

November 2008

**INTERNATIONAL
ENVIRONMENTAL
OVERSIGHT**

**U.S. Agencies Follow
Certain Procedures
Required by Law, but
Have Limited Impact**



GAO

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Highlights of [GAO-09-99](#), a report to the Chairman, Committee on Foreign Relations, U.S. Senate

Why GAO Did This Study

The World Bank Group lends about \$40 billion annually to developing countries. Critics have claimed that some projects have harmed the environment and the local population. Title XIII of the International Financial Institutions Act of 1977 outlines in part the U.S. government's requirements for reviewing potential environmental and social impacts of proposed multilateral development bank projects. GAO was asked to assess the U.S. government's international environmental oversight efforts by examining (1) how U.S. agencies implement legislative requirements to review the potential environmental concerns associated with proposed World Bank Group projects, and (2) agencies' ability to identify and address these concerns. GAO reviewed Title XIII, World Bank Group reports, and U.S. agency documents and met with representatives from U.S. government agencies, the World Bank Group, and nongovernmental organizations.

What GAO Recommends

To maximize interagency contributions to evaluating World Bank Group proposals, GAO recommends that the Secretary of the Treasury routinely identify all proposals of concern in advance of interagency working group meetings. Treasury agreed with the recommendation, whereas USAID suggested that it may warrant further guidance to more clearly address short lead times.

To view the full product, including the scope and methodology, click on [GAO-09-99](#). For more information, contact Thomas Melito, 202-512-9601, melitot@gao.gov.

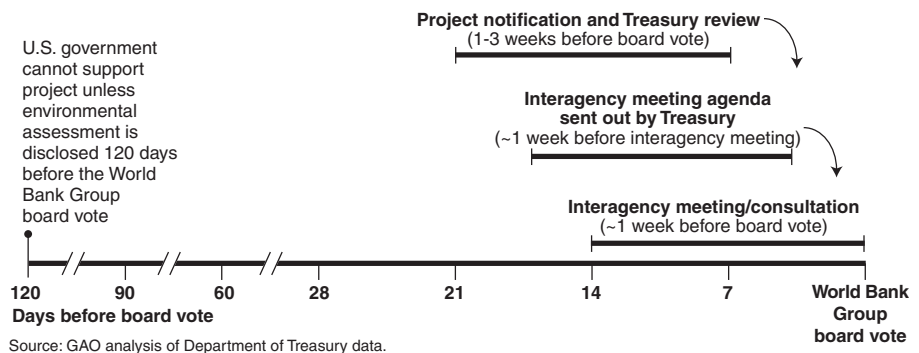
INTERNATIONAL ENVIRONMENTAL OVERSIGHT

U.S. Agencies Follow Certain Procedures Required by Law, but Have Limited Impact

What GAO Found

U.S. agencies take various approaches to meet legal requirements for reviewing World Bank Group proposals likely to have significant adverse environmental impacts. The Treasury Department (Treasury), which leads these efforts, generally focuses on fulfilling the law's largely procedural requirements, such as ensuring that the project's environmental assessment is made publicly available by the project sponsor 120 days before it is voted on by the Group's board. The reviews usually occur from 1 to 3 weeks prior to such a vote. Treasury also engages in required consultations by leading a weekly interagency working group. Some participants stated that, because of limited time and the volume of proposals, they rely on Treasury to identify proposals of concern to facilitate the discussions. However, Treasury has not routinely done so. For a selected few projects, Treasury and the U.S. Agency for International Development analyze in more depth a proposal's potential environmental and social impacts. Both agencies learn about many such projects through regular interaction with nongovernmental organizations.

Timeline of Events Related to U.S. Government Review of Proposed World Bank Group Projects



Time constraints limit the U.S. government's ability to identify environmental and social concerns associated with World Bank Group projects before a vote on the proposal, and projects with potentially significant adverse impacts proceed with or without U.S. government support. The compressed review time frame makes it difficult for U.S. officials to examine proposal documentation and solicit information from knowledgeable parties (see fig.). In addition, by the time of the vote, a project is often already in its final design stage or even under construction, which limits U.S. agencies' ability to identify ways to mitigate the concerns. Furthermore, proposals with potentially significant adverse impacts proceed with or without U.S. government support. The board consistently approves proposals that lack U.S. support; between January 2004 and May 2008, all 34 of the proposals the United States did not support because they did not meet legislative requirements were still approved by the board. Finally, the U.S. government occasionally supports proposals with significant environmental impacts, due to competing priorities, including economic and other considerations.

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Abbreviations

CEQ	Council on Environmental Quality
EIA	Environmental Impact Assessment
EPA	Environmental Protection Agency
IBRD	International Bank for Reconstruction and Development
IDA	International Development Association
IFC	International Finance Corporation
MIGA	Multilateral Investment Guarantee Agency
NEPA	National Environmental Policy Act of 1969, as amended
Title XIII	Title XIII of the International Financial Institutions Act of 1977, as amended
USAID	U.S. Agency for International Development

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United States Government Accountability Office
Washington, DC 20548

November 20, 2008

The Honorable Joseph R. Biden, Jr.
Chairman
Committee on Foreign Relations
United States Senate

Dear Mr. Chairman:

The World Bank Group¹ lends about \$40 billion annually to developing countries, and while its projects can provide significant benefits, some, particularly those involving natural resource management, rural development, energy, and other infrastructure projects, can adversely impact the physical environment and the lives of indigenous people in the project area. Critics of the World Bank Group, as well as oversight entities within the World Bank Group, have claimed that many of these projects have harmed the environment and the local population. For example, some road projects have led to deforestation caused by clear-cutting, and artificial lakes created by large dam projects have forced thousands of local inhabitants to leave their homes and communities and resettle elsewhere. In 1989, the World Bank established policies that require project sponsors to prepare assessments that would identify environmental and social impacts associated with the projects it finances. The World Bank Group also established policies guiding the disclosure of this information to the public. However, concerns persist about the implementation of these policies as well as the quality of the environmental assessments associated with the projects. For example, according to a 2008 World Bank Group Internal Evaluations Group report, World Bank Group staff have not consistently applied its environmental assessment standards across regions and countries, partly due to unclear guidance.

¹The World Bank Group is comprised of several affiliated but distinct institutions: (1) the World Bank, which consists of the International Bank for Reconstruction and Development and the International Development Association and provides funding primarily to governments to aid public-sector development; (2) the International Finance Corporation, which provides financing to the private sector for projects in developing and transitioning countries; and (3) the Multilateral Investment Guarantee Agency, which provides political risk and other insurance to foreign investors in developing countries.

Title XIII of the International Financial Institutions Act of 1977, as amended (Title XIII) outlines the U.S. government's basic requirements for reviewing the potential environmental and social impacts of proposed multilateral development bank projects, including those of the World Bank Group. This legislation was enacted to strengthen the environmental performance of multilateral development banks, which includes promoting the use of environmental assessments to identify and address harmful environmental and social impacts of multilateral development bank projects. It requires, in part, that the U.S. government review proposed World Bank Group and other multilateral development bank-funded projects with the potential for such impacts. To do so, U.S. government agencies examine project-specific environmental assessments prior to project approval and ensure that these assessments were made available to the public by the project sponsors at least 120 days before the project is voted on by the World Bank Group Board of Directors. The Department of the Treasury (Treasury) instructs the U.S. Executive Director on the U.S. position for each proposed project based on its review; the legislation specifically precludes the U.S. Executive Director from supporting projects that do not meet the 120-day public disclosure requirement.

For this report, you asked us to assess (1) how U.S. agencies implement their legislative requirements to review the potential environmental and social concerns associated with proposed World Bank Group projects, and (2) agencies' ability to identify and address these concerns. Although this legislation applies to all multilateral development banks, we have limited the scope of our review to the World Bank Group organizations because their environmental policies are generally considered to be international good practice among multilateral organizations and private-sector entities. Also, this report is the first in a two-part review: it focuses on U.S. government oversight of the World Bank Group's environmental assessment processes; the second report will focus on World Bank Group environmental assessment policies and their implementation.

To address these objectives, we reviewed portions of Title XIII and its relevant amendments, as well as agency documents such as periodic reports to Congress and position papers. We also interviewed U.S. government officials from the Council on Environmental Quality, the Environmental Protection Agency (EPA), the U.S. Agency for International Development (USAID), and the Departments of Commerce, State, and the Treasury. In addition, we reviewed World Bank Group reports and studies and interviewed relevant World Bank Group officials from the International Bank for Reconstruction and Development (IBRD), the

International Development Association (IDA), the International Finance Corporation (IFC), and the Multilateral Investment Guarantee Agency (MIGA), as well as environmental experts from nongovernmental organizations, and the private sector.

We conducted this performance audit from October 2007 to November 2008, in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. Appendix I provides detailed information on our methodology.

Results in Brief

U.S. agencies take various approaches to meet legal requirements for reviewing World Bank Group proposals likely to have significant adverse environmental and social impacts. Treasury, which leads these efforts, reviews proposals that it determines are likely to have significant adverse environmental and social impacts. These reviews are generally focused on fulfilling requirements in the law, which are largely procedural, such as ensuring that sponsors of World Bank Group projects make environmental assessments publicly available 120 days before a vote by the World Bank Group's Board of Directors. The reviews generally occur anywhere from 1 to 3 weeks prior to board vote. Treasury also engages in required interagency consultations by leading a weekly interagency working group. Officials from some of the participating agencies stated that because of the volume of proposals to review and the short time span in which to discuss them, they rely on Treasury to identify proposals of concern to facilitate the discussions. However, Treasury has not routinely done so. For example, of over 95 project proposals in 2007 categorized by the World Bank Group as being likely to have significant adverse environmental impacts, Treasury identified only 14 in advance of the interagency meeting. For a selected few controversial projects, USAID and Treasury analyzed in more depth the potential environmental and social impacts. Because they have different statutory responsibilities and flexibility within their statutory requirements, the agencies conduct the reviews and apply criteria differently. Both agencies learn about many such projects through regular interaction with nongovernmental organizations.

