

## **Independent Advisory Board (IAB)**

# **2009 ANNUAL REPORT**



**December 2009**

## IAB – ANNUAL REPORT (2009)

This is the first annual report since the Independent Advisory Board (IAB) was established. It first officially convened on December 3, 2008. The report provides the following information: (1) background on the formation of the IAB and overview of its mandate; (2) activities that occurred during the period covered by this report; (3) the Integrity Vice Presidency (INT)'s position in the Bank and need for support; (4) findings of the IAB in relation to its mandate; (5) remaining challenges for the World Bank Group (WBG) in the governance and anti-corruption area; and (6) conclusions and recommendations.

The IAB takes this opportunity to thank President Zoellick, Messrs. Juan Jose Daboub, Abdulrahman Almofadhi and the Audit Committee, Leonard McCarthy, Jeff Gutman and other senior management and WBG staff who contributed to the rich discussions that helped the IAB shape its recommendations and gain a better understanding of the complex environment within which Governance and Anticorruption (GAC) measures have to be implemented.

### 1. BACKGROUND TO FORMATION OF IAB

#### a. Nomination

An independent panel review of INT, chaired by Mr. Paul Volcker, concluded that it was necessary to set up the IAB to help protect the independence and strengthen the accountability of INT. The World Bank Group created the Board and appointed its members on September 18, 2008, one year after the Volcker Panel made its recommendation. The IAB provides advice on a range of governance and anti-corruption measures, including how to help protect the independence and strengthen the accountability of INT. In that context, the IAB advises on: (1) policies and procedures; and (2) INT's relations with the WBG.

#### b. Mandate

The key mandate of the IAB is to:

- Advise on policies and procedures relating to INT in the carrying out of its mandated functions and its interactions within the WBG, including investigative policy matters and issues arising from the collaboration across units, at the request of the President, the Audit Committee or the Vice-President of INT;
- Advise the President and the Audit Committee, annually and more frequently as requested, on the performance of INT, including caseload, aging of cases, staffing, resources, strategic focus and impact; and
- Advise and submit reports annually to the President and the Audit Committee on progress in implementation of agreed WBG actions on key recommendations of the Volcker Panel report relating to INT. This does not include advising on cases

involving fraud and corruption once they are transferred to the Office of the Ethics and Business Conduct.<sup>1</sup>

The IAB seeks to complement and strengthen existing governance structures and responsibilities within the WBG and enhance the credibility of WBG efforts in fighting corruption both within and outside the Bank.

## 2. ACTIVITIES OF IAB

The IAB met four times since its nomination:

- December 3-4, 2008 (Washington, DC);
- March 31-April 3, 2009 (Washington, DC);
- July 6-10, 2009 (Nairobi, Kenya); and
- December 19 – 22, 2009 (Washington, DC).

Below is a brief description of activities that took place during each visit. Our observations are reported in another section of the report. The list of people met and agendas are presented respectively in Annexes 1 and 2.

### December 3-4, 2008 (Washington, DC)

The members of the IAB were introduced by President Zoellick to the WBG during Integrity Day (December 3, 2008). During that same visit, the IAB held its initial meeting with Bank's senior management and the Audit Committee. The Board familiarized itself with the overall activities of the WBG in the area of GAC. The IAB was briefed in detail on INT's operations and reviewed its progress in implementing the Volcker Panel recommendations.

The discussions with the Audit Committee centered on the role of the IAB and areas where the Audit Committee might want to receive specific advice from the Board. The IAB agreed to focus its attention on priority areas identified by the President, INT and the Audit Committee. The IAB indicated that it would provide candid advice from its external perspective, face-to-face or informal inputs, on issues brought to its attention by these three parties. The Audit Committee highlighted the following specific areas for IAB consideration: (1) INT's relation with the Board; (2) information sharing; (3) INT's draft strategy; (4) effectiveness of INT; and (5) the sanctions process. These continued to be discussed during the course of this year.

During the December 2008 visit, the IAB held private talks with Messrs Zoellick and Volcker. Mr. Daboub chaired the closing meeting with the Board.

---

<sup>1</sup> Terms of Reference for the Independent Advisory Board (IAB), June 2008.

### March 31-April 3, 2009 (Washington, DC)

During the March-April visit, the IAB sought to understand better how the WBG works through frank and open discussions with operational staff. The emphasis was mainly on the fraud and corruption challenges faced during implementation and supervision of projects/programs. The IAB was particularly interested in the perspective of operational staff on the Detailed Implementation Reviews (DIRs) and the latter's impact on their work in-country. The IAB was introduced to the functions of the Sanction Board and its reform and the Voluntary Disclosure Program. The Board discussed with the Vice President of INT his draft strategy for INT, an eight-point concept note, the role of the Preventive Services Unit (PSU) and how best to assess the performance of INT, and more specifically, that of the PSU.

During its meeting with the Audit Committee, the IAB presented its views on cross-debarment and suggested that this issue remain high on the Banks' agenda. It stressed the need for greater coordination among IFIs and issues of disclosure and confidentiality. The IAB concentrated on: (1) measures to preserve the independence of INT, (2) the need for adequate resources, and (3) ways to measure the performance of the Vice-Presidency. These points are elaborated below in the section "Findings".

### July 6-10, 2009 (Nairobi, Kenya)

The IAB visited Nairobi during the period of July 6-10, 2009. The main objective of the visit was to be exposed to the Bank's work in the field, especially its governance dimensions. Kenya offered a range of challenges that was well suited to the purpose. In addition to learning about operations on the ground, the IAB familiarized itself with the modalities of INT's in-country work. Members were exposed to the complexities of addressing development challenges whilst tackling corruption and maintaining a healthy dialogue with government. The IAB had the opportunity to discuss the country team's difficult task of identifying tailor-made solutions to deal with governance challenges and how INT supported that work.

The IAB visited project sites that included roads, orphanage and mother-and-child support, education, and slum upgrading. It discussed in detail issues of implementation and corruption with WBG and national project staff and, more importantly, directly with Government of Kenya senior officials. They were able openly to address the issue of DIRs and how to improve their usefulness. These exchanges generated suggestions that would help DIRs add value to the implementation of country programs and contribute to enhancing governance and anti-corruption performance in specific sectors. The IAB became more aware of how past DIRs might have contributed to tense relations between countries and the Bank. The issue of working closely with national institutions such as the national audit office was also broached. Capacity building was prominently tackled during the discussions with the Kenya Anti-Corruption Commission.

December 19 – 22, 2009 (Washington, DC)

The IAB met principally to discuss and adopt its Annual Report. It was briefed on the new Risk-based Lending Strategy, the progress of Office of Evaluation and Suspension (OES) and the Sanctions Board. The IAB was introduced to new members of the INT leadership team. It received an update on developments in Kenya since its visit. The Board also met with Senior Management including Messrs. Daboub, Gutman and Harrold. Discussions were based on the challenges of maintaining lending in a time of crisis without deterioration in standards. We acknowledged the hard work and dedication of our Secretariat led by Denyse Morin ably assisted by Bobo Lu. We thank them for their work.

### **3. INT'S POSITION IN THE BANK**

#### **a. Past Challenges**

In 1996, President Wolfensohn was the first World Bank President to use the word “corruption” in one of his speeches. It took five years to finally establish the Department of Institutional Integrity (INT) as a response to Thornburgh’s<sup>2</sup> report which recommended increased focus on investigatory responsibilities. At the time, there was intense resistance to the work of INT by WBG staff and even some senior managers.

President Wolfowitz, upon assumption of office emphasized anticorruption. As a result, INT became more active and aggressive. A number of unfortunate events led to suspicion, misunderstanding and enlarged the gap in communication between the Operations part of the Bank and INT. As indicated in the Volcker Panel Report, “the net result has been growing mutual distrust, undermining what progress had been made in developing a coordinated and constructive institutional response to the threat of corruption in the Bank’s operations.”<sup>3</sup>

#### **b. Present Strategy and Approaches**

This is the context in which President Wolfowitz, in consultation with the Board of Executive Directors, appointed the Volcker Panel in February 2007. Its mandate was to review the work of INT and find better ways to integrate it into the governance and anti-corruption efforts of the WBG. The panel’s report was published in September 2007. It made 18 recommendations that sought to address issues affecting INT such as (1) a large backlog of cases and inadequate human resources; (2) tense intra-bank relationships; (3) the lack of a serious preventive role; and (4) an inadequate Voluntary Disclosure Program.

---

<sup>2</sup> Mr. Richard Thornburgh, former UN Under-Secretary General and US Attorney General, was asked in 2002 to undertake a comprehensive review of the fraud and corruption related investigation and sanctioning system.

<sup>3</sup> Independent Panel Review of the World Bank Group, Department of Institutional Integrity, Paul Volcker, September 2007, p. 7.

Under its new leadership,<sup>4</sup> INT has developed a comprehensive strategy to address these crucial challenges. Although the problem has lessened, the IAB noticed that attitudes of resistance persist. The IAB witnessed the efforts made by present INT senior management to foster a climate of collaboration, instill a spirit of communication and dialogue. INT is putting considerable effort into playing a constructive role to help operational staff prevent fraud and corruption. Staff acknowledged that there was generally a better understanding of operational challenges by INT and a greater attempt to work collaboratively to find solutions to problems. However, it was clear to the IAB that much remains to be done to dispel past negative experience. It will necessarily take years before this problem of adversarial legacy can be completely eradicated. We noted in our letter of July 22, 2009 to President Zoellick that in order to overcome the legacy of the tensions with Operations “*INT should engage in education and outreach through face-to-face briefings and videoconferences with staff to explain its focus, its mode of operation, and its objectives. It is important that Bank staff start viewing INT as a source of support to help mitigate the risks of corruption in Bank projects. This will be achieved through greater collaboration and greater understanding of the role and modus operandi of INT.*”

Below are further observations and recommendations that the IAB made to senior management and INT over the past twelve months to strengthen INT’s strategic impact on the Bank’s efforts to tackle fraud and corruption.

