

CONFRONTING CORRUPTION,
BUILDING ACCOUNTABILITY

LESSONS FROM THE WORLD OF
INTERNATIONAL DEVELOPMENT ADVISING

LLOYD J. DUMAS, JANINE R. WEDEL, AND
GREG CALLMAN



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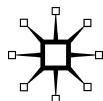
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*To the spirit of Grażyna Gęsicka, a valuable participant in our
Working Group, who perished in the tragic plane crash
near Katyń, Russia, on April 10, 2010.*

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PREFACE

This book addresses the broad problem of confronting corruption and building accountability through the method of examining in detail the particular case of international economic consulting for the useful insights it provides. There are two parts to this problem: (1) enhancing the ability of recipient governments and donor organizations to identify competent and unbiased advisors, know their track records, monitor their performance, and hold them to account; and (2) creating the conditions that maximize the incentives of development advisors to adhere to a high standard of ethical behavior, reward those who do and sanction those who do not. The book grows out of a multiyear project, funded by the Ford Foundation, aimed at encouraging the development of mechanisms that work toward a solution of that problem. To this end, we have explored actual and potential practices at development-oriented institutions, including consultant roster systems, debarment, and other sanctions, and have considered the value of creating other tools, such as codes of ethics, consultant registries, and improved training.

In addition to providing an analysis we believe will be useful to the wider community of institutions and individuals interested in the many-sided problems of corruption and accountability, the book is intended to serve as a resource and discussion document for development organizations, officials in developing or transitional countries, consultants and consulting firms, and other parties to and observers of international economic development consulting practice. While the project's primary focus is international *economic* development consulting, many of the issues we raise pertain to international consultants more widely construed. We seek to facilitate knowledge sharing and to advance accountability practices and mechanisms that can be adapted and implemented.

The Problem and Background in Brief

The research project that underpins this analysis grows in part out of our experience studying economic and policy advisors and the international development process. Although the role of consultants has expanded substantially over the past two decades, the capacity of international organizations and governments to hold consultants to account or simply gather accurate independent information about their track records and activities has not. At the same time, much anecdotal evidence points to instances in which economic advisors have played multiple and conflicting roles and engaged in activities (including for personal gain) that did not support and may have undermined the development goals of the countries and organizations they supposedly served.

During roughly the same period, the international development community made anticorruption a key priority. But while combating corruption in developing and transitional countries is now considered an important part of the international development agenda, corruption pertaining to donor organizations and the consultants they engage has been largely invisible as a topic of open discussion until recently. It is our hope that the analysis contained in this book will contribute to the advancement of this critical discussion.

A Novel Approach

Under the assumption that officials in developing and transitional countries who had been recipients of foreign advisors would be our most astute and authoritative observers of the “the problem,” we initially turned to them as our primary informants for defining the issues, gathering information, and developing potential solutions. Accordingly, we began the project (with the support of an initial Ford Foundation grant) in early 2003 by organizing a workshop and an international working group composed primarily of officials from developing and transitional countries. The members of the working group included individuals from more than a dozen representative countries on five continents. At the workshop, the officials outlined the kinds of corruption and accountability issues that they had encountered as recipients of international consultants, discussed potential remedies, and provided feedback on a draft code of ethics. During our deliberations, working group members suggested the idea of producing guidelines to help recipient officials like themselves in their own countries to better select, interrogate, contract with, and monitor international consultants, as well as to improve their effectiveness in

dealing with development and consulting organizations. As a result, appendixes C and D of this book include short sample guidelines and a prototype consultancy agreement (respectively), drafted by members of the working group, for use and further elaboration by concerned recipient country officials.

As we embarked on the second phase of the project (funded by a second Ford Foundation grant) following our workshop deliberations, we became involved in discussions with the larger realm of stakeholders in the international economic consulting enterprise. We turned our attention to the donor side, specifically enlisting representatives of international development institutions, especially the United Nations Development Program (UNDP) and the World Bank. We sought to learn about practices currently in place in major international donor organizations and to discern where the monitoring and accountability gaps lie.

The analysis in this book draws on a diversity of sources, including officials and representatives of developing and transitional countries, internal worldwide electronic “e-discussions” at the UNDP, information gathered within international development organizations, donor, recipient, and consultant discussion groups, and numerous conversations with parties to and analysts of the consulting process. We also consulted a variety of published and unpublished materials from disparate sources.

By laying out key issues, synthesizing current discussion, explaining practices in place, and detailing experiments underway, it is our belief that this book can serve as a basis for fruitful discussion and thus begin the process of developing practical solutions to the problem of accountability in international development consulting.

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CHAPTER 1

CORRUPTION, ACCOUNTABILITY, AND ECONOMIC PROGRESS

When the financial crisis swept around the world in the late summer/early fall of 2008, there was a widespread fear that something very basic had gone wrong with the global market system. Market capitalism, hailed as triumphant less than two decades earlier as communism collapsed in Eastern Europe and the former Soviet Union, suddenly seemed about to come unglued. Large and venerable financial institutions, long regarded by many as the bedrock of economic stability, teetered at the brink of disaster. Governments around the world, perhaps most spectacularly in the United States, felt compelled to rush forward with hundreds of billions of dollars to save the day, against the very principles that those financial institutions had long espoused. It seemed that, when they got themselves into deep enough trouble, the kind of massive government intervention the leaders of the private sector had so often inveighed against was all right after all.

The financial crisis demonstrated, with perhaps more power and clarity than ever before, that even an economic system built around the pursuit of self-interest and motivated by the drive to accumulate ever greater personal wealth was unsustainable in the presence of deep-seated corruption exacerbated by a sufficiently pervasive lack of accountability. For it was precisely those two interconnected factors—corruption and lack of accountability—that not only threatened to bring the global economic house down, but also made it so difficult to restore the broken trust of investors, producers, and consumers without rapid and massive government intervention. Although we rarely think about it this way, trust is

essential to the very basis on which the market system operates to provide the social and material benefits we have come to expect.

The breaking of that trust began years earlier, with the antics of the top management of such companies as Enron, WorldCom, HealthSouth, and CUC International (later merged into Cendant Corporation). Their “creative accounting” and financial gamesmanship turned the financial statements on which their investors and employees depended into flights of fantasy, shiny and bright on the outside, covering a crumbling edifice of poor decisions and asset stripping on the inside. And then there were those like Bernard L. Madoff, a well-thought of, widely trusted businessperson and financial advisor who committed out and out fraud, through a classic Ponzi scheme in which the money flowing in from new clients was used to pay high returns to previous clients without his making any of the real investments he claimed to be making on his clients’ behalf. It was a house of cards that eventually collapsed, as such a scheme eventually must, leaving his clients tens of billions of dollars poorer.

If these people were simply crooks, albeit (for a time) very successful ones, there would be little point in telling this sordid tale. But they were respected, even revered businesspeople who had gained people’s trust as honest agents acting in the best interests of those people, and then massively abused that trust to enrich themselves. That is the very definition of corruption. (We will return to this matter of defining corruption later.) And it was precisely the breakdown of accountability that allowed them to get away with this patently corrupt behavior for so long. Outside auditors were co-opted by lucrative contracts to do other sorts of work for the firms they were supposed to be independently auditing; securities rating agencies believed what the independent auditors said; regulators were asleep at the switch. As accountability became more and more diluted and ethics took a back seat to acquisitiveness, corruption flourished as corruption will—especially in an environment where pursuit of narrowly focused self-interest is legitimized, if not sanctified.

As a further illustration of the fundamental role the lack of accountability played in the global economic crisis, consider the now famous (or should we say infamous) matter of “mortgage-backed securities.” The financial crisis started with mortgage market problems resulting from a kind of conscious or unconscious fraud that began with the financial deregulation that led to practices that decreased accountability. It used to be that the banks that originated mortgages held on to them. They would therefore take care to evaluate the income, assets, and financial stability of applicants for mortgages to be reasonably assured that they would get their money back with interest over the fifteen–thirty years of the life of

the loan. When banks were allowed to sell off mortgages as soon as they made them for an immediate profit, and those who purchased the mortgages were able to bundle them into “mortgage-backed securities” and resell them quickly, the originators of the mortgages no longer had a strong positive or negative incentive to be careful and do “due diligence.” They began giving mortgages to borrowers whose financial situation would never have justified a loan of that size in the past. The people that bundled the mortgages together and quickly sold them off also had no incentive to be careful about which mortgages they bought. Once they were sold on to someone else neither they nor the originators of the loans would be held accountable by the market, at least not in the short term. At the same time, the people who bought the mortgage-backed securities thought they were low risk because they assumed that the banks and other mortgage originators were still taking care in making the loans as they had in the past (and that the loans were backed by houses whose values would keep rising). No one told them the truth.

Ultimately, when it became clear that due diligence was a thing of the past and that many mortgages were in fact very risky, the whole business began to unravel. Financial institutions that had invested heavily in these mortgage-backed securities fell into deep trouble, and because financial markets are so interconnected today, the contagion spread. The deeper reason behind the crisis was a kind of mindless deregulation of financial institutions that went back close to thirty years and has continued pretty much until today, giving rise to financial instruments (such as these mortgage-backed securities) that reduced accountability. The walls that segregated the roles of different kinds of financial institutions (built to protect the financial system after the Great Depression) were torn down, and regulation and oversight of financial institutions were peeled away.

Along with some financial innovations that might have been useful, this reduced scrutiny and accountability led to an increasing amount of speculation and other financial gambling and game playing. Given lax rules and the absence of serious, well-enforced, and properly incentivized codes of professional conduct (such as those of the medical profession, for example), the result was to turn key financial markets into the equivalent of casinos, able to satisfy the urge to gamble but no longer able to properly provide the vital financial services on which the economy depended.

In the last few years, the idea that the bulldozer approach to deregulation is not a viable path for a sustainable economic system, especially in the absence of strongly internalized ethical constraints, began to be more clearly accepted. The proposition that ethical behavior is a serious matter

central to the viability of the capitalist economic system, and not merely a good and moral thing to do, has been increasingly recognized at some of the highest-ranked and most prestigious business schools in the United States. All of the students at Columbia University's School of Business must now pledge to an honor code that says, "I adhere to the principles of truth, integrity and respect. I will not lie, cheat, steal, or tolerate those who do." Close to 20 percent of the 2009 graduating class of MBAs at Harvard have signed a similar, voluntary student-led pledge. The wide array of ethics courses offered at the Wharton School of the University of Pennsylvania is among the most popular group of classes at the school.¹ Only time will tell if the actions of those who are taking these courses and making these pledges reflect a real commitment to ethical principles or are just window-dressing. But there is at least reason to believe that these venerable institutions of business education have developed a greater appreciation of and commitment to putting forth ethical principles as essential to a viable business economy.

The key matters of corruption and accountability—and the potential usefulness of mechanisms such as properly incentivized and enforceable codes of behavior—spotlighted most recently by the global financial and economic contraction lie very much at the center of the concerns of this book. Rather than approaching these issues in the abstract or looking only at the surface of the problem, we have narrowed our focus to their applicability to the practice of international economic development consulting. In doing so, we lose some breadth, but gain the ability to explore these concerns in a more detailed and pragmatic way. Certainly economic development advising is broadly interesting and important in itself, affecting the lives of hundreds of millions of people in the developing world. But this focus also allows us to explore the farther-reaching issues of accountability and corruption concretely and in depth within the context of this "case study." As important as economic development is, the issues we raise and the kinds of mitigation strategies we propose have much wider application. They also have a much wider base, as we draw on potentially useful practices to apply in this arena from other fields of professional expertise.

Real economic development is very different from simple economic growth, though the two terms are often used interchangeably. Economic growth merely connotes expansion in the total size of the economy. It is silent on critical matters of distribution. Are the gains represented by an enlargement of economic activity flowing to the broad mass of the people of the nation, or are they instead captured by a small (often a very small) percentage of the population? It is also silent on matters of quality. Are

people gaining access to goods and services that offer them a better material standard of living—better food, better housing, better medical care, better means of transportation—or are they simply gaining more low quality products, while they pay the price of increased environmental damage done by sloppy and substandard production processes? Finally, as typically measured by ever-higher gross domestic product (GDP), economic growth ignores the fruits of the unpaid economic activity that is so common in the developing world, where many people typically grow their own food or make their own clothing as part of their ordinary household duties. No matter how much it enhances material well-being, since no money changes hands, GDP does not count this activity as part of the economy. So it is not part of economic growth as measured by rising GDP.

Economic development, on the other hand, is centered on the issue of improving the material well-being of the broad mass of the population, not just the fortunes of an elite few. Issues not only of generating material benefits, but also of the distribution of those benefits are thus crucial in evaluating the success of development assistance, in any form, including in the form of development advice. Similarly, raising the quality of food supplies, of water, of shelter, of health care are matters of great concern, as central to the meaning of development as providing more goods and services to people who have too little. Finally, it makes no difference at all to the progress of economic development if those who are contributing to their own material well-being or that of others are being paid money for their services, or if they are receiving payment in other valuable forms such as love, social acceptance, and access to the fruits of the labor of others in exchange for their own work. In short, economic development focuses on many-sided improvements in material well-being for the vast majority, if not all, of the population.

Advice or other forms of assistance that really work to achieve development, as opposed to simple economic growth, can add great value to the lives of the billions of people living in the less developed countries. But giving advice that works to make people better off in their own eyes requires an understanding of the social, economic, political, religious, and cultural context of the people to whom that advice is being provided. We will deal with this matter in a variety of ways later. For now, suffice it to say that we seem to understand well enough that it is fruitless and usually counterproductive for someone who knows nothing about the design and operation of a car to try to repair or modify it to improve how its functions. If you don't really understand how it works, how likely is it that you can intervene to make it work better? But we seem not to

appreciate the same thing when it comes to human societies, though they are infinitely more complex than an inanimate piece of machinery like a car. All too often we think that if we know what works in one society we know well—our own, for example—we can directly apply the same approach to another whose history, culture, values, political, and economic system we know little or nothing about. Despite the best of intentions and a high degree of technical expertise, without understanding of the social context, it is extraordinarily difficult to give good, effective advice.

To the extent that international economic development advisors care about the efficacy of their advice, context is crucial. But of course, context may matter little if they are mainly concerned with giving advice to enhance their own short-term visibility and bank accounts. If we want to assure that it is advisors of the first kind rather than of the second that advance and prosper in the business of international development advising, we must assure that the incentives advisors face encourage ethical behavior and efficacious advice. But that is not enough. We must also assure that the system within which they operate rewards good behavior and holds them accountable in a serious and persistent way for any damage they do, whether it is the result of corruption or incompetence.

We turn now to look at the origins and approach of the four-year Ford Foundation funded research project on development advising from which this book arose.

CHAPTER 2

ORIGINS AND APPROACH

The Origins of this Research

Different [donor] organizations have no idea what other organizations are doing. When I was at the World Bank, there was this drunken consultant who spent his time in various countries mostly at the bar, womanizing. Host officials in the recipient countries were complaining and this got back to us. We got his number and barred him from any further work with us. We found out that USAID did the same. Everyone in the know “tossed him out.” And then, when I went to work for this new company, a very reputable firm, the resume of the same guy came to me. Not just once, but three times. If I hadn’t happened to have worked at the Bank and encountered him before, I probably would have hired him because I had no way of knowing how awful he was. He had good references and a beautiful resume.

—International Development Specialist

The multi-year Ford Foundation funded research project that gave rise to this book grew out of an ever-expanding collection of anecdotes and findings that pointed to the need to address the issue of accountability in international economic development consulting. At issue is the imbalance between the rising numbers, leeway, autonomy, influence, reach, and purview of consultants on the one hand, and the diminishing or inadequate means that donor and recipient governments (especially of less developed and transitional countries) and wider publics have of ensuring the accountability of consultants on the other. We take “accountability” to encompass ethical and responsible practice and the range of incentives and mechanisms that encourage such practice in each part of the consulting process. It should not be reduced simply to a system for punishing bad behavior by means such as sanctions imposed after the fact and often after damage has been done.

Over the past two decades, new development needs have arisen as the countries of Central and Eastern Europe and the former Soviet Union moved away from communism and nation-building projects have proliferated across the globe. With these events, the role of international economic advisors has expanded substantially. Today advisors not only design, manage, and implement aid programs, but also sometimes make crucial decisions on behalf of international organizations and governments. The capacity of these organizations and governments to hold the advisors to account, to monitor their activities, or even to gather independent information about their activities has not kept up with the extent to which the role of these consultants has grown. Many consultants are freelancers without long-term relationships with a donor organization and so must be constantly concerned with the need to secure the next project. Donors and especially recipients often do not routinely share information about consultants who have performed poorly or unethically in the past.

Corruption became a major item on the agenda of the World Bank after October 1996, when its president James Wolfensohn delivered a landmark talk on fighting “the cancer of corruption” at the joint World Bank–International Monetary Fund annual meeting.¹ The international development community has since waged a campaign against corruption, yet most discussion to date has centered on how practices within the governments of these countries have interfered with their political and economic progress. Despite the scandals of the Enron era, there has been relatively little discussion of corrupt practices within the developed world that sometimes permeate international development projects and the activities of the agents that carry them out. Yet these corrupt practices have also interfered with both the progress of developing countries and the reinvigoration of economies making the complex transition from planned to market-based activity.

There has, however, been some progress in recent years. The issue of internal accountability and anticorruption appears to be less off-limits in international development organizations such as the United Nations than it was previously.²

In addition to anticorruption, this project also built upon yet another crucial agenda at the forefront of development activities—the reexamination of models of economic advice provided to developing and transitional countries. Following the Asian and Russian economic crises of the late 1990s, it became clear that the kind of economic advice offered to developing countries (typically rooted in neoclassical economics) has not always been helpful, has too often been harmful, and needed to be

reexamined. There is a need to provide multiple and alternative models of international economic advice. As a consequence, greater attention has been devoted to development policy, particularly to encouraging policies that are tailored to specific developmental environments.³ The Ford Foundation created an Initiative for Policy Dialogue to help developing and transitional countries explore economic policy alternatives and to encourage donors to provide a variety of economic models to recipient countries. The research upon which this book is based grew out of a project that was part of that initiative. Arising from our discussions with the Ford Foundation program officer directing that initiative, the research considers the institutional circumstances (or lack thereof) that constrain or enable the activities and roles of consultants.

International *economic* consulting presents key issues that differ from other kinds of consulting. Designing an economic system entails a different quality of advice than, say, designing an architectural, engineering, or accounting system. With economic consulting, the potential social and political costs and benefits are higher. The implementation of economic advice cuts across society. Dorothy Rosenberg of the United National Development Program (UNDP), outlines the unique aspects of economic development advising as follows:

In the post-war period, economic policy-making has made itself central, and by dictating to governments or pushing governments... the [World] Bank and the IMF [International Monetary Fund] have used development funding as a lever for dictating policy to less developed countries... individual economic consultants, if they want to be repeat consultants for the bank for example, won't go into a country and say "don't liberalize."

The difference is that other types of consultants, say, someone in an engineering project, have to have understanding of math and statistics. It is a fairly clearly understood science—if we build this bridge on sand, it will fall down unless we do something to create a solid foundation.

But anything having to do with what is essentially social behavior has much more uncertainty because social behavior is always multi-causal. The problem with economic models is that they are two-dimensional—you have to leave out the social dynamics and you always leave out the political dynamics. It's selling something as an exact science that isn't.

Yet, while our primary focus is international economic development consulting, some of the issues we raise do pertain to a wider range of international consultants and advisors, as well as applying to other arenas for which matters of corruption and accountability are relevant.

Our Approach

On the assumption that officials in recipient developing or transitional countries who had worked with foreign advisors would be our most astute and authoritative observers of “the problem,” we initially turned to them as primary informants for defining issues, gathering information, and developing potential solutions. We enlisted the input and assistance of an international Working Group drawn from participants in a workshop we convened in September 2003 in Pułtusk, Poland. The workshop, sponsored by the Ford Foundation (with support from the Polish Academy of Sciences, Institute of Philosophy and Sociology), brought together some twenty individuals, mostly current and former officials from developing and transitional countries with substantial experience as recipients of advice from foreign consultants. Representing Africa, Asia, Central and Eastern Europe, the former Soviet Union, and Latin America, participants discussed the differing meanings of accountability in their countries, the problems of ethics they have encountered while working with consultants, and the kinds of changes in international standards and incentive structures that they believed might help to encourage better, more ethical behavior. (The agenda, list of participants, and their biographies are presented in appendix A.)

As we embarked on the second phase of the research project following our workshop deliberations, we became involved in discussions with the larger realm of stakeholders in the international economic consulting enterprise. We turned our attention to the donor side, specifically enlisting representatives of international development institutions, in particular the United Nations Development Program (UNDP) and the World Bank. We sought to learn about practices currently in place in donor organizations, to discern where the entities’ monitoring and accountability gaps lie both within organizations and among them, as when consultants work for multiple organizations, either simultaneously or serially.

We gathered information about accountability mechanisms internal to the United Nations generally and the UNDP in particular as related to consultant accountability through consultations and interactions with senior staff and other appropriately placed individuals. We explored UNDP’s experience with identifying competent and ethical consultants, contributed to the background materials of a broad-based international UNDP e-discussion regarding internal accountability, and were invited to monitor and synthesize materials from the same discussion. We also examined the UNDP’s Expert Roster System that is

designed to facilitate the management of consultants through ongoing contact with the System's designers [both within the UNDP's Bureau for Development Policy (BDP) and the Special Unit for South-South Cooperation (SUSSC)]. All of this led to an analysis of the strengths and weaknesses of a decentralized model with regard to building accountability among consultants through the lens of the particular version of a decentralized system that was in operation at UNDP at the time of our research.

We also examined mechanisms in place at the World Bank. With the help of World Bank staff, we focused on the consultant procurement process and the debarment-related sanctions process. In contrast to the UNDP's approach to consultant accountability, the Bank's debarment process is a highly centralized and formalized mechanism. The two analyses thus complement and inform each other.

During the course of our research, we elicited perspectives on consultant accountability from diverse additional sources such as senior staff at the United Nations Department of Economic and Social Affairs (UNDESA) and the Department of Peacekeeping Operations (UNDPKO); the World Bank's Friday Morning Group; and participants representing both donors and recipients in discussion groups we held at the 2005 Global Forum on Combating Corruption, held in Brasilia, Brazil. Current and former senior staff at nongovernmental and watchdog organizations, as well as other observers of the consulting process, also offered input. These organizations include:

- Bank Information Center: Working with civil society in developing countries and countries in transition, this nonprofit organization seeks to influence the World Bank along with other international financial institutions (IFIs) to promote social justice, economic justice, and ecological sustainability.
- Government Accountability Project: This nonprofit organization promotes accountability, both governmental and corporate, by encouraging free speech, coming to the defense of whistleblowers, and working to empower citizen activists.
- Tiri: A nonprofit, global policy network that works to promote sustainable integrity reforms in the private sector, government, and civil society.
- Center for Public Integrity: The core mission of this nonprofit organization is to produce original and responsible journalistic investigation of issues of concern to the public.

“What is the Problem?” and Other Cross-Cultural Disconnects

One of our most striking observations in the course of the research project was that there seems to be a disconnect between how donor and recipient representatives see “the problem,” as it relates to consultants. Many recipient representatives with whom we have talked passionately argue that there is an all-too-frequent mismatch between what they need and what they are offered—whether in qualifications and expertise of consultants or in their interest and commitment to the job they have undertaken. One common theme is the inequality of power, resources, and, often, technical sophistication between donor governments (or organizations) and international consultants on the one hand and recipient parties on the other. This inequality often results in foreigners having huge influence on aid recipients, but little or no accountability for the practicality, effectiveness, or consequences of their advice. The larger the power and information gap, the greater the space for the consultant as “agent” to pursue self-interest at the cost of the well-being of the “principals,” those in whose interest the consultant is supposed to be operating. Combined with the reverberating impacts of flawed economic policy, the consequences of such inappropriate behavior can be severe and long-lasting.

Another related theme was that “fly-in, fly-out” consultants are of little value where understanding local sociocultural practices, economic conditions, and politics are crucial to giving effective advice that can be implemented successfully, as is so often the case in the arena of economic policy. In anecdotes and jokes conveying this theme, consultants often parade in local folklore as bumbling, unprepared, or simply oblivious, and/or as overcompensated and overperked. Workshop participant Dipak Gyawali, engineer-economist, columnist, and former minister of water resources in Nepal, tells such a typical story, which we call *Bull in a Nepali Shop*.

The villagers of Chorkate in Gorkha District [of Nepal] recently had a first hand experience with a development consultant and are not ready for another one soon. A foreign expert decided that Chorkate needed to upgrade its livestock and so he flew in a strapping bull from the United States. The bull was too big for little Nepali mountain cows, which collapsed from the weight of the beefy American import before consummation could take place. Shunned by the frightened cows and unwanted by the villagers [who are Hindus and don't eat beef], the stud today paces the banks of the Daraundi River, alone. The consultant, meanwhile, has handed in his project report and returned to the United States.⁴

Gyawali explains:

The significance of this story (and there are many similar ones across the Global South) lies in the irresponsibility of development aid towards both its Northern taxpayers for misspending their money and the ostensible Southern beneficiaries for visiting upon them mal-developments that would be comic if they did not also often tragically deplete the resilience of poor villagers. Such calamities make them worse off after “development” than before.

While it was self-evident to members of our working group that there is a problem, the donor representatives we engaged were much more likely to brush this off. The “culture” of donor organizations appears to minimize the possibility of serious systemic problems, not just those of a purely logistical or technical nature. They are more likely to say that a particular consultant may not have been the best fit for the job, but the ultimate result was fine. In one of our discussion groups, donor representatives did acknowledge that consultants might sometimes behave unethically. But without much more specific evidence and argument they were reluctant to believe that the consequences of these problems are large enough or widespread enough, whether in magnitude or geographic spread, to warrant making them a priority over other concerns.

At the same time, it is important to note that some of the donors did point to very specific problems, though often they did not seem to have the capacity to evaluate the impact of these problems, even within their own organizations. This, in the eyes of many experts focusing on donor-side accountability, seems to be one of the most worrying observations, namely that organizations with immense human resource capacity for carrying out econometric and other forms of quantitative analysis do not yet seem to have seen the usefulness of trying to evaluate the costs of corruption in concrete terms. Instead, we are left with broad estimated ranges that are subject to dispute.

Decoding “Accountability”

As a concept, the English word “accountability” does not travel easily across cultures. When workshop participants from countries ranging from China and Chile to Nepal, France, and Russia discussed how the term is translated into their native languages and what concepts those terms evoke, we made two discoveries. The first is that the native

terms provide revealing entrée into the culture of governing of the countries in which they are used. For example, while the Nepali term *uttardaitwa* means “answerability,” the Sanskrit-derived Hindi term *sambedansheelta* in many South Asian languages connotes “social sensitivity,” “responsiveness,” and “mindfulness.” The Mandarin Chinese term *xin* can mean a job well done, money spent accurately, or the government’s responsibility to the people. In Russian, “accountability” is clumsily translated as *otsenka effektivnosti rezultatov* or “evaluation of the effectiveness of results.” In Poland, translators have two choices: *rzetelność*, to do a job carefully or exactly, and *księgowość*, or accounting, as in finance.

Accountability and the other native terms can be fully understood only in terms of: (1) the historical circumstances under which the term evolved in the particular country and acquired its current usage, (2) the contexts in which the term is used, (3) who in the country uses the term, and under what conditions (who are the parties to whom one is “accountable,” and under what circumstances), and (4) who are the intended objects (e.g., government officials, politicians) and beneficiaries (e.g., political opponents, the “public”) of accountability discourses. Table 2.1 offers a variety of accountability terms and provides a sense of their diverse connotations.