Time constraints limit the U.S. government's ability to identify environmental and social concerns associated with World Bank Group projects before the Group's board votes on them, and projects with

significant adverse impacts proceed with or without U.S. government support. The compressed time frame between World Bank Group notification of projects, interagency meetings to discuss the projects, and the board vote date makes it difficult for U.S. agency officials to review project documentation and solicit information from knowledgeable parties. In addition, by the time a project is ready for a board vote, it is often already in its final design stage or, in some cases, under construction, which limits U.S. agencies' ability to identify ways to mitigate environmental and social issues associated with these projects. For example, construction on a mine project in Guatemala began a month before it received approval for IFC financing. Furthermore, the World Bank Group consistently approves projects with potentially significant adverse impacts without U.S. government support; between January 2004 and May 2008, all 34 of the projects the U.S. Executive Director did not support because they did not meet the law's public disclosure requirements were still approved by the board of directors and moved forward.² In addition, the U.S. government occasionally supports projects with significant adverse environmental impacts, due to competing priorities. For example, when reviewing an environmental assessment and associated documentation for a hydroelectric project in Uganda, USAID and EPA raised environmental concerns and recommended that Treasury instruct the U.S. Executive Director not to support the project, but Treasury ultimately supported the project with State's concurrence due to a balance of economic and other considerations and a belief that potential impacts can be mitigated.

To improve U.S. agencies' ability to effectively contribute to the interagency effort to evaluate World Bank Group proposals that are likely to have significant adverse environmental and social impacts, we are recommending that the Secretary of the Treasury, in his capacity as the chair of the Working Group on Multilateral Assistance, routinely identify all proposals of concern in advance of working group meetings with other agencies in order to maximize the ability of all participants to contribute to the evaluation of World Bank Group proposals.

In commenting on a draft of this report, Treasury agreed with the recommendation and noted in technical comments submitted separately

²Each member country's vote is weighted according to the country's contribution to the Bank. While the United States has 16.41 percent of the vote at IBRD, a majority of all votes is required for a proposal to pass (IBRD Article V, Section 3).

that it is already taking a number of measures to comply with the recommendation. We also incorporated Treasury's technical comments as appropriate in the report. Treasury disputed our finding that their efforts have had little impact, because they believed we did not adequately note Treasury's behind the scenes efforts to influence project design. While we have added language to the report to reflect some of these efforts, Treasury did not provide us with information to gauge the impact of these communications. Treasury also believed that we characterized the interagency process as limited to weekly meetings. While we disagree with Treasury's interpretation, we added language to clarify the extent of interagency communication. In its comments on the draft report, USAID suggested that the recommendation may warrant further guidance to more clearly address very short lead times. It also noted that sections of Title XIII, such as those calling for a system for information exchange with other interested member countries, were not addressed in the report. These sections were not addressed because we focused the scope of our review on those sections of Title XIII that directly addressed U.S. government oversight of the potential environmental and social concerns associated with proposed World Bank Group projects. USAID made additional comments on more specific topics, which we address more fully in the agency comments section of this report.

Background

The World Bank Group's member countries collectively determine policy and make investment decisions. Its board of directors is made up of 24 executive directors who represent all 185 member countries.³ The U.S. Executive Director is the main liaison between the United States and the World Bank Group. Treasury has the lead role in working with the U.S. Executive Director to determine the U.S. position on proposed World Bank Group projects. As a member country of the World Bank Group, the United States may support, abstain from voting, or vote against a proposed project. However, no single member country can veto a proposed project.

In 1989, the World Bank established social and environmental guidelines, or Safeguard Policies, to identify and address potentially significant negative environmental and social impacts. In 2006, IFC developed its own

³The executive directors of IBRD serve ex-officio as directors of IDA and IFC, provided that the country that appoints them or any one of the countries that elects them is also a member of IDA and IFC. It is customary for the directors of MIGA also to serve as executive directors of the World Bank. IFC and MIGA each have slightly fewer member countries than the World Bank; IFC has 179; MIGA 172.

distinct performance standards for assessing the environmental and social impact of its projects, and MIGA introduced its own standards, which were largely based on IFC's, in 2007. The World Bank, IFC, and MIGA have also established policies guiding the disclosure of project information to the public. IFC and MIGA guidelines state that proposed project documents, including environmental assessments, should be released 60 days prior to a board vote on projects with potential, significant adverse impacts. The World Bank disclosure guidelines do not specify a number of days.

World Bank Group entities screen project proposals for potential environmental impacts and assign one of four categories to determine the type of environmental assessment needed. See table 1.

Table 1: World Bank Group Project Categories Based on Potential Environmental Impact

Category	Definition	Examples	Environmental Assessment (EA) requirements
A	Projects with potential, significant adverse impacts that are diverse, irreversible, or unprecedented	Large dams, mining activities, new roads	Requires full EA
B	Projects with potential, limited adverse impacts that are few in number, site-specific, largely reversible, and readily addressed through mitigation measures	Rural electrification, smaller scale irrigation, rehabilitation, and maintenance projects	Requires less comprehensive EA
C	Projects that are expected to have minimal or no adverse impacts	Health, education, and family planning projects	No EA required
FI	Projects in which funds are channeled through a financial intermediary	Support to a local development investment fund to finance municipal infrastructure	No EA required

Source: GAO analysis of World Bank Group documents.

Title XIII outlines the U.S. government's basic requirements for reviewing the potential environmental and social impacts of proposed multilateral development bank projects, including those of the World Bank Group. The overall purpose of the legislation is to ensure that U.S. assistance to multilateral development banks promotes sustainable use of natural resources and the protection of the environment, public health, and the status of indigenous people in developing countries. In 1989, Congress amended Title XIII to include Section 1307, commonly referred to as the Pelosi Amendment. The Pelosi Amendment directly affects whether the U.S. government will support a proposed project. It directs the U.S. government to ensure that a proposed project with potentially significant negative impacts meets certain requirements, such as making publicly

available an assessment of the project's environmental impact 120 days before the World Bank Group's Board of Directors votes on the project. If the World Bank Group's project sponsor does not make the assessment or a summary of the assessment publicly available within this time frame, the law instructs the U.S. government not to vote in favor of the proposal. The law also requires that the assessment include an analysis of the project's cumulative and associated impacts, as well as alternatives to the proposed project. As a result of the Pelosi Amendment, the World Bank Group and other major multilateral development banks began requiring project sponsors to prepare environmental impact assessments and make them available to affected groups, according to representatives from U.S. government agencies and nongovernmental organizations, as well as a 1998 U.S. Congressional Research Service report determining the impact of the Pelosi Amendment.⁴

Both the Pelosi Amendment and other sections of Title XIII specify the responsibilities of several U.S. agencies in monitoring proposed multilateral development bank projects with the potential for significant environmental and social impacts. As the lead U.S. agency interacting with the multilateral development banks, Treasury is to take the following actions:

- ensure that an environmental impact assessment or a comprehensive summary accompanies project proposals,
- consult with and consider recommendations from other federal agencies and interested members of the public regarding this assessment,
- determine whether an environmental assessment has been made publicly available at least 120 days prior to the board vote on the proposal,
- instruct the U.S. Executive Director on the U.S. position for each proposed project,

⁴U.S. Congressional Research Service, *Multilateral Development Banks' Environmental Assessment and Information Policies: Impact of the Pelosi Amendment (98-180F)* (February 1998).

-
- consult with other U.S. agencies to develop environmental impact review procedures for proposed multilateral development bank projects and assist in implementing these procedures,⁵ and
 - provide an annual report to Congress on the environmental sustainability of multilateral development banks' operations and the efficacy of U.S. efforts in this process.

Title XIII also requires USAID to work with Treasury and the Department of State (State) to analyze, where feasible, the environmental, social, and other⁶ impacts of proposed multilateral development bank projects “well in advance” of the projects’ board vote date, and to ensure that investigations are undertaken for proposals that are likely to have substantial adverse impacts. USAID is also required to provide its own report to Congress that identifies proposals likely to have adverse impacts on the environment, natural resources, public health, or indigenous peoples. State and Treasury are to work with USAID to vigorously promote mechanisms to strengthen the environmental performance of multilateral development banks.

U.S. Agencies Take Various Approaches to Meet Legal Requirements for Reviewing World Bank Group Proposals Likely to Impact the Environment

Treasury addresses Pelosi Amendment requirements for assessing World Bank Group projects by conducting reviews that focus on procedural requirements such as whether the project’s environmental assessment is made publicly available by the project sponsor 120 days before the World Bank Group’s board vote date. Treasury also engages in required interagency consultations by leading a weekly interagency working group. However, Treasury does not always identify projects with potentially significant environmental and social impacts in advance of the interagency meetings, making it difficult for participants to provide effective input. Because they have different responsibilities and flexibility within their statutory requirements, USAID and Treasury take different approaches to analyzing in more depth the environmental and social impacts of a few controversial projects. The agencies learn about many such projects through regular interaction with nongovernmental organizations.

