believed to have probative value; (b) to interview any staff member who is believed to have knowledge of the events in question; and (c) to consult other persons believed to have, or materials believed to contain, information of probative value in the investigation. Section 5.04
also requires staff members to cooperate in the investigation and provides that failure or refusal to do so may constitute misconduct. Beyond imposing duties on staff members, Section 5.04 also requires that when the person conducting the investigation determines that the information available is sufficient to indicate a staff member may have committed misconduct, the staff member is entitled to receive written notice of the alleged misconduct, at which time the staff member must provide an explanation.

In cases of allegations against suppliers, contractors, and consultants, the procurement guidelines were amended in 1996 and 1997 to provide that the Bank has the right to require that, in contracts financed by a Bank loan, a provision be included requiring suppliers, contractors, and consultants to permit the Bank to inspect their accounts and records relating to the performance of the contract and to have them audited by auditors appointed by the Bank.

(5) Existence of Immunities and Privileges

If Bank investigators are to cooperate with or refer a matter to national law enforcement agencies or prosecutors, they must do so in the context of the Bank’s immunities and privileges. Among other things, the Bank’s immunities and privileges provide that (a) the Bank’s officers and employees are immune from legal process with respect to acts performed by them in their official capacity except when the Bank waives this immunity, (b) the Bank’s archives are inviolable, and (c) the Bank’s property and assets, wherever located and by whoever held, are immune from search, requisition, confiscation, expropriation, or any other form of seizure by executive or legislative action.

c. Sanctions Committee

(1) Background

The establishment of the Sanctions Committee was first announced in a January 5, 1998 Operational Memorandum as a part of the implementation of provisions that had been incorporated in 1996 and 1997 into the guidelines for procurement under IBRD loans and IDA credits and for the solicitation and employment of consultants by World Bank borrowers. These provisions provided that if it is determined that a bidder, supplier, contractor, or consultant has engaged in corrupt or fraudulent practices in competing for or
executing a Bank-financed contract, the Bank may declare the offending firm to be “debarred” (i.e. ineligible, either indefinitely or for a stated period of time, to be awarded a Bank-financed contract).

(2) **Membership**

The Sanctions Committee is appointed by the President and currently consists of two Managing Directors, one of whom serves as Chairman; the General Counsel; and two Vice Presidents. The Legal Adviser for Procurement serves as Secretary of the Committee and prepares briefings for the Committee members on cases which come before them.

(3) **Procedures and Penalties**

When a matter is referred to the Sanctions Committee, the accused firm is given notice of the allegations against it and is permitted to respond to the charges in writing. The accused firm is also given an opportunity to appear before the Sanctions Committee to respond to the allegations, at which time the accused firm is permitted to have legal counsel present. If the accused firm admits to having engaged in corrupt or fraudulent practices, or if the Sanctions Committee finds that the evidence from the investigation is “reasonably sufficient” to show that the firm engaged in such practices, the Sanctions Committee recommends to the President whether the accused firm (and any firm that owns the majority of the accused firm’s capital, or of which the accused firm owns the majority of the capital) should be debarred. The recommended period of the debarment may be limited or indefinite, depending on the magnitude of the offense, and may permit the accused firm to continue to work on one or more other current projects in which it may be engaged.

In formulating a recommended sanction, the Sanctions Committee may consider the magnitude of the loss of Bank funds, the culpability of the accused firm, whether the accused firm admits its wrongdoing or cooperates in the investigation, and the impact of the accused firm’s behavior on the credibility of the procurement process as a whole. As a matter of practice, recommendations of the Sanctions Committee are reached by consensus, although this is not prescribed in written procedures.
When the Sanctions Committee makes a recommendation for debarment to the President, the Sanctions Committee informs the accused firm, as well as the Executive Directors representing the borrowing country and the accused firm’s country, of its recommendation. The Sanctions Committee also advises on whether any other borrowing country affected by the corrupt and fraudulent activities of the accused firm should be notified about the Bank’s final decision.

After a waiting period of not less that two weeks, the President makes an administrative decision on the matter. The President’s decision is final and takes effect immediately, without prejudice to any action taken that may be by any government under its applicable law.

Through the end of October 1999, matters reviewed by the Sanctions Committee had resulted in 14 individuals or entities being debarred for actions involving fraud or corruption, as well as one firm receiving a letter of reprimand.

4. **Limited Scope**

While the Sanctions Committee handles fraudulent and corrupt practices by bidders, suppliers, contractors and consultants, its scope is relatively circumscribed. It is limited by the directives establishing it, by practice, and by circumstances, to firms and private individuals (not Bank staff or national governmental officials or other accomplices) that are bidders or contractors in matters supported by project loans (as opposed to the structural adjustment loans or sectoral adjustment loans which now constitute about half of the loans being made) for contracts that involve international competitive bidding (as opposed to national competitive bidding which has grown to include approximately 40 percent of Bank-financed contracts) and that have been reviewed in Washington (about 25 percent of the total).

Matters involving substantiated allegations against staff members are referred by the Oversight Committee to PEO, which pursues the matter in accordance with the procedures applicable to disciplinary proceeding under Staff Rule 8.01. Such matters may also result in civil suits against the accused staff member to recover misappropriated amounts and be referred outside the Bank for criminal prosecution. Matters involving substantiated allegations against government officials are handled on an ad hoc basis.
depending on the particular circumstances, taking into account the severity of the wrongdoing, the quality of the evidence, the impact on the Bank's relations with the government concerned, and the potential political consequences within the relevant country of disclosing the wrongdoing.

2. Secondary Structures Involved

As noted previously, there are other components of the Bank whose principal responsibilities do not involve the investigation and sanctioning of fraud and corruption but which are involved in doing so as a part of their ongoing work. These entities include:

a. Legal Department

The Legal Department is represented on the Oversight Committee through the Deputy General Counsel of Administration, Finance and Institutional Affairs and on the Sanctions Committee through the General Counsel. In addition, the Legal Department works directly with those individuals and entities involved in the conduct of investigations within the Bank that may lead to sanctions, disciplinary proceedings, civil lawsuits, or criminal referrals in an effort to prevent procedural irregularities or substantive deficiencies that may jeopardize the Bank's ability to pursue action against a wrongdoer.

b. Internal Auditing Department

The mission of the Internal Auditing Department is to determine whether the Bank and its staff are complying with the Bank's internal controls. In this regard, IAD works closely with the Bank's regions on their procedures for transferring and releasing funds to borrowers and contractors. IAD is an independent office reporting directly to the President. IAD presently has 25 professionals on its staff and anticipates adding an additional four.

Since September 1997 the Bank has had the authority to inspect the accounts and records of suppliers and contractors pertaining to Bank-financed contracts. However, IAD lacks auditors with the training to conduct such inspections and no such inspections have been carried out.

Where a matter involving possible fraud or corruption is uncovered by IAD, it is expected to refer the matter to the Investigations Unit. However, there are no
written procedures setting forth the circumstances under which such referrals are to be made. Nor are there written procedures for the Investigations Unit to request audit support from IAD on investigations.

c. Professional Ethics Office

The Professional Ethics Office was created in 1985 as a part of the Human Resources office and was made an independent office in January 1999. PEO plays a central role in the Bank's efforts to educate staff members about appropriate professional conduct and to deter wrongdoing. PEO also operates the Ethics Helpline which staff members may call with questions or complaints. In addition to these responsibilities, PEO investigates allegations of wrongdoing by staff members, but in the case of allegations of fraud or corruption such investigations are carried out in coordination with the Investigations Unit.

PEO is staffed with three investigators: a retired investigator and manager of the U.S. Army Criminal Investigation Command, an investigator with experience as a police officer, and an individual with a background in the Bank's Human Resources office. Like other offices within the Bank, PEO has contracted out some of its investigative work.

PEO's investigators are in the process of writing an Investigative Manual for their office. They are also in the final stages of developing, with the assistance of an outside contractor, a computerized case tracking system.

d. Legal Adviser for Procurement

The Legal Adviser for Procurement, a component of the Legal Department, is intimately involved in the process of reviewing and awarding contracts in Bank-financed projects. The Legal Adviser's responsibilities include: participation in the pre-review of contracts in excess of $25 million (or $10 million in the case of consultants); preparation, review and updating of the Bank's procurement guidelines; providing advice to governments regarding national procurement laws; and training Bank staff on procurement procedures. As noted previously, the Legal Adviser is also responsible for the preparation of cases for presentation to the Sanctions Committee. The Legal Adviser is also actively involved in the design and supervision of the implementation of procurement law reform.
In addition, the Legal Adviser is involved in the post-review of contracts, which may result in a finding of “misprocurement” (where the Bank’s procurement guidelines were not adhered to but no fraud or corruption is evident) or more serious misconduct. In cases in which the Legal Adviser finds misprocurement, the Legal Adviser alerts its colleagues in the region, and the Bank may cancel a contract and require that all funds advanced under the contract be repaid immediately. In cases in which the Legal Adviser finds fraud or corruption, under the January 5, 1998 Operational Memorandum referred to above, the Legal Adviser was to submit its finding to the General Counsel. However, this procedure has been superseded by the procedures set forth in the November 16, 1999 Office Memorandum which provides for all allegations of fraud and corruption to be referred to the Investigations Unit. Nevertheless, even after a procurement matter is referred to the Investigations Unit, the Legal Adviser continues to be a resource to the investigators on technical aspects of the procurement process.

e. Office of Ombudsman

The Office of the Ombudsman provides an avenue for staff members to lodge complaints or concerns that they believe would not be adequately resolved if taken to their superiors. Inevitably, some calls received by the Ombudsman involve allegations of fraud or corruption by Bank employees or in Bank-financed contracts. Such matters are routinely referred to the Investigations Unit or, if appropriate, to PEO.

3. Procedures for Reporting Fraud and Corruption

The Office Memorandum of November 16, 1999 provided guidance on reporting allegations or evidence of fraud and corruption within the Bank or involving Bank-financed contracts. That Memorandum designated the Investigations Unit as the office to which all such reports should be directed and identified an internal hotline and an external hotline as possible means of delivering such reports. In practice, reports of instances of fraud and corruption are also received by the Ethics Helpline administered by PEO and by the Bank’s Ombudsman.

a. External Hotline

The establishment of the external hotline (the Hotline) was announced by the President in his October 15, 1998 Office Memorandum which also expanded
the mandate of the Oversight Committee and created its Secretariat. The Hotline became effective on October 19, 1998. The Hotline is a toll-free (800) number operated by an outside firm, the Pinkerton Services, from its facility in Charlotte, North Carolina, twenty-four hours a day, seven days a week, in order to facilitate the reporting of allegations of fraud and corruption. The Hotline has the capability of receiving information in all major languages, and follows policies and procedures to protect the identity of callers who wish to remain anonymous. The Hotline has been publicized around the world.