Another discovery at the workshop regarding the notion of accountability is that many terms in other languages into which the English word is translated bear only tenuous resemblance to the concept that lies behind the English word. Political scientist Melvin J. Dubnick explains:

Accountability_w [the word, not the traditional concept] has proven extremely difficult to translate into other languages, and by extension to other political and administrative cultures. In the major romance languages (French, Spanish, Italian as well as Portuguese), for example, various forms of the term *responsibility* are used in lieu of the English *accountability_w*. The result is that there exists little room in those languages for a possible distinction between the conceptualization of *accountability_c* [the traditional concept] and responsibility. Translating what is intended as the concept . . . into the word “responsibility” neutralizes or subordinates some meaningful differences. In northern and eastern European languages, the idea of accountability translates into terms closely related to account-keeping or making of reports. The Japanese, who have at least seventeen distinct terms they use to communicate the word “responsibility,” have only one equivalent term to *accountability_c* [the traditional concept] (*akauntabiritii*), but it is a transliteration of the English word adopted in light of the extensive contacts with the British and Americans over the past 150 years.⁵

Table 2.1 Accountability terms

<i>Country (Language)</i>	<i>Term</i>	<i>Meaning</i>
Nepal (Nepali) ⁱ	<i>Uttardaitwa</i>	“Answerability”
India (Hindi) ⁱⁱ	<i>Sambedansheelta</i>	“Social sensitivity,” “responsiveness,” “mindfulness”
China (Mandarin Chinese) ⁱⁱⁱ	<i>Xin (shin)</i>	1. A job well done 2. Money spent accurately 3. A government’s responsibility to the people
Egypt (Arabic) ^{iv}	1. <i>Shafafiya</i> 2. <i>Massouliya</i> 3. <i>Masawliya</i>	“Socially convincing,” “transparent” “responsibility” “You are responsible for”
Chile (Spanish)	<i>Responsable</i> <i>Responsabilidad</i>	The concept is often used in contracts, regulations, laws, and in scholastic districts; e.g., it is used when a company hopes that one person or their company is responsible for something ^v “ <i>Responsabilidad</i> ”: The definition of accountability is not drastically different from that of responsibility; but it is used in a slightly different way to show that you are <i>responsible for</i> a task, at the same time <i>responsible to</i> someone for its completion ^{vi}
Russia (Russian) ^{vii}	<i>Otsenka effektivnosti rezultatov</i>	“Evaluation of the effectiveness of the results”
Ukraine (Ukrainian) ^{viii}	<i>Otsinka efektyvnosti</i>	“Evaluation of effectiveness”
Poland (Polish) ^{ix}	1. <i>Rzetelność</i> 2. <i>Księgowość</i>	1. “To do a job carefully/exactly” 2. “Accounting” (literal)
Bosnia (Bosnian/Serbo-Croatian) ^x	<i>Odgovornost</i>	“Responsibility”

(Continued)

Table 2.1 Continued

<i>Country (Language)</i>	<i>Term</i>	<i>Meaning</i>
France (French) ^{xi}	<i>Obligation de rendre compte</i>	“ <i>Obligation de rendre compte</i> ” is used in the context of an organization, mainly in relation to its stakeholders. It could also mean for an individual, that he or she is responsible for the consequences of his/her actions in the eyes of the person(s) who speak(s). In this last case, accountability has the same meaning in French as responsibility.
	<i>Responsabilité</i>	“ <i>Responsabilité</i> ” means the obligation to report to a supervisor or a relevant authority or group of people.
	<i>Responsabilisation</i>	“ <i>Responsabilisation</i> ” as a process of holding someone responsible for achieving results as they relate to his/her duties.

ⁱInformation provided by Dipak Gyawali, former minister of water resources, Nepal. Working Group participant.

ⁱⁱInformation provided by D.S Mishra, former head, Kanpur Development Authority, India. Working Group participant.

ⁱⁱⁱInformation provided by Tom Hu Tao, chief economist, Policy Research Center for Environment and Economy (PRCEE), State Environmental Protection Administration (SEPA), China. Working Group participant.

^{iv}Information provided by Ibrahim Fawzy, former minister of industry and mineral wealth, Egypt. Working Group participant.

^vInformation provided by Gonzalo Rivas, former vice president of CORFO, Economic Development Agency, Chile. Working Group participant.

^{vi}Posting from <http://forum.wordreference.com/showthread.php?t=137024> (accessed October 11, 2006).

^{vii}Information provided by Alexandra Slobodova, head of the unit, Department for Foreign Exchange Regulation and Control, Central Bank of the Russian Federation (Bank of Russia). Working Group participant.

^{viii}Information provided by Natalia Lazika-Sachuk, project director and principal consultant, National Institute for Strategic Studies, Administration of the President, Ukraine. Working Group participant.

^{ix}Information provided by Alina Barbara Hussein, advisor to the president of the Supreme Chamber of Control (Najwyższa Izba Kontroli), Poland. Working Group participant.

^xInformation provided by Belma A. Ejupovic, deputy coordinator, Ministry of Foreign Trade and Economic Relations, Bosnia-Herzegovina. Working Group participant.

^{xi}Information provided by Joseph Sany, School of Public Policy, George Mason University, member of the research team.

Accountability appears to be an Anglican concept. The English notion is quite unique. It is firmly rooted in Anglo-Saxon context but the word is likely to have derived from the Old French *comptes à rendre*, meaning to “provide a count,” according to Dubnick.⁶ What warrants emphasizing, he contends, is that “the *concept* of accountability is related to the emergence [of an] historically distinct and meaningful form of governance, one that created a unique relationship between the governors and the governed based on norms and values established (i.e., imposed) by the ruler.”⁷ The connection between the accounting concept, to “provide a count” (*comptes a render*), and the term accountability was made under William I in 1086 when he ordered a detailed inventory to be taken of all English citizens’ properties for taxing purposes.⁸ (He also required that those serving him swear oaths of allegiance and faithfulness to him.) This was the first modern enactment of the concept of accountability as a foundation for governance.⁹

Much like accountability, the roots of the word “audit” are grounded in finance,¹⁰ but in the early 1980s, political developments in Britain caused it to migrate from this original association to “new domains of working life,” according to anthropologists Cris Shore, Susan Wright, and Martin A. Mills.¹¹ After the election of Margaret Thatcher in 1979, the government sought “to remodel the public sector by introducing the principles of the supposedly more efficient and dynamic unregulated, market-driven private sector.”¹² It was assumed “that the free market would provide its own effective quality control mechanisms” for the newly privatized public services and utilities, “and government-instituted audit systems were therefore focused exclusively on what remained of the public sector.”¹³

After the collapse of several of these newly privatized British entities, as well as various scandals and reports of fraud, it became apparent that financial auditors of the free market were “guilty of gross negligence.”¹⁴ Despite this, the government believed “that the private sector provided a model of efficiency and accountability, and that accountancy was the technology through which the values and practices of the private sector would be instilled in the public sector.”¹⁵ On this notion, the government created the Audit Commission in April of 1983 to ensure that local authorities used resources efficiently and effectively.¹⁶

Early documentation of the Audit Commission “marks the key moment when the language associated with financial accounting shifted to embrace the ‘quality’ and ‘effectiveness’ of service provision, ‘performance’ and ‘value for money.’” Through its functions, the commission took “auditing way beyond” the traditional role of financial accounting

to include “‘monitoring performance’ identifying ‘best practice,’ ‘improving value for money’ and ‘ensuring: effectiveness of management systems.’”¹⁷ Thus, auditing, or “ensuring ‘value for money’ through measuring performance outputs and the effectiveness of management systems became a hallmark of good government.”¹⁸

The result is that today, as scientist Michael E. McIntyre puts it, “there seems to have emerged an audit culture in the deepest sense of the word culture, involving sets of largely unconscious assumptions that have somehow become embedded in the minds of many people.”¹⁹ Key principles underlying the audit enterprise are “fairness, objectivity, and prudence.”²⁰ The new definition of audit and the modern concept of accountability have extended farther into the public sector, and audits are pervasive in virtually every field of modern working life.²¹ Like the new definition of audit, the modern concept of accountability encompasses the “promise of performance” in assuring those that conduct the “public’s business will do what is expected of them—and perhaps more.”²² This is illustrated by the increase in “management policymaking” in recent years, which is an executive action or government policy designed to “promote performance” in public organizations.²³

Dubnick argues that what distinguishes the traditional accountability notion from other governance solutions is that it depends on the existence of a “moral community”—a community “that shapes (and is shaped by) the expectations, rules, norms and values of social relationships.” Thus, the traditional notion of *accountability*

emerges as a primary characteristic of governance in contexts where there is a sense of agreement about the legitimacy of expectations among community members. Conceptually, *accountability*_c [the traditional concept] can thus be regarded as a *form of governance that depends on the dynamic social interactions and mechanisms created within of such a moral community*.²⁴

Clearly, the usage of accountability currently in vogue suggests a narrower meaning. As Dubnick assesses it, the contemporary meaning of accountability “holds the promise of bringing someone to justice, of generating desired performance through control and oversight, of promoting democracy through institutional forms, and of facilitating ethical behavior.”²⁵ This is the “promise of performance” described above that those responsible for carrying out the public’s performance expectations. It is clear that the recent tendency toward greater levels of “management policymaking” is a reaction to those higher public expectations of performance within public organizations.

Decoding the English notion of accountability is important to our topic. The term has been (and is being) exported around the world as part of the global anticorruption vernacular that also includes such terms as “transparency” and “good governance.” It is therefore important to point out that although participants in the international conversation may assume that they share a common meaning of the concept of accountability, this may not be the case. It is also revealing that, in the contemporary usage, accountability is actually a narrower concept than many of the indigenous terms discussed earlier.

Differing cultural understandings of accountability may clearly emerge as an obstacle to the kind of information sharing that can be used to build what many mean by accountability. A donor official expressed this sentiment: “Just because he thinks this person behaved unethically, does not mean that I would agree, and why should I refrain from hiring, or even spend additional time conducting due diligence because they see a problem here.”

Dipak Gyawali argues for the concept of “social audit”—a more holistic notion than that of “audit” (see also appendix B). He writes:

Discussions on corruption quickly end up talking about financial shenanigans. At that point, much attention gets focused on the findings of fiscal auditors. However, because of auditing scandals such as that of Arthur Anderson and others, audit reports do not inspire much confidence and serious doubts crop up in many minds asking whether garden-variety audit reports have left much still undiscovered. Moreover, many corruption scandals are found to have been perpetrated behind the screen of approved procedures. Most white collar crimes are committed while hiding behind the mushrooming thicket of rules and regulations that have been put in place to prevent these very crimes: only the well-informed insiders can even penetrate this maze and searching for procedural malpractice only results in corruption cases being dismissed by the courts. After all, rules were never broken: they were indeed the picket fence behind which the corrupt merrily conducted their business.

The idea of “social auditors” has been advanced to capture the larger processes of social critique that are not limited to procedural mistakes only. It comes from the understanding that, while businesses vie for profits by any means if not checked, government agencies that should regulate private enterprises are so procedurally fixated that they would probably not notice major incongruities of a more substantive nature until too late. Who or what could recognize such incongruities and serve early warning signals?

From experiences in water conflicts, the answer seems to lie in a social “third leg” different from that of free-wheeling market individualism geared to profit or that of the hierarchic bureaucracies designed for control and

management, both of these conventional two legs constituting the current fad of 'public-private partnership' that continues to ignore 'social auditors.' It is the egalitarian social solidarity of activists for social and environmental justice, often bypassed in policy formulations that see only markets and governments, whose boundedness for a cause, together with a lack of hierarchic internal structure, positions them ideally to question the more fundamental disjuncture in what governments and businesses do. To them, it is not enough for procedures to have been followed: it is important that the entire enterprise itself be right (in their view, as they would define it).

We turn in the next chapter to the analysis of the nature of the structural problems that have arisen in international development advising, problems that are manifested in the relationship between donors and their representatives on the one hand and the recipients of development assistance on the other. It is important to understand the fundamental character of these problems before it is possible to appreciate the value and shortcomings of the procedures that have already been implemented by key international development organizations to address these matters, and therefore the potential usefulness of suggested modifications of or alternatives to these strategies.

CHAPTER 3

STRUCTURAL PROBLEMS IN INTERNATIONAL ECONOMIC CONSULTING

What are the institutional circumstances (or lack thereof) that constrain or enable the activities and roles of consultants? The international development consulting system entails a complex web of players and interests, involving many parties to the process and potential interactions among them. These parties include, but are not limited to, consultants, international development organizations, host governments and officials, host individuals and organizations with whom consultants come into contact while doing project work, and the public—ostensibly the intended beneficiaries of the advice.

Generally speaking, there are two kinds of consultants: (1) freelance consultants and (2) consultants who work as part of a firm or donor organization. The first category consists of people who have made their careers working on their own, as well as of those who previously worked for consulting firms. The second includes people employed by for international as well as local entities.

What incentives do donors have to hire competent and ethical consultants? To hire consultants with appropriate credentials (and not engaged in ethical breaches such as conflicts of interest) requires care and often the expenditure of a lot of time and energy. To ensure consultants' quality and integrity, donors must commit adequate effort to generating "terms of reference" (TOR) and evaluating the track records of consultants. Once consultants are hired, it is necessary to monitor performance, keep records, and manage information. According to some current and former employees of the World Bank (who participated in a discussion group we

led), donors may not have incentives to do a better job in assuring that only competent and ethical consultants are hired because they are not held accountable for the consequences of poor choices (and presumably are also not adequately rewarded for good choices). As a result, many consultants are hired on the recommendation of colleagues without proper due diligence.

Other points raised by donor representatives regarding the weakness of incentive structures in donor organizations include the following:

- Incentives structures often promote expediency, relegating activities such as investigating consultant capabilities, interests, and track record to a low priority.
- Donors sometimes distribute work among many consultants in order to confer the benefits of employment to a great number of select individuals. Here, the personal interest of the donor agent to earn favor with consultants is placed above receiving maximum value for money and/or achieving maximum effectiveness.
- Donors sometimes allow a consultant to bid on and win “downstream” work (work that must be done as part of subsequent project phases), creating conflicts of interest. For example, a consultant hired to undertake an initial feasibility study to determine whether or not a particular project should be undertaken might later be hired to implement the very project whose feasibility they were supposed to have been disinterestedly judging.
- Donor managers may not have incentives to investigate disclosures of other issues relevant to the likely effectiveness of the consultants they are thinking about hiring.

Because donors often do not have proper incentives to hire the most competent and ethical consultants, insufficient energy is committed to due diligence. Part of the problem is that internal evaluation and promotion are often tied to effective and timely disbursement of funds, rather than good conduct on the part of consultants. This is not so much a result of corruption as such. The primary problem is more one of incentives for what amounts to negligence. If donor agents themselves do actually behave unethically, perhaps it is because the incentive structure under which they operate unintentionally rewards—or at least fails to penalize—that behavior. That does not, of course, legitimize corrupt behavior, but it does help to explain why such behavior may be more common than one would otherwise expect it to be.

It is often said that recipient governments like to hire consultants who will give advice that the governments want to hear, rather than the advice they should be hearing. Often enough, consultants are used to provide a supporting rationale for policies on which the client government has already decided, rather than to develop policy that will actually work to solve the problems at hand most effectively. This gives the appearance—but not the reality—of policymaking based on objective, independent advice tailored to the needs of the local population.

Low salaries combine with control of government resources to create incentives for corrupt behavior on the part of recipient country officials. Donor representatives are quick to point out that the behavior of recipient officials is frequently suspect and that such officials may often enough engage in conflicts of interest. It is not an accident that the annals of more than fifty years of development assistance are replete with stories of Third World leaders who have stashed away development funds in Swiss bank accounts, built homes on the French Riviera, and flown in their own private jets to get there.

Finally, there are the problems that often accompany shared, or split, responsibility. When both donor and recipient are ostensibly responsible, in fact neither party may take responsibility. Donors may feel less reason to take responsibility because the recipient is technically officially in charge of the project. Recipients may feel less responsibility because they are under pressure from donors to implement donor-driven projects in which they feel they have little or no real “ownership.” There is certainly nothing wrong with operating as true collaborators under a system of well-defined joint responsibility, but operating under a system of poorly defined shared responsibility can create room for shirking responsibility, even blaming each other for problems. This does little to prevent, and is actually more likely to encourage, accountability failures.

A Focus on Consultants

In the conventional view, international economic consultants are merely advisors, freely hired and fired. Not officially invested with political or economic power, their authority flows only from their expertise. Their value lies in the usefulness of their advice to advancing the economic well-being of the people subject to the governments that hire them. How then can they be players in the international game of corruption?

At least the most prominent of these consultants are not simply free agents who are neutral sources of advice in the technical workings of economic systems. They can be conduits to critical sources of finance. They

can be the designated representatives of aid-giving governments who send them into the field to give advice that furthers the aid-givers' political and economic agendas. Or they can be freelance technocratic entrepreneurs, changing roles as easily as they change clothes, networking to build personal alliances, and at any given point in time, playing whatever side of a situation gives them the most leverage in maximizing their own status, influence, and income. In short, international economic consultants can be much more powerful players in the international arena than is commonly understood. And where there is power and at least the appearance of great authority, there is always opportunity for corruption.

Corruption has traditionally been defined as the use of public office for private gain. It is surely that, but it is much more. Corruption occurs whenever individuals use for their own personal gain, the authority, power, or information that was given to them for the expressed purpose of furthering the interests of others—even when this harms the very people they are obligated to serve. It is *not* only a creature of the public sector. Corruption can also occur wholly within the private arena, as has been clearly illustrated in recent years by the behavior of top corporate executives at Enron and WorldCom (among all too many others). Their actions served to greatly enhance their personal wealth while destroying the current incomes and future pensions of the employees they were supposed to lead, and the equity of the stockholders whose financial well-being they were duty-bound to protect.

At its most basic, corruption (as well as a lack of accountability in the traditional English meaning) involves a violation of trust, whether it is the public trust of a government official or the trust implicit in every client-consultant relationship. Whenever one individual is engaged to act as an agent for another individual or group, trust is a crucial element. It is understood that within this so-called principal-agent relationship, the advice, decisions, and actions taken by the "agent" (the person delivering the advice or other service) are to be driven by the interests of the "principal" (the person for whom the agent is acting), not the personal or professional motives of the agent. For example, it is expected that the advice given and actions taken by a medical doctors will be guided by what is best for the health and well-being of their patients, not by what course of treatment will maximize the doctors' income or satisfy their desire to try out experimental procedures that may bring them acclaim. In any relationship that conveys power and authority to one individual to act on behalf of others, or even to guide the behavior of others, trust is central. That is one of the key reasons why the massive betrayal of his clients' trust by Bernard Madoff created such an earthquake in the world

of investment advising. The violation of such trust in pursuit of personal gain is the essence of corruption.

There are a number of underlying problems involved in the business of consulting in general, as well as in the arena of international development advising on which we are primarily focused here. They include: the information problem; the problem of ambiguity as it relates to both the role of the consultant and the identity of the client; the problem of moral hazard; the legal/cultural problem; and the problem of consultant incentives. Let us consider each of these now, in turn.

The Information Problem

Transformational developments over the past several decades, notably the privatization of government services and the end of the Cold War dominated by two competing alliances, has led to a state of affairs in which there are many more opportunities for private players such as consultants to make or influence public decisions. Increased authority delegated to these players has enabled them to become guardians of information once resting in the hands of state and international authorities. While supposedly working on behalf of those authorities, such players (working, say, as consultants for states or as special envoys or intermediaries between them) can guard information and use it for their own purposes, all the while eluding monitoring designed for the past order of states and international bodies. The privileged access to information that these players have at their fingertips increases their ability to engage in corruption without notice. At the same time, obtaining reliable information about players' roles, sources of funds, and actual track records may be difficult, and viable monitoring systems are often lacking.¹

Clients, especially less sophisticated government clients, often do not have ready access to sufficiently clear and unambiguous information to independently assess the relevant qualifications or corroborate the track record of international economic consultants. It can be difficult enough to verify their professional qualifications; it is often more difficult still to verify whether or not they actually were involved in all the consulting projects they claim as part of their past experience—at the level they claim to have been involved. If the consultants are currently or have in the past been attached to prestigious institutions, the reputation of these institutions can create an impression of authority and competence that makes less sophisticated government clients in particular less likely to question their abilities and trustworthiness—especially in the absence of ready access to corroborative information.

The net result of all this is that consultants whose past performance is at best problematic have an easier time finding new consulting work than a well-functioning, well-informed market would support. The information problem also allows them to repeatedly avoid being called to account for having engaged in questionable behavior in the past or even having given just plain bad advice. Where accountability is weak, the risk of continued incompetence and/or corruption is high.

Over the past two decades, the experience with international economic consultants to the eastern European and former Soviet countries in transition has made it clear that donors also have an information problem. They are asking for trouble when they rely on a single, interconnected group of consultants as their sole source of information in formulating and implementing aid programs. They not only need alternative channels of information in designing effective aid projects, but also the means for gathering the intelligence required to properly monitor consultant activities within the context of ongoing programs.

Information is Power: Iraqi Kurds and American Consultants,
by Bilal Wahab

The Kurds of Iraq have sought Western investment not only for its own sake but also for the political support that comes with it. They have learned from their unkind history that, along with money, Western companies bring international political backing. Kurds saw this dynamic with regard to the regime of Saddam Hussein. As an ethnic minority under that regime, Kurds were victims of mass murder, including attacks by poisonous gas. Kurds haven't forgotten that the United States' one billion dollars in agricultural exports to Iraq in the late 1980s partly helped to block a U.S. Senate bill that described the killing of Kurds as genocide and that would have imposed sanctions on the regime and thereby curtailed American exports.

Though still haunted by their past experience as part of Iraq, today Iraqi Kurdistan is rich and Kurds run their autonomous region. Kurds want American business on their land, believing that with American commercial interests come U.S. support and protection. The Kurdistan Regional Government (KRG) has spent millions of dollars on public relations campaigns in the United States, as well as on economic consultants, in hopes of attracting American business to this safest part of Iraq.

I observed these efforts first hand over several years as a Kurdish program officer and translator for a number of international development organizations, including USAID contractors. One of my main observations through this experience is the vast asymmetry of information and power between American business on the one hand and Kurdish authorities on the other. In one episode, U.S. government officials introduced a U.S.-based businessman to the KRG and to Kurdish enthusiasm for Western business. His firm, which had no prior experience with economic advising, promised the KRG that it would enlist American investors in Kurdistan. With the implicit endorsement of the U.S. government behind the firm, the KRG signed a contract with it. Because it had no experts in the subject matter on board, the firm had to hire consultants after it secured the contract. A few years later, however, the firm had pocketed several millions of dollars without having brought a single business into the region.

What led to this unfortunate result? The Kurdish government was an unsophisticated customer that had only recently started to reach beyond its borders. The KRG took as enough assurance the fact that U.S. government officials had made the introduction. The KRG never asked for the terms of reference of the consultants, nor did it check the background or the track record of the firm it had just hired. With due diligence still a foreign concept in Iraq, it signed up the U.S.-based firm despite its utter lack of experience (it was a high tech company with no history of business facilitation, let alone expertise in Iraq and its business infrastructure). Even when the lack of performance of the hired firm became apparent, the KRG was reluctant to dismiss it, not wanting to upset relations with the U.S. government agency that had made the introduction. Be it inability or unwillingness, the KRG did not hold this firm accountable even for consultancy work that was so easily measured such as whether or not foreign businesses were brought into the region.

The firm itself, despite its lack of experience, may well have taken advantage of this situation. While it is impossible to confirm, indications are that the firm understood very well the nuanced dependency between the KRG and U.S. government in Iraq.

Enlisting the firm has been an expensive lesson for the KRG.

The Problem of Ambiguity

A number of ambiguities have come into play as the business of international development advising has grown and changed shape. These ambiguities enhance opportunities for consultants more intent on advancing their own interests than those of their clients to avoid accountability for their actions. They can also make it difficult for those consultants who are intent on holding their behavior to higher ethical standards to know how to avoid actions that amount to inadvertently violating their trust or even unintentionally doing more harm than good. These ambiguities apply both to the role of the consultant and to the question of who is actually the client in whose best interests advice is to be given.

Role Ambiguity

When particular consultants are presented as part of the aid package offered by a donor nation or organization, it can be unclear whether acceptance of these individuals as consultants is purely at the discretion of the recipient government, or is a necessary condition (stated or unstated) for accessing needed financial or technical resources. Furthermore, today's international arena lends itself to greater role ambiguity than in the immediate past.² Working Group members and political-legal scholars Yves Dezalay and Bryant Garth observe that the international arena "multiplies the possibilities for double strategies of smugglers... and brokers... there are many potential uncertainties and mistranslations surrounding individual positions." Take, for instance, the individual who acts "as a political scientist in one context... and a lawyer in another; a spokesperson for nationalistic values in one context, a booster of the international rule of law in another."³ This peripatetic political scientist/lawyer is not necessarily engaged in a "double strategy." But his activities on behalf of one organization can be at odds with those on behalf of another—even to the point of undermining the goals of either, or both.

Indeed, many of the most successful or prominent international consultants often appear before the potential client wearing many hats—as envoys from their home government, as conduits to the political or economic elite of other nations, as representatives of major international donor organizations, as directors of prestigious institutes, as academic experts, as freelance technocratic entrepreneurs, and so on. Their ability to move seamlessly among the various roles they play makes it difficult for prospective clients to identify potential or actual conflicts of interest in advance, or even to determine whose interest these individuals are (or will be) actually representing at any point in time. It is also easy for clients

to be misled about what they are buying when they take these people on as consultants.

Just as important, this role ambiguity creates opportunities for consultants who are less than completely committed to ethical behavior to play their clients interests off against each other, recommending those things that, in the end, advance the wealth and status of the consultant more than they help any particular client to achieve its goals. This same ambiguity allows consultants to retreat into whatever role provides them the best cover at any given time, making it much harder to hold them responsible for their own actions. Actions that are clearly unethical when looked at from the point of view of one particular role can be explained away as legitimate from the perspective of one of the individual's other roles.

Client Ambiguity

Yet another ambiguity revolves around the very definition of the client. If serving the clients' interest ahead of their own is a critical part of what defines ethical behavior, then it becomes important to ask who exactly are the clients whose interests international economic consultants are obligated to serve? If a consultant is paid by a donor government or international organization to give advice to a recipient government, there are actually three levels of "client" involved: the donor, the recipient government, and the people of the recipient country. Even when a government seeking advice hires a freelance economic consultant, there are still at least two levels of client: the government and the public affected by the actions of that government. Just whose interest is the consultant primarily obligated to serve—that of the international organizations or governments that are paying for the consulting services, that of the recipient governments to whom they are giving advice, or that of the people of the countries they are advising—the people whose lives will be most directly affected by what the consultants say and do?

For reasons that are not difficult to understand, consultants—international and otherwise—tend to be very sensitive to the attitudes and desires of those who pay their bills. As a consequence, it is easiest for them to define their primary client as the organization from which the money flows, and accordingly to see their primary role as giving advice and counsel that will forward the agenda of that client. Of course, when that client's agenda is fully compatible with what is best for the country the consultant is advising, there is no particular problem. The problem arises when the recommendations that would most effectively forward the agenda of the paying client are in conflict with what seems to be in the best interests of the people who will be most affected by the advice.

Where there is a conflict, whose interests is the consultant ethically obligated to serve?

The Problem of Moral Hazard

Suppose we try to resolve the client ambiguity problem by accepting the straightforward argument that since the consultant has been hired to perform certain agreed tasks for a particular government, that government is the primary client. The professional obligation of the consultant is then to carry out those agreed tasks, providing advice that will be helpful to the government in achieving the objectives it has set forth. By this line of argument, at most a consultant may be obligated to lay before the government all possible pros and cons of a specific project or idea, including its likely impact on the public. But it is up to the government to define the public interest and take it into account, not the consultant. Consultants are, after all, service providers, not social reformers.

However, while this apparently simple resolution of client ambiguity appears to solve one problem, it immediately raises another—the problem of “moral hazard.” Moral hazard typically results from situations in which asymmetrical information and/or knowledge gives one party an advantage over another. This asymmetry puts the disadvantaged party at risk (hence, “hazard”) of the better-informed party doing what is good for their own selves, rather than what is best for the party depending on him/her for help (hence, there is a “moral” issue).⁴ International economic consultants presumably have more knowledge and/or information than either the recipient government or the public in the area of expertise required to deal with the problem at hand. If the mere fact that the consultants have done what the government hired them to do automatically insures them against responsibility for any harm the public might suffer as a result of programs they helped design and implement, consultants are likely to pay less attention to the ultimate consequences to the public of their advice. That is certainly not a good or useful thing.

The Legal/Cultural Problem

Consultants who operate wholly within any given country are subject to its rules and laws. They and their clients also tend to share a common knowledge of cultural norms and meanings, which reduces the likelihood that they will inadvertently create problems as a result of misunderstanding each other. But neither of these statements is necessarily true of international development consultants. As we have earlier argued in some

detail, even the meaning of such a basic concept as “accountability” varies across cultures.

There is no uniform international set of rules or laws governing the special activities of development consultants, and no generally accepted governing body committed to enforcing such a uniform code of behavior. Unscrupulous international consultants therefore have greater flexibility in overcoming attempts to constrain their activities by playing the rules of any particular country in which they operate off against the rules of others.⁵ There is also plenty of room for cultural miscommunication to cause very serious problems in international development consulting, especially when the consultants involved have little to no specific knowledge of the current (let alone the past) economic, political, and social conditions within the recipient country. As we have argued earlier, this is in fact an extremely common problem.

The Problem of Consultant Incentives

Structurally, foreign consultants are in a position to independently assess and critique a local system in the way that local people dependent on that system cannot. Consultants often acquire knowledge that puts them in a better position to deliver insightful advice with fewer constraints than recipient officials. But they do not always deliver advice with that degree of directness and independence. If there are insufficient controls, they may be too ready instead to manipulate the situation for their personal gain.