⁵The other U.S. agencies Treasury consults with include the Department of State, USAID, the Environmental Protection Agency, the Council on Environmental Quality, the Department of the Interior, and the National Oceanic and Atmospheric Administration.

⁶These include the extent to which the proposal will contribute to the sustainable development of the borrowing country, the economic viability of the proposal, and its impact on public health.

Treasury Addresses Pelosi Amendment Requirements by Conducting Procedural Reviews and Engaging in Interagency Consultations

Treasury Reviews of World Bank Group Projects Generally Focus on Procedural Requirements

As required by the Pelosi Amendment, Treasury conducts reviews of environmental documentation for World Bank Group proposals that could have significant environmental or social impacts. Treasury's efforts generally focus on fulfilling the requirements of the legislation, which are largely procedural; specifically, Treasury staff review documentation on World Bank Group projects to ensure that procedural requirements specified in the legislation are met. These requirements include ensuring that an environmental impact assessment or a comprehensive summary of the assessment is made publicly available 120 days prior to the World Bank Group's Board of Executive Directors vote date⁷ and that the summary contains items such as discussions of alternatives to the proposed project and the project's direct and indirect environmental impacts. A Treasury Department official who reviews project documentation stated that the review process involves attempting to ascertain the actual disclosure date, which is not necessarily the date or dates listed on the documents.⁸ The Treasury reviews generally take place once the World Bank Group's Board of Executive Directors schedules a vote for the proposed project. In practice, this can be anywhere from 1 to 3 weeks prior to the scheduled vote date. In calendar year 2007, Treasury

⁷According to Treasury officials, for World Bank projects, once board documents have been distributed, board procedures provide for a delay of up to one board meeting, which could be useful in meeting Pelosi Amendment requirements only if the public disclosure period falls short by a day or two. For IFC projects, where the IFC-required disclosure period is 60 days, Treasury officials told us the client's financing needs typically prohibit shifting from 60 to 120 days to meet the Pelosi Amendment requirements.

⁸According to this official, the disclosure date is the date the documentation is posted on the World Bank's Web site. Treasury officials obtain this date from the Web site, the board document, the World Bank's Integrated Safeguards Data Sheet, or World Bank Group staff. They will also look at the local disclosure date, if there is one. However, since Treasury generally conducts the review shortly before the board vote, Treasury officials told us they do not have a way to verify whether the date on the documentation is the date the documents were actually posted on the Web site.

officials estimated that they reviewed over 95 projects that they determined could have significant environmental or social impacts.⁹

The Pelosi Amendment requires that Treasury consider, among other things, associated and cumulative environmental impacts in its review of World Bank Group project documentation but does not specify what criteria should be used to determine these considerations. As a result, one Treasury economist said she uses professional judgment to determine if the evidence “seems reasonable” when reviewing environmental assessments for compliance with the Pelosi Amendment’s requirement regarding associated and cumulative environmental impacts. Since the amendment does not require Treasury to review proposals to determine if they meet the World Bank Group’s environmental and social safeguard policies, Treasury generally does not evaluate proposals for compliance with these policies. Treasury officials stated that they do not do this because the multilateral development banks have their own procedures, staff, and accountability mechanisms for ensuring compliance with bank policies. Treasury officials noted that they occasionally may closely review the analysis contained in the environmental assessment or other project documentation if they have concerns about the environmental and social impact of the project. However, these officials told us that they rarely instruct the U.S. Executive Director not to support a proposal because of deficiencies with the assessment’s technical analysis.¹⁰

Because Treasury is only required by law to review proposals on which the World Bank Group board votes, a subset of proposals, specifically, umbrella proposals, are not always reviewed by Treasury for compliance with the Pelosi Amendment. These proposals, which are presented to the World Bank Group’s board for approval, contain an environmental assessment that represents a framework for multiple sub-projects. Although the board must approve the proposal as a whole, future sub-projects—some of which could have significant adverse impacts—are not subject to board approval. Since the board does not vote on subprojects, the Pelosi Amendment does not require Treasury to review them. Instead, Treasury reviews these types of proposals on a case-by-case basis. According to Treasury officials, they use professional judgment to

⁹Treasury officials could not provide the exact number of proposals they review for the Pelosi Amendment because they do not keep an ongoing database of Pelosi Amendment reviews.

¹⁰Treasury officials said they rarely do this because such deficiencies are seldom identified.

Treasury Engages in
Interagency Consultations to
Address Pelosi Amendment
Requirements

determine if the intended sub-projects are likely to have significant adverse environmental and social impacts and, therefore, whether they review environmental documents associated with the sub-projects.

Treasury reports its findings to Congress, as required by law,¹¹ but does not provide these reports in a timely manner. Federal law requires Treasury to provide an annual report to Congress summarizing the environmental performance of the multilateral development banks, including the World Bank Group. Treasury's most recent report is for fiscal year 2005. Treasury officials told us in October 2007 and again in August 2008 that they were still preparing the report for fiscal year 2006.

Treasury addresses the Pelosi Amendment's requirement that it consult with other agencies¹² by leading an interagency working group on multilateral assistance that meets once a week for about an hour to discuss U.S. agencies' concerns regarding proposed World Bank Group projects. This group discusses political, economic, environmental, social, and other concerns related to proposed multilateral development bank projects, including those of the World Bank Group.¹³ The purpose of these discussions is to solicit agency input as to whether Treasury should instruct the U.S. Executive Director to support the projects. In addition to Treasury, State, USAID, and the Commerce Department are regular participants at the meeting. Other agencies such as EPA have attended in the past.

¹¹Section 539(e) of Title V of Public Law 99-591 and Section 1303(b)(3) of Title XIII require Treasury to provide an annual report to Congress on the environmental sustainability of multilateral development bank operations and the efficacy of U.S. efforts in this process.

¹² The law requires Treasury to consult with U.S. agencies such as State, EPA, and USAID in determining whether multilateral development banks or the borrower provide an environmental assessment or summary thereof for a proposed project that is likely to have significant and adverse environmental impacts (22 U.S.C. § 262m-7). In addition, Treasury regulations specify the actions Treasury and the working group should take if U.S. government agencies or members of the public have specific comments on proposed multilateral development projects (31 C.F.R. § 26.4). Such actions include considering whether the multilateral development bank has assigned the proposed project the appropriate environmental category, and considering the U.S. government's position on the project.

¹³These meetings are for U.S. government agencies to address all mandates and concerns associated with multilateral development bank projects, not just those associated with the environment.

According to participants, the volume of proposals and brief discussion time at the working group meetings has limited the quality of discussion on proposals with potentially significant environmental and social impacts. Approximately 1 week prior to each working group meeting, Treasury distributes an agenda containing a list of all multilateral development bank proposals that are scheduled for a vote over the next several weeks. The number of proposals to be discussed in the hour-long meeting each week varies, averaging about 60, but in some weeks, such as near the end of the World Bank Group's fiscal year, it has been about 150. Treasury officials told us they assume the agencies will review the proposals in advance and inform Treasury of any concerns they may have. They said that if an agency does have an issue with a proposal, Treasury staff will informally discuss the concern with the agency and attempt to resolve it prior to the meeting. Officials from participating agencies we met with stated that because of the volume of proposals to review and the short time span in which to discuss them, they rely on Treasury to identify in the meeting agenda proposals that it believes to be of concern, to facilitate the discussion. However, Treasury has not routinely done so. For example, of over 95 World Bank Group proposals in 2007 considered by Treasury as being likely to have significant adverse environmental impacts, the agency identified only 14 in the agendas it sent out in advance of the working group meetings. Treasury officials stated that, given all their other responsibilities and limited resources, they had not been focused on identifying proposals likely to have significant adverse environmental impact for the weekly working group meeting agendas.

USAID and Treasury
Analyze a Selected Few
Controversial Projects in
More Depth, and Learn
about Many Such Projects
through Regular
Interaction with
Nongovernmental
Organizations

USAID and Treasury Are
Governed by Different
Statutory Responsibilities for
Analyzing the Impacts of
Controversial Projects

Title XIII does not specify a particular process that USAID and Treasury should use when considering environmental assessments, and the agencies use different standards when assessing the sufficiency of environmental impact assessments. Though USAID and Treasury are charged with different statutory responsibilities, each agency may evaluate environmental impact assessments on proposed projects during its review process. Neither federal law nor agency regulations specify one standard to be used across the federal government when considering proposals or environmental impact assessments.

Section 1303 of Title XIII requires USAID to ensure that other U.S. agencies and overseas USAID missions analyze, where feasible, the environmental impacts of multilateral development loans well in advance of the loans' approval to determine whether the proposals will contribute to the sustainable development of the borrowing country. USAID is also required to ensure that investigations of proposed projects with "substantial adverse impacts" are conducted. Because the law contains no prescriptive requirements for how to ensure that investigations of projects with likely substantial adverse impacts are conducted, USAID has taken various approaches to fulfilling this requirement. In previous years, the agency conducted a brief annual review of a large number of proposed projects; in contrast, its current approach is to conduct a thorough analysis of a much smaller number of proposed projects. For example, USAID's 1999 report to Congress briefly highlighted environmental concerns in 29 projects. In contrast, the latest report, from April 2008, provides an in-depth analysis of nine projects.