All calls received by the Hotline are referred to the Investigations Unit, regardless of the type of complaint or issue. Matters not within the area of responsibility of the Unit are referred to the appropriate office within the Bank for response. According to Pinkerton’s records, 116 calls had been received by the Hotline through the end of November, 1999, of which 46 or approximately 40 percent involved allegations of wrongdoing of some sort, while the balance were merely to ask questions or check the line.

b. Internal Hotline

In November 1999 the Investigations Unit established a further hotline (the Complaint Line) within the Bank that may be accessed by telephone or by e-mail. The Complaint Line, which has been publicized on the Bank’s internal computer network, operates during the normal business hours of its Washington location. All callers to the Complaint Line are interviewed by an investigator in the Investigations Unit. At other times, callers to the Complaint Line may leave a message on a voicemail system. The identity of callers who wish to remain anonymous is protected. The Unit has also set up a system to handle complaints on its Internet website; although it has not yet publicized this capacity, it has been used both by Bank employees and members of the public.

c. Ethics Helpline

The Ethics Helpline (the Helpline) is answered by personnel in PEO. Its express purpose is to provide Bank staff with a way to obtain guidance on appropriate professional conduct. Where a caller reports fraudulent or corrupt activity, PEO is expected to coordinate its response with the Investigations Unit. PEO has its own policy designed to protect caller confidentiality.
d. Office of Ombudsman

The Office of the Ombudsman is another source of calls reporting fraud and corruption. Such matters are routinely referred to the Investigations Unit or, if appropriate, to PEO.

e. Direct Reporting

Despite the availability of the reporting channels described above, most allegations of fraud and corruption received by the Investigations are still made directly by Bank personnel and, in some cases, persons outside the Bank, such as aggrieved bidders, suppliers, contractors, or consultants.

B. Preventive Measures

In order to reduce the instances of fraud and corruption within the Bank and under Bank-financed contracts, the Bank has undertaken an array of educational and deterrence initiatives aimed specifically at Bank staff, contractors and consultants, and government officials, on the one hand, and broadly at helping nations combat systemic corruption, on the other.

1. Education and Deterrence
   a. Measures Aimed at Bank Staff

   Preventive measures aimed specially at educating staff members and deterring staff misconduct are carried out primarily by the Professional Ethics Office. These initiatives include revising and updating the Bank’s Code of Professional Conduct, conducting seminars and workshops, and disseminating literature through pamphlets and over the Internet. In addition, PEO has been involved in the Bank’s review of and revisions to its internal grievance or conflict resolution procedures and will be involved in aspects of their implementation.

   To monitor compliance with the restrictions on remuneration, benefits, favors, and gifts from outside sources, staff members at the level of vice president or above (and such other senior staff members as the President may designate) are required to file each year a statement of financial interests. This form calls for disclosure of outside earned income and outside business or professional positions (whether compensated or not); categories of owned assets and outside sources of income; specific assets issued by, acquired from, or sold
to an entity related to the staff member’s work with the World Bank; and indebtedness in excess of $50,000 (excluding household debts, debts to family members, and residential mortgages).

To deter fraudulent or corrupt activities by Bank staff, Staff Rule 8.01 was amended in 1997 to provide for mandatory termination where it is determined that a staff member has engaged in misuse of Bank funds or other public funds for private gain in connection with Bank activities or employment, or abuse of position in the Bank for financial gain. In addition, for the first time in its history, the Bank recently responded to a case of a staff member accepting kickbacks from a contractor by bringing a civil lawsuit against the staff member to recover the misappropriated funds. This case resulted in the staff member losing termination (but not pension) benefits and a default judgement against the staff member in excess of $400,000.

b. Measures Aimed at Others Outside the Bank

Beyond the measures aimed solely at staff members, the Bank has put in place a number of broad initiatives to deter fraud and corruption in Bank-financed contracts, whether committed by staff members, bidders, suppliers, contractors, or consultants. These include the efforts to encourage reporting of wrongdoing to Bank officials through the Hotline, the Complaint Line, the Helpline, or directly to the Investigations Unit, PEO, or the Ombudsman; and the 1996 and 1997 changes to the Bank’s procurement guidelines providing for debarment of bidders, suppliers, contractors, and consultants that engage in fraudulent or corrupt practices and giving the Bank the ability to require access to records.

2. Strengthening of National Anti-Corruption Systems

It was the recognition for the need to strengthen national anti-corruption systems that was central to the Bank’s dramatic change in direction in the mid-1990s. Today, although a number of Bank offices, including the Legal Department, render a degree of support of various kinds in this effort, the overwhelming majority of the work is being conducted by the Public Sector Group in the PREM network, and by the Governance, Regulation, and Finance Division of WBI. PREM is engaged in the implementation of its 1997 strategy document entitled "Helping Countries Combat Corruption: the Role of the World Bank." Its projects include holding national anti-corruption workshops, developing national auditing capacities,
supporting legal and justice system reforms, and supporting related administrative reforms. WBI undertakes empirical research designed to provide a better understanding of the extent and nature of corruption in individual nations, and the potential utility of various programs designed to address problems of corruption. It also engages in instructional programs tailored to national needs, and otherwise complements, and participates in, the general efforts undertaken by PREM.

V. Observations and Commentary Concerning Current Status

A. In General

The Bank has made extraordinary progress in a very short period of time. The elements of a broad systemic approach to fraud and corruption have been put in place, and the Bank's various components have accepted the changes with a minimum of friction. Certainly the staff members we encountered in all relevant areas appear very professional and capable, with sincere dedication to reducing fraud and corruption. They are impeded in their work, however, by aspects of the current apparatus within the Bank for dealing with this matter which appear not yet sufficiently refined and coordinated.

B. Bank's Internal Program against Fraud and Corruption

1. Oversight Committee On Fraud and Corruption

   a. In General

   There is a genuine need for oversight of the Bank's multiple efforts directed against the problems of fraud and corruption. Several entities, including the Oversight Committee, the Investigations Unit, the Sanctions Committee, the Legal Department, IAD, PEO, OCS, the Legal Adviser for Procurement, PREM, and WBI, spend considerable time in attempting to address the fraud and corruption problems falling within their particular spheres. Although many of these efforts are very well conceived, there is no central authority below the President that, as a practical matter, is in a position to assure that the Bank's efforts are consistent in policy direction, focused, comprehensive, coordinated, and interbalanced in a cost-effective manner. Although this is a function that is appropriate for the Oversight Committee — and indeed is assigned to the Committee by the Staff Announcement of October 15, 1998 — the Committee's current absorption with operational management of the Investigations Unit
effectively precludes it from the broader policy and strategic role that, in the long run, is of
greater importance.

There are problems, too, in the Committee’s attempts to fulfill its currently-dominant role of
supervising the operations of the Investigations Unit. Certainly, there are inherent difficulties
with any part-time committee attempting supervision and control of an operational office, and
those difficulties are evident in the current structure. We appreciate that in the incipient stages
of the Bank’s efforts to develop effective mechanisms for investigating fraud and corruption
it was thought to be a reasonable precaution to have knowledgeable operational officials
directly involved in the conduct of investigations. However, now that the Bank has put in
place a team of professionals to carry out investigations, such involvement by managers
does not appear to be either necessary or prudent. There is a widespread view within
the Bank that on the one hand the Committee’s exercise of its supervisory responsibility is
cumbersome, and on the other hand it is somewhat illusory. As noted by one senior Bank
employee, “Shared responsibility is no responsibility.”

Additional problems are caused by the fact that the members of the Committee do not possess
the expertise required for investigative supervision, are not able to make themselves available
to the extent that the Committee’s operational responsibility requires, and are the subject of
concerns about potential or perceived conflicts of interests.

b. Membership

(1) Expertise

Most members of the Committee possess a highly-developed but narrow expertise that is
crucial to their regular operational responsibilities (and that would be immensely valuable
for contributing to the development and implementation of overall Bank fraud and corruption
policy which, as noted, is not the Committee’s current focus), but that is not honed for
supervising investigations of criminal and administrative wrongdoing. Certainly a collection
of backgrounds in auditing, law, governmental procurement, and ethics, among others, are
essential to the development of comprehensive policies and programs to address the problem
of fraud and corruption, but none of them constitutes an appropriate background for the
day-to-day supervision of professional investigators. Some with such
backgrounds correctly point out that their specialized training, experience, and knowledge do not commonly reside in, but would be useful for, the Bank's professional investigators. There would appear, however, to be several obvious ways of introducing the useful components of their training and experience into investigative practices other than through a collective, supervisory role.

(2) Availability

The members of the Committee are particularly busy officials. Their "day jobs" demand their full attention, and although without exception they appreciate the importance of the Committee's work and its relationship to their own work, making the time necessary for the Committee membership's assigned supervisory role is burdensome. The briefing materials prepared for the members prior to the Committee meetings are extensive and, if true supervision is to be undertaken, require thoughtful preparation for questioning and evaluation. Some members have acknowledged difficulty in being adequately prepared, and this will become more difficult as the Unit's caseload increases. The time required for meetings of the Committee has been reduced by the recent change from weekly Committee meetings to biweekly meetings (which usually require about one and one-half hours). However, the change in turn has raised another problem — with two weeks passing between Committee meetings, there is in reality little opportunity in the interim for direct supervision of the Investigations Unit and its ongoing activities. This causes occasional difficulty when the Unit is faced with making a sensitive decision in an ongoing case; in practice, in such situations the head of the Investigations Unit has sought and received direction from the Vice Chairman of the Committee. Although this practice is a responsible and necessary adaptation to assure that supervisory advice is available when needed, it is somewhat at odds with the original concept of supervision by Committee. As the Unit's caseload increases, the supervisory rule of the Oversight Committee will become more burdensome for Committee members and, unless these important line managers allocate inordinate amounts of their scarce time to the Committee, the Committee will not be able effectively to fulfill its responsibilities.
(3) Conflicts of Interest

A number of observers have suggested the existence of potential awkwardness in having members of the Committee participate in the direction of the Investigations Unit with regard to cases in which their offices were previously involved (as procurement contract reviewers, ethics violation reviewers, legal advisers, etc.). As noted above, one original member asked to withdraw from the Committee as a result of concerns about perceptions of potential conflicts. In the minds of some employees, the issue was raised anew by the relatively recent transfer of core operational responsibilities to the Managing Director chairing the Committee. While we have seen nothing to suggest that any member of the Committee would act other than in a professional, impartial, and objective manner on matters before the Committee, even the appearance of a conflict of interest can undermine a body’s credibility. In theory, such difficulties may be avoided by a member’s recusal from participation in questionable situations. The problem is perceived by some Bank employees as somewhat broader, however, inasmuch as senior officials involved in core activities of the Bank will often be found to have had some form of ultimate supervisory responsibility for many of the matters coming to the attention of the Investigations Unit. Although there is a legitimate question whether the potential for conflicts is more theoretical than real in situations where the original supervisory responsibility was at an elevated level, some concerns were expressed about a Committee member having any prior connection at all, however attenuated, with a case being supervised by the Committee.