When working in host countries, there are many incentives that might lead consultants less concerned about avoiding questionable behavior to engage in activities that amount to conflicts of interest. These include: (1) the possibility of deriving personal gain as a result of collusion with host government officials and international consulting entities bent on enhancing their own wealth and status, even at the expense of those they are supposed to be helping; and (2) the existence of a revolving door for client country personnel between employment in government departments and in international consulting firms that repeatedly win lucrative contracts with that same client government. It is easier to think of such incentives than it is to think of any incentives provided to consultants to be straightforward about other interests and potential conflicts of interest.⁶

In the present situation, there is no strong incentive structure in place to encourage international economic consultants to live up to the trust inherent in the consultant-client relationship and act in a principled,

ethical way on behalf of the organizations or nations for whom they supposedly work. The usual market-based incentive that arises from the desire to procure follow-on work is attenuated by both the information and ambiguity problems we have already discussed. It is more difficult than it should be for potential clients who are interested in quality advice (as opposed to those who are only seeking rationalizations for what they want to do anyway) to differentiate between consultants who strive to behave ethically and to give counsel that is accurate and to the point, and those who are little more than “confidence men.”

It is generally easier for consultants to recommend whatever those paying the bills want to hear (whether they are donor or recipient government officials) than to give honest, effective advice that may be hard for clients to swallow. Where rewards for good behavior and high quality work are at best uncertain, and penalties for bad behavior or poor performance are largely absent, it is inordinately difficult to promote principled and effective consulting and to significantly reduce the number of incompetent or unethical consultants participating in international development advising.

Having considered the nature of the problems that create difficulties in assuring responsible and ethical behavior on the part of international development consultants, as well as holding them to account for the effects of their advice, it is now useful to consider a range of approaches that might be used to achieve those goals. In the next two chapters, we look at measures that might be useful to help avoid some of the difficulties we have been analyzing and discussing in this and the previous chapters. First, in the next chapter, we discuss measures that we believe would be worthwhile to undertake *across* organizations and international contexts to promote more efficacious and ethical behavior in the world of international development advising in general. Then, in the following chapter, we look in considerable detail at two very different kinds of accountability systems *within* international development organizations, through case studies of the systems actually employed by two major international organizations in the business of promoting development—the United Nations Development Program (UNDP) and the World Bank.

CHAPTER 4

MEASURES ACROSS ORGANIZATIONS AND CONTEXTS

During the various workshops and interviews we conducted, both donors and recipients expressed concern about the need to develop mechanisms to assure consultant quality, reliability, and accountability that are designed to deal with consultants working across organizations and in varying international contexts (see appendix F). For example, donor representatives at our discussion groups at the 2005 Global Forum on Combating Corruption held in Brasilia, Brazil, and those at the Friday Morning Group of the World Bank have argued that, from the perspective of the individual donor manager, the current system of implicit incentives promotes the practice of simply abstaining from hiring a problematic consultant again. Sometimes, negative experiences are shared *within* organizations by making evaluations internally available, through formal, internal “blacklists,” or through informal professional networks. However, these evaluations are rarely shared outside the organization. Interorganizational sharing is limited to public debarment and information exchanged informally via professional networks. Poor communication among donors may allow consultants to escape consequences of past misconduct.

In the workshop we organized in Pułtusk, Poland, recipient officials emphasized the importance of getting the Terms of Reference (TOR) right. They argued that all documents intended to define the responsibilities of international economic consultants and recipient governments must be written as clearly and unambiguously as possible. Terms of Reference, in particular, should clearly specify deliverables and milestones. There

should be tight oversight of consultants, including monitoring of their activities and follow up. Any ad hoc system or vagueness creates space that can be exploited by less than completely ethical and less than fully competent consultants. Consider the following specific example, provided by D.S. Mishra, former head of Kanpur Development Authority in India, and a participant at the Pułtusk Workshop. Mishra headed the project described in the following paragraphs from October 2000 to May 2002 and thus had first-hand knowledge of the case.

A Case Study in the Importance of Clear and Unambiguous Terms of Reference, by D.S. Mishra

An agreement was signed between the World Bank, the government of India, and the government of Uttar Pradesh (largest state in the country) in 1999 for a US\$110 million World Bank-funded Uttar Pradesh Health Systems Development Project to assist the state government in initiating systemic reforms in infrastructure and delivery of health care services to the public. One of the components of the project was financial reform, which entailed developing two software packages: one, a Loan Administration Change Initiatives (LACI)-compatible software package for reviewing and monitoring the progress of the five-year project; and two, another software package to be developed after reviewing the existing financial systems of the Department of Medical Health & Family Welfare to streamline functions of budgeting and accounting of expenditure for management control at different levels.

As per the World Bank's rules and guidelines for procurement of consultancy, the letter of intent (LoI) was drawn up and an announcement made inviting proposals. The proposals received from various consulting firms in response to the LoI were evaluated by a committee of officers, and, after due technical and financial evaluations followed by negotiation, the job for designing and implementation of a computerized financial system for the Department and the Project was awarded to Company X.¹

The agreement was signed in November 1999 between the state government and Company X. The Terms of Reference (TOR) was made part of this agreement. One clause of this agreement clearly stated that the firm will carry out the assignment in accordance with the highest standards of professional and ethical competence and integrity having due regard for the nature and purpose of the assignment and ensure that the consultants assigned to perform the services under the agreement will conduct themselves in a manner consistent therewith. Completion of the project was expected in a period of forty-two weeks and implementation support

was to be provided for the next forty-four weeks. However, Company X delayed the implementation by seven months and could come up with the first trial run of a part of the software package only by October 2000.

The package developed by the consulting firm was then reviewed by a select technical committee, which made the following observations:

1. Company X had not complied with the TOR, which clearly outlined the development of a computerized financial package for the Department of Medical Health & Family Welfare. Instead they came up with a package for monitoring of the project only.
2. The package for the Project was developed on Visual FoxPro platform, which was an outdated system. The committee recommended using the platform of Oracle or SQL Server.
3. The package developed was for stand-alone systems. The committee, however, had recommended that this be converted into a web-enabled package that would work in a networked environment.

When these observations were conveyed to Company X, instead of reacting positively to the experts' comments and finding creative solutions, the firm questioned the experts' assessment of their work. They claimed that they had done their job in accordance with their understanding of the TOR that they had submitted in the preliminary report. As regards the platform and the issue of being web-enabled, they stated their inability to incorporate the suggestions at the belated stage when they had almost completed their job. Their stand was that these matters should have been taken up much earlier.

While the firm was correct in contending that the matters should have been resolved at an earlier stage, the fact was that the onus for coming up with alternative options and discussing their feasibility with the government lay with the consultant. State governments usually lack technical expertise in such matters, and the contractor has the moral responsibility of advising the government on possible options and making the right choices together through a collaborative process. They had failed in making this a consultative process and had instead chosen the shorter, less cumbersome route of coming up with a near final product. In practical terms this meant that the one hundred thousand dollar consultancy would lead to no significant reform other than providing a tool for internal review of the project.

The state government issued a "show cause" notice to Company X to either complete the project as per the TOR and the recommendations of the technical committee or be prepared for termination of the agreement—warning that the firm could be blacklisted for noncompliance and

delivery of substandard product. The firm maintained its position and tried to influence those in decision-making positions through bureaucratic and political channels to mobilize support in their favor. They also offered various options for consideration including termination of the contract if none of the other options were acceptable. These options were not acceptable as they were either seeking additional cost or suggested reduction in the implementation support. Ultimately the agreement was terminated and Company X was blacklisted by the state government.

At this stage, Company X moved the court to abrogate both orders issued by the state government and to allow them to complete the project. At the same time a senior official of the firm contacted the state government to negotiate and come to an honorable solution with them. They were ready to develop the packages with much reduced additional cost on the same platform as had been advised by the experts and make it web-enabled too. However, the state government maintained its position and the suit filed in the court was rejected.

The state government then engaged another local firm with the approval of the World Bank to carry out the task, which they did at much less expenditure. The packages developed by the new firm have now become a model for other states of the union of India and is being quoted by the World Bank as a success story. The matter regarding recovery of the amount already paid to Company X was still pending arbitration at the time of this writing.

Analysis of the Case

The TOR was not as clearly written as it could (and should) have been, and, as a result, could be interpreted in more than one way. The exact nature of the deliverables was not defined in the TOR. Issues such as the web enableness and type of software to be used were not clearly outlined. It is clear that the state government lacked technical capacity to evaluate the preliminary report of the consultant, which also contained their interpretation of the TOR. What could the government have done differently? The government could have set up a technical committee to review the LOI and TOR and advise it accordingly, before entering into an agreement with the consultant. Given that this did not happen, there were two broad options for the consultant. One, that the consultant apprise the government of the pros and cons of various options and advise on the most suitable option in the given situation, thus helping in delivering the best possible results. This would be ethically appropriate. Second, that the consultant take advantage of the government's lack of technical competence

and deliver a less-than-perfect product that could be shown to fit into an interpretation of the TOR that the consultant draws up. This is what happened. Additionally the consultant took recourse to unethical means of using political connections to put pressure on the client to accept the product that was substandard. It also adopted an inflexible approach refusing to find cost effective solutions within the given situation. They had exploited the situation of the government's ignorance to their advantage.

* * *

This experience suggests the following lessons to be learned for the clients and the consultants.

For the client:

- LOIs and TORs must be prepared with utmost care, outlining very clearly the expected deliverables and milestones. If required, expert advice should be sought in developing both the LOI and the TOR.
- Not only the products and deliverables, but also the process to be followed and the roles and responsibilities of the client and the consultant must be outlined unambiguously. This could include regular consultations, mid-course assessment, review, and correction by an expert technical committee, process for incorporating feedback, and so on.
- Where the client lacks technical competence their capacity should be strengthened, enabling them to make best and optimal use of the contracted consultancy support and get the best results.

For the consultant:

- In case of unclear TOR, clarify issues at the outset so as to avoid foreseeable disputes later.
- It is the moral responsibility of the consultant to offer a menu of options to the client, outlining the pros and cons of each option and helping the client to make a good choice.
- The consultant must maintain a flexible and “can do” approach, especially when faced with a dissatisfied client. They must remember at all times that the ultimate purpose of the consultancy is to make the existing systems deliver better, and not merely meet the basic requirements of the TOR and come up with a product.
- Consultants must maintain transparency and integrity under all circumstances. They should consider the client a partner in their endeavors and work in a collegial spirit.

Other Remedies Suggested

A number of potential interorganizational remedies were also discussed at the Pułtusk Workshop. These included developing the following, discussed in more detail below:

1. *A Guidelines and Recommendations Handbook for Recipients*, written for recipient government officials newly assigned to deal with international development advisors, prepared by recipient government officials well-schooled and experienced in dealing with such foreign-aid consultants. After it is initially prepared, it was recommended that the handbook be “piloted” in a variety of countries to assure clarity and cultural sensitivity, with feedback from pilot study users incorporated in the final document.
2. *A Model Addendum to Consultant Contracts*, specifying what kinds of actions would be considered egregious conflicts of interest and ethical breaches on the part of consultants. A further step would be to post project and business activities as well as financial interest disclosure forms, which the consultants would be required to fill out.
3. *An Ongoing Working Group* to work with governmental auditing bodies of recipient countries to help them develop tools to audit and evaluate foreign aid projects and consultants. [Each country that was represented at the workshop had an auditing body (such as the U.S. Government Accountability Office, the Russian Audit Chamber, and the Polish Supreme Control Body, or NIK).]
4. *A Code of Ethics*, along with mechanisms for its implementation and enforcement. This option received the most attention at the workshop. A later section of this chapter is devoted to a proposed model code of ethics and the exploration of the value and possibilities of a variety of practical mechanisms for enforcing such a code.
5. *A “Consultancy Watch” Organization* to maintain an interorganizationally accessible database containing information about consultants. This organization would operate as a neutral third party with a mandate (and eventually a reputation) for independence.² To begin, this organization would collect, translate (if necessary), and make readily available open-source information that already exists about the background and activities of international development consultants. Some workshop participants saw this as a “whistle-blowing” mechanism. A further step would be to post project and business activities, as well as financial interest disclosure forms filled out by consultants. The idea of a Consultancy Watch is also discussed in more detail later in this chapter.

Interorganizational Cooperation

The issue of interorganizational cooperation is important insofar as it has the capacity to respond to problems that fall under the rubric of consultants “falling between the cracks.” One important matter is that of setting up a means that would allow consultants and consulting organizations found to be guilty of bad behavior and debarred by any major development organization to be debarred across all development organizations. At the very least, all other major players in the business of hiring such consultants should have timely access to information concerning debarment by any organization, so that those debarred cannot simply get themselves hired by other organizations blissfully unaware of the past record of those consultants. Other forms of interorganizational cooperation are also worth considering.

Problems similar to those that accompany the promotion of cooperation among individuals within an organization may appear in response to efforts that promote interorganizational cooperation. For example, a manager may be very reluctant to cease hiring a consultant simply because another manager believes that the consultant has behaved unethically. The first manager may doubt the latter’s judgment, motivations, or definition of what constitutes “unethical behavior.” He might be very reluctant therefore to forego that consultant’s services on the basis of the judgment of a person he does not trust or even know. Similar issues are even more likely with regard to interorganizational cooperation on matters as serious as cross-debarment. There may be significant political resistance to such cooperation, if it is perceived as unduly compromising the “sovereignty” of any single participating organization.

On the other hand, some experts view cross-debarment as an important aspect of enforcing coherence, harmonization, and coordination of policies and practices among development agencies. Bruce Rich, senior attorney for Environmental Defense, in a statement prepared for hearings held by the U.S. Senate Foreign Relations Committee, describes cross-debarment as “one of the most effective” deterrent measures. Rich elaborates:

Cross-debarment should be applied by all of the MDBs [multinational development banks], as well as by donor bilateral aid and export-credit agencies. It makes no sense for one MDB to do business with a company that another MDB has debarred because of corruption—indeed one could have the grotesque situation of a company obtaining business from a MDB in the same sector in the same country where a sister MDB had found

evidence of corrupt practices. Similarly, given that the MDBs, bilateral aid agencies and export credit agencies are all supported by taxpayer funds and guarantees in the donor countries, it makes little sense for a company to be debarred from doing business with the MDBs for corruption, but then to receive taxpayer-backed loans or guarantees—sometimes in the same country and sector—from a donor country’s bilateral aid or export credit agency.

Cross-debarment is something the U.S. can initiate on its own. When a company is debarred by an MDB, or found guilty of corruption in contracting with U.S. AID, OPIC or the EX-IM Bank, it should be debarred for a reasonable amount of time from business with all U.S. taxpayer-supported projects and investments abroad. Finally, a strong argument can be made that when a company is found guilty of corruption in a country—even if an MDB or bilateral agency is not involved—the company should nevertheless be subject to cross-debarment at these publicly funded institutions for a period of time.³

The U.S. Foreign Relations hearings resulted in H.R. 3057, “Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2006,” signed into law in November 2005. Excerpts from Sec. 1505 “Promotion of Policy Goals at Multi-lateral Development Banks” are reproduced here, along with relevant comments and questions. (It is important to note that this is simply U.S. legislation that essentially requires the U.S. executive director at each bank to promote specific reforms.)

**H.R. 3057, Foreign Operations, Export Financing, and
Related Programs Appropriations Act, 2006**

(a) The Secretary of the Treasury shall instruct the United States Executive Director at each multilateral development bank to inform each such bank and the executive directors of each such bank of the policy of the United States as set out in this section and to actively promote this policy and the goals set forth in section 1504 of this Act. It is the policy of the United States that each bank should—

1. require the bank’s employees, officers and consultants to make an annual disclosure of their financial interests and income and of any other potential source of conflict of interest;
[This paragraph seems only to pertain to consultants working directly for a bank, and not those hired by borrowers.]

2. link project and program design and results to management and staff performance appraisals, salaries, and bonuses;
3. implement voluntary disclosure programs for firms and individuals participating in projects financed by such bank;
4. ensure that all loan, credit, guarantee, and grant documents and other agreements with borrowers include provisions for the financial resources and conditionality necessary to ensure that a person or country that obtains financial support from a bank complies with applicable bank policies and national and international laws in carrying out the terms and conditions of such documents and agreements, including bank policies and national and international laws pertaining to the comprehensive assessment and transparency of the activities related to access to information, public health, safety, and environmental protection;
5. implement clear anti-corruption procedures setting forth the circumstances under which a person will be barred from receiving a loan, contract, grant, guarantee or credit from such bank, make such procedures available to the public, and make the identity of such person available to the public;
6. coordinate policies across multilateral development banks on issues including debarment, cross-debarment, procurement guidelines, consultant guidelines, and fiduciary standards so that a person that is debarred by one such bank is subject to a rebuttable presumption of ineligibility to conduct business with any other such bank during the specific ineligibility period;
7. require each bank borrower and grantee and each bidder, supplier and contractor for MDB projects to comply with the highest standard of ethics prohibiting coercive, collusive, corrupt and fraudulent practices, such as are defined in the World Bank's Procurement Guidelines of May, 2004;
8. maintain a functionally independent Investigations Office, Auditor General Office and Evaluation Office that are free from interference in determining the scope of investigations (including forensic audits), internal auditing (including assessments of management controls for meeting operational objectives and complying with bank policies), performing work and communicating results, and that regularly report

- to such bank's board of directors and, as appropriate and in a manner consistent with such functional independence of the Investigations Office and the Auditor General Office, to the bank's President;
9. require that each candidate for adjustment or budget support loans demonstrate transparent budgetary and procurement processes including budget publication and public scrutiny prior to loan or grant approval;
 10. require that for each project where compensation is to be provided to persons adversely affected by the project, such persons have recourse to an impartial and responsive mechanism to receive and resolve complaints. The mechanism should be easily accessible to all segments of the affected community without impeding access to other judicial or administrative remedies and without retribution;
 11. implement best practices in domestic laws and international conventions against corruption for whistleblower and witness disclosures and protections against retaliation for internal and lawful public disclosures by the bank's employees and others affected by such bank's operations who challenge illegality or other misconduct that could threaten the bank's mission, including: (a) best practices for legal burdens of proof; (b) access to independent adjudicative bodies, including external arbitration based on consensus selection and shared costs; and (c) results that eliminate the effects of proven retaliation.

A "Consultancy Watch" Organization

A key part of assuring consultant quality, reliability, and accountability is to make available to aid donors and recipients information related to the previous performance of the consultants they are considering hiring. Some efforts are being made by organizations such as UNDP and the World Bank to share information and internal evaluations regarding consultants, as we will see later. However, these evaluations are rarely shared widely and there is no systematic approach that would make this information available to the wider community of donors and recipients.

One possible mechanism to address this need is a Consultancy Watch organization, the goal of which would be to make information on current

and past performance of consultants available to donor and recipient parties. This would help potential employers make informed decisions about who to hire based on historical data relevant to evaluating the quality and reliability of the consultants.

The field of international development does not provide examples of mechanisms or organizations set up to achieve such a purpose. There are several reasons for this, most of which are embedded in the asymmetrical nature of the relationships between consultants, donors, and recipients. In the words of Paul Martin, executive director of the Center for Study of Human Rights at Columbia University, New York,

Consultants, normally from the donor country or an international agency such as the World Bank or Save the Children, act as powerful middlemen, designing projects and integrating them into national plans and programs... Only in the villages and slums and on the farm is accountability consequential. It is very unlikely that any other actors [other than the recipients] in the chain suffer consequences when a project fails.⁴

Some participants in the Working Group have also raised the point that a mechanism to achieve accountability could be reduced to whistleblowing. As James Owen Drife,⁵ an observer and consultant to the British Medical System, persuasively argued, such a mechanism could be resisted by consultants because it would be open to abuse by donor organizations or recipients who for political, economic, or any other reasons might be tempted to pressure consultants.⁶

However, in other arenas, particularly electronic commerce (“e-commerce”), there are feedback mechanisms bearing on the accountability of third-party interveners. Amazon.com and eBay, for example, have accumulated a rich body of knowledge and practice. While recognizing that the nature of relationships involved in buying a book or working with a medical consultant in the United Kingdom are different from hiring and working with a development consultant, some useful lessons may nonetheless be drawn from these models.

E-Commerce and Third-Party Accountability: Operating Principles⁷
(with the assistance of Joseph Sany)

In electronic commerce it is critical to manage commercial transactions in such a way as to hold suppliers of good and services accountable. Although they are organized differently, the most popular and well-known models of online commerce, such as eBay, Amazon.com, and Buy.com all have

the same general *modus operandi*. The differences among them are not important for our analysis.

These systems, which bring buyers and sellers together, must answer the following questions:

- Who can access the information in the system? What are the levels or types of access?
- What are the conditions of participation? How can one participate?
- Who is responsible for facilitating the flow of information, maintaining the system, ensuring respect for policies, and preserving the integrity of the system?

For simplicity, we will use only the eBay model to illustrate how such a system operates. Then we will explore the possibility of adapting some features of the model to a Consultancy Watch organization, addressing some additional relevant questions.

The eBay Model

eBay is an online marketplace for the sale of goods and services by a community of individuals and small businesses. To better understand how eBay operates and why its mode of operation might be relevant to the design of Consultancy Watch, it is important to look at the interactions among the people involved in its operations. This community is made up of eBay staff and registered individual buyers and sellers who come to the site not only to buy and sell, but also to get to know each other.

To buy, bid, or sell on eBay, individuals and businesses need to register either as a seller or buyer. Upon registration, they are provided with an account and a username that will help identify them in the community. Registration is subject to a requirement to abide by the eBay's user's agreement and privacy policy. The general public can access information on products as well as on sellers' reputation based on previous buyers' feedback. Only a buyer who has traded with a particular seller can post feedback on the seller. However, any potential buyer can contact the seller using the seller's email address linked to the seller's username to learn more about the product or inquire about the seller's past performance.

The main mechanism of participation in the eBay community (other than actually buying or selling) is through the feedback forum where members learn about their trading partners, view their reputations, and express their opinions by posting feedback on particular transactions. One needs to be a registered member to access the community and interact with other members. Every eBay member has a profile in the Feedback

Forum. A profile has basic information about the member and a list of feedback entries posted by their trading partners from previous transactions. Members are encouraged to communicate with their trading partners before leaving feedback, because once left, the feedback is permanent.

There are also mechanisms to address feedback disputes. A member who has received feedback can reply to the feedback and share his/her side of the story. The response will be shown directly below the comment left. It is also possible for a member who has provided feedback to leave one follow-up comment that adds information or clarifies an earlier comment that he or she has already left. The follow-up will appear below the original comment.

If two trading partners are able to resolve a problem after they have left feedback, they can mutually agree to withdraw the feedback rating. If and only if both members agree, the feedback left by both parties is withdrawn at the same time.

The eBay organization itself removes individual feedback comments only in very exceptional circumstances when the comments breach specific policies. Situations where eBay will remove feedback include comments containing vulgar language or personal contact information. There have also been instances in which eBay has removed feedback because of a court order. The system is managed by eBay to ensure that members respect the policies and regulations they have agreed to during registration, but eBay does not otherwise censor or investigate the contents of communications.⁸

“Consultancy Watch” in Practice

The success of the eBay model suggests that a mechanism of accountability should be based on key principles understood and shared by all stakeholders involved. The first principle is that accountability should be proactive, not simply reactive. An underlying assumption of reporting cuts across varying cultural concepts of accountability. Accountability is typically considered validated only by reporting after the fact. In other words, it is more reactive than proactive. It is critical to shift this paradigm and consider a more proactive stand, which recognizes, as one analyst expressed, that “Accountability, of course, is not just about imposing sanctions for poor performance. It is about identifying problems early and helping to resolve them. It is about ensuring that action is taken to alter work responsibilities if someone is failing to cope.”⁹ In practice, this means that such a mechanism should enable both the regular review of consultants and their participation in the review.

A second key principle is that of inclusiveness. The effectiveness of the mechanism and the accuracy of the information it provides depends upon

the breadth and quality of the data used. All actors should be encouraged to provide information and all should be able to access the information. This should help temper the suspicion often associated with a whistle-blowing mechanism, and reduce any perverse effects related to the asymmetrical relationships between actors.

Sometimes donor organizations, consultants, and recipients have different and competing agendas. Even when the terms of reference are clear, the interpretation and assessment of outcomes can be shaped by different expectations and interests. Therefore, allowing all actors the possibility of providing different perspectives on the same performance brings an element of transparency, fairness, ownership, and empowerment. These characteristics in themselves are positive incentives for consultants and recipients to get involved and to share their learning and experiences.

Finally, the design of the accountability mechanism should be flexible. Given the fact that some, if not most, donors have their own systems of consultant evaluation and appraisal, such a shared mechanism should be flexible enough to allow transferability of existing data and information. Open source technologies allow such flexibility.

Implementing a mechanism of accountability for development consultants is best done incrementally, starting with a limited number of international nongovernmental organizations, their local partners in recipient countries, and donors and their existing network of consultants. While the role of the host organization of such a mechanism is to collect, process, and facilitate the dissemination of information introduced by participants, the first step in setting up such mechanism is an agreement on the operating principles.

A decision must be made as to whether information related to feedback on a particular consultant or communication between a consultant and donors or recipients would be accessible to the general public or only to registered members. Then it must be decided whether anyone willing to agree to abide by the policies (and pay whatever registration fee might be required) should be eligible to become a registered member, or whether membership should be restricted to those who have particular credentials. In either case, presumably the bulk of registered members would be consultants, donors, aid recipients, and other obviously interested entities (such as reporters and watchdog organizations). Our predisposition is to opt for wider membership because it eliminates the need to investigate credentials and because it is very important not to erect barriers for new entrants.

Comments on a project or feedback on a particular consultant or organization of consultants should be posted only by registered members of

the community who have been involved in the design and implementation of the project for which they are providing feedback or comments. Each donor, aid recipient, and consultant member should have a profile. For the consultant, the feedback or comments, as well as his/her replies, should become part of his/her profile and should be accessible by the general public.

The system could be managed by one or a group of organizations charged with the responsibility of ensuring the maintenance of the system and respect for system policies, while not otherwise interfering with the flow of the communication between members.

While these principles constitute the foundation of the system, they do not, however, cover some particular and important issues. First among these is the issue of privacy, which goes beyond the identity of the parties involved to the transactions themselves. Some aspects of the project may require confidentiality. A self-registration process combined with agreement to the terms of conditions and privacy policies (to be defined) should lower, but would not eliminate, the risk of abuse of privacy.

Second, disputes may arise based on the content of the communication between consultants, donors, and recipients. There may also be disputes between members and a particular watchdog group based on the way that group has used the information posted on the Consultancy Watch.

Finally, the resources that consultants, donors, and recipients have to access such a web-based system may also vary. As a result, some aid recipients may be left out of the community, even though they could potentially play an important role in validating feedback posted.

All these issues and many more related to the design and development of a Consultancy Watch organization warrant further discussion among all categories of potential users of the system.

Prototype Open System ("A Free for All") Version of Consultancy Watch

Membership: Anyone could become a member by simply registering in the system. There could be four types of membership: consultants, donors, recipients of a given project, general public.

Access: Anyone could access information and feedback on each consultant.

Participation: Only consultants, donors, and recipients linked by a particular project would be able to post feedback. Members from the general public would have access to these comments, since they will be part of consultants' profile; however, the general public would not be allowed to post information or comments.

Procedures: A donor who wants to hire a consultant will have to do the following:

1. Register in the system (if not already registered);
2. type in key words (related to the competency/region);
3. the system will provide a list of consultants with the related competencies;
4. the donor could then access the profile of the consultant to learn more about his/her previous experiences and feedback (if any) left by others donors.

Consultants would fill out a form highlighting their expertise and previous experience. They could also indicate donors with whom they have worked. The system then creates a link between the consultant's profile and the donor's.

Once the relationship between the consultant(s) and the donors has been established and the project is underway, the donor can add recipients to the system, thus giving the recipient access to feedback and possibility to post feedback on the performance of the consultant(s).

A member of the general public would have access to a short profile (mission, areas of expertise or competence) of donors and consultants, but would have to be registered to have access to full feedback and comments on a particular consultant.

Prototype Closed System ("Members Only") Version of Consultancy Watch

The system is closed. Only registered members can view and post information in the feedback section.

Membership: Consultants, recipient groups, and donor organizations. All these entities must register independently.

Access: Only registered consultants, donors, and donor-sponsored recipients have access to the system. The registration would not be automatic; it would require some verification from the management of the system. This step would not be necessary if the system is an open system, meaning that everybody including the general public have access to the information on feedback (but cannot necessarily post).

Procedures: A donor who wants to hire a consultant will have to do the following:

1. Register in the system (if not already registered);
2. type in key words (related to the competency/region);
3. the system will provide a list of consultants with the related competencies;

4. the donor could then access the profile of the consultant to learn more about his/her previous experience and feedback (if any) left by others donors.

Consultants would fill out a form highlighting their expertise and previous experience. They could also indicate donors with whom they have worked; the system will then create a link between the consultant's profile and the donor.