According to the official responsible for conducting the investigations, USAID reviews the project's environmental assessment, as well as related studies, such as the environmental management plan. To perform its analyses, USAID employs a technical expert, who evaluates proposals' environmental and social impacts against USAID standards as well as

other guidance, such as that developed by the Council on Environmental Quality (CEQ).¹⁴ This technical expert told us she uses certain criteria when determining whether a proposed project should be investigated and applies them at her discretion. These criteria include, among others, the significance and potential of adverse cumulative impacts, the ability of the proposal to serve as a model for similar proposals within a particular sector, and the potential for the proposal to undermine USAID's sustainable development activities. USAID may also perform site visits to the proposed project location. During these visits, USAID and other U.S. government officials, including those from Treasury and State, may meet with stakeholders such as the project sponsor, World Bank Group staff, host-country government officials, and local communities affected by the proposal. In addition, USAID may continue to monitor and report on the project if the World Bank Group board approves it once financing and construction begin.

Treasury, in determining the U.S. position on proposed actions to be taken by the World Bank Group, is required to develop and prescribe procedures that consider environmental impact assessments, the interagency and public review of these assessments, and other environmental reviews and consultations required by law. Treasury issued regulations in 1992 to fulfill this requirement; however, the regulations do not specify criteria to be used in the interagency process that measure the sufficiency of the environmental assessments. While these regulations address how Treasury will instruct the U.S. Executive Director to proceed at the World Bank Group when an environmental analysis is determined to be insufficient, the regulations do not identify a set of criteria or standard against which to measure sufficiency. While USAID uses guidance and regulations issued by the Council for Environmental Quality when reviewing different aspects of environmental assessments, Treasury often uses internal requirements issued by the World Bank.

Although not required to do so by law, Treasury occasionally conducts additional, more in-depth investigations of a few World Bank Group proposals that it determines to be controversial, such as mining or oil and

¹⁴See USAID's Environmental Procedures, 22 C.F.R. Part 216; The National Environmental Policy Act of 1969 (NEPA), as amended; CEQ Regulations for Implementing the Procedural Provisions of NEPA, 40 C.F.R. parts 1500-1508; and CEQ guidance on implementing 40 C.F.R. Part 1500-1508: <http://www.nepa.gov/nepa/regs/guidance.html>.

U.S. Government Agencies
Focus Attention Predominantly
on Projects Identified by
Nongovernmental
Organizations

gas projects, or that present opportunities for reducing adverse impacts.¹⁵ Unlike its more procedural reviews of proposals for compliance with the Pelosi Amendment, Treasury officials said they may evaluate these proposals' documentation for compliance with the multilateral development banks' internal requirements for assessing environmental and social impacts.¹⁶ However, they do not necessarily determine, for example, whether the World Bank's "good practices" have been followed. The World Bank's good practices, compiled in its Environmental Assessment Sourcebook, give examples of practices that the World Bank considers models for project managers to emulate, such as establishing project supervision and monitoring programs.¹⁷

According to officials from U.S. agencies, of the few proposed projects that Treasury and USAID select for in-depth analysis, many come to their attention through regular interaction with nongovernmental organizations. To foster dialogue with interested non-governmental organizations and to fulfill legislative requirements, Treasury and USAID meet with nongovernmental organizations in a forum commonly referred to as the Tuesday Group, since it generally meets on the first Tuesday of each month.¹⁸ At this forum, the agencies often obtain leads on potentially controversial projects through discussions of planned and ongoing multilateral development bank projects that may have significant adverse environmental and social impacts.

¹⁵The Treasury official responsible for performing these analyses stated she may initiate the analyses many months to years before the proposed project is scheduled for a board vote. She provided information indicating that Treasury performed four such analyses in 2006 and 2007.

¹⁶The World Bank, IFC and MIGA each has its own requirements, which project sponsors must follow when preparing environmental assessments. For example, the World Bank lays out its requirements for environmental assessments in its Operational Directive 4.01. The World Bank also has an environmental assessment guidebook, the *Environmental Assessment Sourcebook*, which contains advisable practices that could be employed when preparing an environmental assessment. The World Bank recommends, but does not require, that environmental assessments conform to these advisable practices.

¹⁷*World Bank Environmental Assessment Sourcebook*, rev. 1999.

¹⁸The Tuesday Group is chaired by USAID and the Bank Information Center, a nongovernmental organization. Treasury regulations require Treasury to consider all comments made from any member of the public during the periodic meetings convened by the Bank Information Center and present summaries to other U.S. government agencies participating in an interagency working group led by Treasury (31 C.F.R. § 26.4(a)(2)).

In mid-2008, Treasury informally proposed changing the structure of these meetings. Specifically, Treasury's proposal establishes a steering committee consisting of a representative from Treasury, USAID, and two nongovernmental organizations¹⁹ for the purpose of reviewing and selecting submitted discussion topics for subsequent meetings, which would then focus the discussion on those issues that the steering committee identifies. Treasury officials said that this proposal is meant to make the meetings more efficient, since the officials have many responsibilities and can devote only a small share of their time to assessing the environmental impacts of multilateral development bank projects. We discussed this proposal with the Bank Information Center in September 2008; the Center and Treasury are considering a compromise proposal that would have an agreed-upon agenda while setting aside some time for open-ended discussion.²⁰

U.S. Government Ability to Identify Environmental Concerns Is Limited, and World Bank Group Projects with Potentially Significant Adverse Impacts Proceed with or without U.S. Government Support

Time constraints limit the U.S. government's ability to identify the environmental and social concerns associated with World Bank Group projects before the World Bank Group board votes on them, and projects with potentially significant adverse impacts proceed with or without U.S. government support. By the time a project is ready for board vote, it is often in its final design stage or, in some cases, already under construction, which limits U.S. agencies' ability to identify ways to mitigate environmental and social issues associated with the project. Furthermore, the World Bank Group consistently approves projects with potentially significant adverse impacts without U.S. government support; between January 2004 and April 2008, all 34 of the projects the U.S. Executive Director did not support because they did not meet the Pelosi Amendment requirements were still approved by the World Bank Group's Board of Directors and moved forward. In addition, the U.S. government occasionally supports projects with significant environmental impacts, due to competing priorities and a belief that potential impacts can be mitigated.

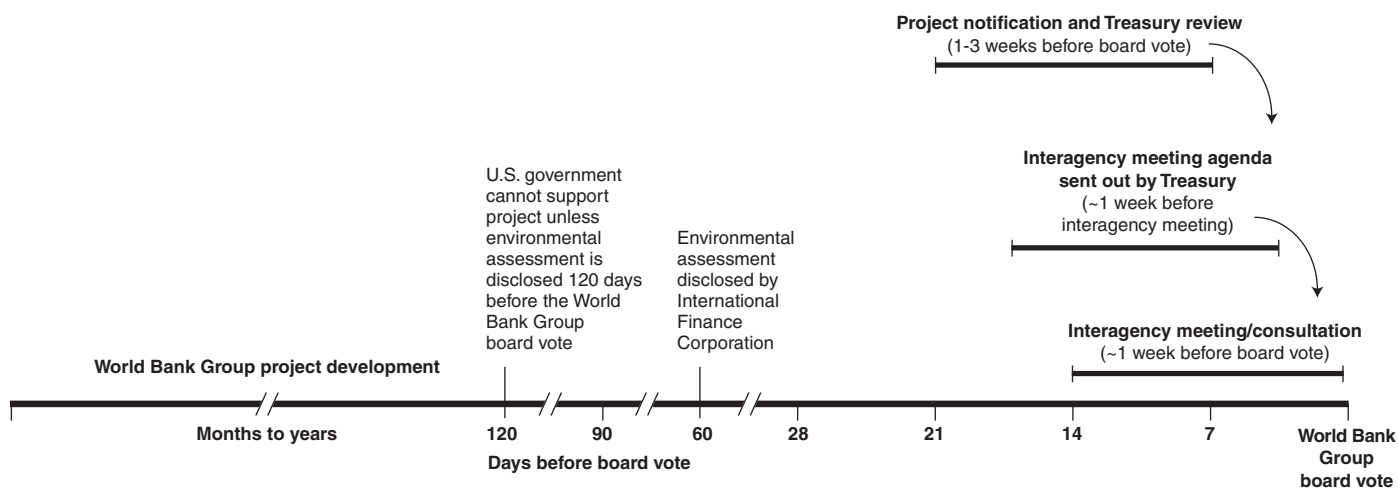
¹⁹In its proposal, Treasury has named only one nongovernmental organization, the Bank Information Center. A Treasury official said the agency has yet to identify a second organization to participate in the proposed steering committee. This proposal is very similar to one described in section 5, annex A of USAID's 2002-2004 report to Congress.

²⁰In commenting on this report, Treasury officials noted that, as of October 2008, an open discussion period has been part of the Tuesday Group meeting format.

The U.S. Government's Ability to Identify Environmental and Social Issues Associated with Most World Bank Group Projects Is Limited by Review Time Frames

Officials from agencies that participate in the interagency working group told us that they usually do not have sufficient time to identify environmental and social issues associated with projects in the few weeks encompassing the World Bank Group's notification of a proposed project scheduled for a vote, the working group meeting at which the project could be discussed, and the date the board votes on the project. Figure 1 shows the timeline of events related to the U.S. government's review of proposed World Bank Group projects.

Figure 1: Timeline of Events Related to U.S. Government Review of Proposed World Bank Group Projects



Source: GAO analysis of Department of Treasury data.

