

**MULTILATERAL DEVELOPMENT BANKS' SUPPORT FOR  
ANTI-CORRUPTION PROGRAMS**



**Report from the Department of the Treasury to the Committees on Appropriations  
in Response to Sec. 699H of the Joint Explanatory Statement to the Consolidated  
Appropriations Act, 2008**

**June 24, 2008**

## **INTRODUCTION**

The Department of the Treasury submits this report as requested by Section 669(H) of the Joint Explanatory Statement to the Consolidated Appropriations Act, 2008:

The Appropriations Committees expect the Secretary of the Treasury to develop and submit to the Committees on Appropriations by June 1, 2008, a proposal for the establishment on an anti-corruption trust fund or other mechanism, for the multilateral development banks, the purposes of which shall include: to assist poor countries in investigations and prosecutions of fraud and corruption related to loans, grants, or credit provided to them by a multilateral development bank; to provide the means for prosecutorial training and education in order to better equip recipient countries to fight fraud and corruption; and to build the capacity of recipient countries to prevent fraud and corruption.

The Treasury Department agrees that helping developing countries build effective capacity to investigate and prosecute fraud and corruption is an important development goal, and that the Multilateral Development Banks (MDBs) have an important role to play in this effort. Corruption robs the poor of vital development resources, and fighting corruption has been a top priority of the Bush Administration. Treasury has engaged on many fronts with the MDBs to address this issue.

Broadly speaking, Treasury and the MDBs focus their efforts to promote good governance and fight corruption on three levels. First, at the institutional level, we focus on improving MDB internal governance evaluation mechanisms, including investigative mechanisms. In tandem with such efforts, we urge increased disclosure and accountability of MDB operations. Second, at the project level, we encourage MDBs to analyze and design projects that help eliminate the scope for corruption, strengthen fiduciary standards, and improve project supervision. Third, at the country level, we focus on enhancing transparency and accountability of recipient country governance systems, and channeling MDB resources to countries that have the strongest records on good governance.

Treasury also submits annual reports to Congress on Multilateral Development Bank (MDB) support for anti-corruption efforts. The first report, in October 2001, described the basic anti-corruption policies of each institution and provided examples of how MDB support helped strengthen governance. Subsequent annual reports provided updates on anti-corruption activities undertaken by recipient countries. For the purposes of this report, we will focus on the activities of the World Bank, Asian Development Bank, African Development Bank and Inter-American Development Bank.

Overall, Treasury believes that these initiatives, rather than the establishment of a new and separate anti-corruption trust fund, will be the most effective mechanisms to achieve the objectives of Section 669(H) of the Joint Explanatory Statement to the Consolidated Appropriations Act, 2008. While we strongly support the objective of helping to increase

a country's broad capacity to prosecute cases of corruption and we share the goal of aggressive prosecution of cases of corruption in World Bank projects, we see problems with the proposed establishment of a trust fund to cover country costs for the prosecution of World Bank cases only, including the potential of unintended, counter-productive incentives. For instance, with a limited source of funding, the Bank would be asked to prioritize and value the merit of individual cases or country contexts in which to support these cases. To the extent that national governments use such funds to pursue individual cases, governments could choose to pursue cases against political enemies because sometimes the government itself is implicated in corruption. These likely situations put the Bank in a precarious political situation and potentially compromise the otherwise laudable capacity building work the Bank is currently doing. Our goal is to help countries build the capacity to investigate, adjudicate and punish corruption - and all crimes - across the board in a manner consistent with well-established law enforcement and judicial norms, and we believe that our proposals will strengthen those efforts accordingly.

Rather, we see greater advantages in the funding of new activities broadly conducive to these objectives and permissible under existing or expanded Bank authority as proposed in Section III. A new and separate trust fund would entail considerable administrative expense and burden, depend on unidentified and unlikely sources of funding and hence almost certainly add only marginally to the World Bank's ability to build prosecutorial and asset recovery capacity as compared to the suggestions outlined in section III, which would use available resources at the Bank and IDA.