#### **4. FINDINGS OF IAB IN RELATION TO ITS MANDATE**

During its visits to Washington (DC) and Nairobi (Kenya), the IAB was able to share its views with senior management and staff. It discussed its views about a concept note (eight points) prepared by INT on March 31 – April 3, 2009<sup>5</sup>. In face-to-face discussions during the March 31- April 3 2009 visit, the IAB provided comments to the Audit Committee on the draft INT strategy. The Board also wrote to President Zoellick on July 22, 2009 following its visit to Kenya with a more extensive response to INT’s concept note (included in Appendix 4). The key findings of the Independent Advisory Board over the past twelve months are presented below.

##### **a. INT’s Mandate**

The Bank’s primary mandate is to help reduce poverty. Adequate use of its resources is fundamental to its effectiveness. The Bank faces a double challenge: loss through waste, ineffective resource allocation, bad management and inefficient maintenance on one hand, and fraud, embezzlement and corruption on the other hand.

Whereas loss through waste needs to be tackled by the various oversight functions of the Bank (audit), it is the role of INT to help detect and deter fraud and corruption in the use of the Bank’s financial resources.

---

<sup>4</sup> Mr. Leonard McCarthy was appointed Vice President of INT on May 5, 2008 and took office at the end of June the same year. INT has been strengthened further with the appointment of two new Directors.

<sup>5</sup> IAB’s Observations on the March 2009 Concept Note, p.3

“INT’s specific mandate is to investigate allegations of fraud and corruption in Bank Group-supported activities (external investigations) as well as allegations of significant fraud or corruption involving staff (internal investigations).”<sup>6</sup>

b. The roles of prevention and investigation

INT’s 2009 Annual Report states that “three principles guide INT’s work: detection, investigation and sanctions, and prevention.”<sup>7</sup> The IAB considers each of these elements of INT’s work to be essential functions that need to be done equally well. In the past, INT has devoted more time and energy to investigations; giving rise to Volcker’s recommendation to “establish a consulting unit.” Since the implementation of the prevention function is at an early stage the IAB has devoted more time to advise INT on how best to make it supportive of the Bank’s overall GAC agenda. However, the IAB wants to underline that this does not indicate that one function is more important than the other ones.

The IAB would like to highlight that the preventive role should not only be carried out through the PSU. INT’s investigative unit can also help detect potential sources of corruption in “high risk” situations. The IAB has seen this role performed well in Kenya and would encourage INT to use all functions to detect and prevent corruption. The establishment of the Preventive Services Unit (PSU) should place INT in a better position to help Operations learn from past cases and experience.

c. Preventive Services Unit (PSU)

As mentioned above, prevention has to be a major focus for INT. We recommended to INT that a well-resourced PSU identify, describe, and publish areas of vulnerability. It should also conduct intensive training on how to protect World Bank projects against these vulnerabilities.

In order to fulfill its mandate, the PSU needs a clear role and specific skills. In our view, the PSU has the responsibility to ensure that lessons learnt from past INT experience are distilled, disseminated and integrated into future Bank operations. For that reason, the PSU should be well resourced (approximately 15-20 staff) with people from all relevant professional backgrounds including extensive experience in Bank Operations (Team Leader background--TLs). We have highlighted the importance for the PSU to intensify its collaboration with TLs and support risk assessments, in particular, to provide special advice upon request and participate actively in reviews.

---

<sup>6</sup> Integrity Vice Presidency, Annual Report, Fiscal Year 2009, p. vi

<sup>7</sup> Id. p. 6

In summary, we recommend that the PSU:

- Distil lessons learnt from INT investigations, which can be used in assessing and designing new projects;
- Conduct sector-wide assessments, in order to anticipate, surface and fix problems;
- Prepare manuals, tools and indicators (e.g., red flags), to expand learning and applied experience;
- Provide advisory services to project teams to help incorporate preventative measure in the design of high-risk projects (vulnerability analysis);
- Exercise oversight and monitoring of projects as requested by a Country Director, or Regional Vice President; and
- Support, on a demand-basis, capacity building efforts linked to the Bank's mission in client countries.

d. Investigation

INT faces a dual challenge. On the one hand, it needs to allocate its resources targeting “high profile” cases. Typically such cases involve larger sums and more senior operators. INT should, thereby, make maximum use of collaboration with national law enforcement agencies and rely on domestic investigations. On the other hand INT needs to be visible on the ground also in smaller but clear-cut cases of fraud and corruption. Its major challenge is to make the right balance in view of its limited resources.

i. Collaboration with law enforcement/internal investigation agencies

INT should position itself to take on the big cases in collaboration, whenever possible, with national authorities. Since INT is part of the WBG, it will have to do so by engaging via a Ministry of Finance, as the Bank's client. In addition, we recommend that INT should relate concurrently to national law enforcement agencies, particularly at the investigation stage, but this should be done with caution. We would encourage INT and other parts of the Bank to research further creative solutions and possibly alternative dispute resolution mechanisms. The recent Siemens case provides some interesting lessons in this regard. The Bank ought also to revisit its rules and seek ways to retrieve any funds or assets acquired through corrupt practice. We would also suggest that, in cases where it is not possible for the Bank to act alone, it should consider piggybacking on the work of other development partners. There are areas where they have more leverage and scope for intervention, including using national investigations, engaging in active referrals and following-up on referrals.

ii. Confidentiality and secrecy

In the opinion of the IAB, there should be only one broad definition of “confidentiality”. The definition contained in paragraph 2 of the “Confidentiality and Due Process” section of INT's concept note seems to be quite appropriate:

The July 2008 Policy defines confidentiality as meaning the World Bank “will not reveal your name to parties outside the Bank, and will not release information that could lead to you being identified, unless: (a) you consent to fuller disclosure, or (b) the Bank develops information indicating you made material misrepresentations in respect of the information provided, in which case confidentiality is null and void.<sup>8</sup> This policy should be applied throughout and needs to be communicated in a coordinated manner. The IAB would like to emphasize that any negotiation with a respondent should be in writing.

iii. Rules of procedure

Investigation of individuals and firms who are allegedly guilty of any of the five Bank sanctionable practices (i.e., fraud, corruption, collusion, coercion and obstruction) are done by the External Investigation Unit (EIU) of INT. If the investigation produces adequate evidence to conclude that it is more likely than not that an individual or firm has engaged in a sanctionable practice, INT’s Special Litigation Unit (SLU) prepares a Notice of Sanction Proceedings (NoSP) that seeks out a Bank sanction, setting out the case against the concerned individual or firm. The NoSP is then referred to and reviewed by the OES. If the OES finds sufficient evidentiary basis, a copy of the NoSP is served on the concerned individual or firm. Further, the OES has the discretion to suspend the concerned individual or firm’s eligibility to be awarded any Bank-supported project pending a final disposition of its case. If the OES’s recommendation(s) and/or the allegations are not contested by the concerned individual or firm, the OES’s recommended sanctions are imposed on the former. However, if the allegations and/or recommended sanctions are contested, the case is referred to the Bank’s Group’s Sanctions Board, which reviews the evidence *de novo*. The Board has the authority to decide whether to conduct a hearing or not. If after the proceedings, the Sanctions Board finds evidence sufficient to support the conclusion that the concerned individual or firm was more likely than not to have engaged in sanctionable practice, the former decides what sanctions are appropriate.

In preparing its case, the INT should follow five general principles: -

- (1) as a matter of principle due process requires witness statements be made available to the Respondent;
- (2) from the very beginning of the investigation, INT should view and utilize the testimony or statement of a confidential witness as a mere blueprint or guide to secure evidence and to build a case against the concerned individual or firm;
- (3) confidentiality should be accorded to a witness only when there is a real risk to the person;

---

<sup>8</sup> July 2008 INT “Policy on Providing Assurances of Confidentiality to Complainants and Witnesses in External INT Cases.”

- (4) where the identity of a confidential witness is withheld, the testimony should then be made available to the Respondent in writing; and
- (5) in extreme cases, a redacted statement of the confidential witness containing the crucial substance of the testimony should be provided to the Respondent.

e. Enhanced Implementation of Memorandum of Understanding between INT-OES

It is in the interest of INT and WBG that cases sent to the OES are prepared to the highest possible standard. To do that we recommend that INT, OES and the Bank's Legal Department clarify and agree on the elements of misconduct that need to be established and work from agreed definitions.

f. Detailed Implementation Reviews (DIRs)

Much of the adversarial legacy between INT and Bank Operations has been generated by the past DIR process. INT's present management has inherited this ill will. The IAB believes that there is a role for extensive DIR-type reviews on either a country or sectoral basis. However, the Board believes that it is necessary to be very clear about the audience for whom the DIRs are being prepared and who will have access to them. In the IAB's view, a DIR should be produced for both the World Bank and the client country. Operations staff must be involved from the outset. Any factual errors will compromise the integrity and usefulness of the document. Therefore, drafts should be shared with both the host country and operational staff. The final report should be provided to operational staff and the host country and made public unless there are strong reasons for not doing so. This should be at the discretion of the President.

Given the history of DIRs, the IAB recommended that they be given a more preventive orientation overall and that the name be changed to something such as Extensive Country Reviews, or Extensive Sectoral Reviews. Since DIRs are very resource-intensive, they should be conducted sparingly and there should be clear criteria for determining when to conduct them.

## 5. CRITICAL CHALLENGES

a. Risk Assessment

The IAB recommends that INT take a risk-based approach to decide which cases to investigate. The factors to be taken into account will be: -- the size of the project (the potential loss of funds involved), the nature of the sector in which the project is undertaken (Some sectors are more prone to corruption than others), and the country concerned (in some countries, local authorities are better placed to investigate corruption than others.)