Treasury officials said that they are notified about projects when they receive a project appraisal document, which describes the project and is what the board reviews when it votes on a project. They said they generally receive this document about 1 to 3 weeks before the board is scheduled to vote on the project.²¹ They then put these projects on the working group meeting agenda. The working group meetings generally take place approximately 1 or 2 weeks before the board votes on projects,

²¹Treasury officials noted that, while they do not have the fully appraised project proposal until about 3 weeks before the board vote date, they do receive some project information much earlier, through a 6-month "pipeline" notification system that they have asked each multilateral development bank to prepare. They also stated that they share this information with other agencies in an ongoing consultation process prior to the interagency meeting.

and Treasury e-mails a list of projects and estimated board vote dates to relevant U.S. agencies about 1 week before each meeting. State and USAID officials noted that this compressed time frame makes it difficult to review project documentation and solicit input from relevant officials from other offices within their agencies. Furthermore, USAID staff in countries where projects are being proposed have limited time to review project documentation because they do not have access to the necessary project documents and depend on staff in Washington to make this information available to them, according to USAID officials. Even when U.S. agencies are able to identify project-related issues, the U.S. government has little time to discuss these issues with the World Bank Group. USAID officials stated that project stakeholders are unlikely to alter the project without sufficient time for discussion before a vote.²²

Even when agencies can identify issues before the board vote, the project is often in its final design stage or, in some cases, already under construction, so the extent to which the World Bank Group can mitigate the issues is limited. Treasury officials stated that there is little opportunity to influence project design once the World Bank Group has released the project appraisal document shortly before the board votes on the project. In addition, an April 2008 USAID report to Congress stated that there are inadequate opportunities to identify, avert, or mitigate adverse environmental and social impacts associated with the projects even when the multilateral development banks release the environmental documents 120 days before the board votes, as the Pelosi Amendment requires. In some instances, projects may already be under construction. For example, construction began on an IFC-financed gold mine in Guatemala a month before the project went to the board for a vote,²³

²²According to some agency officials, the board vote date might be postponed to allow more time for discussion, although this is rare. For example, according to Treasury officials, IFC management delayed voting on a paper mill project in Uruguay to allow for an analysis of cumulative impacts of the two mills that were planned in the project. However, this was a highly unusual case that was brought to the U.S. government's attention by a high-level delegation from Argentina, which would have been affected by the project. According to Treasury officials, if they need clarification about a project while conducting a review before a board vote, they will contact World Bank Group officials to discuss the project. However, if they do not obtain a response from World Bank Group officials before the board vote date, Treasury must make a decision based on the information it already has.

²³According to an expert on the environmental impacts of World Bank Group projects who worked for several decades as an Environmental Advisor to the World Bank Group, IFC projects often have additional financing from the private sector, which allows construction to begin before the project sponsor applies for or is approved to receive IFC financing.

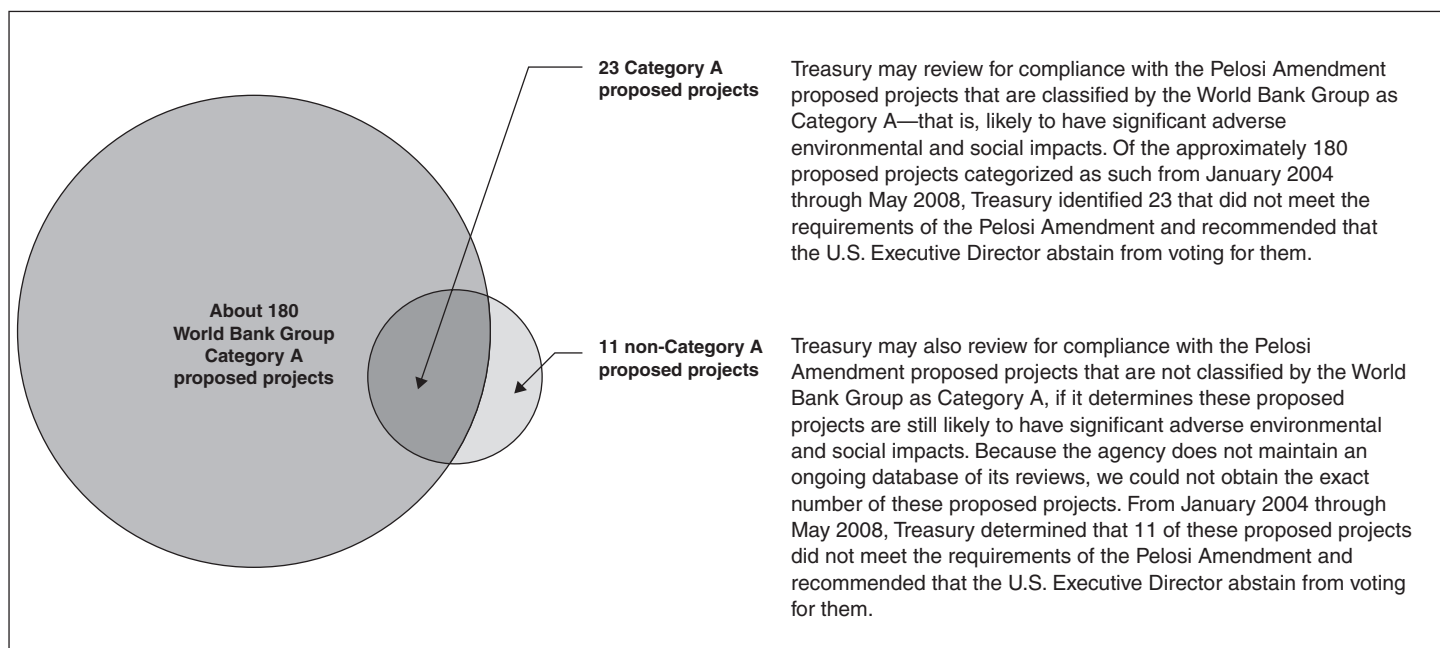
despite problems associated with the project, including inadequate consultations with the affected community and potential water contamination, according to a USAID report. In its 2005 annual report to Congress, Treasury noted that, while the timeliness and quality of environmental impact assessments of World Bank Group projects had improved, the agency remained concerned about the need to determine appropriate interventions if projects had already begun construction or suffered from a legacy of unaddressed environmental damage.

The World Bank Group Consistently Approves Projects That Lack U.S. Government Support

Since 2004, the World Bank Group has always approved proposals that lack U.S. support, even if they have potentially significant adverse environmental and social impacts. A lack of U.S. government support for proposals that do not comply with the Pelosi Amendment does not prevent the board from approving such proposals because one member country's vote cannot prevent approval. Between January 2004 and May 2008,²⁴ all 34 of the proposed projects the U.S. Executive Director did not support because they did not meet the Pelosi Amendment requirements were still approved by the World Bank Group Board of Directors and moved forward. (See fig. 2 for the number of proposals Treasury has not supported due to lack of compliance with the Pelosi Amendment.)

²⁴This was the most complete data at the time of our analysis.

Figure 2: Number of World Bank Group Proposals That Treasury Has not Supported due to Lack of Compliance with the Pelosi Amendment, January 2004 through May 2008



Source: GAO analysis of Department of Treasury and World Bank Group data.

Treasury officials told us that overall U.S. interests are sometimes served when the board approves projects that the Pelosi Amendment prevents the United States from supporting. For example, in one case, the board approved a proposal for a development project in Iraq that the U.S. government would have otherwise wanted to support, but could not because it did not meet the amendment’s 120-day disclosure deadline.

Furthermore, once proposed projects are approved by the board, they are unlikely to be modified to address U.S. concerns about adverse environmental and social impacts. U.S. government officials informed us that changes are seldom made to a project as a result of the U.S. Executive Director not supporting it.²⁵ According to Treasury officials, once the

²⁵In commenting on this report, Treasury officials stated that, while this situation is rare, there have been two multilateral development bank projects over the past year that were changed following the circulation of a U.S. statement to the board the night before the vote indicating that the United States would vote no. These projects were a World Bank road project in the Philippines and an Asian Development Bank technical assistance proposal for a feasibility study of roads through Indonesian national parks.

board has approved the proposal and the World Bank Group has funded the project, Treasury has little leverage in influencing any changes to mitigate adverse environmental or social impacts.

The United States Occasionally Supports Projects with Significant Environmental Impacts, Due to Competing Priorities

In some cases, Treasury recommends that the U.S. Executive Director support projects with significant adverse impacts. Some U.S. agencies may want to oppose these projects because of environmental concerns, but Treasury sometimes recommends that the U.S. Executive Director vote in favor of the project if it determines that it is in compliance with the Pelosi Amendment and that potential impacts can be mitigated. As the lead U.S. agency in formulating the U.S. government's position on proposed multilateral development bank projects, Treasury's determination takes into account competing priorities—such as economic development—as well as environmental concerns and, therefore, does not always reflect consensus either among agencies or among units of the same agencies. For example, when reviewing an environmental assessment and associated documentation for a hydroelectric dam project in Uganda, USAID and EPA raised environmental concerns and recommended that Treasury instruct the U.S. Executive Director not to support the project. USAID and EPA officials opposed the project because, among other things, they believed the environmental analysis was incomplete and the analysis of the impact of the dam on endangered species was inadequate. However, Treasury ultimately supported the project due to economic considerations, having determined that the measures the project sponsor would take to mitigate the adverse impacts were sufficient. In its memo to instruct the U.S. Executive Director to support the project, Treasury stated that the project would help reduce Uganda's electricity shortage and, thereby, lower an obstacle to economic growth and development. State also ultimately supported the project because it brought an acceptable balance across multiple issues, including clean energy, economic development, and political support for the Ugandan government, according to State officials.