This report is divided into three sections and an annex. Section I provides a summary of MDB lending programs in support of capacity building of recipient countries in the areas of governance, anticorruption efforts and judicial reform. Section II outlines the current processes by which each of the MDBs addresses allegations of fraud and corruption in Bank funded projects. The third and final section outlines proposed further actions, which include developing additional tools for the detection of fraud and corruption in Bank projects, extending and enhancing Bank programs to support the judicial sector and intensifying efforts in recipient countries to build institutional capacity across government agencies.

## **I. MDB SUPPORT OF GOVERNANCE AND ANTICORRUPTION EFFORTS**

The World Bank and other MDBs provide extensive support for governance reforms in borrowing countries through loans and grants for capacity building of governance, judicial and anticorruption efforts, and have developed important diagnostic tools to measure and track country performance. Since 2002, these programs have averaged \$6.0 billion per year among the four MDBs.

<b>MDB Lending: Governance and Anticorruption Capacity Building</b> (in USD millions)						
	<b>2002</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>
World Bank	4,520	2,995	3,877	2,940	4,578	5,925
African Development Bank*	350	273	1033	145	108	163
Asian Development Bank	777	300	584	778	220	1,180
Inter-American Development Bank	667	772	884	1,057	1,464	407
<b>Total</b>	<b>6,314</b>	<b>4,340</b>	<b>6,378</b>	<b>4,920</b>	<b>6,370</b>	<b>7,675</b>

Sources: World Bank, Inter-American Development Bank, African Development Bank and Asian Development Bank Annual Reports; Treasury MDB Anti-Corruption Report to Congress (2002-2007)

## **World Bank**

In March of 2007 the Bank's Board of Executive Directors approved a strategy for addressing the Governance and Anticorruption (GAC) dimensions of development. Subsequently, an implementation plan was developed and discussed by the Board in October 2007. This plan was launched by World Bank President Robert Zoellick in December 2007. Regional governance action plans and country-specific governance action plans are currently being developed in 27 countries located across all of the regions the Bank serves.

According to the Bank's Annual Report, in fiscal year 2007 alone, Bank support for projects in the sector Law and Justice and Public Administration totaled nearly \$5.5 billion. World Bank lending under the theme Rule of Law totaled \$425 million.

The aim of the World Bank's governance and anticorruption work is to help develop capable and accountable states and institutions that develop and implement sound policies, provide adequate public services, set the rules governing markets, and combat corruption, thereby helping to create the sound policy and institutional frameworks necessary for growth and poverty reduction.<sup>1</sup> The GAC strategy envisages that, in order to strengthen accountability and transparency, and therefore improve governance, legal and institutional reform is required, and the strategy specifically references the need to scale up support for judicial reform.<sup>2</sup> The GAC strategy also provides that in all countries where governance is a challenge, there will be a continuing focus on the judiciary and legal reforms.

Justice sector institutions, especially the judiciary, are key actors not only for upholding and enforcing the law but also for ensuring transparency and holding government officials and their institutions accountable. When justice sector institutions are weak, corrupt and not accessible or trusted by the public, a power imbalance exists that enables

<sup>1</sup> Strengthening World Bank Group Engagement on Governance and Anticorruption. March 21, 2007. Paragraph 5.

<sup>2</sup> See, e.g., paragraphs 16 and 20 of the Executive Summary; paragraphs 29 and 30 of the main text, Boxes 3 and 5, and Table 1; Annex A regarding Formal Oversight Institutions; and Annex F, paragraph 5.

corruption and injustice. Fostering change in the justice system requires long-term strategies that focus not only on the supply side (e.g., increased judicial transparency), but also strengthen the public's avenues for seeking justice (i.e., the demand side).

The Bank assists member countries with efforts to strengthen institutions of the justice sector, recognizing their importance to governance, growth and equity. Since 1990, the Bank and its partners in the development community have increased their emphasis on products and activities focused on the justice sector. This emphasis has grown out of a realization that the development process must be carefully designed, and that justice sector reforms are critical components of that process. One of the lessons from the East Asian financial crisis and the collapse of some of the Eastern European transition economies in the 1990s was that without the rule of law, economic growth and poverty reduction can be neither sustainable nor equitable. Private sector development requires clear enforceable rules. Sound justice institutions safeguard equity and help curb corruption, a significant obstacle to development. In the absence of sound justice sector institutions, crime and violence can flourish and it is often the poor who pay the greatest price.