2. Investigations Unit of the Oversight Committee

a. In General

The Investigations Unit is an expanding, busy office in the process of adapting to its assigned responsibilities. Its personnel appreciate the need for policy direction, but occasionally find their professional efforts impeded by the Unit’s lack of authority to manage itself. These impediments spring in part from uncertainty as to the investigative decisions that the Unit itself may undertake upon its own initiative; in part from lack of immediate access to an external, day-to-day supervisor; in part from the necessity of the Unit’s supervisors expending two or three days in preparation for each of the biweekly Oversight Committee meetings.
(although the debriefing of investigators involved in such preparation to some extent would be necessary anyway for purposes of good management); and in part from difficulty in obtaining full cooperation from other Bank offices which seem to confuse the Unit's semi-obscure status with a lack of authority.

b. **Authority**

The managers of the Unit must make determinations about whether to investigate an allegation of wrongdoing that is reported to the Unit, who should undertake the investigation, and how to proceed at various junctures of the investigation. Frequently the need for such determinations is immediate, and thus under the current arrangements the managers must seek approval from the Chairman of the Committee (who bears too many other responsibilities to be readily accessible to the Unit at a moment's notice) or from the Vice Chairman (who usually, but not always, can be reached to permit consultation and to provide authorization for immediate action). In most instances, any delay caused by the process is not consequential, but the necessity of explaining to outsiders why obvious decisions cannot be taken immediately tends to impart a suggestion of a certain degree of impotence. As a practical matter, however, the Unit enjoys a fair degree of de facto independence, and its recommendations, partly because they have proved to be responsible, are almost always followed by the Committee.

c. **Investigators**

1. **Employees**

Over the past few months the Investigations Unit has been building up its internal staff. It appears to be hiring competent professionals, with backgrounds of the nature needed for effective work by the Unit. It is our belief, however, that to meet the Unit's increasing caseload effectively, and to reduce reliance on expensive outside firms, additional investigators will be necessary. The investigators on staff will need to include not only investigators with traditional law enforcement backgrounds, but others with more specialized backgrounds. Certainly they will need to include additional auditors who, in the words of one senior auditor in the Bank, need to be "trained auditors" and not "retreaded economists." Moreover, they will need to be forensic auditors if they are to be able to perform the work required of the Unit. Also, as noted below in discussing the investigative capacity of
the Sanctions Committee, the Unit should have on staff, or on immediate call, a procurement expert to avoid incorrect assumptions of fraud in instances involving routine procurement practices. In addition, it has been suggested by two Bank employees that the Bank's investigators will need ready access to assistance from engineers and other technicians to help the investigators quickly sort out relevant technical aspects of procurement, and avoid finding themselves attempting to master unfamiliar subjects.

(2) **Contractors**

The Unit proposes to rely on outside contractors less frequently than was common in the Bank over the past three years. Although much of the quality of the earlier work was satisfactory, the work was often protracted and always expensive (with one ongoing investigation already having cost the Bank more than $900,000 in legal fees and expenses). Certainly time is lost when investigators who are unfamiliar with the Bank, its structure, its regional operations, its personnel, the nature of its contracting and financing systems, and the circumstances in which it must operate worldwide, are brought in to conduct an investigation. On each occasion there is a "ramping up" period during which the outside investigators are not making investigative progress, but are simply learning about matters that already are familiar to the Bank's own investigators. During such periods, the Bank must pay not only the fees of the outside investigators, but the salaries of Bank employees who are called upon, in effect, to train the outside investigators in procurement practices, accounting procedures, recordkeeping methods, and other such matters (training that several Bank employees acting as "trainers" have found to constitute frustrating experiences). The process has been made more difficult by the practice — employed by one of the major international accounting firms that had been retained — of assigning responsibility for Bank investigations to less experienced, junior employees without effective guidance. In addition, the Bank's general experience with accounting firms is that, although collectively they may be competent at tracing business records, they are not particularly skilled in determining whether regulations or other proscriptions were breached, and thus in laying the groundwork for effective administrative or legal action.

The Bank's experience with law firms was described as better — a matter that our own review tended to confirm. The reality is, however, that many
lawyers do not ordinarily possess the necessary professional capacity and competence of persons with formal law enforcement training and experience. Moreover, because of the geographic location of the Bank's headquarters, the law firms retained thus far for investigative work are concentrated in one country, and understandably exercise professional judgment strongly influenced by the particular practices of the U.S. system in which they have been trained — a matter that may sometimes suggest a somewhat parochial influence over the Bank's investigative work.

Whether outside contractors are accounting firms or law firms, or even investigative firms staffed with professionally trained personnel, the value of the investigators' training by the Bank personnel is largely lost to the Bank when it — appropriately declining to be limited to only two or three providers — does not elect to hire the same firm on a subsequent occasion, or when it does so but the firm does not assign its previously detailed investigators to the case. The failure of the Bank to capture and retain the expertise that it has helped to develop is a costly loss.

d. Operations

(1) Cooperation from within the Bank

The Investigations Unit occasionally encounters difficulty in engendering cooperation on the part of other Bank components. This appears to be caused in part by the uncertainty of Bank employees concerning the degree of authority properly to be exercised by the Unit. A second and more troubling cause, however, is a budgetary one. Frequently the Investigations Unit will request the cooperation of a particular office in the Bank's headquarters, or in one of the Bank's regions, in the course of an investigation. The requested cooperation may involve internal activities, such as the retrieval of Bank records, or may involve outside activities something as basic, for example, as the counting of schools actually constructed pursuant to an "education" sectoral adjustment loan. On several occasions involving such requests, the Unit has received the reply that the office will not undertake the requested cooperation unless there is a transfer of funds from the Unit to the office to which the request has been made. Those offices have considered the requests to be "unfunded mandates" that they should not be required to bear. We find such responses to be difficult to fathom. We have been
told, however, that the budgetary structuring of the Bank is on something of a “market-economy” model, and that all offices must bear the costs involved in requesting assistance from others. Although we have not undertaken to evaluate whether this is a correct interpretation or application of the budgeting system, it would appear to us that the Bank should be able to find the means of differentiating costs of Investigations Unit requests from routine ones — perhaps justified, if necessary, on the basis of possible or suspected mismanagement within the office receiving the request.

(2) **Requirement to Notify Subjects**

Another potential concern identified by several of the Bank investigators we interviewed, both within the Bank and among outside lawyers retained to conduct investigations, is the requirement contained in Section 5.04 of Staff Rule 8.01 that, once a determination is made that a staff member appears to have committed misconduct, the staff member must be given written notice of the alleged misconduct. It goes without saying that the due process rights of the Bank’s staff must be fully respected and given great deference. Nevertheless, we have heard considerable reservations expressed about whether this notice requirement is appropriate. One investigator referred to it as the “destruction of evidence notice” because of the perception that this notice may give the subject of an investigation the opportunity to destroy or tamper with evidence before the investigators can secure it. Several believe that the due process concepts behind this rule could well accommodate an exception to the notice requirement in instances in which there would be reason to fear that the notice would encourage destruction or alteration of incriminating evidence.

(3) **Access to Records**

In investigations involving bidders, suppliers, contractors and consultants, although significant amendments were made to the Bank’s procurement guidelines in 1996 and 1997 that, among other things, enable the Bank to obtain access to certain records, some investigators continue to find it difficult to elicit adequate cooperation from those who receive Bank-financed contracts. Even the revised language gives the Bank access only to “accounts and records relating to the performance of the contract.” This language does not (i) require that particular records must be created or maintained for a specified period or (ii) require
access to records outside the parameters of the performance of a contract, for instance, those
relating to bid documents or to activities that may pertain to the project but are beyond the scope
of the Bank-financed contract itself. Documents such as those that would facilitate the disclosure
of improper payments by contractors or consultants could be of significant help to investigators.

(4) Effects of Immunities and Privileges

The Bank’s immunities and privileges also present certain challenges to Bank investigators. On the one hand, the immunities and privileges cannot be taken lightly and the Bank must be cautious not to be deemed to have issued a waiver inadvertently. On the other hand, if the Bank is going to refer matters to law enforcement agencies and prosecutors, it should expect to encounter situations in which it is asked to provide testimony and documents that it will not be comfortable revealing. In such situations, the Bank would have the difficult choice of either making undesirable disclosures or refusing to do so and risk seeing the investigation stymied and the Bank’s reputation for cooperation with investigators and prosecutors of national governments severely compromised.