We could not determine the extent to which the U.S. government balances competing priorities for projects with potentially significant adverse environmental and social impacts that are compliant with the Pelosi Amendment. Between January 2004 and July 2008, Treasury supported 17 World Bank Group proposals for which it determined that significant environmental impacts would occur, but be mitigated. However, because Treasury does not generally write memos to the U.S. Executive Director for projects it supports, it does not maintain documentation to show to what extent other issues may have outweighed environmental and social

concerns in these cases.²⁶ Treasury officials responsible for conducting environmental reviews stated that for controversial projects, decisions are made by senior-level administration officials.

Conclusion

Given the potential consequences of World Bank Group projects with significant environmental and social impacts, the overriding constraints posed by the World Bank Group's project development and approval process, and the restrictions the Pelosi Amendment imposes on the U.S. government's decision-making, U.S. agencies must coordinate efficiently to maximize their resources within the very limited time they have available to review upcoming projects. However, Treasury is not maximizing the effectiveness of a major mechanism for gathering interagency views on projects—the weekly interagency working group it leads. The working group meetings, which Treasury uses to meet its legal requirement to consult with other agencies on the possible impacts of World Bank Group proposals, are meant to provide an opportunity for all participants to utilize their expertise and discuss their perspectives and concerns as part of the vetting process to determine a U.S. position on the proposals. Prior to the meetings, Treasury's staff flag those projects that they believe have potentially significant environmental and social impacts. Treasury has not, however, been routinely passing this information on to the other participants of the working group in advance of group meetings. For example, Treasury only identified about 15 percent of such projects in working group agendas in 2007. Without this identification, working group agencies have been limited in their ability to effectively contribute to the interagency effort to evaluate proposed World Bank Group projects.

Recommendation for Executive Action

In order to improve U.S. agencies' ability to effectively contribute to the interagency effort to evaluate World Bank Group proposals that are likely to have significant adverse environmental and social impacts, we recommend that the Secretary of the Treasury, in his capacity as the chair of the Working Group on Multilateral Assistance, routinely identify all proposals of concern in advance of working group meetings with other agencies in order to maximize the ability of all participants to contribute to the evaluation of World Bank Group proposals.

²⁶Treasury officials noted that their agency generally prepares decision memos for support for highly controversial projects, very large projects, and all China projects.

Agency Comments and Our Evaluation

We provided a draft of this report to Treasury and USAID for their review and comment. Treasury and USAID provided written comments, which are reprinted in appendix II and III respectively. Treasury also provided technical comments, which are incorporated as appropriate throughout the report.

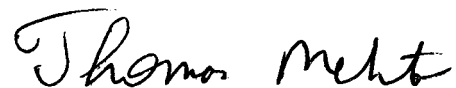
Treasury agreed with our recommendation and noted in its technical comments that it welcomes this recommendation and is already taking a number of measures to comply with it. Treasury also disagreed with two of our findings. First, Treasury disputed our finding that its efforts had little impact, because it believed we did not adequately note Treasury's behind the scenes efforts to influence project design. In response, we have added language to the report to reflect some of these efforts. However, Treasury did not provide us with information to gauge the impact of these communications and Treasury officials also told us they could not determine what impact these communications have on project design. Second, Treasury also believed that we characterized the interagency process as limited to weekly meetings. While we disagree with Treasury's interpretation, we added language to clarify the extent of interagency communication.

In its comments, USAID suggested that the recommendation may warrant further guidance to more clearly address very short lead times for notice to other agencies. We did not, however, revise this recommendation because we believe it is up to Treasury to determine how best to implement the recommendation. USAID's comments also raised several issues, including that our report title was overly expansive. In response, we modified the title to clarify that the report addresses certain procedures required by U.S. law. USAID was also concerned that our report did not address all provisions in Title XIII, such as creating a system for information exchange with other interested member countries. These were not within the scope of this report because we focused our review on those sections of Title XIII that directly address U.S. government oversight of the potential environmental and social concerns associated with proposed World Bank Group projects. USAID was also concerned that we did not address whether Treasury has sufficient expertise to evaluate measures to mitigate environmental damage. However, it is beyond the scope of this report to determine whether mitigation measures have been effective; we anticipate addressing this issue in our next report, which will focus on project implementation. More detail on USAID's comments and our evaluation can be found in appendix III.

We are sending copies of this report to interested congressional committees, the Secretary of the Treasury, and the Administrator of USAID. The report is available at no charge on the GAO Web site at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (202) 512-9601. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made major contributions to this report are listed in appendix IV.

Sincerely,

A handwritten signature in black ink that reads "Thomas Melito". The signature is written in a cursive, slightly slanted style.

Thomas Melito
Director, International Affairs and Trade

Appendix I: Objectives, Scope, and Methodology

Our objectives were to assess (1) how U.S. agencies implement their legislative requirements to review the potential environmental and social concerns associated with proposed World Bank Group projects, and (2) agencies' ability to identify and address these concerns.

To assess how U.S. agencies implement their legislative requirements, we reviewed environmental legislation, including: Title XIII of the International Financial Institutions Act of 1977, as amended; the procedures for the environmental review of proposed projects of multilateral development banks in 31 C.F.R. Part 26; as well as the U.S. Agency for International Development's (USAID) Environmental Procedures contained in 22 C.F.R. Part 216. We also reviewed legislation governing U.S. environmental assessments, such as the National Environmental Policy Act of 1969 (NEPA) and Council on Environmental Quality Regulations for Implementing the Procedural Provisions of NEPA, 40 C.F.R. Parts 1500-1508; and, Council on Environmental Quality guidance on implementing 40 C.F.R. Part 1500-1508. To determine how agencies implement their legislative requirements, we interviewed U.S. government officials from the Environmental Protection Agency (EPA), USAID, and the Departments of State and the Treasury (Treasury), as well as expert staff from environmental non-governmental organizations. Because not every agency keeps complete records of its environmental oversight activities or has internal policies governing such actions, certain procedural documentation could not be provided. In such cases, we relied on agency officials' testimonial evidence.

To examine agencies' ability to identify and address environmental concerns of proposed World Bank Group projects, we reviewed agency documents such as periodic reports to Congress, agency decision memos, and the U.S. government's voting record on World Bank Group proposals. We also interviewed U.S. government officials from EPA, USAID, and the Departments of Commerce, State, and Treasury. In addition, we interviewed relevant World Bank Group officials from the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, and the Multilateral Investment Guarantee Agency, as well as environmental experts from nongovernmental organizations, and the private sector.

To determine the number of World Bank Group projects that the U.S. Executive Director abstained from voting on due to the requirements of the Pelosi Amendment, we collected data from Treasury on the U.S. Executive Director's voting record from January 2004 through May 2008. We also used these data to identify projects supported by the U.S.

Executive Director that Treasury determined may have significant environmental impacts, but that the U.S. Executive Director supported based on Treasury's determination that such impacts have been addressed and mitigated in the design of the project.

To assess the reliability of Treasury's data on the U.S. Executive Director's voting record, we (1) interviewed the Treasury official responsible for managing the team of analysts who record data on the status of multilateral development bank projects; and (2) reviewed the voting record data. During the course of our review, we identified incomplete data fields and manual data entry errors, such as duplicate entries of the same project. However, based on our intended use of the data—to identify how the U.S. Executive Director voted on particular World Bank Group projects—and the results of our assessment, we determined that the data provided were sufficiently reliable for the this purpose.

Because Treasury does not maintain a database of the projects it reviews for compliance with the Pelosi Amendment, we requested that the agency create a list of projects receiving such a review for calendar years 2006 through 2008. The Treasury analyst conducting these reviews compiled for us an estimate of the projects she reviewed during this time frame. She stated that she compiled the list from a manual log she keeps along with archived emails. Although the analyst stated that the list was generally accurate it is possible that a few projects may not have been captured. We determined, however, that the data provided were sufficiently reliable for the purposes of this report.

To determine the total number of projects the World Bank Group identified as (1) having the potential for significant adverse impacts; (2) having the potential for limited adverse impacts; or (3) having funds channeled through a financial intermediary, we extracted data from the World Bank's and IFC's project Web sites from January 2004 through May 2008. Since the World Bank Group has not completed vetting its response to our request to conduct a review of World Bank Group environmental assessment policies and their implementation, it therefore did not allow us to assess the reliability of World Bank and IFC data. Although we used this data to identify an approximate number of projects that were categorized by the World Bank and IFC as likely to have significant adverse environmental impacts, the reliability of those data are undetermined.

Due to the nature of the Multilateral Investment Guarantee Agency's (MIGA) business model (providing political risk insurance and project guarantees), it was not feasible for us to collect project-related data, since

MIGA's tracking and monitoring activities are different than those of the IFC or the World Bank. For example, MIGA does not categorize its support in terms of individual projects, but rather in terms of individual guarantees from distinct investors. Therefore, there may be more than one investor who has applied for and obtained MIGA insurance and, thus, more than one guarantee for a given project.

We conducted this performance audit from October 2007 to November 2008, in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix II: Comments from the Department of the Treasury and GAO's Evaluation

Note: GAO comments supplementing those in the report text appear at the end of this appendix.



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

November 7, 2008

Mr. Thomas Melito
Director, International Affairs and Trade
Government Accountability Office
441 G St., NW
Washington, D.C. 20548

Dear Mr. Melito:

I welcome the opportunity to comment, on behalf of the Treasury Department, on the Government Accountability Office's report on International Environmental Oversight. We found it to be a useful presentation, and we appreciate the effort your staff put into this report.