Participation: Registered donors and recipients will be able to post feedback about a consultant who is related to a project. The consultant will be able to react to the feedback. The conversation will be part of the consultant profile.

A "Donor Centered" Closed System Version of Consultancy Watch

Membership: Donor organizations and consultant and recipient groups introduced into the system by a particular donor. In this case, consultants and recipients are introduced in the system by a particular donor, who fills out a form listing the consultants and their contacts, as well as recipient groups.

Access: Only donors and recipients can post feedback. Consultants can read but cannot post. This situation is similar to what some donors already use. In the proposed case, however, it is a shared system in which each registered donor has access to information provided by other donors.

Information sharing systems that span organizations can also serve as tools to promote transparency and accountability. Not surprisingly, many of the advantages and risks associated with such systems reflect those one observes when looking at intra-organizational information-sharing systems, such as the UNDP's Expert Roster: problems related to inter-cultural communication and reluctance to share negative information. Some cultures also frown upon public criticism, and legal liability can be an important disincentive as well.

A Code of Ethics and Proposed Mechanisms for its Implementation and Enforcement

Introduction

Codes of ethics are often seen simply as attempts to control or restrict behaviors that may be in the interest of the actor (as agent), but are demonstrably not in the interest of his or her clients (as principals) or the wider

society. Codes of ethics can certainly help to do that. But they are equally valuable—in some ways, more valuable—in guiding those who want to behave ethically and shielding them against pressures, coming from those for whom they are working, to violate their own convictions. In the words of Nobel laureate economist Douglass North, “The importance of self-imposed codes of behavior in constraining maximizing behavior in many contexts... is evident... [T]he lower the cost of expressing one’s convictions, the more important will the convictions be as a determinant of choice.”¹⁰

Sections 5.5.2–5.5.3 of the World Bank’s Consulting Services Manual (to be discussed in more detail in the next chapter) both explicitly and implicitly endorse such behavioral codes, calling for borrowers to “adopt an enforceable code of conduct with proper sanction,” and for consultants to “act with competence and integrity and solely in the interest of the Borrower,” as well as “to abstain and resist from entering into arrangements... that will conflict with their assignment.”

It is best for a code of ethics to grow out of the profession that it is meant to guide. The influence of ethical guidelines is that much stronger if they emanate from an internalized sense of professionalism. Because ethical guidelines are not necessarily legally binding rules (although they may be reproduced in legal language as clauses of a consulting contract or loan agreement), such guidelines should support a psychological sense of professionalism, of belonging to a group of individuals who have dedicated themselves to upholding certain standards in the course of their professional lives. This is not an easy sentiment to generate, maintain, and nourish, particularly in a multinational industry such as international development advising. But as people talk, shared values can become incorporated into behavioral norms that can have an effect similar to legal rules. It is often useful, for clarity among other reasons, to codify these norms into a formal, explicit code of ethics. Developing a code of ethics for consultants is also about establishing understanding among all of the players involved. If donors, borrowers, and consultants know what the ethical expectations are, then consultants who intend to take personal advantage of complex situations may feel less able to hide behind cultural misunderstanding and differing institutional policies.

The discussion that follows explores some of the more important issues involved in designing an ethical code that comes to terms with the kind of problematic consultant behaviors that resulted in the initiation of this project. The prototype code presented is intended to crystallize these issues and serve as one useful starting point for what we hope will be a fruitful discussion and debate among individual consultants, consulting firms, consultant associations, donors, and recipients ultimately leading to

the delineation of a code that is relevant, acceptable, and pragmatic. The process of synthesizing and disseminating feedback in the course of such a discussion, and the kind of common understanding it produces, can in itself generate a kind of “soft power” pressure to do the right thing.

We make no claim that the prototype code presented here is in any sense a final product. But noting that focused discussions are more likely to produce useful results, we offer this code as a helpful point of focus. It is worth emphasizing, however, that this prototype code was not developed out of thin air. It is based on a careful analysis of a wide-ranging sample consisting of the ethical codes of more than two dozen major professional groups and organizations, including financial advisors, engineers, private consulting firms, securities exchanges, and the World Bank Group. Its rules are based on the parts of those codes most relevant to the problem at hand.

Designing a Code of Ethics

Because there is so much potential power in the roles that international economic consultants play, and so many dimensions to and levels of the trust in the relationships in which they are involved, it is useful to specify an explicit code of ethics to guide their behavior. In terms of the problems that this book is intended to address (as delineated in the previous chapter), the code as a whole speaks to much of the fundamental problem of corruption, the problem of client ambiguity and to a lesser extent role ambiguity, and aspects of the problem of moral hazard and of the legal/cultural problem. It is a useful component of a strategy for addressing the incentive problem, a problem whose solution is critical to the ultimate success of efforts to encourage higher standards of ethical behavior among international economic consultants.

It must be emphasized that no code, no matter how well constructed, can be expected to eliminate unethical behavior. No general set of principles, laws, or rules yet devised, from the Ten Commandments to the UN Charter—and no body of national law or custom—has ever succeeded in completely preventing violations by bad actors. But a sufficiently clear and specific code of ethical behavior can help clarify the distinction between those who behave well and those who behave badly, and make it easier to reward the former and sanction the latter. It can also make it far more difficult for bad actors to credibly claim that they did not understand that the behavior in which they engaged was proscribed.

It is impossible to make a code of ethics comprehensive enough to cover every situation that might arise. A code that attempts to be too specific and comprehensive will have to be so long and detailed, so cumbersome and

legalistic that it is unlikely to be understood clearly enough or consulted easily enough to serve as a practical guide. On the other hand, a code that is too brief and general may express admirable aspirations, but will not offer the most meaningful guidance in practical situations.

Finding the optimal point between these extremes is not a simple matter, but a reasonable balance can be struck by creating a code that explicitly states general principles of ethical behavior relevant to international economic consultants, and then presents more specific rules under each principle to help operationalize it. The principles are thus few and easy to remember; the rules are much more numerous, yet straightforward, easy to understand and practical.

Three main principles form the basis of the prototype code proposed here: “Honesty,” “Integrity,” and “Responsibility.” A fourth core principle, “Professionalism” is short-hand for acting with what is sometimes called “due professional care.”

“Honesty” is perhaps the single most basic principle of ethical behavior in consultant-client relationships. If consultants are hired advisors whose advice can be freely embraced or rejected, honesty about qualifications, track record, costs and likely benefits, motives, other business involvements, conflicts of interest, and the like gives clients information they need to decide if it is worthwhile to hire the consultants in the first place. But even when consultants are imposed upon the nominal client by some external institution (such as a bank or an aid-giving donor government), this information is useful in judging what credence to give to their advice.

The principle of “Integrity” is closely related to that of honesty. More than anything else it requires that a consultant do what he or she has committed to do, admit when things go wrong, and generally bring out into the open information that the client or the wider public would benefit from knowing, instead of looking for ways to keep that information hidden. Rather than violating the letter or the spirit of relevant rules, regulations, or laws, or even seeking loopholes to circumvent them, the principle of integrity requires that consultants not only meet their obligations, but also go beyond doing what is strictly required to doing what is right.

The principle of “Responsibility” includes two components: (1) behaving in a manner that is socially, professionally, and personally responsible toward the proximal client, and being sensitive to the trust inherent in the client-consultant relationship; and (2) behaving responsibly toward the wider public and, to the best of their ability, upholding the public health and well-being. The latter is an especially critical element of the responsibility of those who serve as consultants to governments, strongly influencing if not determining policies that have potentially enormous impact

on the lives of the governed. It is understood that conflicts between these two elements of the principle of responsibility are sometimes unavoidable. When they occur, the welfare of the public at large should not be subordinated to the wishes of the client.

As a principle of ethics designed to guide the behavior of international economic consultants, “professionalism” encompasses a range of issues that go beyond the essential principles of honesty, integrity, and responsibility, and yet are relevant to “doing the job right” and being an upstanding member of the consulting community. It includes elements that involve attention to the quality of the work performed, and fairness in dealings with clients, subordinates, and the public, as well as the appropriateness of activities in which those with the expertise and experience that typifies consultants might sometimes be asked to engage.

Since ethical behavior does not divide itself into neatly separable categories, some of the rules that are listed under one principle could also be logically placed under one or more of the others. In fact, there is some overlap among the principles themselves: integrity clearly includes elements of both honesty and responsibility; responsibility includes elements of both honesty and integrity; and professionalism is generally understood to encompass aspects of honesty, integrity, and responsibility. Nevertheless, taken together, these four principles represent a defining core of ethical behavior. Presenting them separately, with each rule set forth under the principle that it most closely supports, is simply a useful approach for organizing the code, and a convenient expository device.

A Prototype Code of Ethics for International Economic Advisors

The prototype code consists of the four core principles discussed earlier and thirty-seven specific rules that animate them. After each rule in the proposed code related to a rule in an already existing code is presented, there is a citation to one or more organizations that adopted a code with the same or a similar element. (The citations are intended to be illustrative, not comprehensive.) The acronyms of organizations whose codes provided especially useful input to this project are listed alphabetically and defined at the end of this section. Commentary is provided where it is thought to be useful.

Principle 1—Honesty

Rules:

1. A consultant must always represent his or her credentials accurately and never claim to have completed a degree, achieved a certification,

- held a position, or had a previous work experience that he or she did not have. [ADA, AIA, AIMR, NSPE]
2. It is a primary obligation of the consultant to transmit information truthfully, without deception or deliberate obfuscation, in all communications with the client. [ADA, ISACA]
 3. A consultant must present the program of work proposed in a clear and truthful manner before beginning that work. [ADA]
 4. It is unethical to grossly exaggerate the potential gains to the client likely to result from the consultant's services. [ADA, AIA, IEEECS]
 5. Any nontrivial changes in the program of work that a consultant comes to believe are necessary and appropriate once the work has begun should be explained to the client clearly and truthfully, and approved before the change is made. Should compelling circumstances make immediate notification impractical, the consultant is bound to notify the client as soon as possible.
 6. It is unethical to perform, or even recommend, unnecessary work for pay. [ADA]
 7. All matters that could reasonably be expected to interfere with a consultant's ability to make unbiased and objective recommendations, or to fulfill other duties to any client, must be fully disclosed to that client as soon as the consultant becomes aware of them. [AIMR, FPA, WBG]

Principle 2—Integrity

Rules:

1. When seeking work, it is important to know and be honest about the limitations of one's own knowledge, expertise, and capacity to do the work required, and to complete it within the agreed time frame (or a reasonable approximation thereof). Work that a consultant knows to be clearly beyond his or her competence should neither be sought nor accepted. [ADA, AIA, FPA, IEEECS, NSPE]
2. Once a consultant has committed to undertake a program of work, he or she must perform that work to the agreed specifications within the agreed time frame, provided that doing so does not violate any primary obligation specified within this code. [EY]
3. If a consultant determines that some aspect of an already contracted program of work requires special knowledge, expertise, or capacities that the consultant does not possess, the consultant is obligated

- to make the client aware that the services of another appropriate specialist are required. [ADA, AIA, FPA, IEEECS, NSPE]
4. A consultant should avoid conflicts of interest, and fully inform clients about other relevant business-related interests and any existing or potential conflicts of interest that cannot be (or have not been) avoided. [ADA, AIA, FPA, IEEECS, NSPE, PMI]
 5. Mistakes should be admitted, and then promptly corrected. [CPI, IEEECS, NSPE]
 6. A consultant who suspects that a particular recommended policy or program will fail, or will have serious adverse effect on the client or the public at large, has an obligation to communicate that concern to the client, and if necessary and appropriate, to the public. [ADA, IEEECS, NSPE]
 7. In the course of working on a project, if a consultant becomes aware that a work-related activity undertaken by their employing organization or client is fraudulent, illegal, or is highly likely to seriously and adversely affect the well-being of their employing organization, the client, or the public, he or she should: (a) advise the employer or client against engaging in that activity; and (b) refuse to consent to or participate in any way in that activity. If the activity is not promptly terminated, and it is the public interest that is seriously threatened, the consultant should report the activity in question to any appropriate regulatory or oversight authority that might exist. [AIA, NSPE]
 8. Consultants must take care not to use, or even appear to use, confidential information derived from a client for the professional and/or financial benefit of the consultant (aside from agreed fees for consulting services). [AFP, IMA, NSPE]
 9. Consultants must offer to withdraw from a consulting arrangement when, for any reason or circumstance, their objectivity or integrity may be impaired. [IMA, IMC]
 10. Consultants must always accept full personal responsibility for their work. [EY, IEEECS]
 11. Consultants must not solicit or accept compensation, financial or otherwise, from more than one party for services on the same project, or for services pertaining to the same project, unless the circumstances are fully disclosed and agreed to by *all* interested parties. [NSPE]
 12. Consultants are obligated to report instances of gross neglect, highly inappropriate behavior, gross incompetence, or major

violations of this code of ethics by other consultants to the appropriate authorities. (This does not apply to general judgments of work quality, but only to instances of gross malfeasance.) [ADA, AIA, FPA, IIEEECS, NSPE]

Principle 3—Responsibility

Rules:

1. While working to achieve the client's objectives is an important responsibility, consultants must be sensitive to, and always try to act consistently with, the public interest to the extent that they are reasonably able to judge what is and is not in the interest of the wider public. [ADA, FPA, IIEEECS, IMC]
2. Consultants should fully inform their clients of the proposed work design, along with any reasonable alternatives and options, in a way that allows their clients to be involved in shaping the project. [ADA]
3. Consultants should ensure that they are providing realistic quantitative estimates of the cost, scheduling, required personnel, quality, and outcomes of any project on which they work or propose to work, along with an uncertainty assessment of these estimates. [IEEECS]
4. Confidential client information must not be divulged without the client's explicit consent, except where key obligations under other elements of this code require that such information be divulged. [ADA, FPA, ISACA, IIEEECS, IMA]
5. Consultants should make reasonable inquiry into the political, economic, legal, cultural, and religious situation within a country (if the consultant is not already deeply knowledgeable about these matters), prior to making recommendations for policies and actions to be undertaken by that country (or by others dealing with that country), and take that information strongly into account in formulating recommendations that are appropriate and suitable to that particular country's situation and objectives. [AIMR]
6. Consultants should identify, define, and address ethical, economic, cultural, and environmental issues related to work projects, and avoid recommending any course of action that is likely to result in serious violations of human rights. [IEEECS, WBG]
7. Actions taken on behalf of a client and for the client's benefit must have priority over those undertaken for the benefit of the consultant. The activities or investments of the consultant should not

operate adversely to the interests of either their clients or the public. [AIMR]

8. Consultants in public service as members, advisors, or employees of a governmental or quasi-governmental body must not participate in decisions with respect to services solicited or provided by them or their organizations. [NSPE]

Principle 4—Professionalism

Rules:

1. When acting as an agent for a principal, rather than simply as an advisor, the consultant should assure that the scope of his or her authority is clearly defined and properly documented. [FPA]
2. Consultants must not issue statements, criticisms, or arguments that are inspired or paid for by interested parties, unless they have prefaced their comments by explicitly identifying the interested parties on whose behalf they are speaking, and by revealing any vested interest the consultants themselves may have in the matters at hand. [NSPE]
3. It is not appropriate for consultants to participate as members or advisors in any private, governmental, or professional body unless they have fully and publicly disclosed any actual or potential interests that they, their organizational employers, or their clients have that are likely to be affected by the deliberations, recommendations, or actions of that body. [IEEECS]
4. A consultant is obligated to delegate work to subordinates only when that work is within the competence of those subordinates and such delegation is otherwise appropriate. [ADA, AIA, FPA, IEEECS, NSPE]
5. Always fully acknowledge any substantial contribution of subordinates or other individuals to the project. [AAUP, NSPE]
6. Avoid any exploitation, harassment, or discriminatory treatment of subordinates. [AAUP, NSPE]
7. Consultants should inform their employing organization and their clients that they (the consultants) are obligated to comply with this code of ethics, and give their clients or employing organization a copy of this code if they do not already have one. [AIMR]
8. Consultants are required annually to recommit in writing to following this code of ethics, and to disclose any charges of violations of appropriate professional conduct that have been made against them. [AIMR]

9. A consultant found guilty of violating this code of ethics can and should be subject to reprimand, censure, or disqualification (temporarily or permanently) by the qualifying organization, depending on the seriousness of the violation. [ADA]
10. It is unethical for a consultant to bring or threaten to bring a disciplinary hearing under this code of ethics for no substantial purpose other than to harass, maliciously injure, embarrass, or unduly burden another consultant. [FPA]

KEY to Professional Organizations Cited:

AAUP = American Association of University Professors

ADA = American Dental Association

AIA = American Institute of Architects

AIMR = Association for Investment Management and Research

CPI = Center for Public Integrity

CME = Chicago Mercantile Exchange

EY = Ernst and Young (a private consulting firm)

FPA = Financial Planning Association

IEEECS = Institute of Electrical and Electronic Engineers Computer Society

IMA = Institute of Management Accountants

IMC = Institute of Management Consultants

ISACA = Information Systems Audit and Control Association

NSPE = National Society of Professional Engineers

PMI = Project Management Institute

PWC = PricewaterhouseCoopers (a private consulting firm)

WBG = World Bank Group

Achieving Compliance with the Code

It is one thing to write a code of ethics; it is quite another to get people to take it seriously. There are basically two principal ways of achieving compliance with any code: (1) establish a system of effective and meaningful negative sanctions to punish those who violate it; and (2) create a system of positive incentives to reward those who abide by it. In this case, with a properly designed mechanism, it may be possible to put both in place at the same time.

Apart from any other considerations, it is reasonable to suppose that those who are in the international economic consulting business are motivated by some combination of the desire to earn income, gain status, and/or affect policies and institutions that are influential in the lives of others.

Opening doors to important clients is a prerequisite to accomplishing any or all of these things. An effective mechanism to allow consultants to gain access to important clients that depended on continuing adherence to the code should provide a strong positive incentive to comply with the code. Withdrawing access to that mechanism as a consequence of violating the code should be painful enough in terms of loss of business to create a strong negative sanction that would also be useful in achieving compliance.

Licensure, certification, and registration are three commonly used mechanisms for shaping the practice of a given profession. (All these options were discussed at some length during the workshop at Pułtusk, Poland.) Licensure is a complex, expensive, and cumbersome process that typically involves detailed oversight of education or training of would-be practitioners, legal requirements, and other elements of quality control. Those who practice without a license are usually subject to severe legal penalties. Certification, on the other hand, is far less complicated, cheaper, and less exclusive. Because people who are not certified can still practice, certification does not control entry into the profession. Yet it still serves as a meaningful marker of quality and competence, and thus conveys a substantial competitive advantage to the certificant. Finally registration, in the sense intended here, is a milder version of certification in which there is no particular implication of quality or competence. Registration in this sense can be accomplished by simply keeping an accessible listing of those who have formally agreed to abide by a specified code of behavior and to make publicly available whatever activity reports or other information those who have established the registration system require.

The main distinction between licensure and certification is that licensure is a means of strictly controlling who is permitted to practice a profession, whereas certification is primarily an official badge of quality that is not required in order to practice. The main distinction between certification and registration is that registration does not convey any information about quality or competence, whereas certification does. But all three imply an agreement on the part of the practitioner to abide by certain established rules of behavior.

Licensing of international economic consultants seems unnecessary, inappropriately intrusive, excessively expensive, overly complex, and in any case is probably unenforceable. Certification makes much more sense, but it still runs up against the problem of assuring quality. Given the present state of affairs in international economic consulting, it may be overly ambitious to begin by trying to set up a certification process. A properly designed, much simpler registration process seems more practical to start. Once it is in place and operating successfully, there is no particular reason

why it could not be turned into a more complex certification process, if that seems useful and appropriate.

If it were possible to establish a system for registering consultants that included a requirement that they continue to adhere to the code of ethics (as well as certain specified reporting requirements) to maintain their registration—and then convince major employers of consultants to establish a policy that they would hire only registered consultants—both positive and negative incentives would be in place. Consultants would have a strong positive incentive to register so that they would be eligible to be hired by especially important potential clients. The threat that violations of the code of ethics would result in de-registration would be a serious negative sanction, because it would deprive the offending consultant of access to a substantial amount of potentially lucrative business. From the point of view of the consultant, there would thus be considerable advantages to compliance and considerable disadvantages to noncompliance.

Making Registration Work

Why should important clients agree to hire only registered economic consultants (RECs)? Knowing that the consultants they hired were bound by a sufficiently well-constructed and enforced code of ethics would itself be a considerable advantage. If registration also included reporting requirements that obligated RECs to keep updated information of interest to present and potential clients in a centralized database easily accessible by those clients, potential employers would have additional incentives to hire only or give strong preference to RECs. What kind of information would be in the database? Contact information that would allow quick, inexpensive, and effective verification of credentials—perhaps especially past and present positions held, projects underway and completed, and past and present clients—would be of real value to potential clients. By accessing the database, current clients would also have some assurance that the other major ongoing activities being undertaken by the consultants they had hired did not create significant conflicts of interest with the activities that these same consultants were performing for them. Care would have to be taken to structure the reporting requirements in ways that protected the privacy of legitimately proprietary client information. To help ethical consultants avoid problem situations, it would also be a good idea for such a database to contain a “watch list” of potential employers known to have engaged their consultants in what turned out to be illegitimate or illegal activities.

All aspects of the ongoing registration process (including the centralized consultant database) would be more credible if they were controlled

and monitored by a well-respected international organization that is independent of both the consultants and their clients. This organization would be responsible for: (1) verifying the completion of requirements for and confirming the initial registration; (2) supporting the code of ethics, including adjudication of alleged violations and imposition of sanctions where appropriate; (3) receiving required consultant reports, recording them, and generally maintaining the database; and (4) recording any ethics violations found to have been committed by the consultants in the database, along with any unresolved business-related complaints that were lodged against them. It is important that fair, efficient, and well-specified procedures be developed to adjudicate alleged violations, validate claims, and resolve complaints. One example of a generally well-respected international organization that performs the function of developing both technical and behavioral standards and monitoring compliance is the International Organization for Standardization (ISO), headquartered in Geneva, Switzerland.¹¹

An Even Simpler Alternative

Even though registration is simpler and less intrusive than either licensure or certification, it is possible to conceive of an alternative means of implementing the code and reporting requirements that is simpler still, both to set up and to operate. The idea is to establish a "Center for Quality Consulting" (CQC) either within an appropriate existing organization or as a freestanding entity. Consultants who become members of the CQC would commit to: (1) abide by the code of ethics; (2) submit to an open database information concerning the nature of consulting projects in which they had engaged in the past and were currently engaged, along with contact information for those for whom the project had been performed; (3) submit any complaints or alleged charges of code violations brought against them by their clients that could not be readily resolved in a mutually satisfactory manner to a standard arbitration (or other conflict resolution process) established and implemented by the CQC.

The CQC would include in its open database, records of all complaints or charges made against any member consultant that were not resolved to the satisfaction of his/her clients (as certified by the clients) or in which the finding of the arbitrator was against the consultant. If the arbitrator's findings in more than a preestablished number of complaints (weighted by their severity) were against the consultant, the consultant would be expelled from the CQC. On the other hand, any consultant in good standing would be able to advertise that he/she was a member of the CQC. Potential clients would thus have some assurance that they

could easily access important reference contact information in addition to accessing information about any complaints made for which the consultant was found culpable. This would benefit potential clients enough to cause them to take a consultant's membership in CQC (or lack thereof) seriously in deciding whom to hire. And that in turn would make membership in good standing in the CQC a valuable business asset to the consultant, providing a strong incentive to play by the rules. As with registration (or certification), this simpler system would benefit the many consultants who are both competent and ethical at the same time it provided a mechanism for sanctioning consultants who were not.¹²

An Additional Idea: The Changing Face of Consulting— Communities of Practice and Knowledge Networks

The movement to facilitate exchange of expertise among practitioners in developing countries may be changing the consulting landscape. Rather than relying on expert consultants, practitioners can turn to their counterparts in other developing countries. The World Bank's Global Development Learning Network is but one example of such a facilitation effort:

The Global Development Learning Network (GDLN) is a global partnership of learning centers (GDLN Affiliates) that offer the use of advanced information and communication technologies to connect people working in development around the world. By applying tools and services developed in the field of distance learning—learning that takes place when participants in an event are separated by space and time—GDLN Affiliates enable organizations, teams, and individuals around the world to communicate, share knowledge, and learn from each others' experiences in a timely and cost-effective manner.¹³

Essentially, the initiative involves organizing live videoconferences among practitioners in various countries who are working on similar or complementary projects. Based upon conversations at the World Bank's Friday Morning Group, it appears that one of the underlying premises of this initiative is the assertion that experts and practitioners in developing countries can, in many cases, help one another as significantly, if not more so, than "international experts." To the extent that such initiatives gain traction, they may alter the comparative advantage of consulting firms and in turn the business strategy of such firms. In any case, the participants in the Friday Morning Group suggested that American consultants

are often seen as a proxy for Western consultants in general, and that the moral authority of Western consultants was on the wane.

Having looked at some measures that should be useful in addressing some of the key problems involved in international development advising across organizations, it is time to take a look at useful intra-organizational approaches. In the next chapter, we will have a closer look at two different models of intra-organizational systems, one highly centralized and the other highly decentralized. We will do this through the mechanism of case studies of the United Nations Development Program's (decentralized) system and that of the World Bank (a centralized system).

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CHAPTER 5

MEASURES WITHIN INTERNATIONAL DEVELOPMENT ORGANIZATIONS

International consultants are, by definition, working across organizations even when they enjoy fairly steady employment with a particular international development organization such as the World Bank or a major accounting or consulting firm. But even though their work is always cross-organizational in some sense, the challenge of mitigating the problems of unethical behavior or corruption among international economic development advisors through greater accountability can be engaged by both inter- and intra-organizational strategies. In the previous chapter, we focused on a variety of strategies that cut across organizations. Here we take a closer and more detailed look at strategies that can be applied internally by key development-oriented organizations to increase accountability and thus attempt to mitigate bad behavior on the part of international consultants. Although these approaches are intra-organizational, they must still be sensitive to the cross-organizational and cross-cultural context within which international development advising necessarily takes place. These strategies must also be capable of operating with respect to both in-house consultants and those who are hired by the organization as freelancers, recognizing that there are potentially even more problematic activities, roles, and other issues where freelance consultants are involved.

Through careful case study of the very different systems in use at two premier organizations concerned with international development—the United Nations Development Program (UNDP) and the World Bank—we

consider systemic remedies that in effect stake out the opposites poles of the approaches that have been attempted *within* organizations. Our goal is to understand the organizational context, and consider what is being done within the organization that could potentially provide elements of a more broadly applicable model. To be properly understood, any system must be considered within its institutional context. If the context does not support the system, then it is unlikely to be effective. It is not possible to meaningfully consider consultant accountability in isolation. It is also necessary to consider, among other factors, accountability, capacity, and organizational culture within hiring institutions. We begin now by looking at the highly decentralized “Expert Roster System” used by the United Nations Development Program.

Decentralized Roster Systems: The UNDP-Type Approach

One approach to building accountability into the economic consulting process is to ensure that potential clients have accurate information regarding a given consultant’s expertise, ideological leanings, interests, track record, and so on. There are many ways through which clients can be so informed, one of which is the decentralized roster model presented here, the features of which are distilled from the UNDP’s Expert Roster System. The decentralized roster model is a closed system. It is decentralized in the sense that judgments regarding consultant performance can be made by any individual using the system. It is closed in the sense that there are limitations as to who is permitted to enter and access information. This will be contrasted with the World Bank’s sanctions process (to be discussed in some detail later), which is centralized and more open— all judgments are made by a centralized Sanctions Committee, and its list of debarred firms is made available on a website.

What is a Decentralized Roster System?

A roster system is a tool designed to help individual employees—and the organization as a whole—to manage consultant resources. The system can be used to create and search for consultant profiles, make and accept consultant referrals from other employees, and invite a consultant to enter the system. Employees can set and alter the status of each consultant in their own roster. A consultant’s status may be set as “un-vetted,” active (recommended), or inactive (not recommended). Also, employees can record narrative feedback regarding any given consultant’s performance.

Two fundamental characteristics of the roster system model are (1) the potential for information-sharing and (2) the decentralized nature of decision-making.

The Potential for Information-Sharing

The roster system is a restricted system that allows individuals within a defined group to manage and share information about consultants. The pool of experts managed by a given employee is called a “roster,” and that employee is called a “roster manager.” Any person who recommends a consultant to a roster manager is called a “sponsor.”

The system rests on a decentralized database. Even though all of the data actually reside in one master database, every user views only a unique subset of this data—his roster. That is, even though each roster manager has his own roster, all of the data relating to all of the consultants is actually in one database and not in many separate databases. Therefore, a roster is actually a set of associations between a given roster manager and several consultants. In technical terms, we might say that a roster is a set of “links” between the roster manager’s “view” and a set of consultant “records” in the database.