(5) Conduct of Investigators

Not all perceived problems in the operation of fraud and corruption investigations are problems faced by the investigators. Some problems are, in fact, blamed on the investigators. In the view of some of Bank officials with regional operational responsibilities, investigators have been insufficiently sensitive to the need for an institution of the Bank’s character to maintain good professional relationships with national governments even when — or perhaps particularly when — improprieties involving governmental officials are being examined. Investigators in the past, particularly those with accounting firms and law firms retained by the Bank, have been reported to have pursued sensitive inquiries without first alerting the Bank’s regional authorities who could “smooth the way and avoid diplomatic problems.” While such prior notice may risk undermining an investigation in some situations, where the integrity of the investigation is not at stake, investigators should not overlook the value of utilizing the Bank’s good offices in the various regions.
e. Caseload

The members of the Investigations Unit, and several Bank employees outside of the Unit, anticipate that the Unit's active caseload, which now numbers 58, will expand rapidly after the planned promotion of the Hotline and the Complaint Line and the undertaking of other initiatives. This will exacerbate several of the Unit's described problems. One knowledgeable Bank employee, in an office other than the Unit, estimated that the Unit today would be investigating over 200 cases if it were fully established and operating under an appropriate structure.

f. Budget

It appears that the current budget of $6.9 million is adequate for the Unit's present level of operation, especially if the funds that would otherwise be expended on contract investigators can be used instead for hiring additional investigators of its own. The inevitable caseload increase, however, will require greater resources in the future. Also, future budgeting for the Unit should include a position for an administrative officer to handle routine administrative, office management, and budgetary matters. The lack of such an officer currently diverts valuable time of the Unit's managers from their more substantive responsibilities. The problem appears to be particularly acute because the budget personnel within the Bank evince limited understanding of the nature of the Unit's work, seem to be confused and discomfited by the difficulties of developing a reasonable annual budget for an entity having a workload governed by unpredictable events emanating from outside the Bank, and attempt to make up for these problems by asking the Unit to undertake the largely futile exercise of estimating budgets for new investigations when their direction is still far from clear.

g. Confidentiality

By the nature of its work, the Investigation Unit possesses sensitive information, the disclosure of which could obstruct an investigation or unfairly be damaging to individuals or firms that are the subject of an investigation (particularly if wrongly accused) or that are cooperating with Bank investigations; damaging to national governments; and even damaging to the Bank itself. Accordingly, protecting the confidentiality of that information should be a high priority. However, the Investigations Unit is regularly called upon to brief a
variety of officials within the Bank about ongoing investigations. In addition to diverting scarce resources of the Investigations Unit, this practice is problematic because the more individuals that are aware that an investigation is in process, not to mention the actual allegations made and the evidence being gathered, the greater the chance of obstruction of the investigation or harmful disclosure, even if inadvertent. Such disclosure not only can undermine the success of an investigation by giving a wrongdoer the opportunity to destroy or alter evidence, but also can result in harm to reputations even where the investigation ultimately shows that no wrongdoing occurred.

3. Sanctions Committee
   a. In General

   The ability to impose administrative sanctions against bidders and contract holders that have engaged in fraud or corruption — in addition to any sanctions that might be imposed by national governments — is an important component of the Bank’s overall program against fraud and corruption. The Sanctions Committee seems to be appropriately structured to make determinations concerning such matters, and reasonably successful in exercising its authority.

   There are some matters stemming from its design and operation, however, that are worth noting. They pertain principally to limitations upon the Committee’s authority, the absence of specific guidelines for making its determinations, and the fact that a contractor adjudged by the Committee to warrant a sanction is free to appeal the Committee’s decision to the President.

   b. Scope of Authority

   Since, in practice, only a relatively small amount of fraudulent activity potentially infecting Bank-supported development efforts is brought before the Sanctions Committee, there is presently no mechanism for imposing sanctions if wrongdoing occurs in certain categories of Bank loans. Accordingly, the Bank should consider whether a broader scope should be pursued by the Sanctions Committee — including the form and degree of sanctions within the Bank’s control that might be appropriate where fraud and corruption is found in loans made under national competitive bidding standards and structural or sectoral
adjustment loans. As noted previously, neither the Sanctions Committee nor any other component of the Bank has been charged with addressing a situation in which an errant governmental official, and possibly even a national government, is found to have engaged in fraudulent or otherwise corrupt activities involving Bank funds. Obviously such an issue would be as delicate as any the Bank must face, and understandably that is one reason that the Bank has not yet attempted to resolve it. But the sensitivity of the matter would arise directly only when evidence of official wrongdoing has been clearly established and the question is presented whether legitimate political and practical considerations may preclude the Bank from initiating any action as a result of the finding.

c. Membership

The current membership of the Committee is generally perceived to be a logical one. Some questions have been raised within the Bank, however, with regard to the advisability of including members who may have had some supervisory role in an earlier review or approval of the contract involved. This is similar to the questions raised concerning the membership of the Oversight Committee, except that, with regard to matters referred to the Sanctions Committee, an investigative determination will already have been made that wrongdoing appears to have taken place. In the Sanctions Committee context, therefore, any possible bias on the part of a member against acknowledging the error of a prior approval seemingly would be overcome by the intervening, independent investigative finding of evidence that wrongdoing had taken place. We believe it unlikely that any member would find it difficult to make an unbiased judgment as to the need for further investigation, as to guilt, and as to an appropriate sanction. In any event, in the occasional case seemingly presenting any more than a theoretical potential for conflict, the issue may be avoided by recusal.

d. Investigative Capacity

The means by which the Bank might appropriately undertake to investigate suspected wrongdoing has been, as noted before, a subject of experimentation and evolution over the past three years. As a result, over that period various matters referred to the Sanctions Committee have been predicated upon investigations undertaken by outside accounting firms, by outside law firms, by IAD auditors, and by Investigations Unit employees. Some
observers familiar with those investigations, and also familiar with procurement practices, have expressed concern that many of the investigators involved have not adequately understood standard procurement practices, common procurement difficulties, and legitimate national procurement considerations. The investigators, it is said, have often confused standard practices with suspicious practices, and bad judgment with criminal conduct. Considerable time has therefore been expended by the Bank's procurement authorities in providing the necessary education to the various investigative groups. This perceived problem may be substantially reduced in the future as a result of the ongoing concentration of investigative responsibility within the Investigations Unit, in which, through the hiring process and through regular consultation, a greater understanding of procurement practices can be acquired.

e. Operations

The Committee, as a relatively new body, has not developed any detailed procedures or guidelines for its operations. It has confronted the issues before it on a case-by-case basis, and those involved with the Committee seem to contemplate proceeding toward a framework through accretion of "case law." Given the importance of the Committee's function, however, there appear to be good arguments for encouraging it to develop operating standards. These would include (1) written standards for determining liability, (2) written statements of the purposes to be served by the imposition of sanctions, and (3) written guidelines for selecting particular sanctions in a given case. All these may be fairly general in content, and certainly should be cast in verbiage making it clear that they are designed to channel discretion rather than to provide a basis for litigation.

f. Available Sanctions

The sanctions imposed by the Committee are limited to debarment from future Bank-financed contracts for an indefinite period or for a stated period of time. The debarment may append to a firm, affiliated and associated firms, and individuals and associated individuals. It would appear that the Committee, in addition, should be able to recommend to an appropriate national debarment authority that the bidder or contractor in question be considered for preclusion from future national contracts under national laws.
Several observers have questioned whether it would not be appropriate to undertake a “cross-debarment” procedure under which other multilateral development banks and supra-governmental organizations might accept each other’s debarment determinations for purposes of precluding a contractor’s eligibility for projects those institutions are funding. To do so, however, would require regularized, common procedures and practices. Today not only is there no commonality in the procedures and practices employed by those other organizations, but there is little in the way of developed debarment standards at all, and certainly there is no basis upon which the Bank could comfortably predicate a debarment action of its own. For now, informational exchanges alone would appear appropriate, achieved through publication of the Sanctions Committee decisions (expurgated to the degree necessary) on the Bank’s web site and by other means. This publication procedure is currently used to achieve the maximum deterrent impact from the sanctioning process. In addition to the standard announcement on the Bank’s internal computer network, however, it would appear appropriate to assure that specific notice of a sanction be transmitted directly to the Bank’s procurement authorities in the nation and region involved.

g. Appeals

Under current procedures, a decision of the Sanctions Committee is not self executing; it is issued in the form of a recommendation to the President who is then charged with making a final decision of the matter. This process, however legitimate the concerns that gave rise to its adoption, has been widely decried by observers within the Bank. We concur that it is not a desirable structure. The President should not be a participant in this process. It would appear preferable to lodge final decision-making authority in the Sanctions Committee once it has adopted somewhat more regularized practices and has acquired the stature necessary to withstand collateral attacks. Until that time is reached, an appropriate appellate body should be identified or created.

C. External Programs against Fraud and Corruption

1. In General

It is absolutely essential to the integrity and success of national government efforts to deal with problems of fraud and corruption that such efforts be advanced
as part of a broader program to instill — in government officials and in the public — a fundamental commitment to the Rule of Law. Such a commitment, more commonly recognized as the best basis for enhancing prospects for democracy and respect of human rights, is also a sine qua non for economic development. Certainly the importance of national anti-corruption assistance is clearly understood within the Bank’s Legal Department; more importantly it is also clearly understood by professionals throughout the Bank. As one observer noted, “Nothing will substitute for a clean government on the other side.” Indeed, representatives of several Bank offices, in addition to representatives of the Legal Department, volunteered their views that there were few if any Bank activities that were more important to the Bank’s eventual success in meeting its ultimate goals of fostering development and reducing poverty than programs engendering national respect for, and adherence to, the Rule of Law.

The work of PREM and WBI in this area is generally perceived by others within the Bank, and by knowledgeable professionals outside the Bank, as impressive and of excellent quality. The PREM work is distinguished by its comprehensive nature, and the WBI work by its innovative empirical studies demonstrating that national corruption is subject to measurement, thus rendering it subject also to tailored responses with consequences that similarly can be measured. Materials useful to national programs, developed by both PREM and WBI, are readily available on the Bank’s external web site.

Some observers with experience in the field, though, while applauding WBI’s cross-country comparisons of corruption, believe that it is now time to concentrate more on thorough surveys and analyses that are undertaken in conjunction with national governmental and non-governmental entities and that are designed to assess both the degree of, and potential solutions to, corruption within a single nation. Country-specific analyses can lead to country-specific remedies. Also, it appears that care should be taken to help assure that exposure of wrongdoing is followed fairly closely by remedial action. It has been suggested to us that programs exposing a degree of public corruption, unless followed relatively quickly by programs designed to address and reduce that corruption, may lead not only to public cynicism but to an increase in corruption on the part of officials who come to realize that, even with general revelation of the problem, there is no marshaling of resources to combat it. and, hence, even less
risk than originally may have been contemplated. As noted by one researcher, when corruption is exposed "it is very, very important that somebody get caught."

The various national assistance programs address corruption both directly and indirectly. Both approaches are needed. It appears to us, however, that the Bank's program might be examined to determine whether the future programs should include particular emphasis in three subject areas — national judicial and legal reform, safeguarding governmental procurement, and improving national accounting and auditing standards.

2. Coordination with Other Bank Offices

Although PREM and WBI enjoy excellent reputations within the Bank, we found, upon pressing, that other Bank offices — even those with related concerns — know the work of those two organizations primarily by reputation rather than by direct collaboration or coordination. PREM and WBI, for example, appear to have only minimal contact with the Legal Department concerning ongoing or potential reform projects involving national judicial systems and legal systems. This may be explained in part by the fact that, as noted by a supervisory official in OCS, there is "little expertise" within the Bank in this area; the Legal Department as yet has no attorneys with broad, international criminal justice experience who would be in a position to provide the authoritative advice and assistance required. Nevertheless, the PREM and WBI contact with the Legal Department is not of a degree that a well-conceived preventive program would seem to warrant.