In addition, as mentioned earlier, it will be crucial that it collaborates with dependable local law enforcement agencies, development partners that might have a comparative advantage in specific countries; reliable bona fide anti-corruption watchdogs; and WB staff with a good grasp of the fraud and corruption issues in the country.

b. Budget support

During the IAB's discussions with INT, the issue of development policy lending was raised and whether or not these funds are subject to auditing. The IAB understands that this is a delicate political issue, particularly since these funds generally become part of a country's budget and are thus managed using the country's systems. These funds would normally be audited in the course of the overall annual audit conducted by the supreme audit institution of the country. The Bank itself should remain vigilant that development policy lending is used for its intended purpose using all the tools at its disposal to do so.

c. Troublesome sectors (High vulnerability sectors)

Some sectors are more vulnerable to fraud and corruption. It seems that roads and health have already been identified as areas that are often more problematic. In such sectors it would thus be advisable that the PSU collaborate closely with operational staff to advise on appropriate measures to guard against corruption including check points that would allow wrongdoing to be detected early. It could also mean that the investigative unit can detect potential corruption in high-risk sectors therefore providing project team with a two-pronged approach to identifying possible areas of weaknesses. It would also be desirable that the WB allocate greater budget for project/program supervision to ensure that team leaders have the necessary tools and resources to monitor more closely the implementation process in high-vulnerability sectors. All reasonable precautions should be put in place to mitigate the risks of fraud and corruption including collaboration with anti-corruption civil society organizations.

d. Cross-debarment

The IAB recommends that the new sanctions regime be given time to work before being re-examined possibly after a year of operation. The new regime should be exemplary with a view to its being offered as a template for other multilateral development banks (MDBs). In the meantime, it is important that the World Bank continue to explore with other MDBs how best to move towards recognition and application of each other's sanctions. As an intermediate target, the Bank needs to aim at cross-debarment. In that respect, the IAB agrees with the concept note that: i) the IFIs would "... *explore further how compliance and enforcement actions taken by one institution can be supported by the others*" and ii) that "*each member institution should seek to require all bidders, sponsors, or other firms or individuals participating in activities financed by a member institution to disclose any sanction imposed on that firm or individual by a member*

*institution.*<sup>9</sup> There will be a need for the Bank to specify the IFIs that will be covered by a cross-debarment arrangement.

It is essential that the World Bank apply certain principles when reviewing its sanctions regime, viz, flexibility, collaboration and rehabilitation. The latter is particularly important for incentivizing firms to come forward with corrupt practices and cases. Collaboration should be taken into account when applying a sanction as was the case for Siemens.

e. Graduated Response

There are competing pressures in the Bank Operations staff feel under pressure to disburse funds which are necessary for development. They feel that over emphasis on integrity can delay and sometimes stop a project that would benefit those who the Bank has been established to help. If a project is cancelled, this may prevent corruption but at the expense of helping those in poverty needing real and present assistance.

The IAB believes that these pressures can be best resolved by an approach of graduated response.

Before any project is halted, or indeed cancelled, there should be clear warnings to those responsible that this will be the likely response unless designated matters are rectified. The prestige of the Bank, not to mention the value of the project, will have a powerful effect as long as these warnings are clearly given and well grounded.

In cases where this is not successful the World Bank Group may consider withdrawing from a particular sector in a particular country. There are more worthwhile projects available than can be financed by the World Bank Group. If the Bank is not confident its projects in one sector can be completed without corruption, it should turn instead to other sectors where it can be confident.

If there are repeated violations in a range of sectors in a particular country, the World Bank Group must be prepared, as a last resort, to withdraw from a country. This position is necessary because the reputational risk of the Bank is at stake. It will not keep the confidence of donors and public opinion in donor countries if the Bank cannot deliver development uncompromised by corruption. Such policy would be hard on those in the country from which the Bank withdraws, but it is necessary to protect its reputation and keep the ongoing support it requires to continue operations.

---

<sup>9</sup> Annex 3, Concept note, "Sanction Regime.", page number 27.

## 6. CONCLUSION AND RECOMMENDATIONS

### a. Implementing the strategy with the right people for the new principles being advocated

As part of the continuing effort to eradicate the legacy of conflict, and replacing it with a culture of effective collaboration, INT should engage in education and outreach through face-to-face briefings and videoconferences with staff to explain its focus, its mode of operation, and its objectives. This should be done regularly to create more awareness among staff that the modus operandi of INT has greatly changed.

INT should view itself – and be viewed by other units – as an integral component of the Bank team that is dedicated to supporting the Bank’s focus on high-level, strategic initiatives to deal with vulnerabilities in the lending process. The IAB suggests that this be considered as a performance indicator to measure INT’s success.

### b. Establishing strategic performance indicators

The IAB encourages INT to focus on the more strategic impact that could be obtained from a limited number of key indicators. Furthermore, INT’s indicators need to emphasize prevention as well as investigation/prosecution. For that, it will need to use more qualitative indicators. In its concept note, INT refers to the following six indicators:

1. The number, quality and type of complaints received by INT .
2. The quality and quantity of active investigations.
3. The outcome and percentage of final investigative reports produced.
4. The effectiveness and frequency with which cases advance to sanctions.
5. The efficiency and results of referrals to investigating and prosecuting bodies.
6. The effect and choice of advisory engagement by the PSU.

With regard to these indicators, the IAB would note or comment as follows:

1. The importance of indicator #3.
2. The need to have a new indicator that would be numbered 6: “The strategic impact of major cases/initiatives.”
3. The need to have an indicator # 7 on the performance of the PSU that should be measured by objective tools on matters such as the usefulness of advice provided to Operations, and the extent to which its advice is being utilized on a Bank-wide basis. We suggest a survey among operations staff be developed to gauge how the PSU is performing on these matters.
4. The need for an indicator on the oversight/monitoring function.

c. Addressing Governance and Anti-Corruption (GAC) weaknesses

In order to build strong country systems, including in the judiciary, it is imperative that the Bank put more effort into addressing GAC weaknesses such as reforming the civil service, the legal/judicial services, public financial management, public procurement, and other institutional areas in the public domain. In addition, the Bank could seek to work more closely with other development partners, including civil society organizations who are better placed to take on such initiatives as assisting effectively in monitoring the implementation of Bank-funded projects; pressuring oversight institutions such as audit institutions and anti-corruption agencies to comply with their mandated tasks; and assisting in building the capacity of law enforcement agencies.

Furthermore, the Bank should adopt a more preventive mode of operating, by providing higher-risk operations with adequate resources for closer and more frequent supervision. With respect to conditionality, the IAB believes they should be proportionate to the unresolved governance and corruption issues that pertain to a country.

## **List of People Met by the Independent Advisory Board (IAB)**

### 1<sup>st</sup> IAB Meeting Session (December 3-4, 2008)

Robert B Zoellick, President, the World Bank  
 Paul Volcker, Chair of the Independent Review Panel  
 Juan Jose Daboub, Managing Director, the World Bank  
 Abdulrahman Almofadhi, Chair, Audit Committee  
 Leonard McCarthy, Vice President, Department of Institutional Integrity (INT)  
 Jeffrey S. Gutman, Vice President, Operations Policy and Country Services (OPCVP)  
 Scott B. White, Deputy General Counsel,  
     Office of Senior Vice President and General Counsel (LEGVP)  
 Johannes Zutt, Adviser, INT  
 David M. Theis, Senior Communications Officer, Corporate Communications (EXTCC)  
 Audit Committee Members

### 2<sup>nd</sup> IAB Meeting Session (March 31 – April 3, 2009)

Juan Jose Daboub, Managing Director  
 Abdulrahman Almofadhi, Chair, Audit Committee  
 Leonard McCarthy, Vice President, INT  
 Jeffrey S. Gutman, Vice President, OPCVP  
 Fathi Kemicha, Incoming Chair, Sanctions Board  
 Scott B. White, Deputy General Counsel, LEGVP  
 Danny M. Leipziger, (outgoing) Vice President,  
     Poverty Reduction and Economic Management Network (PRMVP)  
 Otaviano Canuto, (incoming) Vice President,  
     Poverty Reduction and Economic Management Network (PRMVP)  
 Sanjay Pradhan, Vice President, World Bank Institute (WBIVP)  
 Pascale H. Dubois, Evaluation and Suspension Officer, Evaluation and Suspension Office (OES)  
 Audit Committee Members  
 Galina J. Mikhlin-Oliver, Director, Strategy and Core Services, INT (INTSC)  
 Manuela Ferro, Manager, Country Economics, Operations Policy and Country Services  
     (OPCCE)  
 John Kellenberg, Sector Manager, Environment/Natural Resources Management,  
     Europe and Central Asia (ECSS3)  
 Julie McLaughlin, Sector Manager, Health, Nutrition and Population (SASHN)  
 Devesh Shandra Mishra, Manager, Procurement, Europe and Central Asia (ECSC2)  
 Sanjivi Rajasingham, Sector Manager, Transport, Africa Region (AFTTR)  
 Denis Robitaille, Manager, Development Effectiveness, Latin America Region (LCSDE)  
 Christopher Thomas, Sector Manager, Education, Africa Region (AFTED)  
 Anil Bhandari, Senior Adviser, Transportation, Africa Region (AFTTR)  
 Michael Mills, Lead Economist, Health, Nutrition and Population, Africa Region (AFTHE)

Dr. GNV Ramana, Lead Health Specialist, Health, Nutrition and Population, Africa Region (AFTHE)  
Steven Schonberger, Lead Operations Officer, Agricultural and Rural, Africa Region (AFTAR)  
Steven Burgess, Senior Operations Officer, Central Operational Services Unit, East Asia and Pacific Region (EAPCO)  
Vikram Cuttarree, Europe and Central Asia (ECA)  
Maher Taleb, Senior Operations Officer, Aid Effectiveness, Operations Policy and Country Services (OPCAE)  
David Tuchsneider, Senior Rural Development Specialist, Agriculture and Rural Development, Latin America Region (LCSAR)  
Celine Gavach, Operation Analyst, Education, Middle East and North Africa Region (MNSHE)