Readers unfamiliar with relational database terminology might imagine a large “pool” of consultants surrounded by roster managers, each equipped with an infinite number of (fishing) lines. The roster manager holds one end of each line and attaches the other end to a given consultant. Each manager may tie to or associate with many consultants, and a given consultant may be tied to or associated with more than one manager. However, there can only be one of each consultant in the pool. From a functional perspective, this means that if two roster managers place the same consultant on their respective rosters, then each should be linked to the same consultant record or package of information relating to that consultant. This structure makes it easy for various managers to share information about a given consultant.

The Decentralized Nature of Decision-Making

Decision-making within this roster system is highly decentralized. The system does not project a hierarchy onto its users; every roster manager receives the same privileges. Further, there is no organization-wide policy used to determine who may or may not become a roster manager. Permission to create a roster is subject to the existing decision-making structure of the given division, department, bureau, and so on. Some divisions may permit each employee to maintain a roster, while others grant that privilege only to senior staff.

Once the roster has been created, the roster manager is expected to fill it with qualified experts. This may be done in one of two ways. The roster manager may add consultants with whom he is familiar, in which case he is considered the sponsor, or the roster manager may accept a consultant referral from a colleague, in which case the colleague is the sponsor.

This referral process is designed to formalize the method managers often typically use to identify experts—soliciting names from his or her colleagues. For example, a manager might send an email to a group of colleagues, asking, “Who do we know that can do X, speak language Y, and has experience in country Z?” Managers often utilize their own professional/social networks when faced with challenges such as identifying a consultant with specialized expertise in a short period of time. The referral system can formalize this network-based practice to some extent, as it generates a record that Manager A recommended Consultant B to Manager C.

Because every new consultant entering the system must have a sponsor, one of the disadvantages of the system is that it has too high a potential for fostering cronyism. It therefore puts a greater premium on trust among the roster managers. In such a system, recommendations from roster managers within their trusted network would tend to be taken more seriously than referrals from roster managers they did not know, or possibly even from any independent outside body. It is the responsibility of the sponsor to ensure that the consultant’s profile—which includes information regarding education, technical expertise, work experience, languages, and so on—is complete and accurate. Once this has been done, the manager changes the consultant’s status in his roster from “un-vetted” to “active.” In this highly decentralized model, there are no formal centralized guidelines for evaluating a consultant’s curriculum vitae.

If a roster manager is dissatisfied with the performance or behavior of a consultant on his roster, then that manager may decide to cease working with the consultant and classify her “inactive” on his roster. This does not alter the status of the consultant on any other roster. Since a roster is actually a set of links to a set of records in a single database, when a manager makes a given consultant inactive, he is simply eliminating his association with that consultant. The given consultant still exists within the database. As with adding a consultant, there is no centralized or formalized review process; the decision to make a consultant inactive rests entirely with the roster manager.

A consultant does not necessarily have a right to formally appeal such a decision. In fact, there is no necessary reason why a consultant would

even know that she has been made inactive on someone's roster unless that manager or someone else with access to that manager's roster chooses to tell her. To be clear, there is nothing in the nature of decentralized system to prevent notification or to obviate a formal requirement that "inactivated" consultants be given the right to present information to contest the decision a manager has made to declare them inactive. But there is also no requirement that this be done. And after all, every roster manager has the ultimate decision authority over his or her own roster.

Potential to Build Accountability among Consultants

In theory, the roster system could be designed to make it easy for employees to share both their positive and negative experiences regarding individual consultants with other would-be hiring entities. Although a manager could still hire a consultant who receives a critical evaluation from, or is marked inactive by another manager, she would at least be forewarned to implement greater due diligence before doing so. Presumably, a manager would be more likely to hire a consultant who is marked active and receives positive feedback from other managers. Therefore, the system provides the means by which consultants might be held accountable for unethical conduct and rewarded for commendable behavior.

How well the system functions in this regard depends on a variety of exogenous factors, such as the extent to which there are shared understandings of what constitutes ethical conduct, the capacity of managers to accurately monitor and evaluate consultant conduct, and the capacity of other managers to interpret the judgments of colleagues. Beyond this, there is the question of whether or not managers are actually motivated to share information about consultants. This is considered in the following sections, using the UNDP system as a case in point.

The UNDP's Expert Roster System

The United Nations Development Program's roster system was under development at this writing. The following discussion is intended to highlight representative issues that may be relevant to other large, international development organizations who choose to implement a system along the lines of the decentralized roster model.

The first priority of the joint UNDP-Special Unit for South-South Cooperation (SUSSC) working group that created the UNDP's roster system was to build a system implemented by a software tool that managers would actually use, even if this meant excluding features and policies that might enhance information-sharing. The working group was aware of potential

staff reluctance to make both positive and negative recommendations internally public, and they designed the system accordingly.

The single most important design feature of the UNDP system with regard to information-sharing and building accountability is what might be termed the “hide” option. Each roster manager has the option of hiding his or her roster from all other managers. The single most important practice norm is the reluctance of managers to make consultants inactive or to record negative feedback in the available “comment box.”

Many of the challenges faced by the UNDP that interfere with full realization of the potential of the system to build accountability among consultants come down to a reluctance to share information, whether positive or negative in nature.

Incentives against Sharing

Within the UNDP, there seems to be a reluctance to share information regarding recommended consultants. This reluctance may stem both from a sense of resource competition and a sense of “knowledge as power.” According to the system’s designers, the hide option was added to accommodate a “don’t touch my consultant” mentality—good consultants are hard to find and therefore “protected” by their regular employers. Managers expressed a fear that if one’s most experienced and credible consultants were promoted via the roster system, then they would be “taken” by other managers. Therefore, internal resource competition may interfere with the willingness of managers to share their recommended consultants, and therefore their rosters. It may also make staff—who do not have their own roster—reluctant to recommend a consultant to a manager who maintains a visible list.

Even if roster managers are not reluctant to share highly recommended consultants due to a fairly concrete sense of resource competition, they may still be reluctant due to a more subtle competition for knowledge. Knowing the identities of high quality consultants and/or having direct access to these individuals may be viewed as a source of power or advantage. Sharing this information via the roster system might be viewed as giving away a significant amount of power without much personal benefit. This sentiment was clearly expressed by more than one participant in a UNDP international electronic discussion on internal accountability, in which we were permitted to participate.

Managers may be particularly reluctant to share negative consultant recommendations for fear that such an act would be viewed as an admission of error, that is, that it was a mistake to hire that particular consultant

in the first place. This “mistake” might then be reflected in the manager’s performance evaluations and ultimately diminish opportunities for promotion. During the UNDP e-discussion, participants used phrases such as “culture of fear” to describe the organizational reluctance to share information regarding acts that might be interpreted as a mistake.

Managers may also be reluctant to share negative consultant evaluations simply because there is little to be gained and social/political capital to be lost by creating ill will within a highly networked professional environment. Particularly with regard to respected and prestigious experts, managers have very little incentive to point out issues of possible concern. It may be “safer” to remain silent. Concerns about this “culture of silence” were raised during the UNDP e-discussion.

Fear of legal liability may also motivate managers to avoid sharing negative recommendations. Making a consultant inactive and then sharing this negative evaluation with other managers could preclude the given consultant from being rehired, thus affecting his or her livelihood. The fear is that this might motivate the consultant to bring a law suit against the manager or the organization as a whole. Managers may be reluctant to share negative recommendations because the decision to make the consultant inactive on the roster was their own, and they may therefore feel personally liable for the consequences, even if there is actually no issue of legal liability involved. Thus, although it may not fully resolve the problem, if an organization chooses to use the roster system as an accountability tool, at the very least issues of legal liability should be clarified in order to ensure that the anxiety they provoke does not preclude the system from working properly.

At the time of writing, the UNDP system designers were considering adding a feature to the supporting software that would allow managers to “attach” consultant evaluations and fee schedules to consultant profiles. Consultant evaluations would then automatically become internally available, as would the fees earned on a given project. If the reluctance to report negative information can be overcome, that should make it more difficult for consultants judged guilty of misconduct to find further work, but that is a very big “if.” In any case, it could be argued that evaluations should come from the clients—not UNDP managers—when the UN has recommended a consultant, rather than directly employing him/her.

Promoting Information-Sharing

Even if managers are highly motivated to hire qualified and ethical consultants, they may face strong disincentives to sharing information. As

the UNDP system is currently designed, a manager may either hide or share all of her consultants. The system is not designed to allow her to share only active or only inactive consultants. Such a feature might help to promote information-sharing. An all or nothing choice does not really reflect the way in which professional networks usually function. Managers may be more inclined to share information if they have the capacity to choose who has access to that information. A feature that supports information-sharing between two managers if and only if both agree may increase the extent to which information is actually shared within the system. Several separate, information-sharing networks would be less valuable than full sharing, but it would be more valuable than no sharing at all.

The culture and incentive structure might be reformed in ways that enhance the likelihood that the system will be used to share information and therefore build consultant accountability. For example, managers may be given credit on their performance evaluations if they make the rosters that they use to identify consultants visible to other managers. In response to the more general tendency to hoard knowledge as power, the organization might link consultant evaluations to staff evaluations. If the consultant receives a positive evaluation, then this is reflected on his or her sponsor's evaluation. Those who repeatedly sponsor incompetent and/or unethical consultants would likewise be penalized. Of course, it is possible that this will simply transfer the incentive problem to the evaluator (perhaps the ultimate client), who may also gain from providing less than accurate evaluations.

Advantages of a Closed, Decentralized Model

- As an internal “white list,”¹ the system has the potential to exclude unethical consultants based upon intra-organizational trust while avoiding the complicated and legalistic frameworks necessitated by debarment processes.
- The decentralized nature of the model does not alter the established structure of decision power, and is therefore easy to implement quickly. A more centralized roster system would require individual managers to work through formalized processes for adding and removing consultants from the roster. A decentralized system leaves discretion with those currently responsible for recommending and hiring consultants.
- The system complements and facilitates the existing tendency for staff to identify consultants via colleague referrals, while simultaneously

allowing these staff members to “protect” consultants upon whom they depend regularly.

Disadvantages of a Closed, Decentralized Model

- The informal, decentralized structure may place significant pressure on individuals to avoid giving negative feedback regarding a consultant’s ethical behavior for fear of legal liability and/or the creation of ill will within a highly networked professional community. A more centralized debarment system would place more responsibility with formalized monitoring, investigation, and sanctions bodies. That said, even within more centralized systems, the role of whistle-blower resides with the staff that work directly with consultants.
- The informal, decentralized structure may also limit a given staff member’s tendency to depend upon the system. For example, a new staff member may have a limited roster and may not yet know or trust enough colleagues for the system to prove valuable. A more formal, centralized system could potentially provide every staff member with an extensive human resource tool from his or her first day on the job.

It is worth repeating that any system must be considered within its institutional context. If the context does not support the system, then it is unlikely to be effective. One cannot consider consultant accountability in isolation. Other factors, such as accountability, capacity, and organizational culture within hiring institutions, must also be considered.

Centralized Debarment Systems: The World Bank’s Sanctions Process

A decentralized roster system, typified by that developed by United Nations Development Program, represents one possible mechanism internal to the organization that may be used to build accountability among economic development consultants. We now turn to a contrasting type of system, a centralized debarment mechanism. The World Bank operates the most advanced centralized debarment system of any of the international financial institutions (see also appendix G). We therefore use that system to illustrate the structure and operation of such a system.

Why debarment? The concrete options available to an international donor organization such as the World Bank, which aims to address fraud and corruption in its programs, are limited. Richard Thornburgh, former

undersecretary general to the United Nations and his team²—who have been hired on several occasions to examine various aspects of the Bank’s debarment system—offer four general categories of options: (1) referral to national criminal proceedings; (2) referral to national civil proceedings; (3) internal programs; and (4) debarment-related sanctions. They note that referrals to national systems are often less than robust options, particularly when judicial institutions are being developed along with other aspects of government. An organization might therefore choose to focus on internal initiatives and debarment-related sanctions. An example of an internal program might be one that trains managers to spot the red flags that often indicate the presence of corrupt practice. However, even with great diligence, the organization is likely to enjoy a limited capacity to prevent fraud and corruption beyond its “walls.” Debarment-related sanctions may therefore become a central element of a strategy to address fraud and corruption on the part of external entities.

From the World Bank’s perspective, according to Thornburgh, sanctions can serve one or more of the following purposes:

1. *Specific Deterrence*: Debarring a consultant can deter that particular consultant from committing misconduct in the future, if and when the debarment expires. This implies that not all debarment sanctions are or need be permanent.
2. *General Deterrence*: Debarring a consultant can deter other consultants from committing misconduct.
3. *Incapacitation*: Debarring a firm prevents that firm from committing misconduct during the period of debarment.
4. *Rehabilitation*: Conditional debarment (when the consultant or consulting firm is debarred unless specific steps are taken) can be used to persuade consultants (and consulting firms) to alter policies and practice so that future misconduct becomes less likely.
5. *Restitution*: Conditional debarment or conditional release from debarment can be used to persuade a consultant to provide restitution to the Bank, the recipient government, or another disadvantaged party.³

Thornburgh notes that “the primary purpose of the Bank’s debarment process . . . is the future protection of bank-derived funds, not punishment or recovery.”⁴ At first glance, it may seem less than critical that the Bank’s mechanisms are not designed to punish; if a firm or individual is debarred (on utilitarian grounds), the consultants involved are likely to experience the sanction as punishment and/or to feel as though they have been held “accountable.”

An Overview of the World Bank’s Sanctions Process

The sanctions process has four main stages, the first of which is the “intake and evaluation of allegations.” In this stage, allegations of misconduct can be reported through a number of channels maintained by the Bank, including email and telephone hotlines. Charts 5.1 and 5.2 indicate the types and sources of allegations received in FY04. It is notable that

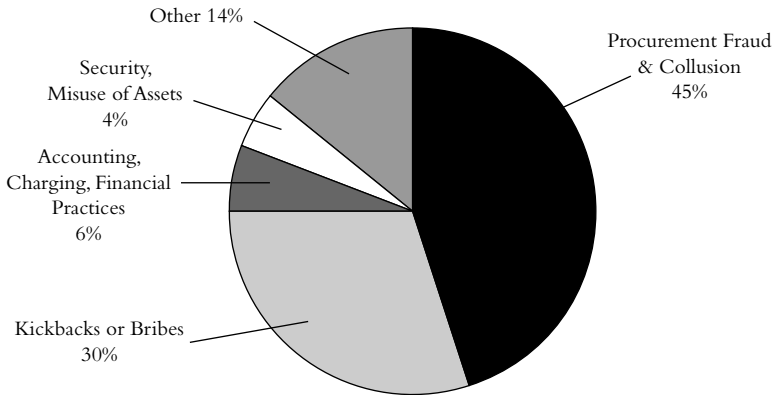


Chart 5.1 Types of allegations received (FY04).

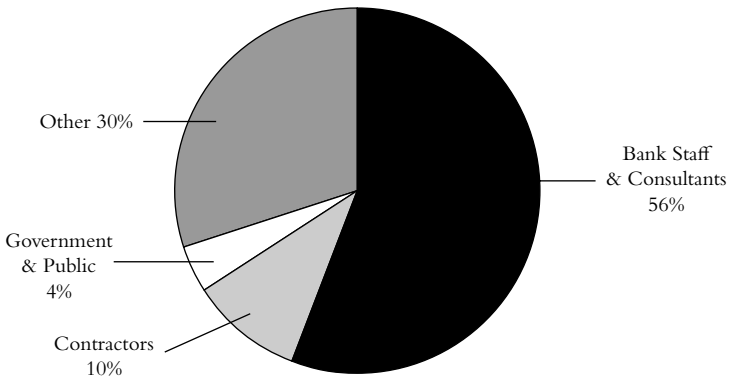


Chart 5.2 Sources of allegations (FY04).

Source: Compiled from data presented in the *Annual Report on Investigations and Sanctions of Staff Misconduct and Fraud and Corruption in Bank-Financed Projects: Fiscal Year 2004*. The World Bank Group, 2005.

<http://siteresources.worldbank.org/INTDOII/Resources/INTFY04AnnualReport2005.pdf>

56 percent of allegations emanated from “Bank Staff and Consultants.” The available statistics do not go into further detail.

The second stage is the “preliminary inquiry”: Here an investigative plan is devised and implemented by the World Bank’s Department of Institutional Integrity (INT) in order to determine whether or not there exists sufficient evidence to warrant a full investigation. At this stage, in the Bank’s words,

Allegations received are rated as to their relative priority using a standard set of criteria... All external cases go through a preliminary inquiry, with the information gathered used in the rating process. Cases rated low priority are usually closed without further investigation, but all relevant information is entered into Integrity Department’s database for future reference and analysis. Such cases may be reopened if the Integrity Department receives additional information. Medium and high priority cases are included in the work program, with high priority cases scheduled for investigation based on the Integrity Department’s discussions with the relevant regional counterparts.⁵

If warranted, the preliminary inquiry is then followed by the “investigation” stage. A full investigation is planned and implemented. Schematics representing this process are reproduced in the section that focuses on investigations, later in this chapter. The fourth and final part of the process is the “sanctions” stage, in which the results of the investigation are brought before a Sanctions Committee. The Committee then determines which sanctions, if any, should be applied to the consultant(s) or consulting organization in question.

Resources Dedicated to Addressing Fraud and Corruption

Before examining the sanctions process more closely, it is helpful to offer a general impression of the resources—both financial and temporal—that have been committed to this enterprise. The following timeline, taken from the Department of Institutional Integrity website, sketches the chronology of the first decade of the World Bank’s concerted anticorruption efforts:

1996—James Wolfensohn, President of the World Bank, launches the Bank’s fight against the “cancer of corruption” in his address to the World Bank’s Annual Meetings.

1997—The World Bank adopts a four part strategy to its fight against corruption. The first of these four parts is to prevent fraud and corruption related to Bank-financed projects.

1998—The World Bank creates the Oversight Committee for Fraud and Corruption. The Committee supervises the investigation on fraud and corruption within the Bank in Bank-funded projects. The Oversight Committee is comprised of senior Bank staff from the Legal Department, the Internal Audit Department, the Office of Professional Ethics, and Operational Core Services.

1999—The World Bank creates the Anti-Corruption and Fraud Investigations Unit (ACFIU), a Bank unit dedicated solely to the investigation of allegations of fraud and corruption in Bank projects.

2001—The Oversight Committee is reconstituted to become the Corporate Committee on Fraud and Corruption Policy. This new group composed of senior staff from the Bank, IFC and MIGA, works to ensure that the World Bank Group develops poverty-reducing, coordinated and effective anti-corruption policies and implementation strategies. The Anti-Corruption and Fraud Investigations Unit (ACFIU) and the Business Ethics Office (including the unit undertaking investigations into allegations of staff misconduct) are merged into the Department of Institutional Integrity (INT). Maarten de Jong is appointed the first Director of this new Department, on a five-year nonrenewable term reporting directly to the President. In December 2001, the staff counseling and advisory services are formed into a newly created Business Ethics Office reporting to the Office of the President.

2002–2003—Dick Thornburgh, the former United Nations Undersecretary and former U.S. Attorney General, led a team conducting a review of the proposed strategy and adequacy of the World Bank's mechanisms and resources for implementing its antifraud and corruption strategy.

2004—The World Bank Board of Executive Directors approves a three-year strategic plan for the work of the Integrity Department and sanctions reforms, as well as a communications policy on investigations and sanctions.

Table 5.1 Cases before the World Bank Department of Institutional Integrity

<i>Total Cases</i>	<i>FY03</i>	<i>FY04</i>
Cases Carried Over	318	244
New Cases Opened	214	203
Subtotal	532	447
Cases Closed	288	223
Ending Case Load	244	224

Source: Annual Report on Investigations and Sanctions of Staff Misconduct and Fraud and Corruption in Bank-Financed Projects: Fiscal Year 2004. The World Bank Group, 2005, Appendix 5, p. 49.
<http://siteresources.worldbank.org/INTDOI/Resources/INTFY04AnnualReport2005.pdf>

2005—The World Bank president reaffirms the Bank’s commitment to strong anticorruption measures.⁶

The Bank has received a great many more allegations than it has the capacity to effectively investigate; this is shown in Table 5.1, which reflects only “external” cases.

A quick look at the Department of Institutional Integrity’s staffing and budget figures offers some insight regarding the magnitude of Bank resources committed to its work (see tables 5.2 and 5.3).⁷

Please note that while 16 cases were heard in FY04, 126 debarments were issued (see table 5.4). This is possible because many entities (individuals and companies) can be implicated in a single case. Also note that not all cases make it to the Sanctions Committee. A great many are tossed out.

Table 5.2 Staff of the World Bank Department of Institutional Integrity

<i>Staff Types</i>	<i>FY03</i>	<i>FY04</i>
Bank Staff		
Investigators/Other Specialists	27	28
ACS/Other Support Staff	9	9
Subtotal	36	37
Consultants/Temporary Staff		
Investigators/Other Specialists	7	6
ACS/Other Support Staff	2	4
Subtotal	9	10
Total Staff and Consultants	45	47

Table 5.3 Budget of the World Bank Department of Institutional Integrity (millions of \$U.S.)

<i>Budget Allocation</i>	<i>FY03</i>	<i>FY04</i>
Base Budget Allocation	6.1	9.3
Additional Allocation (Mid-Year)	1.0	0.6
Total Budget Authorization	7.1	9.9

Source: Annual Report on Investigations and Sanctions of Staff Misconduct and Fraud and Corruption in Bank-Financed Projects: Fiscal Year 2004. The World Bank Group, 2005, p. 6.

<http://siteresources.worldbank.org/INTDOII/Resources/INTFY04AnnualReport2005.pdf>.

The Bank completed 176 high-priority cases and had a total of 321 open cases in fiscal year 2004 in approximately 70 countries, 76 percent external and 24 percent internal. Over 26 criminal referrals were made to member countries resulting in 25 criminal convictions in multiple jurisdictions and 1 award of restitution. Of particular note is the observation that a large majority of the Bank's cases were external, that is, they dealt with fraud and corruption committed by non-Bank staff, and that of the 126 entities debarred, 71 were individuals. It is also interesting to note that there were only 8 sanctions sessions and only 16 cases heard during this fiscal year.

The Bank is in the process of implementing reforms that are expected to improve case management in general and to expedite the sanctions process in particular. Such reforms are discussed in more detail later, under the heading "Sanctions Reform."

Table 5.4 Sanctions related actions by the World Bank Department of Institutional Integrity

	FY03	FY04
Sanctions-Related Actions		
Number of Cases Received	15	23
Number of Committee Sessions	5	8
Number of Cases Heard	8	16
Number of Sanctions Applied		
Number of Debarments		
Firms	14	55
Individuals	8	71
Total Debarments	22	126
Number of Letters of Reprimand		
Firms	1	4
Individuals	—	3
Total Letters of Reprimand	1	7
Total Sanctions Applied	23	133

Source: Annual Report on Investigations and Sanctions of Staff Misconduct and Fraud and Corruption in Bank-Financed Projects: Fiscal Year 2004. The World Bank Group, 2005, p. 19.

<http://siteresources.worldbank.org/INTDOII/Resources/INTFY04AnnualReport2005.pdf>.

The Sanctions Process and Related Issues

Allegations and WhistleBlower Protection

It is logical that protecting whistleblowers from retaliation would increase the likelihood of their coming forward, therefore enhancing the capacity of the sanctions system to identify misconduct. The Government Accountability Project (GAP), a nonprofit organization in Washington D.C., has done a substantial amount of work on the issue of whistleblowing, including a 2004 report that focuses on whistleblower protection at the World Bank.

According to the GAP, the World Bank is generally among the leaders of the multinational development banks (MDBs) in setting best practice standards. It is therefore not surprising that in most respects the Bank has one of the best sets of whistleblower policies among all of the MDBs. The “Key Findings” of the GAP report are reproduced here.⁸

Strengths:

- The ban on harassment comprehensively protects employees who decide to speak out about fraud or corruption. The antiharassment protection extends to any good faith communication that is made to management. Bank policy extends this protection to employees who are threatened with retaliation. As of this writing, the World Bank is the only MDB that provides this complete coverage.
- The modern realistic legal burdens of proof are modeled after the U.S. Whistleblower Protection Act, which give employees a fair chance to defend their rights.
- There is an ambitious ombudsman or mediation system. The Bank has reduced the fear factor in proceeding with both no fault and adversarial options.
- The Bank substantially protects the confidentiality of employees who make disclosures. The ombudsman’s rules make all communications confidential except in extreme circumstances. The external hotline is run by a contractor and provides for anonymous allegations from interested parties.
- The Bank offers an emergency transfer preference for employees who win reprisal cases.

Challenges:

- Whistle-blowers are prohibited from disclosing information regarding fraud or corruption to outside parties. This policy prevents the

public from learning about the corruption or fraud issue and leaves the response solely to the Bank. One of the fundamental purposes of whistle-blower policies is to expose internal wrongdoing publicly and to ensure that the institution's response is also subject to public scrutiny.

- There is an ethical ban on disclosures of information that might somehow harm the Bank.
- There is no provision that gives employees the fundamental right to refrain from violating the law. In other words, the Bank lacks an express policy requiring employees or others to obey local or international law. The World Bank appears to go out of its way to avoid any reference to obeying national or international laws. This is important because a whistle-blower needs protection from retaliation for making a good faith determination to refuse to disobey the law—even if it is later determined that no law would have been broken.
- The policy protections are limited to staff retaliation against staff for internal Bank conduct. Employees of loan recipients who question the misspending by their employer have no protection even if the money is spent in ways that violate funding terms or undercut the Bank's official mission.
- Bank policy prevents whistle-blowers from participating in the follow-through efforts to resolve their allegations, not even allowing them to comment on draft reports.
- There is no adjudication forum for the whistle-blower that is free of institutional self-interest. There is no third-party review or appeal to an outside court available to Bank staff. This institutionalizes structural conflict of interest. The Bank president controls the administrative due process system. All seven members of the Administrative Tribunal are selected from a list provided by the Bank president.⁹

It is worth noting that several of the provisions in the FY06 U.S. Foreign Operations Appropriations bill for multilateral development banks pertain to whistle-blower protection. The Government Accountability Project drew attention to the following elements of this bill on its website:

- Protection for employees and “affected persons” to publicly bear witness against wrongdoing.
- Free speech rights for all relevant parties to challenge any misconduct threatening a bank's public service mission, elevating the bar beyond institutional self-interest.
- Modern, fair, legal burdens of proof to govern whether reprisal victims win their cases.

- Access to independent, external adjudicative parties or forums for alternative dispute resolution—those bearing the power to hold those who retaliate accountable.
- Cancellation of all direct and indirect consequences of reprisal when whistle-blowers win, such as lost income, responsibilities, and threats to residency.¹⁰

In the words of Melanie Oliviero, the Government Accountability Project’s international campaign director (also reproduced on the GAP website at the time): “These new policy commitments are a signal that the United States is prepared to lead other governments to similarly endorse protections for whistleblowers serving the public interest. Now the challenge begins: Convincing the banks to honestly implement this paper victory.”

The Investigative Process

The investigative process consumes the majority of the Department of Institutional Integrity’s resources. Some thirty-four of the forty-seven individuals employed by the INT in fiscal year 2004 are labeled as “Investigators/Other Specialists.” The highly structured and thorough investigative process is outlined in charts 5.3 and 5.4.¹¹

This process is further complicated by unique challenges faced by an international organization such as the Bank. In particular, the first of three challenges noted in the Thornburgh report concerns investigative authority. The authority of Bank investigators does not go unchallenged. According to that report, “At least one country director has informed the Department of Institutional Integrity (INT) that there is no basis for the government in his country to recognize and authorize INT’s investigators to conduct investigations in country.”¹² Such challenges create a clear limitation to the bank’s capacity to conduct a thorough investigation.

A second challenge concerned the destruction of evidence. Thornburgh notes that certain staff rules require investigators to notify respondents that an investigation is forthcoming. Apparently, this requirement has been known to motivate the respondent to destroy evidence, further limiting the Bank’s capacity to construct a thorough case. Finally a third challenge had to do with access to documents. Thornburgh notes that the Bank is entitled only to “accounts and records relating to the performance of the contract” (World Bank Procurement Guidelines). This may exclude access to documents generated during the bidding or preparation phase of a project, for example. Also, firms and consultants may not

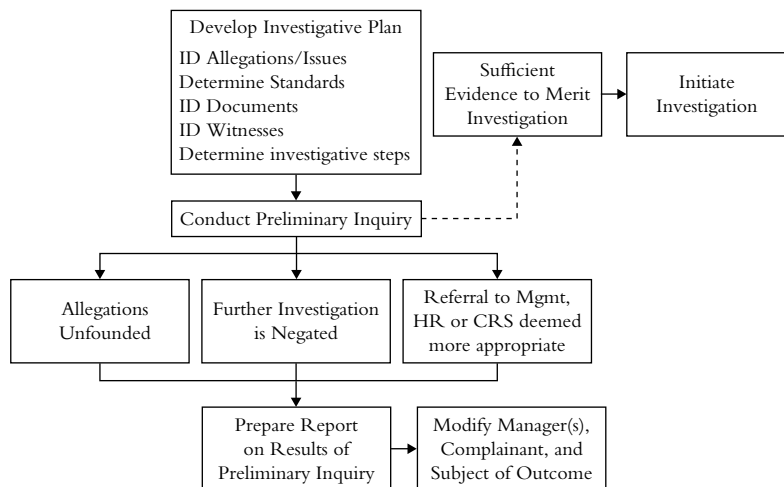


Chart 5.3 Preliminary inquiry.