Building on lessons learned in over two decades, each project is designed with key counterparts and in coordination with other donors to address the issues facing the justice sector in the particular client country. Coordination with other donors is particularly relevant to ensure that a country receives integrated assistance across the justice sector, including in areas in which the Bank has not tended to focus due to its mandate and expertise, such as criminal justice reform. The Bank's comparative advantage in this area is its depth and diversity of expertise and project experience, and its ability to bring together development practitioners, academia, think tanks and government officials, leading to generation and application of cutting-edge knowledge and research.

Since the early 1990s, there have been 45 loans and credits that deal exclusively with strengthening justice institutions for a total of \$659.2 million (a subset of Rule of Law). Most of this investment has gone toward judicial reform. Because a well-functioning legal and judicial system is critical not only as an end in itself, but as a means to facilitate and leverage the achievement of other development objectives, there are also many Bank loans in areas such as private sector development, public sector management and social development that contain justice reform components. In addition, there are significant research and pilot projects under implementation with grant funding, and justice sector diagnostics and strategies being formulated with Bank assistance in many countries. Furthermore, the Bank can provide support to the justice sector through Technical Assistance Fee-Based and Reimbursable Arrangements.

In that a well-functioning judiciary acts as an effective oversight entity, capacity building in courts contributes to governance and anti-corruption efforts. More specifically, it is possible to design judicial capacity-building projects to include components that increase transparency and reduce corruption *within* judiciaries. Examples of such components include those that aim to increase public access to court records; provide secure records management; improve case management and automation (including randomized

assignment of cases); separate judicial and administrative functions; establish user surveys and complaints mechanisms; promote transparent systems for selection, promotion, and removal of judges; increase public awareness of rights and obligations, and of the proper role of justice institutions; and promote ethics codes and training in ethical conduct for lawyers and judges. Most of these activities are standard components of Bank-financed justice projects. Bank-financed justice reform projects can be grouped into three general headings, as follows:

- Projects that **strengthen court and justice sector institution management and accountability** to improve **service delivery**, including: (1) design of processes for selection of judges, for judicial career development, and removal of judges for cause; (2) improving the structure of the judiciary (number of judges, geographic distribution and specialties), its strategic planning and its management of its finances, human resources and facilities, and the use of data collection as a management tool; and (3) case management, including design and installation of IT systems, establishing court-annexed alternative dispute resolution (ADR), and introduction of oral and streamlined processes.

***Supporting Good Governance and Government Accountability through Administrative Courts in Mongolia:*** In 2006, the Bank assisted in creating specialized administrative courts tasked with reviewing cases in which at least one party is a government entity or a majority government-owned company. For the first time in Mongolia's history, citizens can challenge government actions and decisions that impede their rights, such as zoning decisions that may impede land ownership and land use rights, or granting of mining licenses that may be unfavorable to local communities.

- Projects that **increase access to justice and legal empowerment of the poor**, including: (1) moving courts closer to citizens through establishing mobile courts, small claims courts, justices of the peace, construction of court houses, and better geographic distribution of judges; (2) supporting legal aid organizations and public defenders to provide assistance to the poor; (3) setting up alternative dispute resolution centers among civil society organizations, in chambers of commerce or other business organizations for commercial cases, in law schools, or as court-annexed units; and (4) supporting traditional or local justice structures where the formal justice sector does not reach, and improving the interactions between these structures and the formal justice system.

***Justice for the Poor in Indonesia:*** This project has carried out research at the community level to identify success factors when the poor seek to use the law to demand better justice services and better public service delivery from local government. It has developed a model of legal empowerment that combines grassroots community-based legal aid with strengthening of local government and justice sector institutions. This approach has been incorporated into Bank loans in several sectors to provide avenues for complaints, particularly with respect to land disputes, family law issues, and corruption allegations.

- Projects that strengthen **legal education** for a new legal culture, including: judicial training, assistance to law faculties, curricula development, civic education for citizens in rights and responsibilities, training for the media, and outreach to civil society organizations.