3. Coordination with Other Agencies Involved in Multi-National Programs

PREM has worked with a number of national foreign aid agencies, and with multinational agencies involved in governance and anti-corruption programs. It has regularly worked with United Nations Development Program on justice reform matters, but only in the civil justice area. It has also worked closely with a non-governmental organization involved in effective anti-corruption measures, Transparency International, as well as with other NGOs. In addition, it has played a noteworthy role in assisting in the development, and now assisting in the implementation, of international conventions against foreign bribery — particularly the OECD convention.
VI. Recommendations

A. In General

Based on the foregoing, the following recommendations are submitted for consideration. Our recommendations fall into two categories: the first set addresses matters directly within our Terms of Reference, in particular, “the structures, procedures, resources and management the Bank Group has in place to investigate allegations of fraud and corruption and, where fraud or corruption is established, to sanction those involved;” and the second set addresses matters not necessarily within this narrow framework, but which are nonetheless significant to a comprehensive effort by the Bank to reduce fraud and corruption. With respect to the former, we have tried to lay out specific courses of action to improve the Bank’s ability to combat fraud and corruption; with respect to the latter, we have tried to identify areas deserving further review and consideration by the Bank before changes are implemented.

B. Principal Recommendations

1. Oversight Committee on Fraud and Corruption Policy

The Oversight Committee on Fraud and Corruption, renamed the Oversight Committee on Fraud and Corruption Policy, should be freed from its responsibility involving the supervision of investigations, and should be recommissioned with its current policy-making role recast as its principal responsibility. Its new charter should make clear that the Committee bears policy-level supervisory and coordinative responsibility for all of the Bank’s programs intended to address problems of fraud and corruption, not just investigations. The overall purpose of the Committee should be to assure that the Bank develops anti-corruption policies and implementation strategies that are well-designed, comprehensive, intercoordinated, and effective in helping the Bank accomplish its poverty-reduction program. In fulfilling this purpose, the Committee would be expected to assure a reasonable balance of preventive and remedial measures, and to foster harmonious working relationships among the various offices working toward the Bank’s overall goals. Accordingly, the Committee’s membership should be augmented to include the senior officials in the Controller’s Office, PREM, WBI, and the new Department of Institutional Integrity. The Committee should be briefed periodically by representatives of the various offices over which it exercises policy development and
coordinating functions, and, as a Committee, should report, and make recommendations, directly to the President.

2. **Department of Institutional Integrity**

   a. **Generally**

      A new independent department, which we would suggest might be called the Department of Institutional Integrity (the Investigations Department or the Department), should be created and assigned the principal responsibility for conducting all investigations on behalf of the Bank into instances of fraud and corruption.

   b. **Scope of Operations**

      The Investigations Department should exercise operational independence under the authority of the President and should report directly to the President (in the same manner as the Internal Auditing Department). All functions and personnel within the Bank presently committed to the investigation of fraud and corruption should be assigned to the Investigations Department. All components of the Bank that may encounter fraud and corruption in the course of their work, including IAD, PEO, the Legal Adviser for Procurement, the Ombudsman, OCS, and the Operations Evaluation Department, should be instructed promptly to refer such matters to the Department.

   c. **Responsibilities**

      In carrying out its duties and responsibilities, the Investigations Department should be authorized:

      (1) to undertake such investigations relating to fraud and corruption in the awarding of Bank-financed contracts and in the administration of projects funded thereby, in the activities of Bank staff members, and in the operations of components of the Bank, as are necessary or desirable in the judgment of the Director of the Department, whether based on allegations from third parties or on the Department's own initiative as a result of its strategic "risk management" assessment;

      (2) to receive and investigate complaints or information directly from any staff member, national government official, bidder, supplier, contractor, consultant, or other party, or through the Hotline, the Complaint Line, the Ethics Helpline, or
other electronic means concerning the possible existence of any activity constituting a violation of law, rules or regulations or fraudulent or corrupt practices;

(3) to have, under the authority of the President, access to all assets, properties, information, documents, records, bids, contracts, reports, audits, accounts, reviews, papers, recommendations, and other material, data and documentary or physical evidence in the Bank's possession or under its control;

(4) to require, pursuant to the procurement guidelines and Bank-financed contract documents, the production of all information, documents, records, bids, contracts, reports, audits, accounts, reviews, papers, recommendations, and other material, data and documentary evidence from any bidder, supplier, contractor or consultant relating to any Bank-financed contract;

(5) to request such documents, information or assistance as may be necessary for carrying out its duties and responsibilities from any member government or governmental agency or unit thereof;

(6) to interview, pursuant to the Staff Rules, any staff member who may have knowledge pertaining to the subject matter of an investigation;

(7) to keep confidential the identity of any staff member or other source making an allegation or disclosing information to the Department;

(8) to cooperate with national law enforcement agencies, prosecutors and courts;

(9) to make findings with regard to its investigations and, where appropriate, to refer those findings, with or without a specific recommendation for action, for possible sanction, disciplinary proceeding, civil lawsuit, criminal prosecution, or administrative or other remedial action; and

(10) to report to the President without delay whenever information or assistance requested is, in the judgment of the Director of the Department, unreasonably refused, delayed or withheld.
d. Staffing and Budget

(1) Director of the Department

The Director of the Department should be appointed for a five-year term by the President from a list of no less than three persons recommended to him by an international panel of five experts from outside the Bank who are experienced in the investigation and prosecution of fraud and corruption cases.

(2) Professional Staff and Budget

The Department should be allocated its own annual budget — one sufficient to provide it with experienced in-house staff possessing investigative skills, knowledge of bank procurement and personnel procedures, forensic auditing and contract auditing skills, and other characteristics necessary for mounting an aggressive effort against fraud and corruption. Particular attention should be given to retaining (or having access to) professionals who understand the intricacies of the procurement process and others with forensic accounting and contract auditing skills in order to fill the existing shortcomings in these areas. The Director of the Department should have independence in selecting the personnel for the Department, consistent with personnel rules of general application within the Bank. While it is not possible to determine the number of investigators that will be required by the Department or the optimal size of its budget, the current staffing (with the previously anticipated addition of four professionals and the recommended reassignment to the Department of positions for other Bank investigators presently engaged in matters involving fraud and corruption) and budget appear to be adequate to address the current caseload. (Of course, funds will have to be reallocated to the Department’s budget as investigators are reassigned from within the Bank to the Department.) As the Bank continues to give greater encouragement to reporting allegations of fraud and corruption, the number of cases being handled by the Department clearly will continue to increase. The Department’s resources should be increased at a rate that will allow for managed growth.

(3) Outside Contractors

For reasons of efficiency and effectiveness, we recommend that the use of outside investigators be minimized. In the long run, it will be more cost-efficient
for the Bank to recruit, hire, and train its own investigators. It will also result in more effective investigations because lessons learned and contacts made in one investigation will be preserved by in-house staff so that they may be brought to bear in future investigations. Furthermore, full-time investigators employed by the Bank will have greater sensitivity to the institutional interests of the Bank and the importance of respecting relations with national governments.

e. Interaction with other Bank Departments and Offices

The Investigations Department should regularly seek out and receive advice from the Legal Department, IAD, PEO, OCS, the Legal Adviser for Procurement, the Controller’s Office, PREM, WBI, and similar offices in other multi-national organizations, as well as from task managers throughout the Bank, to take advantage of their unique knowledge and perspective about matters pertaining to fraud and corruption. This information will be of value to the Department in formulating its strategic plans and prioritizing the utilization of its resources. The Department should also make every effort to share with the offices and individuals identified above the insights gained from investigating fraud and corruption so that the Bank as a whole can benefit from the lessons learned.

Beyond this exchange of information with a variety of components of the Bank, the Investigations Department will need to establish special working relations with particular offices if it, and they, are to operate effectively in addressing fraud and corruption. The principal offices in this area are the following:

(1) **Legal Department**

Although the Investigations Department and its day-to-day operations would not be under the supervision of the Deputy General Counsel for Administration, Finance and Institutional Affairs (as is presently the case with the Investigations Unit), the Legal Department would be expected to give advice and counsel to the Investigations Department as legal issues arise, in the same manner as it does for other “clients” within the Bank. This will be of particular importance to the Investigations Department, since its work product will be subject to scrutiny from various administrative and judicial bodies within the Bank and in national governments in the event an investigation results in disciplinary
proceedings, sanctions, civil action, or criminal prosecution. Especially close collaboration between these two Departments would be necessary to the effective operation of each.

(2) **Internal Auditing Department**

Since, by the nature of their work, both the Investigations Department and IAD focus on past acts that may have involved fraudulent and corrupt practices, a close working relationship between the two Departments is essential. Inevitably, IAD audits will uncover evidence of fraud and corruption that should be referred to the Investigations Department. Similarly, certain matters reviewed by the Investigations Department will be found not to involve fraud and corruption, but will nonetheless deserve scrutiny by IAD. In such situations, the two Departments will need policies and procedures for referring matters to one another and cooperating on any ongoing investigation or audit following the referral. They should also have arrangements for sharing information and resources and working jointly on particular matters when the situation warrants. Furthermore, the two Departments should work together on their respective “risk management” strategies to identify areas in which the risk of fraud and corruption may warrant special attention.

(3) **Professional Ethics Office**

With respect to PEO, the presently blurred lines of responsibility should be clarified, with the Investigations Department assigned responsibility for investigating all matters involving fraud and corruption or other serious misconduct by staff members and, where the evidence establishes wrongdoing, referring the matter to PEO for appropriate disciplinary action in accordance with the Staff Rules. This will avoid the potential for conflicts of interest that presently exists with PEO investigating allegations of fraud and corruption against a staff member and then having a role in pursuing disciplinary action against the staff member on the basis of its own investigation. Staff Rule 8.01 should be amended to delineate clearly the responsibilities for investigating staff misconduct on the one hand and for initiating disciplinary action on the other.

(4) **Legal Adviser for Procurement**

Matters pertaining to fraud or corruption in the procurement process would be investigated by the Investigations Department. Until the Department retains or
develops its own internal expertise, the Legal Adviser for Procurement should continue to serve as a major resource to the Department on the technical aspects of procurement. The Legal Adviser would also continue to play an important role following the completion of an investigation involving a Bank-financed contract, whether by presenting debarment cases to the Sanctions Board where the Department finds evidence of fraud or corruption by bidders, contractors or consultants, or by seeking recovery of loaned funds where misprocurement is established.

f. Reports

The Department should report to the President on the status of ongoing investigations when, in the judgment of the President or the Director of the Department, such reports would be desirable.