Source: Compiled from data presented in the *Annual Report on Investigations and Sanctions of Staff Misconduct and Fraud and Corruption in Bank-Financed Projects: Fiscal Year 2004*. The World Bank Group, 2005. Appendix 4, p. 46.

<http://siteresources.worldbank.org/INTDOII/Resources/INTFY04AnnualReport2005.pdf>.

be required to *create* documents requested by the Bank, restricting the Bank's ability to build a case.

The Nature and Structure of the Sanctions Process

The nature of available sanctions and how these are applied is, of course, central to the Bank's capacity to protect its resources from fraud and corruption. At this writing the Bank was still involved in an ongoing process of reforming the sanctions procedures and the relevant bodies involved in carrying them out. This section outlines the primary changes recommended by the World Bank management (Management). Although the elements of the sanctions process are separated here to simplify exposition, it is important to emphasize that the operation of the system depends on the interaction among these elements, which can be quite complex.

The sanctions process was originally designed to be two-tiered; the Sanctions Committee reviews investigation materials and makes a recommendation to the Bank president. The president then considers the recommendation and makes a final decision. The reforms that have been

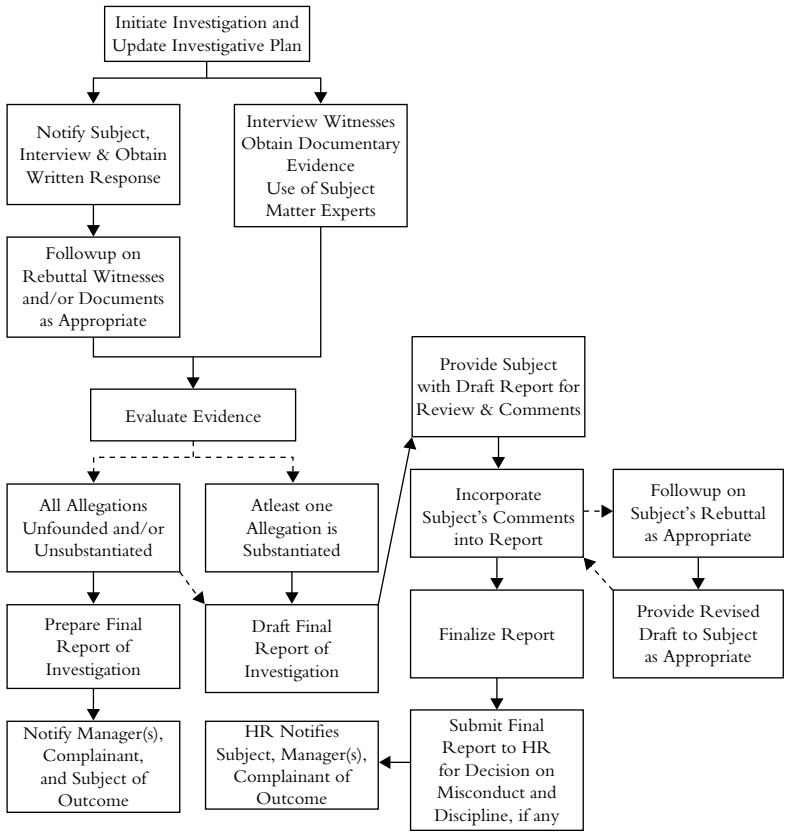


Chart 5.4 Investigation.

Source: *Annual Report on Investigations and Sanctions of Staff Misconduct and Fraud and Corruption in Bank-Financed Projects: Fiscal Year 2004*. The World Bank Group, 2005, Appendix 4, p. 47.

<http://siteresources.worldbank.org/INTDOII/Resources/INTFY04AnnualReport2005.pdf>.

suggested remove the president from the process, move the Sanctions Committee “up” a level, and create the position of “Evaluation Officer” at the decision-making level below the Sanctions Committee. The Evaluation Officer position is designed:

primarily for the purpose of making two initial determinations in the sanctions process: (1) whether the preponderance of evidence submitted by the

Department of Institutional Integrity (INT) in a proposed notice of debarment proceedings leads to a finding that the respondent engaged in fraud or corruption, and (2) whether the respondent should be temporarily suspended from bidding on Bank-financed contracts pending the final outcome of the sanctions process. In addition, the Evaluation Officer would recommend a sanction to be imposed on the respondent, but this sanction would only become effective if the respondent elects not to challenge the allegations against it by appealing to the Sanctions Board.¹³

The Sanctions Committee therefore would hear only cases that have been contested by the respondent, or those cases that the INT determines should be heard. These changes are motivated by a number of considerations. First, there is the problem of political pressure on the president. The Bank president reports to a board of executive directors, each representing a member country. These executive directors and their nationals may have a significant stake in preventing the debarment of a national firm and may pressure the president accordingly. Second, given an overabundance of cases (a pre-hearing review for an average case might require two or more hours), the role of the evaluation officer is to reduce the number of cases that take up the time and energies of the Sanctions Committee.

Finally, there is currently no policy that permits the Bank to temporarily suspend a firm while the investigations and sanctions process is implemented. This is problematic because debarment does not nullify contracts in effect at the time of debarment. Allowing temporary suspensions would permit the Bank to protect its assets when there is reasonable evidence for misconduct, and simultaneously reduce incentives for respondents to delay investigations and sanctions proceedings so that it may acquire additional Bank contracts before an actual sanction is handed down.¹⁴

The Bank acknowledges that there are risks associated with altering the structure of the sanctions process in the manner suggested here. It will concentrate considerable discretionary power in a single evaluations officer. Large, well-known firms might be able to contest the evaluation officer's letter more effectively than small firms or individual consultants. Finally, firms that are temporarily suspended are likely to be negatively affected, even though they may have committed no wrong.¹⁵

Taking these risks into consideration, the Bank's managers proposed allowing respondents to submit an argument in writing *before* the evaluation officer proposes temporary suspension. They have also argued that all respondents should maintain the right of *de novo* review by the Sanctions Committee. And they have suggested that if the respondent

agrees to refrain from attempting to acquire further Bank contracts once the evaluation officer has determined temporary suspension is in order, then the Bank should not post the suspension on the website. The idea is to allow the respondent to avoid negative publicity that might be associated with suspension prior to any final resolution of the case.¹⁶

The evaluation officer's sanction would only become effective if the respondent does not contest the case, and there is an implication that the contestation need not be legally sophisticated in nature. But it should be noted that any case reaching the evaluation officer has already passed through the Department of Institutional Integrity and its director, that is, the INT has determined that a significant amount of substantiating evidence exists.¹⁷

The fact is that a centralized sanctions process requires highly experienced adjudicators to maintain a level of legitimacy commensurate with the consequences of a binding sanction. This raises the cost of human resources required to meet case load. Introducing an evaluation officer into the process is intended to mitigate such costs without significantly jeopardizing the legitimacy of decisions. These choices reflect a trade-off between efficiency and legitimacy.

Under these reforms, the Sanctions Committee would become the authority that ultimately decides whether or not to sanction a respondent. As a result, the composition of the committee becomes a central issue. Formerly composed of only Bank staff, management recommended reforming the committee as a seven-member body with four non-Bank members and three Bank-staff members. The decision to involve a majority of non-Bank staff is motivated by two main considerations. First, a real or perceived conflict of interest of committee members: Bank staff members may be adjudicating cases involving their own departments. Interestingly, Thornburg points out that, for various political reasons, bias may run in opposing directions, that is, some department directors may feel biased toward sanctioning a firm that may have taken advantage of their department, while others might find a sanction embarrassing to the department and therefore feel reluctant to sanction the firm.¹⁸

Second, like the president, other members of the internal Bank staff might be vulnerable to political pressure from within the Bank and from external entities. Non-Bank staff members are generally considered more independent. On the other hand, reforms recommend retaining Bank staff members to ensure that the committee has the expertise necessary to deal with complex cases, most of which require knowledge of Bank policy and operations in addition to regional and technical expertise. Determining

the optimal composition of the decision-making organ central to making such consequential decisions as the imposition of sanctions is both critical and complex. There is an unavoidable tradeoff between institutional knowledge and independence, both of which are necessary to ensure that the process be accepted as both legitimate and equitable.

Establishing the appropriate jurisdiction for a sanctions process may involve balancing the broad scope necessary to ensure effectiveness against various political, legal, and bureaucratic considerations. The Bank's 2001 procedures define the Sanctions Committee's jurisdiction as follows: "The Committee shall determine whether contractors, bidders, suppliers, consultants, and individuals have engaged in fraudulent or corrupt practices in connection with Bank-financed or Bank-executed activities" (World Bank Procedures, 1.a.2). Thornburgh notes that

it would be advisable to add coverage of an uncompleted effort to defraud or to corrupt (an attempt to conclude a fraudulent or corrupt act, or an action in furtherance of an advanced conspiracy) that was interrupted by investigators or by other fortuity. It also would be advisable to assure coverage of acts of fraud or corruption accomplished through a middleman; acts constituting assistance to others in executing fraud or corruption; and acts designed to conceal fraud or corruption, by whomever undertaken.¹⁹

With regard to extended liability, the Sanctions Committee's jurisdiction is limited to, "any firm that owns the majority of the accused firm's capital, or of which the accused firm owns the majority of the capital" (World Bank Operational Memorandum, 1998, paragraph 5). Management requested expanding this jurisdiction to "any individual or organization that at any time directly or indirectly controls or is controlled by a respondent."²⁰ This change is designed to prevent the controlling owners or operators of a debarred entity from successfully circumventing the consequences of debarment by simply creating a new firm.

The sanctions process has thus far been limited to entities that do business with the International Bank for Reconstruction and Development (IBRD: the World Bank) and the International Development Association (IDA). However, the International Finance Corporation (IFC) and the Multilateral Investment Guarantee Agency (MIGA) are engaged in a continuous process to align their policies with the policies and practices of the other World Bank Group entities. For example, both IFC and MIGA match their databases against the World Bank list of debarred firms.

Range of Possible Sanctions

The range of options available to the Sanctions Committee is, of course, very important to the capacity of the sanctions process to serve the purposes for which it was designed. In the past, the Sanctions Committee has imposed the following sanctions: (1) debarment for a specified period; (2) debarment for an indefinite period; (3) issuance of a letter of reprimand; and (4) issuance of a requirement that the respondent establish training and integrity programs for its employees.

Management recommended including three additional sanctions options: (1) conditional non-debarment, meaning that the respondent would be required to meet specified conditions to avoid being debarred; (2) temporary debarment with conditional release, in which the respondent would be debarred until he or she met specified conditions; and (3) a requirement that the respondent make restitution for the losses of the injured party.

It is worth repeating that the Thornburgh reports make it clear that the debarment process, as envisioned by the Bank, is not so much intended to punish the offending party as such, but rather to serve a series of purposes that are useful to the Bank over the longer term.²¹ These include removing corrupt firms from the eligible pool of contractors/consultants (incapacitation) and deterring the consultant or consulting firm guilty of bad behavior, as well as other consultants and consulting firms from engaging in corrupt conduct (specific and general deterrence, respectively). The process is also intended to encourage the consultant or consulting firm found to have misbehaved to alter internal policies and practices in a way that will diminish the likelihood and magnitude of any future misconduct (rehabilitation); and to preclude the need for the injured party to initiate independent civil proceedings in order to regain lost value (restitution). Linking these aims to available sanctions, Thornburgh notes that debarment for an indefinite period incapacitates the firm, that debarment for a specified period supports the goal of specific deterrence, and that publication of debarment supports the aim of general deterrence.²² He further notes that conditional non-debarment and conditional release from debarment (restitution to the injured party being one possible condition) may be used to rehabilitate firms under certain circumstances.

In the 2002 report, Thornburgh suggests that sanctions should include restitution to the Bank or the affected government. In order to preclude what might be reasonably considered a cynical cost-benefit analysis on the part of firms that are considering engaging in corrupt practices and “to secure an additional, deterrent purpose, the amount would ordinarily

be expected to be set as the greater of (a) a multiple of the gain anticipated or realized by the respondent, or (b) a multiple of the loss occasioned to the Bank or to the affected government.”²³

Thornburgh submits that a greater range of sanctions, as described earlier, would better respond to the utilitarian aims of the debarment mechanism. For example, the conditional sanctions presented earlier permit the Bank to “retain sufficient flexibility to avoid permanent preclusion of an otherwise capable company that possesses a capacity or expertise that few other firms do, and whose services may not be able to be supplied equally well by others.”²⁴

However, Thornburgh notes that proponents of debarment might view lesser sanctions as a “retreat” from the bank’s agenda. But his interviews with Bank staff revealed a general sentiment that the availability of lesser sanctions is likely to increase the proportion of firms that are sanctioned in one way or another. If the Committee continued to be limited to either a very substantial sanction (debarment for limited or indefinite period) or a fairly insignificant sanction (a letter of reprimand), the result could easily be an undue reluctance to impose the heavier debarment sanction in cases where a firm that is considered very capable is clearly guilty of substantial misbehavior.

Aggravating and Mitigating Circumstances

The degree to which aggravating and mitigating circumstances are considered during adjudication will significantly affect the nature of the sanctions process. Management supports the continued consideration of aggravating and mitigating circumstances, and specifically mentions as relevant matters such as whether there has been a pattern of bad behavior or generally good behavior by the consultant or consulting firm in the past in Bank-financed projects, and the degree to which a particular respondent appears to have been directly involved in the act of fraud or corruption being adjudicated. It is also considered relevant to note whether the alleged misbehavior is a matter of fraud or out and out corruption, which management appears to consider worse. Other particular aggravating or mitigating factors include whether or not any members of the World Bank staff were involved in the abuse directly or through accepting a bribe, whether the consultant or consulting firm cooperated with those carrying out the investigation for the Bank, and whether or not there is any indication that the respondent destroyed or tried to destroy documents or other evidence important to the investigation.

Although not mentioned in Management's Sanctions Reform paper, Thornburgh notes that the inclusion of factors such as whether the respondent had *functional* preventative measures in place (in cases where the respondent is a firm) could create incentives for firms to implement such measures as a way to attenuate corporate liability.²⁵ In addition to serving fundamental aims, Thornburgh notes that such provisions can generate an increased sense of fairness by enhancing the consistency and proportionality of sanctions, thereby enhancing the perceived legitimacy of the entire system.

Investigations into fraud and corruption are extremely difficult. That is even more true for an investigations unit with limited authority, for example, to collect evidence and compel witnesses. Schemes are often so complex that it is very difficult to gain a full understanding of events without information from an individual closely involved, and often with some degree of culpability. Reducing sanctions for individuals who cooperate and offer valuable information creates an incentive for doing so.²⁶

The Bank also operates a "Voluntary Disclosure Program." Voluntary disclosure of misconduct refers to cases in which a consultant discloses his own misconduct *before* the Bank has suspicion that misconduct has been committed. Such a disclosure is then by itself considered a significant mitigating circumstance. The voluntary disclosure program can be used to create incentives for consulting firms to hold their consultants internally accountable and to implement preventative measures to avoid future misconduct. Whether the party making the disclosure is a firm or an independent consultant, such disclosure provides information that can help the Bank and other donors to identify and prevent fraud and corruption on future projects.²⁷

Conclusion

A debarment system is a "strong" mechanism relative to other systems that may be used to protect funds from consultant fraud and corruption. For example, the decentralized roster system, which we discussed earlier, provides a mechanism through which managers may identify and hire (or avoid hiring) consultants. However, the status of a particular consultant in the system is merely the recommendation of a single manager. Other managers are not obligated to heed such recommendations, and given certain technical features of the system developed by the United Nations Development Program, managers may not even have access to the recommendation. The Bank's debarment mechanism, on the other hand, is based upon formalized processes and a central authority that may preclude

all managers from hiring a debarred consultant. This may have a very influential effect, and one that generates significant political, economic, and legal pressure to ensure that every element of the sanctions process exhibits a degree of legitimacy commensurate with such influence. The primary advantages and disadvantages of a debarment-centered sanctions process emanate from this observation.

Moran, Pope, and Doig argue that designing, implementing, and reforming a debarment process is costly and time-consuming.²⁸ They claim the best possible analysis of costs and benefits may, in the end, recommend against debarment. While it is true that policing and sanctioning offenders is often expensive and time consuming, this must be juxtaposed against the costs of not doing these things. If the system were set up differently than the World Bank model, debarment might be a lot simpler and cheaper to do. This is further evidence that the simpler registry system (perhaps, but not necessarily along the Better Business Bureau model), discussed in chapter four, is a more sensible, pragmatic approach to effectively creating a central information system on consultants that less sophisticated recipient country personnel could easily access and effectively utilize to avoid (or at least lower the probability of) getting taken for a ride.

Regardless of the technical sophistication of the sanctions process, it may be difficult to achieve fairness given contextual circumstances. For example, debarment may pose greater risks for individuals and small corporations than for large corporations, as smaller entities may be less able to leverage political pressure on those making sanctioning determinations and may be easier targets due to less Byzantine patterns of misconduct, and so on.

Debarment can be a powerful means to accomplish critical ends, such as protecting development funds from fraud and corruption. If designed and implemented wisely, a formal sanctions mechanism can exhibit a degree of legitimacy required to serve a variety of purposes, such as general deterrence, specific deterrence, rehabilitation, and restitution. Although improving whistleblower protection is clearly an issue, the centralized nature of a formal sanctions mechanism alleviates pressure on individual "decision-makers," when compared to a decentralized or decentralized roster system model.

Moran et al. note that debarment should be only one part of a greater procurement process that addresses fraud and corruption.²⁹ Preventive measures such as pre-bidding qualification, disclosure requirements, and performance management might be important aspects of a broader system that aims to reduce the misuse of organizational funds. (A further

analysis of the World Bank procurement process in general as it operates with respect to the hiring of consultants can be found in appendix E.)

Both highly decentralized roster systems and centralized debarment systems are potentially of great value as intra-organizational strategies for dealing with the kind of structural problems in international development advising that were presented and analyzed in chapter three. Neither is uniformly superior to the other. As we have indicated, they have different strengths and weaknesses. It is likely that which will work better in practice within any particular organization context is a function of the structure and prevailing culture of that organization. It is also not at all impossible that the optimal system may in fact be some intermediate or hybrid version of these two very different approaches, though care must be taken in combining the two. Hybrids can be stronger than either parent, but combining two such polar approaches if not done properly runs the risk of resulting in a system that to some extent lacks the advantages of either system operating alone.

In the next and last chapter, we bring together the pieces of our analysis in order to highlight key issues and potential solutions that have the promise of more effectively confronting corruption and building greater accountability in the important business of international development advising.

CHAPTER 6

SUMMARY AND CONCLUSIONS

Economic development is a complex and interactive process, difficult enough to accomplish under the best of circumstances. Witness to this is the track record of the five decades that have elapsed since the United Nations, with great enthusiasm and optimism, declared the 1960s the first “development decade.” Fifty years later, despite the promises of countless politicians, the earnest and not-so-earnest advice of many economists, and the United Nations’ enthusiastic declaration of development decade after development decade, the gulf between the material standard of living of those in the more developed and less developed countries had not been dramatically diminished. To be sure there have been some striking (typically partial) success stories, such as those that chronicle the spectacular improvement in the material well-being of a substantial part (though far from all) of the huge populations of China and India over the past two to three decades. But even in the “successful” cases, far too many have been left behind. And against these, there are all too many cases that must be rated as development failures.

For a number of technical reasons, the economic optimists of the 1950s saw a coming surge in the development of the world’s low-income countries as an almost natural economic phenomenon.¹ Precisely because development is not merely a narrow technical economic matter, but rather a much more complex and multidimensional process, there are many reasons why things did not work out that way. Among these corruption was certainly one of the more important. The corruption that worked to checkmate the progress of development took a variety of forms, from the out-and-out theft of public resources to the giving of what turned out to be bad advice by unethical and sometimes incompetent consultants and advisors more focused on working the system to maximize their own incomes and status than on delivering high quality services.

Until now, most attention has been focused on the kind of corruption that has its origins in the bad behavior of recipient developing country officials—and that problem and strategies for mitigating it are certainly topics worthy of serious attention. But in this book we have focused primary attention in a very different place, on the problem created by the bad behavior and the roots of the bad advice of international consultants based largely in the developed or donor countries. We have considered ways in which effective strategies might be established for helping to mitigate this problem across nations and international organizations, as well as within major development-oriented donors.

It is important to be clear that nothing we have written is intended to degrade or belittle the business of international development advising. Rather, it is because we believe it is so potentially important to the betterment of the lives of so many people that we have spent years trying to understand the problems of that business and looking for ways to mitigate them. We understand that there are many ethical, competent, hardworking, even dedicated consultants who do their best to give high quality advice and are honest about the limits of their knowledge and experience. We honor and respect such people and value the important work they have done. At the same time, we have come to understand that there is also too large a group of people (sometimes people working out of very prestigious institutions) operating as international economic advisors who have assiduously manipulated the situation to enhance their own economic well-being and professional status, and in the process have given advice that has proven to be useless, or even worse, has done more harm than good. We have tried to understand the weaknesses in the system that too often allow unethical or incompetent consultants to prosper. We believe that finding ways to “plug the holes” and make consultants more accountable for their actions, as well as to modify the incentive structure under which they operate appropriately will not only discourage bad behavior but also reward and facilitate the activities of those consultants who do the job right.

There are a number of structural problems embedded in the process of international economic advising, which we have referred to as: (1) the information problem; (2) the problem of ambiguity (which relates to both the role of the consultant and the identity of the client); (3) the problem of moral hazard; (4) the legal/cultural problem; and (5) the problem of consultant incentives. The information problem takes two forms: the difficulties clients have (especially less sophisticated government clients) in accessing the clear and unambiguous information they need to independently assess the qualifications of consultants; and the alternative channels

of information donors need to better design programs and properly monitor consultant activities. Ambiguity arises in the role that consultants play and which organization, if any, they actually represent. There is also a degree of ambiguity as to whether the consultant's real client is the (donor) organization they might work for, if any, the government of the recipient country, or the wider public of the recipient country.

The issue of moral hazard comes into play when consultants are too well shielded by the government (of either country involved in the aid project) against having to take responsibility for the effects of their advice on the people of the recipient country. The legal problem is a consequence of the lack of a uniform international set of laws governing the activities related to development consulting. Serious problems of cultural miscommunication and misunderstanding are likely when consultants lack a deep knowledge of the recipient country society. Such miscommunication and misunderstanding is not merely awkward; it can and often does result in advice that is useless or even counterproductive. Finally, there is no strong incentive structure in place to encourage international economic consultants to live up to the trust inherent in the consultant-client relationship and act in a principled, ethical way on behalf of the organizations or nations for whom they work.

We have analyzed a number of strategies to mitigate these problems across organizations. One such strategy is promoting a more careful approach to preparing the critically important Terms of Reference (TOR) under which the consultant will operate (see appendix C). Another is the preparation of a "Guidelines and Recommendations Handbook" specifically designed for use by officials from recipient countries in selecting consultants and negotiating contracts with them. (For a brief summary of the main points in such a handbook, see appendix C; for a prototype consultancy agreement, see appendix D). We have also discussed several different approaches to constructing an independent "Consultancy Watch" organization to maintain an interorganizationally accessible database containing information about consultants as a neutral third party: a broadly participatory "e-Bay" model, a "free for all" open system, a "members only" closed system, and a closed, donor centered system.

We believe it would be potentially very useful to develop, promulgate, and enforce a code of ethics for international economic advisors. Our proposed prototype code of ethics (presented in chapter four) is based on four fundamental ethical principles: "Honesty," "Integrity," "Responsibility," and a related fourth principle, "Professionalism," which is short-hand for acting with what is sometimes called "due professional care." These general principles are animated by a total of some thirty-seven more specific

rules that reflect these principles. The prototype code, which we intend to be suggestive rather than definitive, embodies rules based on those contained in the existing codes of ethics of a wide variety of professions, from dentistry and architecture to financial planning and computer-related engineering.

While they are important in setting forth proper standards of behavior, it is clear that codes of ethics are not enough. To be practical and meaningful, they must be enforceable. We discuss modes of enforcement that work by tying adherence to the code to systems of professional licensure, certification, or registration. All three of these approaches would make adherence to the code a condition of access to what consultants should find to be a valuable economic asset in the marketplace—a greater or lesser degree of reassurance to their potential clients that the consulting relationship will work out well for them. Licensure would give the greatest assurance of consultant quality. But it is the most stringent, expensive, and difficult to operate of the three, particularly in an international environment. It involves keeping unqualified practitioners out of the market as well as assuring the quality of those permitted to practice.

Certification is much less restrictive in that it does not prevent anyone from offering their services as a consultant (as does licensure), but rather attests to the quality of those consultants who have been officially certified. It is much cheaper to operate, but is still fairly complex. Registration is the least restrictive, cheapest, and easiest to operate. While it does not explicitly certify the quality of any consultant, it does serve as a marker for those consultants who have made a pledge (and established a track record of abiding by that pledge) to openly provide accurate background professional information on themselves to potential clients and to abide by certain clearly stated rules of behavior (including an established code of ethics). It is the approach that we recommend as the most practical to begin, although it can eventually be elaborated into a system of certification or even licensure, should that prove necessary or desirable. It is possible that it will ultimately be useful to develop a certification regime, but unlikely that there will ever be a compelling case for licensure. An even simpler but still useful approach would be to establish a “Center for Quality Consulting” (CQC) either within an appropriate existing organization or as a freestanding entity, operated by something like what could be called a Better Business Bureau model.

We also analyzed strategies within organizations to promote accountability of international consultants and therefore confront the structural problems inherent in this type of consulting that can lead to corruption and other forms of bad behavior. Here we approached the problem

by investigating two polar intra-organizational models used by two of the most prominent intergovernmental development organizations—the highly decentralized “Expert Roster System” used by the United Nations Development Program, and the highly centralized “debarment system” used by the World Bank.

The decentralized expert roster model used by the United Nations Development Program is a closed system. It is decentralized in the sense that judgments regarding the performance of consultants working with the UNDP can be made by any individual using the system. It is closed in the sense that there are limitations as to who is permitted to enter and access information. There is only one master database containing information on the background and performance of consultants, but every user of the system can look at only a well-defined subset of the data (called his or her “roster”) contained within the database. Such a system has important advantages. For one, it is simple. The system can exclude unethical consultants based upon trust among those within the organization responsible for hiring or recommending consultants, without requiring the complicated and legalistic procedures that tend to be required by more complex formal processes, such as debarment. Second, it is easy to implement because it does not alter the established structure of decision-making in organizations by layering a highly centralized process on top of decisions that must inherently be decentralized in order to be efficient. After all, not all decisions can be made at or near the top of the hierarchy. Subordinates must be able to make some decisions (such as the selection of temporary employees) or top-level managers will soon be overwhelmed.

A decentralized roster system also has notable disadvantages. Its informal structure may pressure individuals working within the organization to avoid giving negative feedback regarding a consultant’s ethical behavior. They may fear legal liability or perhaps more compellingly, the ill will that can be created among colleagues by negatively evaluating consultants who have previously been recommended by professional peers working for the same organization. Furthermore, the very fact that the system depends on intra-organizational trust may limit the tendency to use the system. Relatively new staff members or those less adept at networking within the organization may not yet know or trust enough colleagues for the system to prove valuable.

The World Bank operates what seems to be the most advanced centralized debarment system of any of the international financial institutions. The sanctions process that forms the core of this formal system has four stages. In the first “intake” stage, allegations of misconduct on the part

of consultants can be reported in a number of different ways, including email and telephone hotlines. In the second “preliminary inquiry” stage, the World Bank’s Department of Institutional Integrity (INT) devises and implements an investigative plan to determine whether or not there is sufficient evidence of misbehavior to justify a more complete investigation. If it is judged that there is sufficient evidence, the third stage involves planning and implementing a full investigation. The fourth and final part of the process is the “sanctions” stage, in which a formal Sanctions Committee then determines which sanctions, if any, should be applied to the consultant(s) or consulting organization charged, given the results of the investigation. In order of roughly increasing severity, potential sanctions include: (1) issuance of a letter of reprimand; (2) a requirement that the respondent establish training and integrity programs for its employees; (3) conditional non-debarment, requiring the respondent to meet specified conditions in order to avoid being debarred; (4) temporary debarment with conditional release, which debars the respondent until he or she (or the consulting firm) meet specified conditions; (5) a requirement that the respondent make restitution for the losses of the injured party; (6) debarment for a specified period; and (7) debarment for an indefinite period.