***Legal Education in Armenia:*** As part of the Bank’s Judicial Reform Project public education component, a television show “My Right” was developed. This TV program was rated as the number one TV show in Armenia for two consecutive years in 2004-06. This program has greatly increased public understanding of individual rights and how to access the justice system. As result, public demand for participation and more transparent government operations increased.

In addition, the Bank’s governance and anti-corruption work often includes assistance for the development of an appropriate legal framework, including freedom of information legislation and special ethics codes, and strengthening of oversight institutions set up to deal with particular aspects of corruption.

The World Bank, through its independent evaluation group (IEG), has taken a hard-hitting look at the impact of its support for public sector reforms. IEG’s March 2008 report assesses World Bank performance from 1999 to 2006, a period just prior to the Bank’s adoption in 2007 of the strengthened GAC agenda. IEG’s evaluation shows that most countries with Bank public sector reform programs had improvements in areas such as tax administration, public expenditure and financial management and transparency. Direct measures to reduce corruption and strengthen the civil service were less successful, and the evaluation provides valuable recommendations for improving this work. This IEG report underscores the merits of the strengthened governance and anti-corruption strategy, approved in 2007 after the time period covered in the evaluation. At Treasury's urging, the reports by the MDBs' independent evaluation groups are made public as soon as they are discussed by the Boards of Directors and will continue to monitor the adoption of IEG’s recommendations as the Bank implements its strengthened governance and anti-corruption strategy.

### **African Development Bank**

In May 2008, the Board of Directors of the African Development Bank (AfDB) approved a new governance strategy and action plan for 2008-2012 to strengthen implementation and deliver results in the Bank’s governance work. The core objective of the strategy is to assist African countries in building capable and effective states by strengthening transparency and accountability in the management of public resources.

- *At the country level*, the Bank will focus on strengthening country systems for managing public resources, with an emphasis on oversight institutions and accountability systems. For example, the Bank has been engaged in building the capacity of Supreme Audit Institutions. Special attention will be devoted to fragile states to build institutional capacity, strengthen financial governance, and improve the

management of natural resources, including supporting the implementation of the Extractive Industries Transparency Initiatives.

- *At the sector level*, the Bank will focus on improving governance and promoting integrity where there are particular risks such as in infrastructure and on building capacity of country procurement systems.
- *At the regional level*, the Bank will support initiatives that promote better standards and codes of good economic and financial governance.

### **Asian Development Bank**

In 2007, the Asian Development Bank (AsDB) began full implementation of its Second Governance and Anticorruption Action Plan (GACAPII). The objective of the Plan is to improve identification and strengthen management of governance, institutional, and corruption risks in country program and project design, project administration and portfolio management, as well as improve governance practices within AsDB's organization. To date, implementation has focused on country and sector risk assessments to better structure Country Partnership Strategies. The Integrity Division seeks opportunities to work with Supreme Audit Institutions in borrower countries to enhance public accountability, a key element of good governance, and reduce waste and abuse of public funds, thus contributing to combating corruption. Progress has been made on improving the organizational structures, human resources and expertise of the AsDB.

A \$150 million program on good governance for **Bangladesh**, will aim to assist the Government's implementation of its good governance and anticorruption agenda. Among other things, it will support the development of Bangladesh's first ever National Integrity Strategy (NIS) including the implementation of the UN Convention Against Corruption; improve independence in, and transparency of, the judiciary; strengthen the Anticorruption Commission as well as independent prosecution service; and introduce sector level anticorruption measures. \$2.5 million will support the program in technical assistance (of which \$1 million has been co-financed by the Danish International Development Assistance, DANIDA).

### **Inter-American Development Bank**

The Inter-American Development Bank's (IDB) program for the modernization of the state comprises projects to strengthen the institutional, regulatory and management areas of government entities, as well as good governance and results-based management in taxation, fiscal management, customs and public spending. In 2007, this included loan approvals of \$407.2 million and technical cooperation approvals for 84 projects for \$36.5 million. E-government and information technology were also important areas supported by the Bank. An important part of the IDB's efforts for the modernization of the State is a strong focus on the justice system. The Bank's strategy of institutional reform in the justice sector covers: the improvement of the legal system and the promotion of fundamental rights, administrative strengthening of the judiciary, alternative methods of



conflict resolution, legal aid and education programs for the population, instruction and training for human resources involved in the modernization of legal systems, modernization of physical infrastructures, and heightening public safety.