The Department should also prepare a written report for submission to the President at the conclusion of each investigation. Such report would set forth in summary form the allegations, the scope of the investigation and the Department's findings, including whether the allegations were substantiated, whether there was insufficient evidence to reach a determination, or whether the evidence resulted in a conclusion that the alleged wrongdoing had not occurred. It is particularly important for the Department to be able to exonerate an individual or firm unfairly accused of wrongdoing because its reputation may have been damaged as a result of false accusations.

In addition, the Department should file an annual report with the President within sixty days following the end of each fiscal year setting forth in general terms the activities undertaken and results obtained during the previous year, as well as any recommendations for management or procedural improvements to aid in the deterrence or detection of fraud and corruption. The President, in turn, should make the Department's annual report available to the Oversight Committee on Fraud and Corruption Policy.

Beyond reporting to the President, there inevitably will be times when senior officials or operational personnel should be made aware of a particularly sensitive or damaging situation that is being investigated by the Department to avoid being caught unprepared to deal with unanticipated events or to protect Bank funds from further
misappropriation. Nevertheless, we believe that the present briefing practices enable too many individuals to gain access to sensitive investigative information. In order to protect sources of information, to avoid prejudice to subjects of investigations, and to ensure the integrity of the investigative process, status reports should not be routinely provided. Only those individuals that have a clear "need to know" should be briefed on an investigation, and then only with that amount of information that is absolutely necessary to disclose.

g. Mandate

Prior to implementing the recommendations concerning the establishment of the Department of Institutional Integrity, as well as the related recommendations that follow, the recommendations should be presented to the Board of Governors for its consideration and approval. This is critical to assure that the investigative and sanctions functions of the Bank can be carried out with a clear mandate from the Bank's governing body. If, for example, the Investigations Department lacks the mantle of authority that comes with the Board of Governor's imprimatur, it may be unable to engender the respect of other components within the Bank, as well as those with whom it deals outside the Bank. Without that respect, it will be more difficult for the Department to obtain the level of cooperation required to carry out its mission effectively.

Following action by the Board of Governors, the President should issue an announcement to the staff, superceding all prior announcements and memoranda on the subject, detailing the role and importance of the Investigations Department and instructing staff members to provide their full cooperation to the Department.

h. Strategic Planning

The Department should allocate a certain amount of time and other resources to developing a strategic "risk management" plan of action, similar to that which has been used successfully by the Internal Auditing Department. If the Department were to devote all its time and resources to investigating only matters that are referred to it by others, there would be no assurance that it would be addressing those situations with the most significant risk of misappropriation of Bank funds. The Department should develop and continually update an investigation strategy for prioritizing its investigative resources based on an assessment of those
contracts, projects, regions and countries that may be particularly susceptible to fraud and corruption. This strategic plan will give the Department objective criteria for deciding which allegations deserve priority and for identifying categories in which to conduct random, spot investigations. By doing this, there is a greater chance that significant instances of fraud and corruption will be detected. This practice will also act as a deterrent since there will be a greater concern on the part of would-be miscreants that hidden wrongdoing may be uncovered.

i. Assignment of Personnel away from Headquarters

Eventually, the Department should be authorized to establish a limited number of satellite offices away from the Bank's headquarters to monitor investigations into Bank operations and contracts on a regional basis in cooperation with the Bank's regional vice presidents and country directors. By having even a limited presence in the field, the Department can enhance its ability to uncover incidents of fraud and corruption as well as conduct investigations more efficiently and effectively. The Department would also have a greater capability to operate proactively under its strategic plan, rather than reactively solely on the basis of reports of wrongdoing that happen to be received. By establishing a presence beyond Washington, the Department could reduce the sense of security that some potential wrongdoers may derive from the supposition that distance renders them immune from Bank scrutiny. Field offices should be funded under the Department's budget, so they would not be reliant on either the space or the resources of other Bank offices or host government agencies.

j. Recommended Policies and Procedures

In order to regularize and enhance the operations of the Investigations Department, as well as to ensure due process in the conduct of investigations, written policies and procedures should be put in place with respect to the internal practices of the Department and its interaction with those outside the Department. Policies and procedures should be developed that address the following areas:

(1) Standards for the Conduct of Investigations

Policies and procedures should be written, in consultation with the Legal Department, that ensure investigations conform to acceptable norms, respect the due process rights of the accused, and develop evidence in a manner that can be used effectively
in subsequent proceedings. Matters to be addressed in this area would include protocols for, among other things: opening and closing investigations; developing work plans and timetables for particular investigations; interviewing complainants, witnesses and subjects; accessing World Bank assets, properties and documents (with appropriate allocation of costs incurred by cooperating offices); accessing individuals and documents outside the Bank; protecting confidential information (including the identity of informants); and encouraging the cooperation of potential witnesses.

(2) **Prioritizing and Tracking Investigations**

In accordance with the Department’s strategic plan, and the Department’s written procedures, investigations should be prioritized to ensure that resources are used efficiently. In addition, systems should be in place for tracking ongoing investigations to ensure adequate internal monitoring and oversight.

(3) **Collection of Evidence and Record Keeping**

The Department’s collection of evidence and record keeping must be carried out pursuant to regularized policies and procedures to help assure that the Department’s work is of a consistent quality and can be presented in a usable form upon referral outside the Department. Matters to be addressed in this area include, for example, documenting investigations, collecting information, safeguarding evidence and protecting the chain of custody of physical evidence, and maintaining current and retrievable case files and data bases.

(4) **Referral of Matters Outside the Department**

Upon the completion of an investigation or the discovery of compelling evidence supporting allegations of wrongdoing, objective written criteria should be developed — under the guidance of the Oversight Committee on Fraud and Corruption Policy and in conjunction with the Legal Department — and made available to the Investigations Department to guide its decisions about making other offices aware of the situation at the appropriate time for informational purposes or appropriate remedial action, about pursuing a matter either through civil or criminal courts, and about taking other possible action outside the Bank. Examples of possible avenues of referrals include:
(a) in the case of criminal wrongdoing or fraudulent or corrupt practices, to the Sanctions Committee for possible debarment, to PEO or the relevant Managing Director for appropriate disciplinary measures, to the Legal Department or outside counsel for possible civil action, to national law enforcement agencies or prosecutors for possible criminal prosecution, to other appropriate national government agencies for possible sanctions against officials or private entities engaged in wrongdoing, and to other international organizations for informational purposes, and

(b) in the case of mismanagement, misprocurement, or non-criminal conduct involving wrongdoing, to appropriate task managers for remedial or preventative action, to PEO for appropriate admonition and possible sanction, to the Legal Adviser for Procurement and the region for possible cancellation of the underlying contracts and recovery of loaned funds, and to the IAD for further financial review.

The Department must also have clear guidelines as to the scope of its authority, as well as any limits on such authority, to refer matters to, and cooperate with, law enforcement agencies and prosecutors outside the Bank on matters involving alleged fraudulent or corrupt practices by a national governmental official. Due to the political sensitivities and the legal and procedural complexities of such action, the Bank might want to have some sort of internal mechanism for review — by the Legal Department and other appropriate Bank offices — prior to a matter of this nature being referred outside the Bank. Nevertheless, the Bank must be willing to proceed aggressively against wrongdoers who may be governmental officials if its efforts to reduce fraud and corruption are to be effective and credible.

(5) Recruiting, Hiring and Training of Investigators

As the Bank has already learned, qualified individuals capable of conducting investigations in a multi-cultural international organization are difficult to find. If this problem is not given close attention, the Bank cannot expect the quality of its investigations to be satisfactory, no matter how much attention is paid to the organization and structure of the bodies responsible for carrying out and overseeing investigations.
Retaining Outside Investigation Experts

While there are disadvantages to utilizing outsiders to conduct investigations on behalf of the World Bank, there will be instances in which the expertise required to handle or assist in a specific investigation will not be available within the Investigations Department or elsewhere in the Bank. In such situations, the Investigations Department should have written criteria governing its retention of outside experts to assist in particular matters.

3. Sanctions Committee

The Sanctions Committee should continue as currently constituted, but with some modification in its procedures and, eventually, in its authorization. The Committee should develop written policies and statements for determining the sufficiency of proof of wrongdoing (for direct liability, for derivative liability and for complicity). It should also articulate the purposes of the sanctioning process, and, in light of those purposes, develop standards for considering the effect of the level of culpability, the degree of damage occasioned or risked, and the prior involvement of the subject in improper transactions. The Sanctions Committee should be specified as the final actor in instances in which debarment or another sanction is imposed, except that, to ensure due process, a special review board might be created to receive appeals from actions of the Sanctions Committee. This board would have the discretion to review — solely on the basis of the record of the proceedings of the Sanctions Committee — the subject’s guilt and the penalty imposed and to determine, on the basis of the written record, whether to affirm the findings and penalties of the Sanctions Committee, to refer the matter back to the Sanctions Committee for further review, or to hold its own hearing on the matters raised in the appeal. In order to expedite its proceedings, the members of the review board should be authorized to confer by telecommunication. No appeal should be permitted to the President.

The Sanctions Committee should develop means of assuring (i) that firms and individuals are not able to circumvent the effect of their debarment by exercising control, directly or indirectly, over other firms or individuals bidding on future projects, whether involving international competitive bidding or national competitive bidding and (ii) that, before a
temporary debarment is lifted, the firm subject to debarment has put in place appropriate internal procedures and controls to prevent further wrongdoing. The Sanctions Committee should also work with the Legal Department, OCS, and other Bank offices, to devise ways to bring within the Bank’s reviewing and sanctioning jurisdiction those loans currently escaping such examination — including those designed to bring about structural and sectoral adjustment and those for contracts not open to international competitive bidding.

The Sanctions Committee should work with the Oversight Committee on Fraud and Corruption Policy in devising means of assuring that wrongdoing involving Bank funds by national governmental officials does not go unredressed; policies should be developed to govern referral of findings concerning such an official to prosecutive authorities of the government involved, publication of the referral in a fashion similar to that employed in publishing determinations of impropriety on the part of contractors, and preclusion of the official from any supervisory role with regard to future Bank-financed contracts.

The Committee should also work closely with other international development banks and other multi-national and international organizations with the goal of harmonizing the best international debarment and cross-debarment practices, arriving at common standards, and exchanging information concerning the honesty and efficacy of contractors and governmental officials.

Once the Sanctions Committee has in place well-functioning sets of procedures and guidelines, consideration should be given to recasting Sanctions Committee as a Sanctions “Board” and eliminating altogether the discretionary appeal process to the proposed review board or panel.