We fully agree with the report's assessment that Treasury has followed the procedures required by Title XIII of the International Financial Institutions Act of 1977 through the establishment of a rigorous loan review process. However, we dispute your claim that our efforts have little impact. This finding is based on the fact that U.S. opposition at the World Bank Board is insufficient to block projects from going forward. However, the report does not take into account Treasury's efforts behind the scenes to influence project design, which we believe have yielded benefits. In this regard, we look forward to your second report on this topic, and anticipate that you will find that U.S.-led efforts have had a significant impact on the World Bank's environmental due diligence over the past twenty years.

We also disagree with your characterization of the interagency process as one that is limited to weekly meetings, an assertion which does not reflect the dynamic nature of the process. In fact, the process of consultations and coordination with other agencies can be quite intensive, and includes regular engagement among staff.

That said, your point that the sheer volume of projects and limited review time review strains USG analytical resources is a valid one. To manage these strains, Treasury is committed to increased efforts to provide agencies with earlier warning on environmentally significant projects. We already provide a 6-12-month pipeline of upcoming MDB projects to all agencies, but going forward we will incorporate the pipeline into the weekly discussions. We also now include in the agenda for the weekly meetings the environment category for each project, in conformity with your recommendation.

Thank you for the opportunity to review and comment on the draft report.

Sincerely,

A handwritten signature in cursive script that reads "Karen Mathiasen".

Karen Mathiasen
Acting Deputy Assistant Secretary
International Finance Development and Debt

See comment 1.

See comment 2.

The following are GAO's comments on the U.S. Department of Treasury's letter dated November 7, 2008.

GAO Comments

1. Treasury disputed our finding that their efforts have little impact. While Treasury officials did note that they communicate with World Bank Group officials informally about projects, Treasury did not provide us with information to gauge the impact of these communications. Furthermore, Treasury officials also told us they could not determine what impact these communications have on project design.
2. Treasury asserted that we characterized the interagency process as limited to weekly meetings. While we did not specifically state that the interagency process is limited to the weekly interagency working group meetings, we have added language to clarify the extent of interagency communication.

Appendix III: Comments from the United States Agency for International Development and GAO's Evaluation

Note: GAO comments supplementing those in the report text appear at the end of this appendix.



USAID
FROM THE AMERICAN PEOPLE

Mr. Thomas Melito
Director
International Affairs and Trade
U.S. Government Accountability Office
441 G Street, N.W.
Washington, D.C. 20548

NOV 13 2008

Dear Mr. Melito:

I am pleased to provide the U.S. Agency for International Development's (USAID) formal response on the draft GAO report entitled "*INTERNATIONAL ENVIRONMENTAL OVERSIGHT: U.S. Agencies Follow Procedures Required By Law, But Have Limited Impact*" (Nov 2008) (09-99).

USAID appreciates the opportunity to comment on the GAO's draft report. In general, while it is clear a great deal of work went into this report and GAO has identified some important issues, several key sections of Title XIII do not appear to have been evaluated or, if they were, they were not discussed in the report. For example, Section 1304 requires Treasury, in consultation with State and USAID to create a system for cooperative exchange of information with other interested member countries on assistance proposals. The overarching objective of the International Financial Institutions Act (Title XIII) and relevant sections is "to vigorously promote mechanisms to strengthen the environmental performance of these banks". The creation or effectiveness of this system was not discussed, including recommendations or corrective measures to improve the process to increase potential impact.

Detailed commentary on the draft report with proposed recommendations covering the following areas is enclosed:

- Report Title
- Timing Constraints
- Mitigation Measures
- Section 1307
- Reviews and Standards of Reviews

U.S. Agency for International Development
1300 Pennsylvania Avenue, NW
Washington, DC 20523
www.usaid.gov

See comment 1.

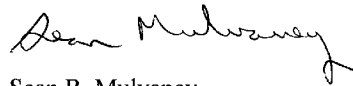
**Appendix III: Comments from the United
States Agency for International Development
and GAO's Evaluation**

- 2 -

- Tuesday Group
- GAO draft report recommendation

Thank you for the opportunity to respond to the GAO draft report and for the courtesies extended by your staff in the conduct of this review.

Sincerely,



Sean R. Mulvaney
Assistant Administrator
Bureau for Management

Enclosure: a/s

DETAILED COMMENTARY

See comment 2.

Report Title: The report title is overly expansive since the report only covers USG oversight of Multilateral Development Banks (MDBs) and not “international environmental oversight,” which is a far broader issue. In addition, this report focuses only on the World Bank group, while Title XIII of the International Financial Institutions Act (Title XIII) applies to all eleven MDBs.

Timing constraints: The timeline on which GAO bases a number of its findings starts when the Project Appraisal document is released, which is usually 1-3 weeks before the Board vote. USAID agrees that this short timeline is a serious problem for engaging effectively with the MDBs, especially for loans where a project is already underway and construction has begun long before the loan comes to a vote. In such “after the fact” loans, there is limited ability to affect the environmental impacts of a project.

See comment 3.

However, the single focus and reference to this timeline is misleading. It does not take into consideration the time period leading up to release of the Project Appraisal document when the project Environmental Impact Assessment (EIA) has been released to the public 120 days prior to Board vote for World Bank (Bank) projects. Although it is ideal to engage with the Bank and project sponsors prior to the finalization of the EIA, USAID believes it is possible to conduct a worthwhile investigation of the project during the time immediately following the initial EIA release. This would include review and analysis of environmental documentation, as well as conducting site visits and meetings with stakeholders to develop recommendations for USG engagement with Bank management on project improvements. Obviously the final USG position would have to wait until the Project Appraisal document is released, but by engaging earlier, the USG could have a greater opportunity to discuss recommendations with the Bank. The Project Appraisal document would then form the basis to determine the extent to which the recommendations have been considered and integrated into the project. This early upstream approach has been recommended by USAID since 2002 with the initial restructuring of Tuesday Group (the monthly meeting of non-governmental organizations (NGOs) and U.S. Government agencies, co-chaired by USAID and Bank Information Center to address MDB project loans and policies).

Mitigation measures: In several places, the report states that Treasury supports projects with significant adverse environmental impacts due to competing priorities and based on the belief that potential impacts can be mitigated (pages 5, 17, 21). The report implies that Treasury has the expertise to review the EIAs and

- 4 -

determine if the mitigation measures are appropriate. For example, the report states that “. . . USAID and Treasury analyzed in more depth the potential environmental and social impacts. Because they have different statutory responsibilities and flexibility within their statutory requirements, the agencies conduct the reviews and apply criteria differently” (page 4). Without a substantive assessment of the EIA and clear standards of review it is difficult to determine whether credible analysis was established against which to determine the scope and scale of environmental and social impacts and what measures might be needed to avoid or mitigate impacts. In many cases, information on funding and third party responsibilities and/or commitments to implement the mitigation plan are not available as part of the Board's project review process. Therefore, there is no way to determine if the mitigation plan will be viable.

See comment 4.

These concerns could be addressed on projects that rely on mitigative measures to reduce environmental impacts to an acceptable level by requiring that the full funding and commitments for the EIA monitoring and mitigation plan be made an integral part of the loan amount and the Bank's internal management plan for the loan. This would also be a required part of the standard Board review process.

See comment 5.

Section 1307: USAID strongly believes that the intent of the Section 1307 (Pelosi Amendment) is more than just a procedural process. The 120-day public disclosure period prior to Board vote should be the opportunity where a fully developed environmental impact assessment, including adequate alternatives analyses and cumulative and associated effects analyses, is available to both the public and the member countries of the MDB to engage in an informed discussion that results in concrete improvements to the final design. The broader objective of Title XIII is to improve the environmental performance of the MDBs and to have EIAs account for cumulative and associated impacts. The EIA is the foundation for improving environmental performance of bank projects and by not “vigorously promoting mechanisms to strengthen the environmental performance of these banks,” the intent of Title XIII is not being achieved.

The report cited the Uganda (Bujagali) Hydropower project as a project Treasury supported contrary to USAID's recommendation. Among USAID's concerns was that the environmental analysis included an inadequate cumulative impact analysis required under Section 1307 (Pelosi Amendment) (page 21). It should be noted that the USAID finding that the environmental analysis was incomplete has since been supported by the African Development Bank's own Compliance Review and Mediation Unit.

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An example was provided to demonstrate that the Pelosi Amendment can prevent the US from supporting projects it would otherwise want to support (page 21). This example was a development project in Iraq which the USG wanted to support but could not because it did not meet the 120 day disclosure period. This example also illustrates the intent of the Pelosi amendment to require public disclosure of EIAs in sufficient time to ensure that affected groups and local nongovernmental organizations have access to available information.

Reviews and Standards of Review: The report states that Treasury is to consult with other US agencies to develop environmental impact review procedures for proposed MDB projects (Section 1307(d)) (page 8). To USAID's knowledge this has not occurred, as evidenced in the report's statement that US agencies take various approaches (page 3) and have different environmental standards when assessing the sufficiency of environmental impact assessments (page 13).

USAID has found that some EIAs issued by the Banks do not meet any international standards for EIAs, or domestic ones applied by the Executive Branch to its own projects, nor even the Banks' own standards. Omissions of such basic EIA elements as cumulative impacts, associated facilities impacts, baseline studies, no-action alternatives, consultation with the affected public including indigenous peoples, and adaptive management are highly significant and not merely matters of EIA style.

The report states that USAID may evaluate the environmental impact assessments of a project during its review (page 13). The majority of reviews that USAID undertakes are considered under Section 1303 (a), and as such USAID would like to clarify that it always evaluates the EIA.