In 2002, the United States supported and the IDB Board approved a \$30 million loan to support the second phase of a program to modernize the administration of justice in Honduras. The project will help consolidate the independence of the judicial branch and the justice system reforms that the IDB and other multilateral and bilateral agencies have supported in Honduras. The program is designed to strengthen the rule of law through institutional and legal reforms, as well as to improve the services provided to citizens and increase their participation in the judicial process. The new phase of the program will support the enforcement of the new Code of Criminal Procedure, which introduced oral and public trials. One of the program's components seeks to increase the judiciary's transparency and efficiency and strengthen the institutions that provide access to services in the justice system.

## **II. INTERNAL ANTICORRUPTION PROGRAMS AT THE MDBs**

There are many instruments and tools that the MDBs use in order to address fraud and corruption in MDB-funded projects. In particular, Treasury has been pressing for greater attention to improving countries' public financial management (PFM) systems, strengthening countries' public procurement systems, and building institutional capacity for managing public (including donor) resources overall. Treasury has also worked assiduously to ensure that the MDBs strengthen their oversight and supervision of MDB-supported projects, especially in the areas of financial management and procurement.

Each of the MDBs has an existing process for investigating and addressing allegations of fraud and corruption in projects they fund through their respective investigative units. The *Uniform Framework for Preventing and Combating Fraud and Corruption*, drafted by The International Financial Institutions (IFI) Anti-Corruption Task Force in September 2006, broadly guides these policies. In this document, the Task Force agreed to a standardized definition of fraudulent and corrupt practices, principles and guidelines to govern investigations, an exchange of relevant information, principles for analyzing integrity issues in their private sector lending and investment decisions, mutual recognition of enforcement actions and strengthening donor coordination in support of good governance and anticorruption in recipient countries. All of the MDBs have mechanisms for referring cases to authorities for criminal investigations and prosecution as appropriate under national laws and judicial processes. Countries then proceed with these cases as they see fit.

## **World Bank**

In 2001, the World Bank Group established the Department of Institutional Integrity (INT) to investigate allegations of fraud and corruption in Bank-financed projects as well as possible staff misconduct. The Bank makes referrals to member countries when it believes the laws of a member country may have been violated. Generally, such referrals result from an investigation by the Bank's Department of Institutional Integrity (INT), which is mandated with investigating allegations of fraud and corruption in Bank-financed projects, as well as allegations of possible staff misconduct including, but not limited to, fraud and corruption.

In addition to providing INT's investigative findings, the referral letter typically states that the Bank is prepared to be cooperative and to provide assistance to the extent it is able to do so under its rules and policies. Assistance has generally included: (i) providing additional documents, when requested; (ii) making staff available to be interviewed by the prosecution/investigation team for input on technical/factual matters related to the case; and (iii) permitting staff to testify in grand jury proceedings (this has happened in U.S. federal court) and in trials (this happened in Sweden, and the Bank agreed to allow a staff member to testify in a criminal trial in Kenya).

Although INT's investigations are administrative in nature, INT has also provided assistance to national authorities in planning their own criminal investigations into possible wrongdoing involving Bank-financed projects. This has most often happened after the referral, when the Ministry of Finance, the Bank's formal government counterpart in most cases, has taken the decision to hand over the case to an enforcement or investigative agency. In many such instances, INT has had lengthy meetings with the designated agencies in order to walk through a "roadmap" of how INT conducted its investigations and what was found. Examples have included meetings with the Anti-Corruption Commission in Indonesia; the Central Bureau of Investigation in India; and Ministry of National Assembly and Senate Relations and Inspection in Cambodia, among others.

The level of involvement can be quite extensive if the local authorities show a willingness to pursue a prosecution. In one case, a project was suspended due to findings of fraud and corruption by INT, and the Bank informed the Government that it would not lift the suspension absent a showing that the Government was taking appropriate action to hold accountable local citizens suspected of being involved in the corruption.