3<sup>rd</sup> IAB Meeting Session (July 6-10, 2009)

World Bank Staff:

Juan Jose Daboub, Managing Director (through video conference)  
Abdulrahman Almofadhi, Chair, Audit Committee (through video conference)  
Johannes Zutt, Country Director, World Bank's Office in Nairobi, Kenya  
Michael Mills, Lead Economist, Health, Nutrition and Population, Africa Region (AFTHE)  
Anil S. Bhandari, Senior Adviser, Transport, Africa Region (AFTTR)  
Christine E. Cornelius, Program Coordinator, Agriculture and Rural Development, Sustainable Development (ARD)  
Sumila Gulyani, Sector Leader, Urban and Water sector, Sustainable Development, African Region (AFRUW)  
Josphat O. Sasia, Lead Transport Specialist, Transport Sector, Africa Region (AFTTR)  
Ragini Dalal, Senior Operations Officer, Nairobi, Eastern Africa 2 (AFCE2)  
Wacuka W. Ikua, Senior Operations Officer, Health, Nutrition & Population, Human Development, Africa Region (AFTHE)  
Andrew Mwihiya Karanja, Senior Agriculture Economist, Agricultural and Rural Sector, African Region (AFRAR)  
Nyambura Githagui, Senior Social Development Specialist, Post Conflict and Social Development, Africa Region (AFTCS)  
Shobhana Sosale, Sr. Operations Officer, Education, Human Development, Africa Region (AFTED)  
Michael Stefanovic – Senior Investigator, INT  
Solomon Muhuthu Waithaka, Senior Highway Engineer, Transport Sector, Sustainable Development, African Region (AFRTR)

Kenya Government officials:

Mr. Joseph Kinyua, Permanent Secretary, Ministry of Finance  
Prof. Karega Mutahi, Permanent Secretary, Ministry of Education  
Justice (Rtd) Aaron Ringera, Head, Kenya Anti-Corruption Commission (KACC)  
Prof. Alloys Orago, Director National AIDS Coordination Council (NAAC)  
Fatuma Abdikadir, the National Project Coordinator, The coordinating office of the Arid Lands Project

4<sup>th</sup> IAB Meeting Session (Dec. 19-22, 2009)

Juan Jose Daboub, Managing Director, the World Bank

Leonard McCarthy, Vice President, Department of Institutional Integrity (INT)

Jeffrey S. Gutman, Vice President, Operations Policy and Country Services (OPCVP)

Steve Zimmermann, Director of Operations, INT

Galina J. Mikhlin-Oliver, Director of Strategy and Core Services, INT

Peter Harrold, Director, Operations Services, OPCVP

Gerard Byam, Director, Operational Quality and Knowledge Services, Africa Region

Edward Olowo-Okere, Manager, Financial Management,

Operational Quality and Knowledge Services, Africa Region

**Agendas of IAB Meetings**

**The First Meetings in Washington DC, December 3-4, 2008**

Wed. December 3<sup>rd</sup>:

10:00-10:45	Opening Session of Integrity Day, with Robert Zoellick (See Integrity Day agenda) – H Building Auditorium
Lunch:	Proposed lunch with Mr. Volcker (Private dining room – location to be advised)
Balance of day	(i) Other Integrity Day Sessions as desired (ii) Informal meeting with selected INT and Secretariat staff (iii)
Evening 20:00	Dinner hosted by OPCS at Lombardy Hotel (invitation sent) 2019 Pennsylvania Ave. N.W. – Fortuny Room

Thurs. Dec. 4<sup>th</sup>:

7:30	Breakfast Meeting with Juan Jose Daboub (Managing Director) Mr. Abdulrahman Almofadhi (Chair, Audit Committee), Leonard McCarthy (Vice President, INT) (MC C1)
9:00-10:00	Overview of INT and introduction of senior staff Leonard McCarthy, Jeff Gutman, John Zutt (U11-200)
10:00-11:00	Review of Progress in Implementing Volcker Panel Report Jeff Gutman, John Zutt, Scott White (U11-200)
11:00-12:30	Interaction with Senior INT staff and the INT Strategy Leonard McCarthy, John Zutt, David Theis, etc. (U11-200)
12:30	Lunch break
14:00	Meeting with Mr. Zoellick (MC12-755)
14:30	Meeting with Audit Committee (Board Room – MC13-301)
16:30-17:30	Working Session of the IAB
17:30	Debriefing and Next Steps Juan Jose Daboub, Leonard McCarthy, Jeff Gutman (MC12-765)
18:00	End of IAB Session

**The Second Meetings in Washington D.C. March 31-April 3, 2009**

**March 31, 2009**

- 0900-1030: IAB members' arrival/working session and discussion on work program (Room MC3-570).
- 1030-1130: Briefing on World Bank lending instruments and discussion (Manuela Ferro and Galina M-Oliver) (Room MC3-570).
- 1200-1300: Initial discussion on key issue: performance measurement of INT (Leonard McCarthy) (Room MC3-570).
- 1430-1530 Briefing on Voluntary Disclosure and discussion and lessons learnt from INT investigations (Leonard McCarthy) (Room MC3-570).
- 1600-onward Internal discussion (IAB)

**April 1, 2009**

- 0900-1100: Focus group with Task Team Leaders – sharing of experience and discussion on INT investigations and DIRs (Peter Harrold) (Room MC10-500).
- 1100-1230: IAB internal working session on performance measurement and any other issues (Room MC10-500).
- 1230-1400 Lunch Jeff Gutman (MC10-500)
- 1400-1600: Focus group discussion with Sector Managers on INT investigations and DIRs (Peter Harrold) (Room MC10-500).
- 1600-onward: IAB internal working session on performance measurement and any other issues (Room MC10-500).
- 1900: Dinner to be hosted by Mr. Daboub (Taberna del Alabardero, 1776 I St NW | Btwn 17th & 18th St NW).

**April 2, 2009**

- 0930-1130: Presentation on Sanction Board and discussion with the Sanction Board on issues as seen by Sanction Board (Jeff and Scott with Messrs Leipziger and Kemicha, Ms Pascale H. Dubois, Evaluation and Suspension Officer) (Room MC3-570).
- 1130-1230: IAB internal working session (MC3-570).

1530-1630: Audit Committee meeting (Board Room).

1700-onward: IAB concludes its discussions on performance measurement and any other issues (MC3-570).

April 3, 2009

0900: IAB working session and any other business (MC3-570).

1000: Meeting with Leonard McCarthy (MC3-570).

1100: Wrap-up with Mr. Daboub (Mr. Daboub's Board Room).

### *The Third Meetings in Nairobi, Kenya, July 6-10, 2009*

#### **Objective of the visit to Kenya**

The main purpose of the visit will be to expose the IAB members to the Bank's work in Kenya, especially its governance dimensions. The IAB members will get familiar with how INT conducts its work on the ground. They will have an opportunity to understand the complexity of dealing with corruption and the types of solutions that the country team is trying to implement and how INT can support this work.

#### *Sunday July 5*

19:30 Dinner Mr. Leonard McCarthy, VP, INT and IAB members who will have arrived (Messrs Costello and Pieth) – Norfolk Hotel

#### *Monday July 6*

0930: Presentation on the Bank's program and activities in Kenya by Mr. Johannes Zutt, Country Director and team – Ndovu Room, 1<sup>st</sup> Floor

1400: Meetings with TTLs (for AIDS/health and education, rural development and transport) – 5<sup>th</sup> Floor Meeting Room

1630: Internal working session/dinner with Mr. Leonard McCarthy, VP, INT – Norfolk Hotel

#### *Tuesday July 7:*

0830: Meeting with Prof. Orago, Director, National AIDS Control Council (NACC), Landmark Plaza, 9<sup>th</sup> Floor

0900-1300: Field visit: DTC funded group Gikomba – Kamukunji and Mama Fatuma Goodwill Children's home (OVC) – Easteigh Section 1

1300: Field visit to the Northern Corridor Project – Section of Nairobi/Mombasa Road from JKIA to Athi River

1700: Meeting with Justice (Rtd) Aaron Ringera, Kenya Anti-Corruption Commission (KACC) - Integrity Centre

#### *Wednesday July 8:*

1100: Courtesy call, Prof Karega Mutahi, PS Ministry of Education – 2<sup>nd</sup> Floor, Jogoo House 'B'

1140 - 1300: Visit schools: Highridge Primary School – Parklands  
Hospital Hill Secondary School – Gigiri

- 1400: Internal working session of IAB - 5<sup>th</sup> Floor Meeting Room
- 1700: VC IAB with Mr. J. J. Daboub, Managing Director and Mr. A. Almofadhi, Chair, Audit Committee - 3<sup>rd</sup> Floor Video Conference Room

Thursday July 9:

- 0900- 1100: Visit Soweto Slum, Kibera – Sumila Gulyani to coordinate with Ministry of Housing
- 1130-1300: Meeting with Ms. Fatuma Abdikadir, National Project Coordinator, Arid Lands Project, 17<sup>th</sup> Floor, Kenyatta International Conference Center. Nyambura Githagui to coordinate
- 1430: Internal working session of the IAB - 5<sup>th</sup> Floor Meeting Room

Friday July 10:

- 0900: Mr. Joseph Kinyua, Permanent Secretary, Ministry of Finance – Treasury Building

**The Fourth Meetings in Washington, DC, December 19-22, 2009**

December 19, 2009 (Saturday)

14:30: IAB members' working session on annual report (Room MC10-348)

December 21, 2009 (Monday)

0900-1000: IAB members working session on the 2009 Annual Report (MC10-500)

1000-1100: Meeting with Mr. Juan Jose Daboub, Managing Director (MC12-765)

1115 -1200: Briefing on Risk-based Investment Lending – Peter Harrold, Director, OPCOS  
(Room MC10-500)

1200-1300 Update OES and Sanctions Board -- Pascal Dubois, Evaluation and Suspension Officer, Evaluation and Suspension Office (OES) and Kathleen Peters, Acting Chair, Sanction Board (by audio)  
(MC10-500)

1300-1430: Lunch with Jeffrey S. Gutman, Vice-President, OPCS, Peter Harrold, Director, OPCOS, Galina J. Mikhlin-Oliver, Director of Strategy and Core Services, INT

1430-1800 IAB members internal working session (Room MC10-500)

December 22, 2009 (Tuesday)

0800-0930: IAB members internal working session (MC2 – Office plus rooms)

0930-1045: Update from INT – Leonard McCarthy, Vice President, INT, Steve Zimmermann, Director of Operations, INT (MC2-520)

1045-1115: Update on collaboration between Operations and INT – Kenya Case – Gerard Byam, Director, Operational Quality and Knowledge Services, Africa Region (AFTQK) and Edward Olowo-Okere, Manager of Financial Management, AFTQK  
(MC2-520)

1100-1200: Wrap-up (Room MC2-520).