C. Additional Recommendations

In addition to implementing the principal recommendations set forth above, a comprehensive effort to reduce fraudulent and corrupt practices will require the Bank to strengthen its efforts to deter such practices through a variety of internal and external initiatives and programs. These recommendations also may serve as examples of the kinds of policy-making initiatives that the Oversight Committee on Fraud and Corruption Policy would be able
to address upon being extricated from its responsibility for supervising the investigative process. Matters to be given priority in this area include:

1. **National Legal and Judicial Reform Assistance Program**

   While the national assistance programs developed by the Bank through PREM and WBI have been widely applauded, there is considerably more to do with regard to implementing the portion of their anti-corruption strategy that involves direct assistance in national legal and judicial reform.

   The PREM program should be expanded, for example, to encompass direct guidance and assistance to countries in the development of more effectively designed, and more effectively operating, national criminal justice systems. The need in the latter area is crucial, as there is today no supra-national organization with either the capacity or the funding to launch such programs. Realistically, PREM's efforts in this regard would involve coordinative work with other international organizations, particularly the United Nations Centre for International Crime Prevention in Vienna, with national foreign-aid agencies, and with qualified non-governmental organizations. Such coordinated activities on the part of the Bank are authorized by Article V 8 (b) of the IBRD Articles of Agreement. In undertaking national legal and justice system reform, PREM should be authorized and encouraged to work directly with appropriate governmental components in all branches of national governments, not just the executive branch. Also, in undertaking both the planning and the execution of such legal and judicial reform initiatives, PREM should coordinate particularly closely with the senior attorneys in the Legal Department who are expected to be assigned related responsibilities.

   Also, the augmentation of the capacity of the programs implemented by the Legal Adviser for Procurement in conjunction with the regions for encouraging member countries to reform their governmental procurement processes would seem to be an important component of an expanded preventive program. In addition, the national assistance programs undertaken by PREM and WBI should be expanded to encompass assistance in the design and creation of national anti-corruption commissions — modeled on entities such as the well-regarded Independent Commission Against Corruption in Hong Kong — in all nations in which
WBI studies reveal both an unusually high incidence of corruption and an amenability to improve conditions through the establishment of such a mechanism.

2. **Legal Department Involvement in National Legal and Judicial Reform Assistance**

The Legal Department should create at least two positions for senior specialists in national legal and judicial reform matters. The positions should be filled by experienced attorneys familiar with the theoretical and practical operation of different forms of national criminal justice systems including, at least, the general systems employed in common-law countries and continental European countries. The attorneys should have considerable practical experience in dealing directly with investigative, prosecutive, and judicial officials in a wide range of nations, and should otherwise possess the qualifications necessary for working cooperatively and effectively with PREM and WBI. The contributions of such attorneys would be important to assure that the Bank has some degree of internal capacity for evaluating the importance and practicality of contemplated legal assistance programs, for participating in their design, and for assisting in the selection of appropriate national advisers in their implementation.

3. **Country-Based Loan Evaluation Agencies**

The Bank should expand the recent practice of endeavoring to induce country-based, non-governmental organizations to assist in evaluating the use of loans placed by the Bank. It appears that the Bank’s collaboration with such agencies in a matter of obvious public importance gives them significantly increased stature in the eyes of the citizenry, can help lead to their stability and permanence, and may also lead to their evolution into functioning anti-corruption agencies.

4. **Incentives for Corruption-Free Loans**

The Bank should introduce incentives to Bank staff for placing and monitoring corruption-free loans, in addition to rewarding staff members simply for “moving money out the door.” A program of recognizing efforts to avoid fraud and corruption in Bank loans, and also of holding employees accountable for instances of avoidable fraud and corruption, is fundamentally important to the overall success of the Bank in fulfilling its prime responsibility to assist development and reduce poverty.
Although the achievement of a totally corruption-free environment may appear to some employees to be too remote a possibility to serve as an incentive, it should be possible to develop within the Bank a means of rewarding — through career assignments, promotions, incentive awards, etc. — those country directors, task managers, and others who are able to manage Bank-funded ventures in a manner that results in a lesser degree of corrupt diversion of funds than WBI statistics for the country would suggest might be expected. Such an approach would take some ingenuity to devise in a workable fashion, but the use of market principles to achieve a desired result is as valid in this area as in any other, and, because of the amounts of monies involved, the potential for useful results is very great.

5. Monitoring by Task Managers

In addition to being provided incentives for supervising corruption-free loans, task managers should be given training and otherwise encouraged to be more attentive to the presence of fraud and corruption in Bank-financed contracts. For example, task managers could be required to include a section in each Implementation Completion Report evaluating whether, and to what extent, fraud or corruption may have been a factor in implementing the project.

6. Reduction of the Opportunities for Corruption in Bank Contracts

The Bank should consider ways in which to: increase the scope of and the resources available for the pre-reviews of contracts; expend the requirements that disbursements be made only in increments upon the demonstrated achievement of specific milestones (the achievement of which should be certified by both the borrowing government and the appropriate contractor); develop tighter oversight of adjustment loans; and reduce the number of entities through which loan monies pass (for example, by using "smart cards" for direct contractor withdrawals).

7. Review of the Bank’s Procurement Documents

The Bank should regularly review its loan agreements, procurement guidelines, and standard contracts, and insert additional provisions designed to facilitate the prevention and detection of fraud and corruption. Particular attention should be given to: strengthening the Bank’s audit rights, document retention requirements and contract

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representations and warranties; ensuring that investigators have access to all relevant personnel and documents (within the Bank and outside); and refining the definitions of "fraud," "corruption," and "conflict of interest" and making them consistent throughout applicable documents. To this end, the Bank has received from the law firm of Sidley & Austin specific recommendations for revising Bank documents in ways that enhance the Bank's ability to investigate and establish instances of fraud and corruption. The Bank should complete its review of these recommendations and adopt those that are appropriate.

8. **Auditing of Bank Offices**

IAD should assure that all Bank offices are audited periodically but randomly without advance notice. IAD should also develop a systematic strategy to audit selected Bank-financed contracts, as permitted by the revised procurement guidelines. The Bank should augment IAD's current funding to permit it to perform a reasonable number of such audits which, through their deterrent effect, should prove highly cost-effective.

9. **"Outreach" Efforts of the Professional Ethics Office**

PEO has developed meaningful programs to sensitize Bank staff to appropriate standards of professional conduct. PEO can strengthen the Bank's efforts to combat fraud and corruption by developing and providing ethics, anti-fraud and anti-corruption handouts, documents, guidance, and other such information not only to the Bank staff (whether located in Washington or in field offices) but also to borrowing government agencies and contractors and suppliers of Bank-financed contracts. PEO should conduct, or engage others (such as national governments) to conduct, widespread training seminars and programs concerning ethical and integrity awareness. Such programs should be focused toward the practical and the specific to overcome concerns, as expressed by one Bank official, that "ethics policy sounds noble, but how does one implement it?"

10. **Background Checks Concerning Employees and Consultants**

While the vast majority of candidates for employment or consulting contracts with the Bank are undoubtedly honest, dedicated individuals, the Bank should consider conducting routine background checks on all prospective employees and consultants to ensure that it is not retaining anyone who may have engaged in conduct that would be considered plainly
improper or inappropriate. Such investigations could possibly be conducted by, or under the supervision of, the Security Office for all high-level, mid-level, and otherwise sensitive positions. In addition, the Bank might phase-in background checks of current employees in unusually sensitive positions.

11. Background Checks Concerning Contractors

As with prospective employees and consultants, the Bank should know whether contractors who are candidates to receive Bank-financed contracts have done anything in the past that would raise concerns about how they will perform under such contracts. Many others in the international financial community conduct this kind of due diligence with regard to prospective contractors and their principal owners and officers. Such information is often available at reasonable cost from organizations such as the ICC Commercial Crime Bureau and International Dun & Bradstreet. In addition, the Bank should seek to obtain relevant information from other international organizations that have dealt with the same contractors.

12. Financial Disclosure Requirements

The Bank's financial disclosure requirements should be reviewed to determine the adequacy of, and the possible expansion of, the requirements for financial disclosure by high ranking officials and other officials in particularly sensitive positions. Monitoring financial activity can be an important tool in identifying possible misappropriation of Bank funds, or misuse of position for financial gain. To provide a meaningful deterrent against concealing income or assets, any failure to make complete disclosure should be treated as a serious violation of the Staff Rules, subjecting the staff member to disciplinary action. Possible revisions to the existing requirements could include, for example, specifying that departing officials are to account for increases in assets upon leaving office (as required, for example, by Hong Kong's Independent Commission Against Corruption).

13. Policies and Procedures for Encouraging and Protecting "Whistleblowers"

Appropriate Bank documents, such as the Staff Rules, should provide that no action may be taken against staff or others as a reprisal for making a report or disclosing
information to, or otherwise cooperating with, the Investigations Department, and that taking any such action would constitute misconduct, subjecting the staff member to disciplinary action.

14. **Review of the Requirement that the Subject of an Investigation Must Be Notified**

The Oversight Committee on Fraud and Corruption Policy, in consultation with the Staff Committee, should explore ways that the notification requirements of Staff Rule 8.01 could be applied in a manner that protects the due process rights of staff members without risking that investigations may be compromised.

15. **Protection of the Bank’s Immunities and Privileges**

The Oversight Committee on Fraud and Corruption Policy, the Legal Department, and the Investigations Department should work together to develop policies and procedures for referring matters to national law enforcement agencies and prosecutors in a manner that will enable the Bank to set forth the terms and limits of its cooperation on a case-by-case basis so that the Bank’s immunities and privileges are not compromised in any respect.

16. **Review of the Efficiency and Efficacy of Continuing to Operate the Hotline, the Complaint Line, and the Ethics Helpline**

We did not discover any deficiencies with the procedures used in handling allegations coming through the Hotline, the Complaint Line, or the Helpline, nor with their mechanisms to protect confidential information. In an operational sense, as between the Hotline and the Complaint Line, the Hotline has advantages in that it is available twenty-four hours a day, seven days a week, and can receive reports in multiple languages, which makes it easier for a caller to communicate; the Complaint Line has the advantage of enabling a professional investigator, who knows the Bank as an insider, to interview the caller, which is apt to enhance the quality and utility of the information received. The Helpline, on the other hand, is designed for a purpose broader than the receipt of allegations of fraud and corruption, and appears to be serving this broader purpose effectively. Since each of these sources of information about fraud and corruption have separate and independent functions, it may be appropriate to maintain all three. However, since there is some overlap, there may be efficiencies in consolidating their efforts. As experience with their operations accumulates, this matter should be reviewed to
determine whether they should be restructured or consolidated in order to enhance their effectiveness and to maximize the use of scarce resources.