The Bank, of course, cannot become directly involved as a party in the prosecution of a case in national courts. However, there have been a number of prosecutions with a significant amount of cooperation and assistance on the part of the Bank. In one example of the extensive assistance the Bank can provide to national authorities, the Bank has so far assisted in:

- (i) hiring local counsel to monitor the actions taken by the government and to provide input and advice to the Bank on local criminal and civil laws;
- (ii) providing documents requested by the authorities;

- (iii) making Bank staff available for interview by the local authorities;
- (iv) agreeing to allow the lead INT investigator in the case to testify in a criminal trial;
- (v) having the lead investigator and a Bank lawyer fly to the capital for the trial;
- (vi) asking the prosecutor to request the magistrate's permission for the Bank lawyer to sit at the prosecution table as an observer (the request was granted);
- (vii) the lead INT investigator and the Bank lawyer reviewing the local criminal laws and providing informal input to the prosecutor on common law hearsay exceptions;
- (viii) investigating whether former Bank staff, who were prosecuted in the U.S., would be willing to travel to the country to testify in the case;
- (ix) helping to arrange for the local prosecution team to travel to the US to meet with one of the former staff, who said that he was fearful for his life to travel to the country but would agree to be deposed in Washington by the local authorities; and
- (x) engaging in continuing follow-up to check on the status of the case.

Unfortunately, in this particular case it seems that a lack of political will or institutional capacity to pursue the prosecution has not led to progress, despite this extensive Bank assistance. Ultimately, of course, it is the responsibility of the country of jurisdiction to decide whether and how to pursue referrals from INT, and even in countries with advanced judicial systems not all cases are necessarily pursued. Even in the United States, where a number of referrals have been successfully pursued, prosecutorial authorities have at times declined to pursue cases. This occurs with all kinds of criminal referrals in the United States, of course, and is accepted as part of the process of the fair administration of justice in a well-developed judicial system. However, such confidence does not exist in the relatively undeveloped systems of many poor countries, where referrals are often not pursued because of shortcomings in capacity, political will, or both. The challenge is to help countries build such capacity to fairly adjudicate cases of all kinds, including corruption in Bank projects.

### **African Development Bank**

On November 8, 2005, the Board of Directors approved Resolution B/BD/2005/16, establishing the Anti-Corruption and Fraud Investigation Division (ACFD) within the Office of the Auditor General as the sole investigative oversight body within the African Development Bank. The Terms of Reference found in the Board resolution give ACFD the overriding mandate to undertake unhindered investigations into allegations of fraud, corruption and misconduct in Bank activities, in furtherance of the Bank's policy of zero tolerance for corruption in all Bank operations.

The procedures by which ACFD conducts comprehensive, objective and independent investigations into allegations of corruption, fraud and other misconduct are governed by the Standards of Professional Conduct and by the Standard Operating Procedures therein. Investigation procedures are in conformity with: the Bank's *Guidelines for Preventing and Combating Corruption and Fraud in Bank Group Operations*; Bank policies and

procedures found in the Staff Rules and the Codes of Conduct; the *Uniform Framework for Preventing and Combating Fraud and Corruption*, drafted by The International Finance Institutions (IFI) Anti-Corruption Task Force, September 2006; and internationally recognized best practices as found in the UN Uniform Guidelines for Investigations, 4<sup>th</sup> Conference of International Investigators, Brussels 2&4 April 2003.

The Office of Auditor General is responsible for supervising the implementation of the Standard Operating Procedures. The Manager of ACFD oversees all investigations and procedures, and reports to the Auditor General. The Auditor General reports directly to the President on the final investigation findings of the ACFD, and makes recommendations, including recommendations for debarment and the imposition of sanctions, or the forwarding of a case to national authorities for further action, including prosecution. Where investigations involve non-Bank staff, the Oversight Committee on Corruption and Fraud may advise the President on the Auditor General's recommendations. The Auditor General reports periodically to the Audit and Finance Committee of the Board of Directors.