1200 Departure

**Concept Note on Proposed Topics on Which INT Seeks the Advice of IAB**

**The World Bank**

Washington, D.C. 20433

U.S.A.

Leonard Frank McCarthy

Vice President, INT

March 23, 2009

Independent Advisory Board  
c/o IAB Secretariat (Denyse Morin, OPCIL)  
The World Bank  
Room MC10-430

Dear IAB Members,

**Subject: Concept Note on Proposed Topics on Which INT Seeks the Advice of the IAB**

In follow-up to my letter of January 26, 2009, subject as above, please find attached a combined concept note of eight topics setting out relevant contextual information and ideas for your consideration. These background notes are in respect of the six topics previously identified and two additional ones, which derive from feedback we subsequently received from the Chair of the Audit Committee.

We look forward to our upcoming meeting with you.

Sincerely,

Leonard McCarthy  
Vice President  
Integrity Vice Presidency

cc: J. Gutman, OPCVP; S. White, LEGVP; W. Nardolillo, J. Shapiro, A. Agerskov,  
D. Hawkes, INT

## Concept Note: Enforcement Strategy/Referrals

**Is INT's enforcement strategy, including its referral arrangements to client countries, an optimal practice? Can it be improved? If so, how?**

INT's "enforcement strategy" in respect of external investigations consists principally of: (i) enforcing the Bank's rules and policies through investigations; (ii) seeking sanctions against firms and individuals believed to have engaged in fraud, corruption, collusion, coercion or obstruction ("Misconduct"); (iii) distilling and disseminating lessons learned to operational staff to help mitigate Misconduct in Bank-supported projects; and (iv) seeking to have member countries prosecute criminal conduct arising in Bank-supported projects.

**Enforcing the Bank's rules and policies through investigations:** Due to the volume of allegations and resource constraints, INT, generally in consultation with Bank regional management, selects cases for investigation based on a number of risk factors. (This risk-based approach is discussed more fully at paragraph 13 of the November 26, 2008, INT Strategy Document.) **Questions:** Is the risk-based approach an appropriate means of deciding which case or cases to investigate? Would a better (or complementary) approach be: (i) to track allegations, red flags, and other indicators of possible Misconduct; (ii) to target 'hot spots' within regions for review by a multi-disciplinary team (consisting of, e.g., investigators, forensic accountants, operational staff and financial management staff); and (iii) to use the reviews as a predicate to generate investigations? What other approaches could be used? How best can INT manage the expectations of Bank staff and civil society as to what INT is capable of doing in regard to investigations?

**Seeking sanctions against firms and individuals believed to have engaged in Misconduct:** INT is not a law enforcement agency and therefore has limited investigative powers. Other than being able to inspect project documents, INT must primarily rely on the voluntary cooperation of witnesses – many of whom do not want their identities revealed, due to fears of economic and/or physical retaliation. INT's limited investigative powers means that investigating and proving allegations of corruption, collusion and coercion is quite time-consuming and difficult, because there is rarely a paper trail. Fraud, on the other hand, is often easier to investigate and to prove because there typically is a paper trail. **Questions:** Where a case has mixed allegations of fraud and either corruption, collusion and/or coercion, should the investigation focus first and foremost on fraud in the interest of seeking a temporary suspension of the firm or individual and possibly obtaining a quick sanction? In respect of allegations of corruption, collusion and/or coercion, should INT seek to leverage the investigative powers of the concerned national authority during the course of its investigation, i.e., before the investigation has ended?

**Distilling and disseminating lessons learned to operational staff to help mitigate Misconduct in Bank-supported projects:** Currently, there is no consistent system in INT for capturing and disseminating relevant lessons learned from investigations. INT's Preventive Services Unit (PSU) is examining older cases to extract lessons learned; meets with investigators post-investigation for their views on operational weaknesses; and is assessing how best to capture those lessons. The INT Regional Team Leaders (RTLs) individually convey information to Bank regional management, but this is done primarily on an *ad hoc* basis and usually orally. **Questions:** What is the best way to capture and disseminate relevant lessons learned? One possibility would be for investigators: (i) to make an ongoing, real-time (i.e., in the field) record of operational weaknesses; (ii) to memorialize the observations for relevant operational staff; and (iii) to analyze the observations with PSU and operational staff to drill down on lessons that can be distilled and captured from the assessments, and folded into the work of the Bank. What other possibilities are there?

**Seeking to have member countries prosecute criminal conduct arising in Bank-supported projects:** The Bank's practice in making criminal referrals to member countries has varied over time. There have been a number of prosecutions, but all have been in Part I countries (mainly in the United States). Successful prosecutions have typically been accompanied by a close and cooperative relationship between the prosecuting office and INT (with INT providing necessary documents and input) and a strong legal and judicial system.

**Questions:** How best can the Bank promote successful prosecutions in Part II countries? Part II countries many times lack the necessary rigorous legal and judicial systems in place to prosecute criminal conduct. Can parts of the Bank that have expertise in legal and judicial reform play a role in promoting successful prosecutions? Can referrals be dovetailed with the provision of technical assistance? Is there a good case to build conditionalities into future lending of countries experiencing serial misconduct and/or failure by authorities to take concerted action in response to referrals by INT?

## Concept Note: Performance Indicators

### **Are INT performance indicators, as set out in its proposed strategy, a fair, adequate, and systematic way of assessing INT's performance?**

Annex D to INT's Strategy Document contains a series of key performance indicators for each business unit as well as indicators for non case related activities in which INT participates (e.g., training).

The indicators have been proposed to enable senior management in INT to gauge the performance and output of each business unit, identify where resources are best allocated and to report annually the qualitative and quantitative impact INT's work is having across the Bank Group. These indicators are recorded in a semi-automatic way prior to the roll out of a new case management system, where such reporting will be automated within the new IT system.

While the performance metrics look at the detailed work undertaken and completed by each unit, the overall success of the external operations within INT in reducing the incidence of fraud and corruption in Bank Group operations can be defined by the following six key indicators. These reflect the core deliverables of INT external operations and help quantify the demands for INT services, and elucidate the success INT has achieved from the investigations conducted. The six indicators are:

1. **the number, quality and type of complaints received by INT** measure the demand for INT investigative services;
2. **the quality and quantity of active investigations** reflect whether INT is deploying assets in areas where there is the greatest risk to Bank Group operations and the misuse of funds;
3. **the outcome and percentage of final investigative reports** produced, illustrate the impact and completion rate of investigations in the FY;
4. **the effectiveness and frequency with which cases advanced to sanctions** contribute to the deterrent effect and illustrate the Bank's commitment to fight fraud and corruption and to ensure fair and transparent competition;
5. **the efficiency and result of referrals** to investigating and prosecuting bodies in client countries and its impact on the rule of law; and
6. **the effect and choice of advisory engagements** by PSU reflect where INT is adding value to Bank operations from the lessons learnt during the investigation.

Following the restructuring of INT, it was also recognized that the manner in which some metrics were calculated did not align with the new business processes adopted by the VPU. By way of example, historically, all complaints were received and assessed by the Regional Team Leaders. As a result whenever an outcome of substantiated, unsubstantiated or unfounded was reported; it was on the basis that the regional teams had undertaken some investigative work on the complaint.

Under the remit of KMU, a centralized complaint intake process is now in place and Operational Staff are, as a rule, notified of every complaint that comes in and enquires are initiated during the preliminary screening process. As a result, KMU with the input from operational staff may conclude that a complaint is unfounded or unsubstantiated, without necessarily any investigation having taken place. In addition, KMU has input into the initiation of sector, country or regional wide projects. A direct consequence of this is that a number of complaints may be combined into a single investigation, whereas previously each complaint would become its own case. Accordingly INT Audit Committee reports are being redesigned to reflect these improved business processes.

## Concept Note: Sanctions Regime

### Is the Bank's Sanctions Regime effectively designed to address the Bank's evolving priorities and to maximize deterrent impact?

There is a working group currently assessing a multitude of issues as part of an on-going sanctions reform process. The working group is comprised of staff from INT, the Legal Vice Presidency (LEGVPU), Operational Policy (OPCS), and the Evaluation Officers (EOs) of the World Bank (IBRD and IDA), the International Finance Corporation (IFC) and the Multilateral Investment Guarantee Agency (MIGA).