The report states that USAID may meet with stakeholders when performing site visits (page 14). When USAID undertakes an affirmative investigation it always meets with as many stakeholders as possible in order to gain a more complete understanding of the project to be able to make informed recommendations.

USAID notes that in practice, Title XIII analysis is applied to a limited number of proposed MDB loans – essentially ones with the greatest potential for significant adverse environmental and social impacts. The purpose is to focus finite resources to achieve in-depth analysis of projects that can serve as examples for the rest of the MDB projects to follow. Consequently, no conclusions should be drawn from the numbers in this report on the overall percentage of MDB projects having significant environmental problems.

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See comment 6.

We also believe that the report should include recommendations on ways to harmonize the seemingly disparate review standards being used.

See comment 7.

Tuesday Group: There are factual errors in the report with respect to the Tuesday Group (TG). First, Treasury is not a co-chair of Tuesday Group. USAID and the Bank Information Center (a non-governmental organization) are the co-chairs. Second, the proposal attributed to Treasury is inaccurate. The proposal described in the draft report was agreed upon in 2004 based on consultations with NGOs and U.S. Government agencies, and was first reported in USAID's MDB Report to Congress 2002-2004. Please see attachment. Treasury did submit a different proposal recently, and USAID has provided comments to Treasury on it.

See comment 8.

GAO draft report recommendation: The recommendation that "the Secretary of the Treasury, in his capacity as the chair of the Working Group on Multilateral Assistance, routinely identify all proposals of concern in advance of working group meetings" may warrant further guidance to more clearly address the very short lead times for notice to other agencies.

Section 5

REORGANIZATION OF TUESDAY GROUP

Annex A

Complementing the U.S. government interagency review process is the Tuesday Group (TG) which is comprised of concerned NGOs and U.S. Federal agencies. Meeting monthly for more than a decade, it addresses policies, macroeconomic and project loans of the MDBs. Meetings are held in Washington and attended by representatives of several agencies and about 25 NGOs as well as guests from around the world. USAID and the Bank Information Center (BIC), an NGO serving citizens groups concerned about MDBs, co-chair the meetings. Minutes from the meetings are shared with about 165 NGOs worldwide.

Proposal for Restructuring Tuesday Group (adopted June 2004)

The objective for restructuring is to ensure TG is a vehicle for substantive input on the policies and projects of the MDBs. The restructuring proposal seeks to address several issues raised by TG participants: informed discussion at TG requires advance circulation of information; many important MDB issues that deserve TG attention require more proactive identification and preparation; agenda items often require more structure to ensure full discussion. The new TG format will be reviewed after several meetings and is open for further refinement.

A Steering Committee comprised of USAID, Bank Information Group, the Department of the Treasury, and an NGO to be determined, will confer monthly to plan the ensuing TG meeting:

- Set agenda for following TG via submitted proposals (NGOs or U.S. Federal agencies) and by proactively identifying issues and relevant presenters/responders
- Use Chatham House Rule
- Operate via meetings, calls and emails

Any differences will be resolved by the co-chairs (USAID and BIC).

Criteria used by the Steering Committee for determining which submitted issues are prioritized for in-depth discussion or only as an announcement:

- Identifiable environmental and social impacts
- Sustained engagement by project proposer to help achieve objectives
- Importance of potential implications of the project/policy
- Leverage TG can bring towards contributing to positive changes with respect to project/policy

NGOs and U.S. Federal agencies are to submit a one-page outline of proposed project/policy issue for initial discussion to TG co-chairs at least three weeks prior to TG meeting (see timeline below). Format for one-page submission should identify:

- Project/policy/issue
- Potential environmental and social impacts

- Importance of potential implications of the project/policy (e.g. why discuss this project versus the 100+ category A projects per year that need to be reviewed?)
- Decision points/timeline for proposed intervention(s)
- Objectives of proposed intervention(s)
 - Note: Proposed interventions are directed towards U.S. government or NGOs and may be different depending on U.S. government entity.
- Groups working on issue

Presenters of accepted agenda items are to prepare a 2-3 page (max) presentation and submit to TG co-chairs no later than one full week prior to TG meeting. This will enable TG co-chairs to distribute agenda and submissions to TG participants at least one full week prior to next TG meeting. Suggested format for Tuesday Group presentation:

- Background
- Key Issues
- Proposed intervention(s)/timeline, including objectives of proposed intervention(s)
- Proposer's contribution and sustained engagement to help achieve objectives (i.e. project specific analyses, field outreach, time commitment)

Supporting documents can also be submitted for distribution.

TG meeting format and discussion

- Last minute agenda items for emerging issues (for flagging important developments, not for in-depth discussion)
- Follow up items from previous meetings
- Discussion moderated by TG co-chairs (BIC or USAID). Purpose of discussion is to clarify points made in presentation, to offer additional information, and to facilitate follow-up
- Minutes will be taken and circulated of meeting

Follow-up after TG presentation:

- Relevant organizations will communicate among themselves to determine response to presentation.
- Appropriate organization will inform TG of decision at the next meeting
- As required, relevant organization will host separate project specific meetings
- As required, project updates will be provided during future TG meetings

Appendix III: Comments from the United States Agency for International Development and GAO's Evaluation

-- Note: TG co-chairs will provide an example of follow-up submission (1 page max). Supporting documents can also be submitted for distribution.

One project will be selected for discussion under Chatham House Rule as a test case for determining practicality and receptivity for a blanket adoption of Chatham House Rule at TG. This will require an explicit agreement by all participants.

Timeline for setting agenda

- **Week 1** – TG meeting
- **Week 2** – Proposed agenda items submitted and Steering Committee makes decisions
- **Week 3** – Notify presenters so they can prepare document and submit to TG co-chairs
- **Week 4** – Send out agenda and documents -- at least one full week prior to next TG meeting

The following are GAO's comments on the U.S. Agency for International Development letter dated November 13, 2008.

GAO Comments

1. USAID commented that several sections of Title XIII are not discussed in the report, such as creating a system for information exchange with other interested member countries. This is outside the scope of our report, which focuses on U.S. government efforts to review the World Bank Group's process for assessing the environmental impact of projects. We have added language to the report to clarify this point.
2. USAID commented that our draft report title was overly expansive. In response, we have changed the title to clarify that our report addresses certain procedures required by U.S. law.
3. USAID commented that the focus on a short timeline is misleading because it does not take into consideration the time period leading up to the release of the project appraisal document. However, Title XIII does not provide a timeline for when U.S. government agencies should begin reviewing World Bank Group or other multilateral development bank proposals. By not specifying a timeline, the legislation leaves it up to the agencies to determine when they should begin reviewing proposals. We do note that an April 2008 USAID report to Congress stated that there are inadequate opportunities to identify, avert, or mitigate adverse environmental and social impacts associated with projects even when the banks release the environmental documents 120 days before the board votes. USAID has acknowledged that it can only use the early, upstream approach to provide a more intensive look at a limited number of projects.
4. USAID commented that our report implies that Treasury has the expertise to review environmental impact assessments and determine if mitigation measures are appropriate. However, we do not comment on Treasury expertise. Rather, we acknowledge that USAID and Treasury review documentation for different purposes. We also state that Treasury is the lead agency in formulating the U.S. government's position on proposed multilateral development projects, and that its decisions do not always reflect consensus among agencies or even among units of the same agencies. While the Pelosi Amendment (Section 1307) requires that environmental impact assessments contain associated and cumulative impacts and alternatives to the proposal in order for Treasury to support a project in a board vote, Treasury is not required to consider specific mitigating measures in determining how to instruct the U.S. executive director to vote.

Section 1306, a separate law in Title XIII, requires Treasury to instruct the U.S. Executive Director to vigorously urge the multilateral development banks to consider other environmental factors and to circulate to the bank board documents that include these factors, including mitigating measures. It is beyond the scope of this report to determine whether mitigation measures have been effective; we anticipate addressing this issue in our next report, which will focus on project implementation.

5. USAID strongly believes that the intent of Section 1307 of Title XIII is to be more than just a procedural process. However, the specific provisions of Section 1307 that require U.S. government oversight of the potential environmental and social concerns associated with proposed World Bank Group projects are primarily procedural in nature. We revised the report as appropriate in response to this comment.
6. USAID states that Treasury has not consulted with other U.S. agencies to develop environmental impact review procedures for multilateral development bank projects. USAID believes that our report should include recommendations to harmonize disparate review standards. However, the law does not require agencies to harmonize review standards. Therefore, we did not address this issue in this report.
7. USAID commented on several factual errors in the report with respect to the Tuesday Group. We have revised the report to incorporate the first point regarding Tuesday Group co-chairs. Regarding the second point, we characterized the proposal, dating from mid-2008, as it was described to us by Treasury and the Bank Information Center. Moreover, in a technical comment regarding this proposal, Treasury did not dispute its timing. We have added a sentence to an existing footnote stating that this proposal is very similar to one described in section 5, annex A of USAID's 2002-2004 report to Congress.
8. USAID commented that our recommendation may warrant further guidance to more clearly address the very short lead times for notice to other agencies. However, we did not change our recommendation, which was made to the Secretary of the Treasury. We believe it is up to Treasury to determine how best to implement the recommendation.

Appendix IV: GAO Contact and Staff Acknowledgments

GAO Contact

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Staff Acknowledgments

Anthony Moran, Assistant Director; Kay Halpern; Chris Kunitz; RG Steinman; Christina Werth; and Linda Wong made key contributions to this report. In addition, Ashley Alley, Debbie Chung, Etana Finkler, and Joel Grossman provided technical or legal assistance.

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