### **Asian Development Bank**

In September 2006, the Heads of the International Financial Institutions endorsed a *Uniform Framework for Preventing and Combating Fraud and Corruption*. The Asian Development Bank (AsDB) adopted the harmonized set of definitions of corrupt and fraudulent practices set out in the *Uniform Framework*. The harmonized definitions and principles and guidelines form the basis of the Integrity Principles and Guidelines which govern the AsDB's investigations, sanctions and appeals processes. The AsDB plays an active role in the MDB Integrity Forum, which arose out of the work on the *Uniform Framework*. The Forum meets twice a year and in February 2008, the Bank hosted the Forum for the first time in Manila. Forum participants attempt to harmonize policy where appropriate and have begun to work actively together in fraud and corruption investigations of mutual interest.

The AsDB has maintained a dedicated integrity unit within the Office of the Auditor General since 1999 to support its anticorruption oversight and, in the past three years, has been increasing the number of project procurement audits it conducts annually.

The AsDB works to ensure that all its projects, activities, and staff adhere to the highest ethical standards. Once the Integrity Division receives an allegation or evidence of fraud, corruption, or abuse by a party such as staff, a bidder, a consultant, supplier or other third party, the allegation or evidence is screened by the Integrity office for credibility, verifiability, and materiality, and whether the allegation or evidence falls within the mandate of the Integrity Division. If the screening deems it appropriate to do so, the Integrity office begins an investigation to determine whether there is sufficient evidence to impose sanctions on the party under investigation. If there is sufficient evidence, the party is disciplined by the budget and personnel office, which can include being debarred from AsDB-activities. At this stage, the party can appeal the investigation, and the AsDB

President has the final decision on the outcome of the appeal. The Integrity Division's annual reports are published on the AsDB's website.

### **Inter-American Development Bank**

The Inter-American Bank's Office of Institutional Integrity (OII) is an independent Bank unit that investigates allegations of fraud and corruption occurring in activities financed by the IDB Group, as well as possible cases of staff misconduct. Reporting directly to the President, the office was created in 2004, with its mandate approved in 2005.

The office reports its ongoing activities and significant findings to both the senior management of the Bank and the Audit Committee of the Board of Executive Directors, and also publishes a public annual report. OII's annual reports are posted on the IDB's web site.

### **III. PROPOSALS FOR ADDITIONAL MECHANISMS**

Institutional capacity, backed by the requisite political will to build and deploy such capacity, are the critical factors that determine a government's record in investigating and prosecuting crimes of all kinds, including fraud and corruption (and specifically MDB fraud and corruption cases). MDB charters, however, impose important limits on activities deemed to interfere in national political matters. The MDBs have an important role to play in helping countries improve their capacity to investigate and prosecute crimes of corruption. But any assistance to develop, nurture and advance such capacity must be carefully designed and implemented to avoid engagement on political matters, unintended negative incentives, or conflicts of interest, and such assistance can only be useful where political will exists (which is typically the missing factor, not the availability of funding to prosecute crimes).

The caution that must be exercised by the MDBs to avoid these pitfalls is most clearly exemplified by the World Bank's attempts to structure a trust fund for its Stolen Assets Recovery (StAR) initiative. StAR currently is using internal Bank resources to support capacity building in the specific area of asset recovery, including developing informal networks among officials involved in asset seizure and recovery and the implementation of the UN Convention Against Corruption. StAR also hopes to fund legal assistance to recover assets allegedly stolen from developing countries and located in third-country banks but there is still uncertainty within the Bank about how to do that without violating the Bank's mandate of political neutrality by becoming involved in international legal proceedings. The Bank's involvement could also lead to a domestic perception of interference in sovereign investigative and judicial processes. In fact, in previous assessments of World Bank policies on anti-money laundering, the legal department and Executive Directors have cautioned against the Bank's involvement in individual law enforcement cases and cautioned

that the World Bank is to “avoid discriminatory administration of justice” by remaining at arm’s length.