The working group is to advise Senior Bank Management on both substantive and procedural issues. The substantive issues fall under the following categories: (i) proactive protection measures (looking at ways to protect the Bank against firms/individuals that are under investigation by INT, but have not yet been sanctioned); (ii) expanding the impact of sanctioning (assessing whether a sanction imposed against a firm in respect of a contract or contracts where fraud or corruption was found, can be applied to other contracts that were not part of the sanctions proceedings); (iii) rehabilitation conditions for release from debarment (assessing whether a sanctioned firm must show that it has been rehabilitated before a period of debarment can be lifted); (iv) publication of sanctions board decisions (examining whether the Sanctions Board should publish full decisions as well as its rationale therefore); and (v) corporate/operational cross-debarment (looking at whether firms debarred by the Bank's General Services Department for purposes of corporate procurement should automatically be subject to sanction by the Sanctions Board for purposes of operational procurement).

The working group is also looking at a number of possible changes to the Sanctions Procedures, in order to correct some "anomalies." Work on the substantive and procedural issues is at various stages of progress. The IAB may wish to consult with the working group (and with INT staff) to assess: (i) what issues are being addressed by the working group; (ii) what additional issues should be addressed; and (iii) whether the IAB has any advice it may wish to provide on specific aspects.

***Other issue for possible consideration by the IAB: What improvements to the existing debarment policy and implementation procedures should be introduced to institutionalize an effective cross-debarment regime with other MDBs?***

In 2006, the leaders of seven leading international financial institutions (IFIs) agreed to establish a "Joint International Financial Institutions Anti-Corruption Task Force" to work towards "a consistent and harmonized approach to combat corruption in the activities and operations of the member institutions." (*See Uniform Framework for Preventing and Combating Fraud and Corruption*, Sept. 2006, introductory paragraph.) Among the recommended elements of a harmonized strategy was the mutual recognition of enforcement actions taken by the IFIs. (*Id.*, para. 5.) The Task Force agreed that the IFIs would "explore further how compliance and enforcement actions taken by one institution can be supported by the others." (*Id.*) The Task Force recommended that as "an immediate first step, ... each member institution should seek to require all bidders, sponsors, or other firms or individuals participating in activities financed by a member institution to disclose any sanction imposed on that firm or individual by a member institution." (*Id.*) To date, this recommendation has not been carried out in the World Bank. The other IFIs are waiting to see how the World Bank will be handling this matter.

**Questions:** Even if the recommendation is implemented, does it go far enough? Firms and individuals, in addition to having been sanctioned by an IFI, could have been sanctioned by a member country. The 'black lists' of member countries usually are not public. Further, even if firms and individuals have a disclosure requirement, there currently is no policy on cross-debarment in the World Bank. Should a cross-debarment policy be folded into the on-going sanctions reform process? If so, what should the policy be? Only one IFI (the EBRD) has thus far cross-debarred a firm (one that had been debarred by the World Bank). The cross-debarment was not automatic, but based on a review of INT's investigative record in the case. Should a cross-debarment policy follow the approach taken by the EBRD? How can a proposed cross-debarment policy be advocated with greater prospect among the IFIs, so that a uniform approach can be agreed upon and presented to senior management of the IFIs?

## Concept Note: Voluntary Disclosure Program

**Is the Voluntary Disclosure Program (VDP) appropriately formulated, and formidable enough, to attract participants and also yield information that is useful to INT and the Bank?**

In July 2004, the Bank's Board of Executive Directors, as part of a sanctions reform process in the Bank Group, approved the adoption of a Voluntary Disclosure Program (VDP). The final programmatic elements of the VDP were approved by the Board in August 2006. Only a handful of firms have participated in the VDP since its launch in 2006. Set out below are some short-comings with the VDP, which INT has thus far identified:

1. The VDP is process-oriented rather than results-oriented, and places a potentially very heavy financial burden on participants due to its design. A VDP participant is required to conduct an internal investigation of all its Bank project-related contracts that: (i) it has identified to INT as having been tainted by misconduct; and (ii) were signed or in effect in the five years prior to its entry into the VDP. INT has the discretion to conduct its own investigation into those contracts not identified by the participant as having been tainted, and (with some exceptions) may take punitive action if it discovers misconduct. Given this possibility, firms tend to identify all of their contracts (which can number into the hundreds) as being tainted. The outcome is a lengthy and costly investigation that is not focused on results. This could be a strong disincentive to firms considering entering the VDP. **Questions: Should the VDP be redesigned to call for more fluid and flexible interactions between INT and the participating firm in order to prioritize investigations on a rolling basis based on known tainted contracts? If so, how? In what other ways can the VDP be modified to incentivize firms to join whilst at the same time not losing legitimacy?**

2. To date, the VDP has focused primarily on providing referrals to borrowing countries rather than extracting useful information that can lead to debarments. The primary focus of the VDP has been on making referrals to member countries. However, VDP referrals are redacted to such an extent (due to confidentiality) that the receiving member country is not likely to take any action. Further, because VDP disclosures are kept confidential even within INT, information is less readily available to INT investigators for mid-investigation reference, and only VDP staff can analyze the information for lessons learned, which delays the generation of such lessons because VDP staff also are responsible for the program's other activities. **Question: How can referrals be maximized and how best can information be shared within INT to maximize the benefit of VDP disclosures?**

3. The VDP requires that the participant produce a single report at the conclusion of its investigation into the 'tainted' contracts. Because of the large number of contracts that are typically labeled as 'tainted,' participating firms state that it is virtually impossible to conduct the investigation within the time frame set out in the VDP. By the time INT usually receives the investigation report, the information is very dated. **See the questions under item 1.**

4. The VDP sets out unrealistic deadlines, which require close monitoring: Neither INT nor the participating firms have been able to adhere to the time lines set out in the VDP. The unrealistic deadlines could also be a disincentive for firms to enter the VDP. **See the questions under item 1.**

5. The assessment of the adequacy of a participating firm's compliance program should be done by a third party with the requisite skills. The VDP requires INT to assess the adequacy of a participating firm's compliance program, but INT arguably does not have the expertise (or the time) to do so. Further the VDP stipulates that a participating firm enter into an agreement with a "Compliance Monitor" only after "Verification" of the firm's investigation report has been completed. Verification occurs very late in the process. **Questions: What are the disadvantages, if any, to: (i) having a third party acceptable to the Bank assess the adequacy of a firm's compliance program; and (ii) starting the compliance monitoring at a much earlier stage in the VDP process?**

## Concept Note - Communications

**How can INT, and therefore the Bank, be more visible and effective in promoting and communicating its stance on fraud and corruption to client countries and to the public at large?**

**The reporting of allegations of fraud and corruption by Bank Group staff is key to the unit's effectiveness.** INT has and continues to rely on the vigilance of Operational staff to identify potential fraud or corruption cases and referring such information to INT for further action. About 47 percent of all allegations are received from Bank Group staff. Another 26 percent are from anonymous sources among which are likely Bank Group staff who seek anonymity as an effective means to mitigate their risk to retaliation for blowing the whistle on fraud and corruption.

Reporting suspected fraud and corruption is not only mandated through the staff rules, it also serves to manage the institution's financial and reputational risks. However, INT is told from time to time by certain staff that they face disincentives to complain, *e.g.*, the first line supervisor or someone in their management chain is of the view that staff should not refer complaints to INT, in some cases complaints regarding a government unit risk being forwarded to that very same subject for their response; or the staff member may choose not to file the complaint, because of fear that it may upset his or her manager, halt the project or upset client relations.

- How should INT through its communication activities address internal disincentives to filing complaints?

**Deterrence plays an important role in preventing fraud and corrupt practices.** INT receives more credible allegations than it can investigate. Each investigation is time consuming, requires the involvement of several staff during the investigation and litigation phase, as well as budget for missions and occasional outside external counsel. For these reasons, INT is exploring various approaches for further leveraging investigative findings. One area of focus is communications-led deterrence, *e.g.*, through targeted outreach to actual and potential consultants and contractors under World Bank-financed contracts. Historically, the Bank has issued press releases immediately following debarment actions in the client country and the country, where the debarred company is headquartered. However, INT has not communicated over a more extended period these debarment decisions in relevant industries and countries with the explicit aim of deterring corrupt practices. The reasons have mostly been resource constraints, legal risks and perceived negative impacts on client relations.

- Should INT scale-up its deterrence efforts and if so, what should be its guiding principles?

**Communications of certain investigative findings are perceived by some as undermining the Bank's reputation.** INT has since its inception met some resistance from certain staff towards the publication of patterns emerging from fraud and corruption cases. This includes frequency of malfeasance in investment lending operations and publishing photographic evidence to illustrate adverse findings from DIRs. Another potentially contentious area could be serious shortcomings in Board documents and assessments observed during advisory engagements by the Preventive Services Unit. While there may be valid disagreement about methodology and conclusions, in the above instances the arguments presented relate entirely to the Bank's reputation.

- How should INT balance disclosure of case related patterns and operational weaknesses with the need to be perceived as supportive of the Bank's work?

## Concept Note – Preventive Services Unit

With INT's Preventive Services Unit (PSU) still in an embryo-stage, what must be done to maximize and embed its impact?

**Background:** The vision for the PSU is to become the partner of choice for Bank Group staff and clients seeking applied knowledge for assessing and mitigating fraud and corruption risks.

The main objective of the PSU is to help improve the integrity of Bank Group-supported activities and to enhance the development impact of Bank Group operations, by providing pragmatic solutions to mitigate fraud and corruption risks. The PSU's objectives are to help make lending and investment operations more robust against fraud and corruption, enhance staff capacity to detect and mitigate fraud and corruption risks, and strengthen Bank Group policies and systems.