If properly designed and implemented, a formal sanctions mechanism such as the World Bank’s centralized debarment system can convey a degree of legitimacy to the sanctions process, precisely because of its investigative and judicial nature. More important than its usefulness as a punishment per se, debarment can be a powerful means for holding miscreants accountable, thereby deterring corruption and other forms of misconduct. With an appropriately broad range of sanctions available, the process can also be useful for purposes of rehabilitation and restitution. Although insuring the protection (and reward?) of whistleblowers is clearly an important issue, the centralized nature of a formal intra-organizational sanctions mechanism, such as that of the World Bank, alleviates pressure on individual decision-makers compared to a decentralized roster system, such as that of the United Nations Development Program. On the other hand, this kind of formal debarment system is time-consuming and expensive to design and operate. It may also be costly and complicated to modify, if and when readjustments become necessary or desirable. Furthermore, it may be difficult to achieve fairness, since sanctions such as debarment pose greater risks for individuals and small corporations than for large consulting firms. It may be easier for large firms to engage in complex, sophisticated schemes that are difficult to expose and disentangle. Large firms are also generally in a better

position to bring political pressure to bear on those making sanctions decisions.

There are, of course, strong moral arguments to be made against corruption. There are similarly strong moral arguments to be made for holding people responsible for the effects of the actions they have taken on others. But there are also less lofty, more pragmatic reasons to hold to the idea that confronting corruption and building accountability are worthwhile projects, despite the inherent difficulties. Those reasons can be found in the roots of the current global financial crisis, a crisis underlain and prolonged by trust broken and accountability denied. They can be found in the unenviable track record of so much of the advice given by international consultants to help facilitate the transition to market economies of formerly socialist states about which so many of the those consultants knew so little. They are also embedded in the frustrating history of the failure of so many often well-intentioned attempts to stimulate development and raise the material well-being of the world's most economically disadvantaged people.

Corruption is not just another sin or just another crime. It undermines the trust on which any well-functioning economic system depends; it diverts the resources critical to generating rising standards of living; it drains the life out of our best hopes for the future. We are under no illusions that corruption can be eliminated. We understand that even with best efforts and intentions, accountability will be far less than perfect. But we hope that the systematic analysis of these problems and the handful of practical strategies for mitigating them that we have presented here, within the specialized area of international economic consulting, will help to encourage a wider, sharper, and more fruitful discussion of these issues.

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APPENDIX A

WORKSHOP ON *BUILDING ACCOUNTABILITY INTO INTERNATIONAL DEVELOPMENT ADVISING IN AN AGE OF DIFFUSED GOVERNANCE*

The workshop on “Building Accountability Into International Development Advising in an Age of Diffused Governance” was conducted at Polonia House Conference Center in Pultusk, Poland, from September 21 to 24, 2003.

A.1. List of Participants

Current and Former Officials

Africa

Stephen Gelb, former economic advisor to the Office of the President and government departments, South Africa

Asia

Dipak Gyawali, former minister of water resources, Nepal

D.S. Mishra, former head, Kanpur Development Authority, India

Tom HuTao, chief economist, Policy Research Center for Environment and Economy (PRCEE), State Environmental Protection Administration (SEPA), China

Central and Eastern Europe

Grażyna Gęsicka, former deputy minister, Ministry of Labor and Social Policy; deputy head, Polish Agency for Enterprise Development, Poland

Belma A. Ejupovic, deputy coordinator, Ministry of Foreign Trade and Economic Relations, Bosnia-Herzegovina

Alina Barbara Hussein, advisor to the president of the Supreme Chamber of Control (Najwyższa Izba Kontroli), Poland

Former Soviet Union

Alexandra Slobodova, head of the unit, Department for Foreign Exchange Regulation and Control, Central Bank of the Russian Federation

Natalia Lakiza-Sachuk, project director and principal consultant, National Institute for Strategic Studies, Administration of the President, Ukraine

Latin America

Gonzalo Rivas, former vice president of CORFO, economic development agency, Chile

Middle East

Ibrahim Fawzy, former minister of industry and mineral wealth, Egypt

Co-organizers

Lloyd (Jeff) Dumas, professor of political economy, economics, and public policy, School of Economic, Political and Policy Sciences, University of Texas at Dallas

Janine R. Wedel, professor, School of Public Policy, George Mason University

Other Participants

Sylvette Cormeraie, senior research fellow, School of Social Sciences, University of Sussex

Yves Dezalay, professor, Maison des Sciences de L'homme, C.N.R.S.

Bryant Garth, director of the American Bar Foundation and distinguished scholar, Institute for Legal Studies, University of Wisconsin-Madison Law School

John Harper, senior research fellow in cross-cultural organization, University of Sussex

Manuel (Butch) Montes, economist and program officer, Ford Foundation

A.2. Biographies of Participants

Please note: These biographies were contributed by participants themselves at the time of the 2003 workshop; only biographies of the co-authors are updated.

Current and Former Officials

Africa

Stephen Gelb is executive director of The EDGE Institute, an independent nonprofit economic policy research centre in Johannesburg, South Africa. Since 1994, he has advised a number of South African government departments and agencies, including the office of the president, the National Treasury, the Department of Trade & Industry, the National Economic Development and Labour Council (NEDLAC), and the statutory tripartite body for government, business, and labor interaction. He has taught at York University (Canada), the New School for Social Research (United States), and the Universities of Durban-Westville, Natal, and the Witwatersrand in South Africa. From 1997 to 2001 he worked at the Development Bank of Southern Africa. He was research coordinator for the South African government team on the NEPAD process between November 2000 and July 2001 and subsequently a consultant to the NEPAD Secretariat.

Gelb is an economist with more than twenty years of experience in South African economic policy issues and a widely published writer on the South African economy. He studied economics in Cape Town and Canada and was an activist in the Canadian antiapartheid movement between 1976 and 1984. Returning to South Africa in 1984, he advised the Congress of South African Trade Unions (COSATU), the South African Council of Churches, and the United Democratic Front (UDF) on economic policy issues. He assisted the ANC in its economic policy formulation processes between 1990 and 1994.

Asia

Dipak Gyawali is *Pragya* (academician) of the Royal Nepal Academy of Science and Technology (RONAST) and coeditor of the biannual interdisciplinary journal *Water Nepal*. As His Majesty's minister of water

resources from November 2002 to May 2003, he initiated reforms in the electricity and irrigation subsectors focused on decentralization and the promotion of rural voices in governance. He served as a government engineer from 1979 to 1987 in assignments ranging from urban and rural power supply projects to an official investigation commission on foreign-aided engineering projects. After the democratic changes in Nepal in 1990, the new government asked him to help define a hydro-power and energy development policy.

Gyawali has been a member of the International Advisory Board of Battelle Pacific Northwest National Lab (United States) for its Human Choice and Climate Change study, a trustee of the King Mahendra Trust for Nature Conservation (KMTNC), and a member of the International Research Committee of the Regional Centre for Strategic Studies (RCSS) in Colombo. Gyawali has been a visiting scholar at Queen Elizabeth House in Oxford University, the Norwegian Center for Research in Organization and Management, and the International Environmental Academy in Geneva. He served as chairman of the research group Institute for Social and Environmental Transition, Nepal, and, in the mid-1990s, assumed a five-year term as chairman of Swabalamban, a grassroots voluntary NGO dedicated to poverty alleviation in rural Nepal. By profession, Gyawali is a hydroelectric power engineer (Moskovsky Energetichesky Institute, USSR) as well as a political economist working on resource use (University of California, Berkeley). He has been studying foreign aid and development for almost twenty-five years and, in a forthcoming book on the subject, examines the cultural theory of corruption.

Tom HuTao is chief economist at the Policy Research Center for Environment and Economy (PRCEE) at the State Environmental Protection Administration (SEPA). Prior to this appointment, he was a senior fellow in the same organization and a visiting professor in the department of political science and environmental studies program at the University of Oregon in Eugene. His areas of specialization include environmental policies and management, environmental and natural resources economics, trade and environmental issues, rural environment and sustainable agriculture, and globalization and climate change issues. A prolific writer, HuTao has invested his career working for a wide range of organizations in the domestic, bilateral, and international arenas. In China, his most recent work includes preparations for the PRC/GEF Partnership on Biodiversity, technical support for the China New Round WTO Negotiation Delegation, and research for a strategy study on China's environmental management. His bilateral work

has impacted organizations in Canada, Germany, Japan, Norway, the United Kingdom, and the United States and covers such areas as the European Union's national capacity self-assessment on biodiversity and environmental impact assessment regulations and emission trading policy. Internationally, he has served as a consultant and advisor to numerous organizations, including the World Bank/NPEA, GEF/UNDP, and ADB/SETC.

HuTao has an academic background in nuclear physics. He earned his bachelor of science in agriculture ecology from Zinjiang Agricultural University; his master of science in agriculture economics from the Graduate School of the Chinese Academy of Agriculture Sciences; and his PhD in ecological economics from the Graduate School and Research Centre for Ecology and Environment of the Chinese Academy of Science.

D.S. Mishra serves in the Indian central government as director in the Ministry of Home Affairs (Internal Security). There he oversees the personnel and deployment issues of more than half a million members of the Central Paramilitary Forces. Previously he worked in senior positions in the largest Indian state of Uttar Pradesh, which ranks seventh in the world in population. He has been collector and district magistrate of Sonbhadra, a highly industrialized district inhabited by a poor and marginalized tribal population, and of Agra, which has three world heritage monuments including the Taj Mahal. As chief executive of the Kanpur Urban Development Authority, Mishra managed infrastructure development in a city of more than four million people. As special secretary in the Department of Tourism, Sports, and Civil Aviation and secretary in the Department of Medicine and Health in the state government, he oversaw two major externally funded projects—a forty million dollar OECD-funded Infrastructure Development Project of the Buddhist Circuit in Uttar Pradesh and a one hundred million dollar World Bank-funded U.P. Health Systems Development Project. These assignments involved supervision of national and international consultants and consulting firms. Mishra's major contributions in the government relate to reducing corruption and introducing efficiency in public office through systemic reforms and bold initiatives to improve the performance of organizations by means of skillful management of financial, human, and technical resources.

Before joining the premier Indian Administrative Service in 1984, Mishra obtained a degree in electrical engineering from the Indian Institute of Technology in Kanpur. He completed a postgraduate diploma in management with a specialization in human resource management from the All India Management Association, New Delhi (India), in 1994 and an MBA in

international business from the University of Western Sydney, Macarthur (Australia), in 2000. He has published a number of papers and four books or manuals related to his administrative experience in the government.

Central and Eastern Europe

Belma A. Ejupovic is deputy coordinator in the Ministry of Foreign Trade and Economic Relations of Bosnia-Herzegovina. In that capacity, she coordinates consultations with the donor community, members of parliaments, the academic community, NGOs, and youth, and serves as a member of the Poverty Reduction Strategy Paper (PRSP) Drafting Committee. Ejupovic also has been an advisor to the United Nations Development Program, where she is a member of the advisory board working on the Bosnia-Herzegovina Youth Report 2003, as well as an advisor for economic, human rights, and poverty issues of youth. Previously, she was an international consultant working with the Government of Montenegro and the PRSP to develop a general action plan for the PRSP process in Montenegro.

With degrees in political and biological sciences and in democracy and human rights, Ejupovic's development training is extensive and includes seminars focused on poverty assessment, capacity building, and impact evaluation.

Grażyna Gęsicka is deputy head of the Polish Agency for Enterprise Development, working in human resource development. Previously, she served as deputy minister in the Ministry of Labor and Social Policy, in the Ministry's Cooperation Fund, and in the Polish Foundation for the Promotion and Development of Small and Medium-Sized Enterprises. From 1990 to 1997 Gęsicka was an advisor to the European Union, the World Bank, the Polish government, the parliament, and local and regional governments on issues of local and regional development.

A sociologist by training, Gęsicka has served as a professor in the Institute of Sociology at Warsaw University. She has published a dozen books and more than thirty articles dealing with large social groups and social movements.

Alina Barbara Hussein is advisor to the president of the Supreme Chamber of Control (Najwyższa Izba Kontroli), Poland.

Former Soviet Union

Natalia Lakiza-Sachuk is project director and principal consultant at the National Institute for Strategic Studies (NISS) with the administration of

the president of Ukraine. She has worked for two Ukrainian presidents, Kravchuk and Kuchma (1992–2002), at NISS, the think tank institution associated with the presidential administration. She also served as vice president of the Civic Center for Anti-Crisis Studies (1999–2003). Prior to that, Lakiza-Sachuk was a senior researcher in the Institute of Economics of the National Academy of Sciences of Ukraine (1973–1992).

She is the author of more than 150 articles, monographs, and reports dealing with social, economic, and demographic transformations in transition countries (the main focus being Ukraine), nonmilitary aspects of national and regional security, ethnic relations, problems of migration and human trafficking, socioeconomic and demographic policy, health care reform, and women's issues.

Lakiza-Sachuk graduated from Kiev Economic University (Ukraine) and received her PhD in economics from Moscow Statistical-Economic University (Russia). She also completed professional training on contemporary issues, democratization and civil society building, economic reforms and nonproliferation policy at New York University, Georgetown University, American University, AAAS and RAND Corporation (in the United States), Groningen University (the Netherlands), the World Bank Institute (Hungary), and others. Currently she is a Fulbright Scholar at the Transnational Crime and Corruption Center (United States), where she is conducting research on issues of U.S. technical assistance to Ukraine. As an economist, demographer, and sociologist, Lakiza-Sachuk has worked on numerous international projects, including for the World Bank, USAID, UNDP, IOM, ILO, the Soros Foundation, and IREX. She provides expert consultations on a regular basis to the Cabinet of Ministries and Verhovna Rada of Ukraine, as well as to other national and international organizations within Ukraine and abroad.

Victor Nikolaevich Melnikov is deputy chairman and a member of the Board of Governors of the Central Bank of the Russian Federation. Previously he was deputy secretary of the Security Council of the Russian Federation (1998) and also served as the vice president and member of the Board of Governors of the Joint Stock Commercial Bank Tokobank in Moscow (1996–1998). For the Central Bank of the Russian Federation, he served as director of the Department for Foreign Exchange Regulation and Foreign Exchange Control (1996) and head of the General Department for Foreign Exchange Regulation and Foreign Exchange Control (1993–1996). Melnikov also served as head of the Foreign Exchange Control Inspection of Russia (1992); head of the Foreign Economic Affairs Division in the Cabinet of Ministers

of the USSR (1991–1992); first deputy head of the General Economic Division of the State Foreign Economy Commission in the Council of Ministries of the USSR (1988–1991); and the head of unit for the State Planning Committee of the USSR (1983–1988).

Melnikov spent much of his early career as a senior analyst in the Scientific Research Institute at the Ministry of Foreign Trade of the USSR. He graduated from the High Technical College named after N.E. Bauman and earned his PhD in economics from the Academy of Foreign Trade.

However, because of a conflict that arose shortly before the workshop, Victor Melnikov was unable to attend. In his place he sent Alexandra Slobodova, head of the unit, Department for Foreign Exchange Regulation and Control, Central Bank of the Russian Federation.

Latin America

Gonzalo Rivas was executive vice president of CORFO, the Chilean economic development agency of Chile, from 1997 to 2003. An economist from the University of Chile, he served as president of ALIDE (The Latin American Association of Economic Development Banks) from 2000 to 2003, and of INTEC (a Chilean Technological Institute), as well as a member of the Council of Fundación Chile. His previous experience includes work in the Ministry of Economy, ECLAC, the Chilean Embassy, the United Nations (as senior assistant of the chairman of the preparatory committee for the Social Development Summit), and as a consultant for IADB, the World Bank, and the ILO.

Rivas works as a consultant, particularly in the fields of public policy and institutional design, where he concentrates on promoting technological innovation and small and medium enterprise development.

Middle East

Ibrahim Fawzy was minister of industry and mineral wealth of Egypt in the 1990s and later assumed the responsibility of chairman and CEO of the General Authority for Investment and Free Zones (GAFI). Prior to that, as deputy director of the Development Research and Technological Planning Center (DRTPC), he managed the joint technology adaptation program between the University of Cairo and MIT in Boston.

A mechanical engineer with a bachelor of science in mechanical engineering from the University of Cairo and a PhD in mechanical engineering from University College London, Fawzy holds numerous high-level decorations and has published many books and papers in the field of engineering mechanics. In his early career, he lectured at the Mechanical

Design and Production Department of the University of Cairo and served as visiting professor at University College London before becoming assistant professor at the University of Cairo. Since 1981 he has been professor in the Department of Engineering. He also provides consultancy advice for numerous industrial and investment projects for public and private organizations on the national and international level.

Co-organizers

Lloyd J. Dumas is professor of political economy and economics in the School of Economic, Political and Policy Sciences at the University of Texas at Dallas. Trained both as an economist and an engineer, Dumas' areas of expertise include economic transition and economic development; the economics of military spending; human fallibility, terrorism and technological disaster; and macroeconomic theory. Dumas has published more than 120 works in 11 languages in books and journals of economics, engineering, sociology, history, public policy, military studies, and peace science—including such well-known publications as *The New York Times*, *Los Angeles Times*, *International Herald Tribune*, *Science* magazine, *Boston Globe*, *Technology Review*, *Defense News*, and the *Dallas Morning News*. His eighth book, *The Technology Trap*, will be published by Prager in late 2010, and his ninth book, *The Peacekeeping Economy: Using Economic Relationships to Build a More Peaceful, Prosperous and Secure World*, is forthcoming from Yale University Press in early 2011. He has addressed the United Nations, testified at city, state, and federal government hearings, and discussed the policy implications of his work on more than three hundred TV and radio programs in the United States, the former Soviet Union, Canada, Europe, Latin America, and the Pacific.

From 1991 to 1993, Dumas was vice chair of the Governor's Taskforce on Economic Transition of the State of Texas. From 1994 to 1996, he was consultant to the Los Alamos National Laboratories on expanding civilian R&D activities at the Labs. In 1999, he co-organized (with Dr. Ali Mazrui), an International Conference on Peacekeeping, Development, and Demilitarization in Africa, sponsored by the Rockefeller Foundation and the U.S. Institute of Peace. Dumas attended Columbia College (BA, mathematics, 1967), the School of Engineering and Applied Science (MS, industrial engineering, 1968), and the Graduate Faculties (PhD, economics, 1972), all divisions of Columbia University. He taught economics for three years at City University of New York and engineering for six years at Columbia University before joining the faculty of Social Sciences at UT Dallas in 1979.

Janine R. Wedel is professor in the School of Public Policy at George Mason University and a senior research fellow at the New America Foundation. She writes about issues of governing, corruption, and foreign aid through the unique lens of a social anthropologist. She won the 2001 Grawemeyer Award for Ideas Improving World Order (whose previous recipients include Mikhail Gorbachev and Samuel Huntington) for her book *Collision and Collusion: The Strange Case of Western Aid to Eastern Europe* (second edition: Palgrave 2001). Her latest book, *Shadow Elite: How the world's New Power Brokers Undermine Democracy, Government, and the Free Market*, was published by Basic Books in 2009.

Wedel is a four-time Fulbright fellow and recipient of awards from the National Science Foundation, the MacArthur Foundation, the Woodrow Wilson International Center for Scholars, the United States Institute of Peace, the Eurasia Foundation, the National Council for Eurasian and East European Research, the National Institute of Justice, and others. She has studied Eastern Europe's evolving economic and social order for more than twenty years, conducted eight years of fieldwork in the region, and published four books. They are: *The Private Poland: An Anthropologist Looks at Everyday Life* (1986); *The Unplanned Society* (Columbia University Press, 1992); and the prize-winning *Collision and Collusion and Shadow Elite*. As a policy-analyst anthropologist with a PhD from the University of California at Berkeley, Wedel has contributed U.S. Congressional testimony and written for *The New York Times*, the *Wall Street Journal Europe*, *The Nation*, *The National Interest*, the *Los Angeles Times*, the *Washington Times*, the *Christian Science Monitor*, the *Boston Globe*, and many scholarly and policy journals.

Other Participants

Sylvette Cormeraie is senior research fellow in the School of Social Sciences at the University of Sussex. She has published many articles and chapters in scholarly volumes on intercultural conflict and its educational implications, language, culture, and power, postcolonial cultural dynamics, race, and prejudice. A board member of several international educational associations (EAIE, EDIW, LAUD, GERAS), she was chair of the International Association for Language and Intercultural Communication from 1999 to 2002. She is a member of the editorial board of the *Journal for Language and Intercultural Communication*.

Cormeraie was educated at the University of Bordeaux and trained in philosophy, literature, sociology, and socio-linguistics. Her research focuses on the politics of language and power and on the social and psychological dynamics of conflict in cross-cultural negotiations. Born in

Vietnam, she has worked in the Diplomatic Service in London and at the Universities of Bordeaux, Warwick, and Sussex. She served for many years as director of the Centre for Languages at Sussex, where she developed links for academic mobility with Russia, France, Spain, Italy, Germany, and Hungary and designed interdisciplinary specialist programs in intercultural education for an interdependent world. Most recently, Cormeraie has worked on the patterns of cultural transformation emergent in global business interactions and their implications. Working as a consultant with global business organizations facing major geopolitical shifts and ensuing cross-cultural conflicts, she has helped to raise awareness of the power of cultural blindness and prejudice as a major source of failure.

Yves Dezalay is director of research at C.N.R.S. (Centre National de la Recherche Scientifique) and an affiliated scholar of the American Bar Foundation. There he has been working for the past fifteen years with Bryant Garth on the emergence of an international legal field and the restructuring of state and political elites, with particular attention to topics such as international commercial arbitration, trade disputes, and human rights networks. Most of his previous research dealt with the transformations of the field of corporate professionals—primarily lawyers, but also accountants and consultants. The focus was on interdisciplinary and international competition as both the rationale and the instrument of these transformations.

In addition to more than ninety papers, chapters in collective volumes, and articles in academic journals, Dezalay has written three books: *Les Marchands de Droit* (Paris: Fayard, 1992), *Dealing with Virtue: International Commercial Arbitration and the Emergence of an International Legal Order* (with B. Garth; University of Chicago Press, 1996), and *The Internationalization of Palace Wars: Lawyers, Economists and the Contest for Latin American States* (with B. Garth; University of Chicago Press, 2002). He also has edited three volumes: *Batailles Territoriales ou Rivalités de Cousinage: Juristes et Comptables sur le Marché Européen du Conseil aux Entreprises* (Paris: L.G.D.J., 1994), *Professional Competition and Professional Power, Lawyers, Accountants and the Social Construction of Markets* (with D. Sugarman; UK: Routledge, 1995), and *Global Prescriptions: The Production, Exportation, and Importation of a New Legal Orthodoxy* (with B. Garth; University of Michigan Press, 2002).

Bryant Garth is director of the American Bar Foundation and distinguished scholar at the Institute for Legal Studies of the University of Wisconsin-Madison Law School. Prior to coming to the ABF in 1990, he was dean of Indiana University School of Law-Bloomington. His degrees

are from Yale (1972), Stanford Law School (1975), and the European University Institute in Florence (PhD, 1979). His recent research has concentrated on globalization as a process of importing and exporting ideas and institutions, especially those connected to the law—with consequences varying according to the structures of national power.

With Yves Dezalay, Garth coauthored *Dealing in Virtue: International Commercial Arbitration and the Construction of an International Legal Order* (Chicago, University of Chicago Press, 1996), *The Internationalization of Palace Wars: Lawyers, Economists and the Contest to Transform Latin American States* (University of Chicago Press, 2002), and an edited volume entitled *Global Prescriptions: The Production, Exportation, and Importation of a New Legal Orthodoxy* (University of Michigan Press, 2002). Other recent edited books are *Dispute Resolution Ethics: A Comprehensive Guide* (American Bar Association, 2002) and *Looking Back at Law's Century* (A. Sarat, R. Kagan, and B. Garth, eds., Cornell University Press, 2002). Garth's current research focuses on three topics: the global transformation of the field of business and legal advice, focusing on professional service firms; the changing role of law and lawyers in Asia, especially South Asia; and a longitudinal study of lawyer careers that will cover law graduates beginning with the class of 2000.

John Harper is senior research fellow in cross-cultural organization at the University of Sussex. He combines teaching cross-cultural management to international business leaders and students with consultancy, in which he specializes in culture change and developing learning organizations. After studying social policy and applied social studies, he worked in the field of public policy concerned with crime and delinquency, first as a professional practitioner and later, at the University of Sussex, as an academic. His professional activities led him to study, at close quarters, different methods for penal reform across Europe, including Sweden, Norway, Finland, Poland, and France, and to publish articles for practitioners in the field. Harper's work in this area drew him into the field of cross-cultural social psychology and in particular to investigating the relationship between national and corporate business culture.

In his most recent work, Harper has used ethnographic approaches to gain access to large corporations where problems arise due to failure to deal with differences following a merger or acquisition involving companies from different cultural contexts. He has published some of his analysis as case studies in scholarly and professional journals.

Manuel F. Montes (Butch) is program officer for international economic policy for the Ford Foundation in New York. Previously he served as coordinator of economics studies and senior fellow at the

East-West Center in Honolulu, Hawaii. He was co-director of the Short-Term Capital Flows and Balance of Payments Crises@ project for the United Nations University/World Institute for Development Economics Research (UNU/WIDER) in Helsinki, Finland, during 1996–97 and visiting senior fellow at the Institute of Southeast Asian Studies in Singapore in 1997–98. From 1984 to 1991 Montes held the Central Bank Money and Banking chair at the University of the Philippines.

Montes has written on balance of payments crises and development policy, particularly in the Philippines, Viet Nam, Lao PDR, Thailand, and Indonesia. His most recent books are *Poverty, Income Distribution and Well-Being in Asia During the Transition* (with Aiguo Lu; Palgrave Macmillan, 2002), *Short-Term Capital Flows and Balance of Payments Crises* (with Stephany Griffith-Jones and Anwar Nasution; London: Oxford University Press, 2001), *The Asian Crisis Turns Global* (with Vladimir V. Popov; Singapore: Institute of Southeast Asian Studies), and *The Currency Crisis in Southeast Asia: Updated Edition* (Singapore: Institute of Southeast Asian Studies, 1998). He obtained his doctorate degree in economics from Stanford University.

A.3. Overview of Common Features of Personal Statements of Participants

John Harper and Sylvette Cormeraie

Introduction: “Culture Matters”

Transformations in the state depend on the structure of the institutions that are already in place. The same is also central to the area studies, which highlight national distinctions and histories (. . .) and to the recent rediscovery among economists and political scientists that, “culture matters.”

—Dezalay and Garth, 2002

Social systems resist change with an energy roughly proportional to the radicalness of the change that is threatened.

—Schon, 1973

*A social system does not move smoothly from one state of its culture to another (. . .) they move from zones of stability, **through zones of instability, to new stable zones.** The zones of instability can be considered transients.*

—Schon, 1973

The resistance to change exhibited by social systems is much more nearly a form of “dynamic conservatism”—that is to say, a tendency to fight to remain the same.

—Schon, 1973

In reading through the “stories” prepared for the workshop on the participants’ foreign aid delivery experiences, we are struck by the many similarities we have observed as action researchers/consultants working in the field of large industrial businesses. These businesses attempt to transfer their technology across to other businesses, either within the same industrial and country culture, or, increasingly, across foreign cultures in the pursuit of global markets, lower costs of production, and competitive advantage.

A. Intended Benefits and Actual Outcomes

It is rare to find a perfect match between the intended benefits of the transfer and the actual concrete outcomes. But, in many cases, the gap between the intended and the actual is great enough to raise serious concerns about the integrity, competence, and transparency of the actors in the project. When extra funds are demanded to complete the project, this is usually the moment when the whole project from design to implementation has to be reexamined and consultants are brought in to advise and fix.

Introducing a new information system is a classic illustration of what can happen with an apparently simple tech-transfer project. The project is perceived by the sponsors as a technical innovation using new IT know-how in order to increase competitiveness by reducing wastage in the manufacturing process. But at the point of implementation, the new technology is experienced by the users and operators as a threat to the existing social system. All the psychological forces known as “dynamic conservatism” come into play to resist the changes and do so by undermining the original intentions. Not recording data, not sending correct data, not reading emails, using incorrect data, not responding to colleagues, for example, are samples of defense mechanisms against the change and for dealing with the supposed threat to the “stable state.”

Of course, the original innovation starts out as just another product to be fed into the conveyor belt for processing. But once it enters the realm of the users and operators, it disturbs a complex and dormant social system, with the result that the product is felt to be a threat to the sociopolitical order. What quickly becomes clear is that the preexisting informal communication systems, with their built-in status and power hierarchies, are perceived as being under attack. The fear of loss of face

and loss of identity then become the major preoccupations of the users at the expense of achieving the intentions of the project.