As demonstrated by their considerable experience to date, the MDBs have an existing skill set on which we believe they can and should build their engagement in governance and anticorruption. In order to enhance and extend MDB programs to improve recipient countries’ ability to prevent, investigate and prosecute fraud and corruption, including in MDB projects, Treasury proposes a multi-dimensional program to be piloted initially at the World Bank, with extension to other MDBs based on experience and applicability of the model. It is envisioned to include the initiatives outlined below:

- **The World Bank should intensify its efforts in recipient countries to build institutional capacity across government agencies, improve transparency and accountability mechanisms throughout government, and promote public education of the costs of corruption and adopt enforceable sanctions.** Discussions of such programs should be a core item in the now-mandatory Governance and Anti-Corruption component of every Country Assistance Strategy and Poverty Reduction and Growth Strategy with member countries. In discussions of country-led development programs, Bank staff should assist authorities in assessing their capacity building needs and create a plan that addresses the specific country circumstances for programs such as:
  - Public education to promote advocacy, accountability and civic ownership. Civil society and the public should be educated about the direct costs of corruption to their communities. They should learn how to report allegations of corruption to local authorities and, in the case of World Bank projects, to the Bank itself.
  - Civil service training programs in public financial management and audit practices
  - Judicial and legislative training and reform
  - Incorporation of such policy priorities into budget support operations.

Broadly speaking, these activities are and can be directly related to the ongoing efforts by the Bank in many countries to promote public financial management and transparency. One of the more promising developments in MDB project supervision is the use of community-based organizations to directly monitor implementation of projects, especially in areas such as education and health, where local communities can see and report on the results of MDB financing. Such community involvement can limit the scope for corruption in Bank projects.

- **The Bank should seek to extend and enhance its programs to support the judicial sector in low-income countries to include investigative and prosecutorial functions of the criminal justice system, as permitted by determinations of non-interference in political matters.** Because of Bank charter restrictions, historically the Bank has understandably been reluctant to engage in robust assistance in these areas. It does fund some prosecutorial

training as part of its programs to improve criminal justice systems, but in order to avoid infringements on sovereignty and protect the Bank's political neutrality, these programs have been carefully designed to focus on areas such as improved processes within legal systems. We believe the Bank can do more within its mandate, however, and will urge the Bank to develop a systematic process to actively develop programs in these areas, including a rigorous, multi-disciplinary evaluation protocol for the avoidance of political interference, both actual and perceived.

Examples of the types of engagement in such a criminal justice initiative could include:

- Support in educating prosecutors and training them in basic techniques such as forensic accounting.
  - Support in building countries' investigative capacity. For example, training investigative and forensic auditing teams to pursue and collect evidence that meets standards under domestic law and international arrangements for evidence-gathering in ways that permit effective prosecution of fraud and corruption cases.
  - Design and implementation of appropriate incentive structures to retain qualified magistrates and prosecutors in the criminal justice system, including adequate compensation packages. Low public sector wages are a common cause of corruption within the judicial system.
  - Bank involvement in particular cases if a sufficient demonstration effect were anticipated, but needless to say the Bank would need to take extreme care to avoid political involvement in such engagement.
- **The Bank should develop additional tools for the detection of fraud and corruption in Bank projects, both as additional preventative measures and to equip recipient countries with more “real-time” data to support in-country investigations at earlier stages of the project cycle.** While of course, it is necessary to investigate and prosecute corruption that has already occurred, it is better still to develop tools that can detect possible corruption before it occurs. A recent investigation by the Bank in the Philippines detected patterns in the bidding process that led to a suspension of the project and the prevention of potential corruption in that case. Sharing such data with local judicial authorities can assist their anti-corruption efforts while also developing their capacity to prevent corruption.

Initiatives in this area might include:

- “Real-time” Detailed Implementation Reviews (DIRs). The DIRs of Indian health projects demonstrated that patterns of fraud and corruption are not often evident within a single bid but over the course of multiple bids. Analysis using data mining software has been essential to the DIR, but real-time entry and analysis of this data would be an additional tool for discovering indications of possible fraud and corruption in Bank projects. The MDBs could be encouraged to enter a broader set of procurement data into electronic systems and to conduct real-time monitoring of allegations of fraud in ongoing projects.
- “Spot audits” of projects under implementation. The Bank could provide resources for more spot audits during project implementation.