The PSU provides advisory services to Task Teams and spearheads INT's general practical applications, education, and outreach efforts. PSU services aim to support Procurement Specialists, Financial Management Specialists, Task Team Leaders, and other operational staff and include:

- Advisory services for Task Teams (e.g., value chain analysis, risk assessment, and mitigation strategies);
- Tools (e.g., due diligence and red flags);
- Training (e.g., risk mitigation, fraud detection, procurement, supervision, complaint handling);
- Policy reviews and reporting (e.g., provide comments on Operational Policies and Business Procedures, and report on lessons learned); and
- On demand capacity-building in client countries (e.g., provide training to clients on red flags)

**Progress:** Over the last year, the unit has provided advice to 67 task teams; reviewed about 100 substantiated cases to distill red flags and other operational lessons; developed a red flag brochure and drafted a Corruption Prevention Handbook; launched a Global Roads Initiative; and provided training on fraud and corruption risk assessments, complaint handling and risks in road operations to Bank staff and clients.

PSU is currently staffed with two opened-ended staff and five consultants. Efforts are underway to staff the PSU with a Lead Specialist to guide and supervise a very diverse team with investigative, operational, communications, risk management, financial management and procurement backgrounds.

The PSU has been in a learning-mode for a year. It is now an opportune moment to assess the *modus operandi* of the unit and consider strategic options for enhancing the effectiveness of the unit.

- Critically, how does the PSU move from shaping operational checklists into assisting the Bank to build effective full-proof precautions in high risk projects, to promote development impact?
- How can the Bank creatively and globally embed and apply practical insights in projects across the Group, to upgrade programme integrity?

## Concept Note: Confidentiality and Due Process

**Are there adequate provisions in place to protect INT's ability to operate effectively, including through the offering of confidentiality to informants (both in the internal World Bank Group (WBG) processes and in the sanctions process) while also protecting due process?**

External Cases: On INT's Intranet and Internet website, in the section "Report an Allegation," and under the heading "What is the World Bank's Confidentiality Policy" (hereinafter "WB Confidentiality Policy") the following definition is set out: "[T]he Bank will not reveal your name in any court or tribunal process and will not reveal any information that may disclose your identity to anyone outside the investigative team and its managers and attorneys unless the Bank determines you have made an intentional misrepresentation or omission, or the Bank is required to do so by law." The WB Confidentiality Policy does not call for assurances of confidentiality to be in writing.

A July 2008 INT "Policy on Providing Assurances of Confidentiality to Complainants and Witnesses in External INT Cases" (hereinafter the "July 2008 Policy") requires that assurances of confidentiality be in writing, and allows for such assurances only where the following conditions are met: (i) the witness is credible; (ii) the witness is in possession of key information not otherwise obtainable; and (iii) *there is a reasonable basis to conclude that not granting confidentiality might endanger the life, health, safety, or well-being of a person or constitute a violation of any undertaking by the Bank in favor of a participant in the VDP.*<sup>1</sup> [Emphasis added.] The July 2008 Policy defines confidentiality as meaning the World Bank "*will not reveal your name to parties outside the Bank, and will not release information that could lead to you being identified, unless: (a) you consent to fuller disclosure, or (b) the Bank develops information indicating you made material misrepresentations in respect of the information provided, in which case confidentiality is null and void.*"<sup>2</sup>

Internal Cases: Staff Rule 8.01 ("Disciplinary Proceedings"), paragraph 5.01, defines "confidentiality" in the context of staff misconduct cases: "... Confidentiality means that a staff member provides his or her name, but the Bank Group will not reveal the source of the allegations to anyone outside of the investigative team unless the staff member consents to disclosure, or the Bank Group is so ordered by a competent judicial authority within a member government, or it is determined that the staff member knowingly made a false allegation of misconduct."<sup>3</sup> It is not required that assurances of confidentiality under Staff Rule 8.01 be in writing. The statements of witnesses who have been provided assurances of confidentiality, are not relied upon as direct evidence, but rather must be independently corroborated.

Questions: For sake of clarity, transparency and to manage expectations, should there be one definition of "confidentiality" and, if so, what should it be? The July 2008 Policy implies that oral assurances of confidentiality may not be given. This is inconsistent with the "Confidentiality Policy" set out on INT's website. Should it therefore be clarified that: (i) assurances of confidentiality must be in writing only when the criteria in the July 2008 Policy are satisfied (in which case INT can rely on the statement of the confidential witness as evidence before the Sanctions Board under Section 8(3) of the Sanctions Procedures);<sup>4</sup> (ii) even where the statement of a confidential witness is introduced as evidence, the Sanctions Board must make its own determination as to credibility and weight of the statement as evidence; (iii) oral assurances of confidentiality may

---

<sup>1</sup> The italicized language is the standard that must be met under Section 8(3) of the Sanctions Procedures for relevant evidence to be withheld from respondents in sanctions proceedings, including the names of confidential witnesses. Section 8(3) provides: "Although all evidence presented to the Sanctions Board by INT, ... shall ordinarily be provided by the Sanctions Board to the Respondent, the Sanctions Board or the Sanctions Board Panel may, in its discretion and upon request by INT, withhold particular evidence upon a determination that there is a reasonable basis to conclude that revealing the particular evidence might endanger the life, health, safety, or well-being of a person or constitute a violation of any undertaking by the Bank in favor of a participant in the VDP."

<sup>2</sup> The July 2008 Policy emphasizes that "[c]ircumstances outside of the Bank's control (e.g., an independent investigation by other individuals and/or entities) may result in others determining that you were the source of the information" and that [t]he Bank may use the information in any on-going or subsequent action or proceeding, and in any manner or form deemed necessary by the Bank without your prior authorization, as long as the use of such information does not reveal your identity."

<sup>3</sup> The same definition applies in whistleblower cases.

<sup>4</sup> See *supra* fn. 1.

be given under the WB Confidentiality Policy (the recipient should be shown a copy of the policy and asked to initial and date it, and the investigator should prepare a note to file); and (iv) to ensure due process, the statements of witnesses provided oral assurances of confidentiality may not be relied upon as direct evidence, but rather must be independently corroborated?

## Concept Note: Independence Safeguards

### **Are adequate measures in place to ensure INT's investigative independence in the wake of political fallout from sensitive investigations?**

There appear to be adequate safeguards in place; however, in order for those safeguards to ensure this independence, INT leadership must assert INT's independence as an immovable starting point, and then through discussion with stakeholders (both internally and externally to the Bank) ensure that the Bank is able to address the political concerns. Two recent cases underscore this premise.

In the matter of the India DIR, an undertaking that had not only profound operational but political ramifications, INT found itself maneuvered into the uncomfortable position of having to draft an investigative protocol between INT and the Government of India, which materially hampered INT's independent ability to execute its investigative mandate. The investigative protocol, the first such document of its kind pertaining to the mechanics of how INT conducted its investigations, created bureaucratic obstacles where none existed, and can now be interpreted as having established a precedent, which the Bank and INT will inevitably have to overcome going forward. Ultimately, INT investigators were able to undertake and complete the investigative field work resulting from the indicators that the DIR generated. However, it eroded INT's investigative independence and may still prove to have weakened certain aspects of the investigation.

In the matter of the Philippines NRIMP, the Bank recently dealt with, and continues to deal with the widespread political fallout from this case. However, in this instance, INT maintained its position of investigative independence, while concurrently engaging actively with Bank management, and internal and external stakeholders, to provide explanations and clarifications about process, method, and the bases for outcomes.

There are factors which distinguish the India DIR and NRIMP, amongst them, the changes in leadership of INT. At the time of the DIR's completion, INT management was in a transition period and Bank senior management took a decision about the timing of the document's release. It released the DIR on an accelerated time line, specifically making the document public without affording the Government of India sufficient opportunity to review and/or comment thereon. This decision strained the relationship between the Bank and an important Bank member state. In an effort to repair this development relationship, the Government of India pressed for, and the Bank acceded to, the drafting and signing of an investigative protocol.

As opposed to earlier practice when INT operated in an almost singular fashion, INT presently engages much more substantively with its stakeholders, and does so as soon as practicable. This reformed approach has fostered mutual trust, and for the most part, a willingness to view the relationship as one of colleagues working together for a common institutional end state. Certainly issues remain that sometimes require a full discussion, but the regular practice is one which demonstrates early and robust engagement. By operating in this much more transparent way, INT concurrently provides far more timely and worthwhile information than before, while also positioning our Bank clients as partners. As a result, INT has the ability to press its case with credibility in those instances (politically charged or otherwise) when it advocates a delay in releasing certain information due to operational concerns.

- As the IAB develops its operating guidelines, consideration should be given to how such mechanisms can enhance the independence and interdependence of INT.
- To this end it would be useful if a strategic overnight role for the IAB can be mapped out, that will protect the unit in appropriate circumstances.

## Independent Advisory Board (IAB)

---

Washington, July 22, 2009

Mr. Robert B. Zoellick  
President  
The World Bank

### *IAB – Visit to Kenya and Interim Observations*

Dear Bob,

The IAB has just completed its week-long visit to Kenya. This visit gave us the opportunity to acquaint ourselves with the country portfolio including the more controversial projects. We were accompanied by Leonard McCarthy, Vice President, INT. It was useful for us to be briefed by him and his team.

It was also very helpful for the Task Team Leaders in the Bank's Kenya office to hear Leonard's perspective and for him to explain in person the mission of INT and the changes that he has brought to it.

This is important to overcoming the adversarial legacy between INT and Bank Operations, particularly given the inheritance of ill will over the Detailed Implementation Review (DIR) process. We think that there is a role for such extensive reviews on either a country or sectoral basis. We believe it is necessary to be very clear about the audience for whom the DIRs are being prepared and who will see them. In our view, a DIR should be produced for the World Bank and the host country. Operations staff must be involved from the outset. Any factual errors compromise the integrity and usefulness of the document. Therefore, drafts should be shared with both the host country and operational staff. The final report should be provided to operational staff and the host country and made public unless there are strong reasons not to do so. This should be at the discretion of the President.

Given the history of DIRs, we recommend that these reviews be given a more preventive orientation overall and that the name be changed to something such as Extensive Country Reviews, or Extensive Sectoral Reviews. DIRs are very resource-intensive; thus they should be conducted sparingly and there should be clear criteria as to when one will be established.