VII. Conclusion

World Bank President James D. Wolfensohn has stated that "as far as our institution is concerned, there is nothing more important than the issue of corruption." Indeed, at a time when increasing world attention is being focused on problems of fraud and corruption, it is vital that the World Bank, as a pre-eminent international financial institution, assume a leadership role in combating these threats to the integrity of efforts to alleviate the needs of populations and countries which aspire to an improved quality of life.

The Bank’s leadership has clearly committed itself to a high standard of performance in this area. The recommendations set forth herein are designed to help it fulfill its leadership role by fashioning a model program for insuring the institutional integrity of World Bank operations in every respect. The implementation of these recommendations can also provide a model for other organizations and their leadership to follow in addressing these problems on a global basis.

Moreover, such an undertaking will respond to aspirations such as those expressed by Nigerian President Olusegun Obasanjo in his inaugural address last year:

"Corruption will be tackled head on. No society can achieve its full potential if it allows corruption to become [a] full blown cancer."

By assuming a leadership role and becoming an exemplar of excellence in the fight against fraud and corruption, the World Bank will not only enhance its historic leadership role in providing financial support for those most in need, but can become an important agent for change in ways that will redound to the benefit of all of its vast and important world-wide constituency.
APPENDIX A

Terms of Reference
Review of the Fraud and Corruption Investigation and Sanctioning System

Terms of Reference

Whilst the Bank Group’s efforts aimed at curbing corruption are numerous, the scope of this review is limited to evaluating the adequacy and functioning of the structures, procedures, resources and management the Bank Group has in place to investigate allegations of fraud or corruption and, where fraud or corruption is established, to sanction those involved. The review should also examine the adequacy of the procedures used in handling allegations coming through the Bank Group’s corruption hotline or otherwise, with special attention given to the mechanisms in place to protect both informers and accused persons.

To the extent needed, the review should formulate suggested changes that may be introduced to improve the quality, effectiveness, and efficiency of the investigative process and sanctioning mechanism the Bank Group has in place. In carrying out this review, due regard should be given to the unique international and organizational character of the Bank Group and to the need to safeguard the interests of the Bank Group as intergovernmental organizations.

For purposes of this review, you may need to examine the Articles of Agreement and the By-Laws of the Organizations that comprise the World Bank Group. You would also need to review pertinent internal Bank Group documents, including the documents establishing the Oversight Committee on Fraud and Corruption and the Sanctions Committee, as well as any other circulars, announcements, or publications you deem necessary. Access will be granted to any Bank Group documents deemed pertinent by you to your review.

To help you assess the effectiveness of the Bank Group’s systems and procedures and the quality of its activities, you may interview any staff member, external legal counsel, or contract employee engaged by the Organizations to assist in investigative or sanctioning activities of the Organizations. If you wish to arrange interviews, please contact David Rivero (458-1509) of the Bank’s Legal Department.

The review should be completed within eight weeks of your receipt of these terms of reference and result in a confidential written report to Shengman Zhang, Managing Director and Chairman of the Oversight Committee. The report should provide a candid assessment of the adequacy of the structures and procedures the Bank Group currently has in place for investigating and sanctioning fraudulent or corrupt activities as well as suggestions for their improvement. Any questions relating to the review should be addressed to Daoud Khairallah (473-0423).

Please provide an estimate on behalf of your firm of the cost of this review, as well as a description of the proposed work plan and staffing that would be utilized in carrying out this project.
APPENDIX B

Project Participants
Dick Thornburgh

Dick Thornburgh served as Governor of Pennsylvania, Attorney General of the United States and Under-Secretary-General of the United Nations during a public career which spanned over 25 years. He is currently counsel to the national law firm of Kirkpatrick & Lockhart LLP, resident in its Washington, D.C. office.

Elected Governor of Pennsylvania in 1978 and re-elected in 1982, Mr. Thornburgh was the first Republican ever to serve two successive terms in that office and was named by his fellow governors as one of the nation’s most effective big-state governors in a 1986 Newsweek poll. During his service as Governor, Mr. Thornburgh established an office of Inspector General and issued a comprehensive code of conduct for state employees, including provision for full financial disclosure.

After his unanimous confirmation by the United States Senate, Mr. Thornburgh served three years as Attorney General of the United States (1988-1991) under Presidents Reagan and Bush. He mounted an unprecedented attack on white-collar crime as the Department of Justice obtained a record number of convictions of savings and loan and securities officials, defense contractors and corrupt public officials. Mr. Thornburgh established strong ties with law enforcement agencies around the world to help combat drug trafficking, money laundering, terrorism and international white collar crime.

All told, Mr. Thornburgh served in the Justice Department under five Presidents, beginning as a United States Attorney in Pittsburgh (1969-1975), where he personally prosecuted a number of corrupt public officials, and Assistant Attorney General in charge of the Criminal Division (1975-1977), where he established the Department’s Public Integrity Section in 1976 to focus federal anti-corruption efforts.

During his service at the United Nations (1992-1993) as the highest-ranking American in the organization, Mr. Thornburgh was in charge of personnel, budget and finance matters. His report to the Secretary-General on reform, restructuring and streamlining efforts included recommendations for dealing with fraud, waste and abuse and led to the creation of the UN’s Office of Internal Oversight Services.

Throughout his public career, he has traveled widely, visiting over 40 countries and meeting with leaders from Canada, Mexico, Europe, Africa, the Middle East, Russia, Japan, China, Taiwan, Korea, Australia and Central and South America.

A native of Pittsburgh, Mr. Thornburgh was educated at Yale University, where he obtained an engineering degree, and at the University of Pittsburgh School of Law where he served as an editor of the Law Review. He has been awarded honorary degrees by 30 other colleges and universities. Mr. Thornburgh served as Director of the Institute of Politics at Harvard’s John F. Kennedy School of Government (1987-1988) and was a visiting lecturer at the George Washington University Law School (1995), teaching a course on public integrity.
Ronald L. Gainer

Ronald L. Gainer served as a career attorney in the U.S. Department of Justice from 1963 until 1989, concentrating on criminal justice problems at both the policy and practical levels. He held several senior positions in the Department, including Director of Policy and Planning and Associate Deputy Attorney General. His domestic work in the Department centered on law reform matters, including the drafting of a proposed new federal criminal code for the United States and the development of statutory and regulatory provisions designed to reduce corruption in both the public and private sectors. His international work included developing, in conjunction with the Department of State, an extensive program to resuscitate and revamp the justice systems in a number of Latin American countries with a principal aim of reducing corruption. During his tenure at the Department, he was also responsible for designing, and overseeing the development of, an internal investigative office known as the Office of Professional Responsibility.

In 1978, Mr. Gainer was elected by the United Nations General Assembly to serve as an expert-member on the United Nations Committee on Crime Prevention and Control, eventually serving for a total of 12 years. In the course of his service, he led the Committee in 1984 into launching a long-term, major U.N. effort against international bribery and corruption. He was also the initiator of the process that led to the conversion of the Committee into the current U.N. Commission on Crime Prevention and Criminal Justice, with a membership of governments rather than individual experts.

As a private lawyer since 1989, Mr. Gainer’s work continues to concentrate on criminal justice policy advice, including advice to several governments in Western Europe, Eastern Europe, Asia, and Latin America. He was retained by the United Nations, on behalf of an Eastern European government, to undertake a critical review of that government’s proposed new criminal code, with a principal focus on the adequacy of its provisions relating to bribery and corruption. The majority of his clients have been foreign, and have included foreign banks that were victims of transnational criminal activities. He has lectured frequently on criminal justice matters before academic, governmental, and other groups in several countries. He holds a J.D. degree from the University of Michigan and a B.A. degree from Michigan State University.

Cuyler H. Walker

Since 1983, Cuyler H. Walker has worked as an attorney with the Philadelphia-based law firm of Pepper Hamilton LLP, where he specializes in matters relating to corporate governance and commercial transactions.

From 1992 to 1993, Mr. Walker served in the United Nations Secretariat as Special Assistant to Dick Thornburgh, then the Under-Secretary-General for Administration and Management. In this position, he was the principal point of contact for member governments, U.N. offices outside of New York, and the Office of peace-Keeping Affairs on initiatives related to restructuring, reform, and administration.
From 1988 to 1991, Mr. Walker worked in the United States Department of Justice as an Assistant to then Attorney General Thornburgh and as Deputy Director of the Department’s Office of International Affairs. In the latter capacity, he was responsible for developing and implementing efforts to promote cooperation in international law enforcement with U.S. and foreign cabinet-level agencies, and also worked with officials of justice and interior ministries in emerging democracies in support of their efforts to establish the Rule of Law.

Mr. Walker received a B.A. from Yale University in 1981 with a double major in Economics and History, and a J.D./MBA from the University of Pennsylvania’s Law School and Wharton School in 1987.

Brian M. Bruh

Brian M. Bruh served as a senior official in several U.S. law enforcement agencies in the course of a government career spanning 28 years. His principal responsibilities involved devising and administering programs to prevent corruption in governmental operations, and supervising the investigation of persons engaged in corrupt activities. He was the first Director of the Treasury Department’s Financial Crimes Enforcement Network, an intelligence center designed to combat criminal organizations engaged world-wide in money laundering and other financial crimes. Prior to assuming that position, he had been the first Director of the Defense Criminal Investigative Service, an agency with responsibility for preventing, detecting, and eliminating fraud and corruption in the various national and international operations of the United States Department of Defense.

In the course of his governmental assignments, Mr. Bruh served as an American delegate to the Financial Action Task Force, a 26-nation organization that undertakes cooperative efforts to achieve adoption and implementation of measures designed to combat money laundering and fraud. He also served as an American delegate to Interpol, and as a member of the advisory board of the Financial Fraud Institute of the Federal Law Enforcement Training Center and other law enforcement organizations.

In addition, Mr. Bruh had earlier served on special assignment with the Knapp Commission investigating allegations of corruption in the New York City Police Department, and as the chief investigator on the President’s Special Review Board for Iran/Contra.

Since leaving government, Mr. Bruh has served as a consultant to the United States government; a major university; major law firms, corporations, financial institutions, and think tanks; and the International Monetary Fund.

Mr. Bruh holds a B.S. degree in economic statistics from New York University, and studied accounting at the University’s Graduate School of Business. He is also a graduate of a number of academic programs for government officials having law enforcement and managerial responsibilities.