Furthermore, as part of overcoming a legacy of conflict, INT should engage in education and outreach through face-to-face briefings and videoconferences with staff to explain its focus, its mode of operation, and its objectives.

In our view, INT should view itself – and be viewed by other units – as an integral component of the Bank team that is concentrated on supporting your focus on high level strategic initiatives to deal with vulnerabilities in the lending process. We

## Independent Advisory Board (IAB)

---

are suggesting in our attached response to the concept note that this be added as a performance indicator to measure INT's success.

Prevention has to be a major focus for INT. We recommend that a well-resourced Preventive Services Unit (PSU) identify, describe, and publish areas of vulnerability. It should also conduct intensive training on how to protect World Bank projects against these vulnerabilities.

We will return to some of these issues in our annual report.

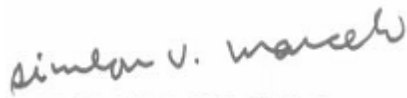
Herewith, we annex our response to the March 2009 concept note.



Peter Costello



for Chet Crocker



Simeon Marcelo



Mark Pieth

Encl.

## 1 Enforcement Strategy/Referrals

### a. Enforcing the Bank's rules and policies through investigations

The IAB believes that INT should take a risk-based approach in deciding which cases to investigate. It is also very important that INT emphasize the prevention of fraud and corruption, rather than engaging in damage control. In that respect, we recommend that INT, in collaboration with Operations, review the approach that has been taken to conduct Detailed Implementation Reviews (DIRs). First of all, we would advocate a new name for these detailed reviews in light of the legacy of ill-feelings they have created. Secondly, we consider it important that criteria and guidelines be developed to help decide when a DIR is appropriate and what the objective of conducting the DIR would be. DIRs, in our opinion, should be used to anticipate and predict where early interventions by Bank management or INT would be appropriate. Thirdly, they ultimately should serve to assess efficiency and governance at the national, regional and/or sectoral levels in a given country. Fourthly, from the outset, it will be key to establish a tri-partite alliance of country, operations and INT staff to conduct and use the information generated by a DIR. The country and operations staff will therefore have a chance to participate at an early stage and give their input. Finally, we reckon that all DIRs should be made public, unless decided otherwise by the President.

### b. Seeking sanctions against firms and individuals believed to have engaged in misconduct

In the IAB's view, INT will need to manage both the internal and external expectations associated with "big cases". Big cases do not necessarily lead to big wins; nor is it always possible to investigate them to a conclusion. However, we believe that INT should position itself to take on the big cases in collaboration, whenever possible, with national authorities. Since INT is part of the World Bank, it will have to do so by engaging with a Ministry of Finance, as the Bank's client. However, although we reckon that INT should report concurrently to national law enforcement agencies, particularly at the investigation stage, this should be done with caution. We encourage INT and other parts of the Bank to research further creative solutions and possibly alternative dispute resolution mechanisms. The recent Siemens case provides some interesting lessons in this regard. The Bank ought also to revisit its rules and seek ways to retrieve any funds or assets acquired through corrupt practice. We would also suggest that, in cases where it is not possible for the Bank to act, it should consider piggybacking on other development partners' work. There are areas where they have more leverage and scope for intervention, including using national investigations, engage in active referrals and finally follow-up on referrals.

### c. Distilling and disseminating lessons learned to operational staff to help mitigate misconduct in Bank-supported projects

Considering the legacy of the adversarial relationship that has been established between INT and Operations, INT needs to educate Bank staff about its role and modus operandi. Town hall meetings, lunchtime discussions and videoconferences are some of the ways that could be considered to alleviate the effects of this legacy and to create a climate of cooperation throughout the Bank.

This brings us to address the role and composition of the Preventive Services Unit (PSU). In our view, the PSU has a key role in ensuring that lessons of experience are distilled, disseminated and integrated into future Bank operations. For that reason, the PSU should be well resourced

July 22, 2009

(approximately 15-20 staff) with people from all relevant professional backgrounds including extensive experience in Bank Operations (Task Team Leader background--TTLs). In addition, it is important that the PSU intensify its work with TTLs and support risk assessments, i.e., provide special advice upon request and participate actively in reviews. Furthermore, the IAB recommends that the PSU take the lead in INT for the successor to DIRs.

#### **d. Seeking to have member countries prosecute criminal conduct arising in Bank-supported projects**

In order to build strong country systems including in the judiciary, it is imperative that the Bank put more effort into addressing Governance and Anti-Corruption (GAC) weaknesses, e.g., reforming the civil service, legal/judicial, public financial management public procurement, etc. In addition, the Bank could seek to work more closely with other development partners who are better placed to take on such initiatives as building the capacity of law enforcement agencies. Furthermore, the Bank should adopt a more preventive mode of operating, by providing higher-risk operations with adequate resources for closer and more frequent supervision. With respect to conditionalities, the IAB believes they should be proportionate to the unresolved governance and corruption issues that obtain in a country.

## **2 Performance Indicators**

The IAB encourages INT to focus on the more strategic impact that could be obtained from a limited number of key indicators. Furthermore, it recommends that INT emphasize prevention rather than investigation. For that, it will need to use more qualitative indicators. With regards to the six indicators listed in the concept note, the IAB would note or comment as follows:

- a. The importance of indicator #3 (the outcome and percentage of final investigative reports produced, illustrate the impact and completion rate of investigations in the FY);
- b. The need to have a new indicator that would be numbered 6: "The strategic impact of major cases/initiatives."
- c. The need to have an indicator # 7 on the performance of the PSU that should be measured by objective tools on matters such as the usefulness of advice provided to Operations, and the extent to which its advice is being utilized on a Bank-wide basis. We suggest a survey be developed to gauge how the PSU is performing on these matters.

## **3 Sanctions Regime**

The IAB recommends that the new sanctions regime be given time to work before being re-examined, i.e., after a year of operation. The new regime should be exemplary with a view to its being offered as a template for other multilateral development banks (MDBs). In the meantime, it is important that the World Bank continue to explore with other MDBs how best to move towards recognition and application of each other's sanctions. As an intermediate target, the Bank needs to aim at cross-debarment. In that respect, the IAB agrees with the concept note that: i) the IFIs would "... explore further how compliance and enforcement actions taken by one institution can be supported by the others" and ii) that "*each member institution should seek to require all bidders, sponsors, or other firms or individuals participating in activities financed by a member institution to disclose any sanction imposed on that firm or individual by a member institution.*" There will be a need for the Bank to specify those member institutions that are covered by the arrangement.

July 22, 2009

It is important that the World Bank apply certain principles when reviewing its sanction regime, viz, flexibility, collaboration and rehabilitation. The latter is particularly important for incentivizing firms to come forward with corrupt practices and cases. Collaboration should be taken into account when applying a sanction.

#### **4 Voluntary Disclosure Program**

The VDP has an important role to play, but needs to be much more focused, demonstrating clear advantages and benefits for stepping forward. Without this, it will be more difficult to implement. For example, a reduced sentence might be an incentive to step forward. The threat of a serious punishment is more likely to elicit cooperation. INT needs to explore further this issue if it is going to have a meaningful VDP.

#### **5 Communications**

To overcome the legacy of its tensions with Operations, INT should engage in education and outreach through face-to-face briefings and videoconferences with staff to explain its focus, its mode of operation, and its objectives. It is important that Bank staff start viewing INT as a source of support to help mitigate the risks of corruption in Bank projects. This will be achieved through greater collaboration and greater understanding of the role and modus operandi of INT. INT has at its disposal various means to inform and educate Bank staff including town hall meetings, videoconferences, etc.

In our view, INT should view itself – and be viewed by other units – as an integral component of the Bank team that is supporting the Bank President’s focus on high level, strategic initiatives to deal with vulnerabilities in the lending process. INT needs to continue to maximize deterrence. In that context, it is important that Bank leadership publicize INT’s successes, including convictions.

#### **6 Preventive Services Unit (PSU)**

Prevention has to be a major focus for INT. We recommend that a well-resourced PSU identify, describe, and publish areas of vulnerability. It should also conduct intensive training on how to protect against these vulnerabilities. This was addressed in detail in point 1 under the section “distilling and disseminating lessons-learned to operational staff to help mitigate misconduct in Bank-supported projects.” In summary, the PSU would:

- Distil lessons learnt from INT investigations, which can be used in assessing and designing new projects
- Conduct sector-wide assessments, in order to anticipate, surface and fix problems
- Prepare manuals, tools and indicators (e.g., redflags), to expand learning and applied experience
- Provide advisory services to task teams to help incorporate safeguards in the design of high-risk projects (vulnerability analysis)
- Support, on a demand-basis, capacity building efforts linked to the Bank’s mission in client countries.

#### **7 Confidentiality and Due Process**

In the opinion of the IAB, there should be only one broad definition of “confidentiality”. The definition contained in paragraph 2 of the “Confidentiality and Due Process” section of the Concept Note seems to be quite appropriate: “The July 2008 Policy defines confidentiality as meaning the World Bank “will not reveal your name to parties outside the Bank, and will not

July 22, 2009

release information that could lead to you being identified, unless: (a) you consent to fuller disclosure, or (b) the Bank develops information indicating you made material misrepresentations in respect of the information provided, in which case confidentiality is null and void.<sup>1</sup> This policy should be applied throughout and needs to be communicated in a coordinated manner.

The IAB would like to emphasize that any negotiation with a respondent should be in writing.

## **8 Independence Safeguards**

The IAB would like to underline the importance of safeguarding INT's independence against political interference from any source. The IAB sees it as part of its mandate to defend the independence of INT from both internal and external interference.

---

<sup>1</sup> July 2008 INT "Policy on Providing Assurances of Confidentiality to Complainants and Witnesses in External INT Cases."