Contributing to the failure to bring about the intended benefits from the new technology is the inability on the part of the decision-makers to see the whole picture from the outset. Added to this is the failure to engage as many of the end users and customers in the early stages of the project as possible. This is combined with a third failure, which is not to hold together the content and the social system as a *gestalt*, and to neglect to conduct any analysis of the preexisting culture.

Many of the stories highlight the same issue. One recurring theme seems to be the attitude of many consultants not attempting to develop sufficient local knowledge or who demonstrate an insensitivity to local culture:

Technical assistance in general and foreign consultants in particular are not always able to deliver promised outcomes and are increasingly criticised for being inefficient, counter-productive and corrupt. The reasons for this within the Indian context range from their own incompetence, lack of commitment, **insensitivity to/incomplete understanding of local cultures, (social, political and institutional)**. (Mishra)

A variation on the theme is the failure of the donor to tailor the aid to the specific context:

The history of foreign assistance to Ukraine as well as to other NIS countries is full of achievements, gaps, success stories and problems (...) At the same time those policy advisers and strategies, copied from previous successful experience of replacing long lasting dictatorships (in Europe, Latin America and Asia), has appeared in some part mistaken in the NIS. (Lakiza-Sachuk)

Or the question arises of whether the aid or consultancy is relevant: "It is hard to think of specific publicized examples of malpractice or sheer bad work, but foreign input was not always relevant or of a higher quality that could be sourced in SA [South Africa]," (Gelb). It is easy to see how consultants and advisors can create situations where they generate more work for themselves through their failure to pay attention to the details in the first place. As troubleshooters, they may then be called in to fix a problem that is of their making and that in reality may require a different type of intervention.

B. Ownership and Commitment, not Compliance

Foreign aid delivery, like industrial technology transfer, has been traditionally constructed as a mechanical one-way process, "as a simple

conveyor belt, carrying a product (advice) from one side to another” (Wedel), as if the classical imperialistic attitude of “we know best” still prevailed. But, in reality, from those with experiences in the field, the transfer process involves a dynamic complex transaction, requiring social relationships between donors and recipients and with intermediaries in the form of consultants and advisors, all of which takes place within institutional and “high context” environments. A series of chemical reactions is triggered once the aid process starts (this is how Janine Wedel describes her experience primarily in Poland and Russia).

Where the conveyor-belt model only required minimal compliance on the part of the recipient, the chemical reaction model requires buy-in ownership and commitment by all those involved in the transfer of delivery. Compliance is relatively easy to achieve but seldom leads to long term development, whereas commitment and ownership, while taking somewhat longer to bring about, are more likely to lead to long term ownership and, therefore, to enduring transformation.

Many of the stories advocate greater ownership of the aid:

It is the preconceived notion of a certain system of knowledge (read: Western, scientific) as being superior to other, (read local, traditional) knowledge that often leads to the disregard of traditional knowledge and solutions by these experts who are generally convinced about the unquestionable superiority of their own system of knowledge. **In the end the results are not owned and internalized by the local population and, therefore, non-sustainable and non-viable when viewed in the context of the costs involved.** (Mishra)

The case of Chilean fishermen and Japanese aid highlights the consequences of a lack of understanding and engagement of the ultimate users for the final outcome:

The fact is that the people who were supposed to use these methods, simply weren’t interested, or they lacked the basic skills to take advantage of the training offered to them. Moreover, some of the leaders of the fishermen saw this program as a destructive maneuver of a government that was not interested in addressing their real concerns, namely the amount of the quota of capture assigned to the artisans sectors. The foreign technicians didn’t grasp this reality. (Rivas)

Open and transparent goals, a shared understanding of the sociopolitical dimensions, a good understanding of the context and “practical experience and quite a deep knowledge about what they are working in” (Melnikov) all seem to be related to more successful projects.

C. Quality Control and Monitoring

QC and monitoring pose serious challenges for large industrial firms. There are industrial standards (e.g., ISO), policing authorities (FDA) with the power to close down operations, as well as external inspections on health, quality, and safety, all with sanctions and sophisticated audit systems. These systems, however, only check the extrinsic parts of the business and set the minimal standards of performance, all of which, in turn, often encourage nominal compliance. The so-called softer issues that determine ownership and long term sustainability have not, up to now, been a concern of the external monitoring bodies. It would appear on the surface that developing best practice and excellence are dimensions businesses genuinely promote. But despite all the sophistication of the regulatory bodies there still remain major scandals where firms are in serious breach of regulations, despite the heavy sanctions.

Hierarchies are notorious control freaks and nothing is more alarming than loose-canon advice. Hence, the usefulness of paid consultants over relatively unconstrained independent researchers. (...) Despite recent shifts toward promoting NGO-led development (which is beginning to develop its own pathologies) much of official development assistance is unfortunately still a hierarchic affair—both for the recipients and the donors.... Control over the parameters as well as thrust of advice is more important than unearthing uncomfortable truths. (Gyawali)

Risk taking will always be a part of any regulated environment: playing on the edge of the rules, pushing for a special consideration, using all the contacts to avoid investigation. The question to ask is who defines the boundaries and what criterion determines the level of deviance to be tolerated? In the industrial world important checking mechanisms are represented by the customer, the consumer, and their associated institutional bodies. Although one begins to notice changes, these still tend to be reactive rather than proactive. As things stand, it has to be said that no adequate system exists as yet for ensuring that behavior is as clean as possible.

It is a strange paradox that the greater the external controls in place, the less the commitment to raise standards, and the greater the energy invested in finding ways around the official “rules.” Sociologists refer to this as the normative approach. What is much more likely to work over time, however, is the creation and development of cultures where ownership, commitment, and continuous learning (“double loop”) are the dominant practices and where peers as well as leaders hold one another

accountable. Once this behavior is given visibility, there is a much greater chance that corrupt behavior will be marginalized.

Whistleblowing is no longer acceptably safe in a business culture. Fear of reprisals, loss of peer support, and damage to career prospects deter most would-be breakers of the unspoken collusive norms.

It is clear from all the stories about the issue of corruption that it takes many forms and no one in the aid-giving business is totally immune from it, however good the intentions. Incidents range from failure to deliver as agreed to serious and fraudulent misuse of funds for personal gain. If the “problem” is well known, it is not very well understood. We need to bear in mind that corruption is a behavior that takes place in a context. Some contexts with high levels of exploitable ambiguity, where socio-political informal networks are encouraged and leadership is physically absent, will tend to be fertile ground for corrupt behavior whereas in contexts where openness, clarity, and commitment have been systematically emphasized, the risks of epidemic outbreaks are lower.

An ad hoc system with vagueness creates spaces for manipulation. The business of consultancy does not have more than the usual share of immoral, incompetent and corrupt people. However the vagueness of the system and the absence of appropriate checks and balance creates those loopholes that maybe exploited easily. (Mishra)

D. Ways Forward

Donald Schon and his colleagues at MIT have been preoccupied with the failures that follow from attempting to transfer technology and innovations across industrial cultures. Their work focuses on the dynamic forces thrown up by the social system, distorting, interfering with, and rejecting the original concept in the name of protecting the assumed stable state. Dynamic conservatism, mentioned earlier, is now a well-understood syndrome for describing this process.

Edgar Shein’s work focuses on the dynamic forces of resistance that erupt from within an organizational culture whenever the core values are assumed to be under threat. A common threat can be a new technology or competition. What is seen from the outside as straightforward and common sense is translated differently inside the culture by the guardians of the core values.

What is clear is that any transaction between donors and receivers working within institutions that have their own cultural filters is a complex sociotechnical process, involving perceived and real disruption to an existing social system.

Not surprisingly, there is frequently a significant mismatch between the original intention of the donor and the concrete reality of the recipient's world. We are looking at processes that activate latent or hidden or even taboo feelings stemming from fundamental cultural assumptions about time, space, human nature, the nature of knowledge, and the decoding of reality through symbolic representations.

Aid is dynamic because there is a relationship of reciprocity and solidarity between donor and receiver, in which the honor of the giver and that of the recipient are engaged. Rereading Marcel Mauss's anthropological treatise on *The Gift* in a twenty-first-century context, we are reminded that aid that does nothing to enhance solidarity is an insult to the recipient.

What is the role of the consultant in the midst of these forces? A go-between, neutral advisor, facilitator, change agent? How significant are the consultant's own cultural identity, system of categories and beliefs, hidden values in the transactions? Can anyone be 100 percent "clean" in the transactional process? How much do Western donors need to revisit their utilitarian notions of giving and receiving?

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A.4. Personal Statements Prepared for the Workshop

South Africa's Experience with Aid and International Consultants

Stephen Gelb, Former Economic Advisor to the Office of the President and Government Departments, South Africa

South Africa's experience is shaped fundamentally by the transition from apartheid to nonracial democracy. The election of the ANC into government in 1994, under President Nelson Mandela, was the culmination of a two-decade-long process of political struggle, during which a wide range of civil society and social movement organizations emerged—trade unions, student and women's organizations, community groups,

and professional, business, media, and cultural bodies—to support and complement the ANC, the exiled liberation movement.

Most of these organizations, including the ANC, received financial, logistical, and political support during the 1980s from international donors, including government and multilateral agencies, and foreign church, labor, and voluntary groups (such as Oxfam), who were part of a large and diverse international antiapartheid movement. (The involvement of a large international network in its transition perhaps distinguishes South Africa [SA] from most other cases.) This amounted to a substantial, if unofficial, aid effort, creating interdependencies between SA and foreign organizations, with significant impact not only upon the activities, financial well-being, and expansion of the SA organizations, but also on the careers and interests of their leaders and members.

Two further points are relevant to more recent practice. First, personal relationships built during this period shaped future organizational and financial relations, when SA activists moved into positions of power and influence in the democratic era. Second, during the 1980s, accountability between recipients and donors was limited as SA organizations engaged in many activities that were semi-legal or illegal in terms of security laws, including the state of emergency. Donors learnt not to ask too many questions or demand detailed reports and audited accounts. Unsurprisingly, the line between the public and private activities of political leaders became blurred in some cases, and at least two prominent 1980s activists—Winnie Madikizela-Mandela and Allan Boesak—have been prosecuted since 1994 for inappropriate resort to “struggle accounting” (a widely used phrase of the period). The more important issue is that the country began the democratic era without a strong culture of accountability in public life.

Before 1994, I assisted the trade unions and then the ANC with economic research, including raising and managing funds. Financial reporting was rudimentary, and I don’t recall having to deal with auditors. Partly because of an academic boycott of SA, there was little input from foreigners before 1990. Between 1992 and 1994, I was part of a large, multifaceted exercise called MERG (Macro Economic Research Group) set up to assist the ANC with policy formulation, using U.S., U.K., Canadian, Australian, Swedish, and German bilateral aid funds, running to millions of dollars. Universities and other public institutions paid researchers’ salaries and costs (including my own) on the expectation of reimbursement by MERG, but were never paid. In 1997, one of the donors instituted a forensic audit with a view to legal action, but this did not occur.

Between the ANC’s legalization and Mandela’s release in early 1990 and the 1994 election, there was a “great debate” about future economic

policy, involving hundreds of workshops, conferences, and study tours, running parallel to the constitutional negotiations. But unlike the constitutional process (which was tightly controlled by the two major political parties), the economic discussion was diverse, decentralized, and disparate. This marked the entry of foreign advisors and actors into the SA policy arena. Since it was the immediate aftermath of the collapse of the Berlin Wall, the “Washington consensus” was in process of codification, and the ANC was a socialist-oriented movement with massive support in Africa’s most developed economy, the global ideological stakes were high, over and above South Africa’s own future and organizations’ immediate financial interests. South African parties and interest groups brought in their own favored international advisors, but many foreign governments, multilateral agencies, and private organizations intervened autonomously in the process. Given the decentralized nature of the process, the unequal access to financial resources of the two sides (which fundamentally affected capacity to host events and set agendas), and the inexperience in policy terms of almost all representatives of the “new SA,” there could be no accountability of foreigners, who had a huge influence, for both good and ill, on ANC policy documents.

Though the 1980s connections between SA and foreign organizations helped to shape the selection and involvement of foreign advisors; new relationships played a major role too. Foreign financial and consulting firms became very actively involved in the debate, not so much in expressing their own views on policy as facilitating events, but in supporting internships and training exercises, introducing South Africa to the new world (for them) of international finance and investment banking, and all along actively courting future bureaucrats and decision-makers with an eye to future investment and advisory opportunities. For example, one major New York investment bank hosted a large proportion of the ANC’s economics officials as trainees/interns for several months in 1992/93, leaving the ANC understaffed at a crucial time in the negotiating process, while the trainees incurred an obligation that could be cashed in later.

It was not only market-oriented foreign advisors and institutions who intervened in unaccountable ways. A small group of left-wing British economists took control of the final MERG report, marginalizing not only most of the SA economists involved (such as myself), but also foreign advisors from the United States, Canada, and Europe. As a result, the report—intended to provide the rationale for the ANC’s macroeconomic, industrial policy and labor market stance—reflected an old-fashioned (i.e., 1970s) left Anglo-Saxon perspective, defending state involvement in production, regulation of quantities rather than prices in key markets, currency inconvertibility, and so on. Not only were these

policies discredited in SA by the apartheid government's having used them, but some sort of international opening was politically a *sine qua non* in an economy subject to sanctions, with very low growth during the 1980s, and in the midst of a negotiated transition. What was needed was *critical* engagement with globalization, but the MERG report eschewed this, advocating *no* engagement and a "closed economy" orientation. The report was dismissed by ANC leaders, who had themselves been too overstretched—dealing with business, the apartheid government, and the multilaterals—to intervene in time, and who resorted to business-oriented policy advice as a "credible" alternative.

After the 1994 election, the new government signed bilateral aid agreements with many OECD governments, and control over funds flows shifted to government departments. Many NGOs, alternative media, and support organizations established during the 1980s collapsed, as funding dried up and staff shifted into official positions. Though SA still has an active and diverse civil society and strongly independent media, the disappearance of many of the antiapartheid organizations has muted criticism of government policies and retarded democratic consolidation.

SA is a relatively small recipient of Official Development Assistance (ODA), which averaged only about 1.6 percent of the government budget (and 0.45 percent of GDP) between 1994 and 1999. But "technical assistance" (most often "tied" to the donor country) is the dominant component of ODA to SA. Inexperienced political activists assuming official positions in government departments were faced with "old guard" (white) bureaucrats who knew the system but were hostile to the new government. But the task was to radically reorient policy and public sector activity toward those excluded under apartheid. Under these circumstances, the advice and input of aid donors (whose resources were often more readily accessed than the state's own funds), and the home-country "expert advisors" who they recommended and financed, became dominant. It is hard to think of specific publicized examples of financial malpractice or sheer bad work, but foreign input was not always relevant or of higher quality than could have been sourced in SA. Several donors outsourced management to consulting firms with their own interests about what was funded. And despite the small aid flows, there were and are the usual ODA-related problems of overly complex reporting and lack of coordination amongst donors, implying high transaction costs for recipients.

International private sector firms that had become involved in the policy arena before 1994 won lucrative contracts for consulting on policy and state enterprise restructuring, especially in the infrastructure sectors.

There has been a flow of personnel between these firms and government departments, with several mid-range political activists being hired by consulting firms or foreign banks, and then being seconded to senior positions in government departments, while several government officials have resigned their positions to join consultancies and banks whom they had previously hired as consultants.

One donor—USAID—tried to devolve allocation decisions about economic policy projects, and demonstrate accountability to recipients, to a committee with representatives of SA economic policy departments and parastatals. I was a member of this committee for four years until 2001. It was ineffective, partly because USAID officials retained a monopoly over funding information, making it extremely difficult to make decisions against their wishes or call them to account. Also, donor accountability was a low priority for inexperienced state officials struggling in their jobs, so few made any real effort on the committee. Another problem was the lack of coordination amongst donors—a single committee exercising oversight over all donors might have received more attention, but USAID was only one of twenty or so donors (though to my knowledge there were no other such local oversight initiatives). The committee's structure created perverse incentives, since the departments represented were seeking resources from the fund they were supposed to oversee. No independent (nonpublic sector) representatives were included—as soon as I left the public sector, I was excluded from the committee.

One of the major priorities since 1994 has been “Black Economic Empowerment” or BEE, a common feature of which has been the formation of consortia by aspirant black businesspeople, often (ex-)activists, for the partial acquisition of Johannesburg Stock Exchange-listed corporations. Recognizing the need for racially diverse ownership, the latter have accepted this, and some even financed sales of their own equity with low interest loans to be repaid from dividends. Union pension funds have provided initial capital for some labor organizers to become minor tycoons. Slow economic growth and declining financial markets have ruined many of these schemes, though failure does not seem to disqualify individual BEE entrepreneurs from other similar ventures. Aid funds may also have played a role in this process: one major (and successful) BEE company emerged from an NGO created to channel funds to other NGOs, and the (former) head of the funding NGO is now a major corporate player. Was his start in the private sector via the leveraging of donor funds? It remains unclear, though no one has been called to account for this. There may well be other instances of donor funds used in this way.

Cultural Theory of Development Advising

Dipak Gyawali, Former Minister of Water Resources, Nepal

It is a tradition in many times and climes to have erudite “*brahmins* behind the throne” advising powerful kings and princes. This practice continues into the twenty-first century with two important changes: the nature of the prince that a Machiavelli might advise, which has changed to encompass bureaucrats and business leaders; and the nature of the advising, which has become big business itself.

Social activism has, in recent days, hijacked the word “globalization” to define it narrowly as the expansion of, and increased control by, transnational companies around the world. It seems to me that globalization has been exploited, not only by businesses, but by other modes of social engagement as well (which some of us refer to as “social solidarities”) at different times in modern history. The founding of the League of Nations, and later the United Nations, was the globalization of national bureaucracies. Based on the legitimating role of that framework, which set up various international regimes, national companies were able to set up transnational franchises more easily, mostly in the 1950s and 1960s.

When government bureaucracies and businesses became too cozy—and the social and environmental impact of their decisions began to be felt the world over—civil society began networking around the globe with like-minded sister organizations. The activist NGOs of civil society are sometimes called “social auditors” to distinguish them from service delivery NGOs. Social auditors have used globalization—in the sense of expansion of one’s activities beyond national boundaries to span the globe—effectively to their advantage.

The engagements of the social auditors from the local to the global levels in recent times are the staple of much news. They have shaped many of the social and environmental debates of the past. What they indicate is that the nature of the science they engage in differs sociologically from that engaged in by the other two solidarities of government bureaucracies and free-market businesses (see figure A.1).¹ Recognizing the three-legged nature of social solidarities and their engagements is crucial in understanding development advising and the role of advisors. While princes in all three solidarities have their *brahmins* behind the throne, the sociology of that *brahminhood* in the field of Third World development deserves some deconstructive analysis.

First, it is necessary to distinguish between research and consultancy. Both activities are engaged in by modern high priests of development, but they differ in the nature of their ethical calling. A researcher says,

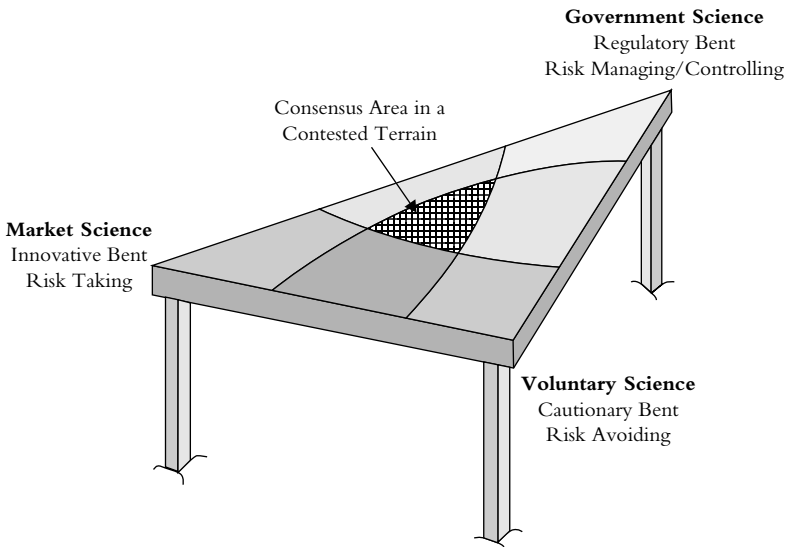


Figure A.1 The “three-legged stool” diagram. From Gyawali, D., *Rivers, Technology and Society* (London: Zed Books/Palgrave Publishers and Himal Books, 2003).

“I don’t know but I do have the requisite research background and methodology to be able to find out.” A consultant on the other hand would say, “I know everything, even better than that next guy, so just give me the money and I will use my skills to find you the answer you are looking for.” The researcher is more independent and accountable; while the consultancy often dances to the tune of whoever paid the piper. Consultants’ reports are often forgotten after the immediate justification at hand is accomplished. The former can be voluntary or modestly remunerated, while the latter is not done without the best of profit motives. This fact makes the former suitable for both policymakers in the government as well for as those in the activist arena engaged in the business of critiquing policy. Consultancies, however, are best suited for advising princes in the profit-making field.

Second, governments unfortunately rely more on consultancy reports than on independent research. Despite recent shifts toward promoting NGO-led development (which is beginning to develop its own pathologies), much of official development assistance is unfortunately still a hierarchic affair—both for the recipients and for the donors. Control over the parameters as well as the thrust of advice is more important

than unearthing uncomfortable truths. Hierarchies are notorious control freaks and nothing is more alarming than “loose canon” advice. Hence the usefulness of paid consultants over relatively unconstrained independent researchers. Development consultancy is a megabuck industry whereas research barely survives in nooks and crannies of alternative outfits. While consultancy reports are used as justification tools, research advice is less heeded until a crisis hits—the Cassandra effect (e.g., Nepal’s Arun-3 and Mahakali).

The third issue is the nature of the consultancy business. In many technical (engineering, legal, financial) cases, it is about selling skills. Although there are codes of conduct, their flouting by hiding within the thicket of procedures and protection by the powers that be are no longer conjecture after Enron, Anderson, and MCI (e.g., Enron in Nepal and India). There are also examples from Nepal where initially unquestioned expatriate consultancy advice led to serious development problems (e.g., the Bara forest privatization fiasco).

These considerations prompt me to argue that unless the terrain of development advising is pluralized to include all three social solidarities (and not just one hierarchic bureaucracy or a double alliance of hierarchs and bureaucrats), bad advice (or at least advice biased toward the interests of only one or two solidarities) is going to continue plaguing the development arena. The points of discussion that emerge are:

1. What mode can be suggested to ensure that all social solidarities are equal and critical recipients of development advice?
2. Between research and consultancies, the former (it seems) is more used by social auditors whereas the latter is the norm for businesses (which is quite natural). The government bureaucracies, however, use more controllable consultancies than independent research. How can a shift be made toward a more wholesome mix?

India’s Experience in Development and the Aid-Receiving Process with a Focus on the Role of Foreign Consultants

D.S. Mishra, Former Head, Kanpur Development Authority, India

India has received foreign development assistance since its independence in 1947. This assistance has grown substantially after 1991 when the country initiated major economic reforms. The last decade has brought large scale foreign direct investments (FDI), portfolio investments, investments from North-based civil society organizations (CSOs), apart from

official development assistance (ODA). After a brief review of India's use of ODA, this section outlines my personal experience with externally financed development projects and international advising. I argue that foreign technical assistance, often built into the total aid package, has the potential to catalyze change and introduce innovation through niche expertise. However, technical assistance in general and foreign consultants in particular are not always able to deliver promised outcomes and are increasingly being criticized for being inefficient, counterproductive, and even corrupt. The reasons for this within the Indian context range from their own incompetence, lack of commitment, insensitivity to or incomplete understanding of local cultures (social, political, and institutional), to unscrupulous domestic consulting partners, conniving officials on both sides, red tape, nonconductive political and bureaucratic environment, unrealistic expectations, and so on.

India's development initiatives through Five Year Plans, which commenced in 1951, have stressed development of a self-reliant economy. Even then foreign assistance in terms of bilateral and multilateral loans and grants has formed an integral part of economic development investments. The macro economic reforms in the last decade have resulted in structural, financial, administrative, and infrastructural changes that have attracted increased foreign investments. Though this constitutes less than 1 percent of the country's annual budget at present, in absolute terms India ranked ninth in 2001² as an external debt recipient country.³ Total outstanding foreign aid stood at US\$105 billions, with nearly 40 percent as ODA component, at the end of 2002.⁴ India has fulfilled its debt service obligation even in times of acute financial crisis. In terms of indebtedness classification, the World Bank has categorized India as a "less" indebted country since 1999.

Of the foreign development assistance, 90 percent constitutes loan component; nearly 60 percent of this comes from multilateral agencies such as the World Bank, the Asian Development Bank (ADB), and so on. ODA constitutes technical assistance for capacity building in terms of human skills and innovative technologies, advising on policy and project development, procurement of products and services from local and external agents, financial investments at local costs, and so on. A large share of the aid is directed toward infrastructural reforms while a lesser percentage goes toward social sector development. The focus is primarily on poverty alleviation by contributing to growth and development; quality of life improvement through basic services such as education, healthcare, sanitation, safe drinking water; infrastructure improvement such as highways, ports, electricity, metro-rails, irrigation facilities; environment

protection, community services, and so on. Earlier such assistance was undertaken on a sectoral basis but now it is directed to specific projects with wider participation of federal states that can tie up assistance directly from donor agencies/organizations.

India is a member of the four constituents of the World Bank, namely, IBRD, IDA, IFC, and MIGA, receiving investment as well as adjustment lending (sectoral/structural). India is also a member of ADB and IMF and has received aid from them for specific projects or structural adjustments to address the problem of balance of payments.⁵ Among the bilateral donors Japan is currently the largest contributor to the Indian economy. Other major assisters are the United Kingdom, the United States, EC, Germany, and the Russian Federation. Many European and Middle Eastern countries as well as Canada and Australia also contribute to ODA. Various Western nonprofit organizations such as CARE, Help Age, Ford Foundation, Action Aid, CRS, Oxfam America, Aga Khan Foundation also bring foreign assistance in terms of grants and technical support to CSOs, universities, and so on for specific projects, research studies, capacity enhancement, and the like.

An improved balance of payment situation with the government treasury chest holding US\$82 billions in foreign currency⁶ has emboldened India to reorient its aid policy. Its Finance Ministry recently decided to stop small aid packages through bilateral assistance. India will restrict such contributions to a club of six large donors.⁷ Ongoing commitments with other bilaterals will continue but future assistance from them, if any, will have to be directed to the CSOs, research institutes, universities, and so on. The government (federal/provincial) will be updated on the donors and recipients primarily through participation in annual consultations. The purpose of this change in policy is twofold: to cut down administrative and other costs involved in processing small value aids and to allow such donors to assist other more needy countries.

While being a receiving country India also contributes toward development of other countries through technical and financial assistance. It assists sub-Saharan African countries as a member of the African Development Bank. Recently, India has offered foreign aid of one hundred million dollars for the reconstruction of Afghanistan. It helps some of its neighboring South Asian countries in taking forward development initiatives through project-based assistance. India has also witnessed a consistent growth in skilled human resource and has been contributing in net terms to the global economy by way of export of such skilled experts, even to developed countries.

With the globalization of its economy, foreign aid is likely to continue being a key component in the Southern world's development efforts, offering opportunities to sharpen a country's comparative advantages in the international arena. This aid, however, is hardly ever value free. Some of it is fully tied assistance in terms of specific technology, equipment, and experts. It is also known to be political tools in the hands of donor countries to propagate their agenda in the name of good governance, observance of human rights, eradication of corruption, fighting terrorism, and so on. Temporary or long-term bans on such assistance in the wake of certain actions on the part of recipient governments are used as a tool of direct/indirect influence. However, in the case of India this has not necessarily proved to be an effective tool owing both to the miniscule size of the aid and India's growing self-reliance.

Most, if not all, foreign development assistance brings with it a predetermined package covering different aspects of development, namely, social, structural, human, governance, environmental, economic, and financial experiences and assumptions of the donors. These are manifested in the aid documents through prescriptions or restrictions that attempt to guide development of a recipient country according to pre-modeled frameworks. International consultants often reflect these ideologies, approaches, and notions in their work, which may or may not be in the larger interest of the recipient.

Personal Experience

I directly supervised two externally aided projects in the largest state of India, Uttar Pradesh: a forty million dollar Japanese assisted Overseas Economic Cooperation Fund (OECF) financed "Buddhist Circuit Tourism Infrastructure Development Project" and a one hundred and ten million dollar World Bank funded "State Health Systems Development Project." Additionally, I have been involved indirectly in other projects in agriculture, rural development, family welfare, urban infrastructure development, safe drinking water supply, forestry and environment protection, and so on in different capacities. These assignments have given me opportunities to hire, supervise, and interact with domestic as well as international consultants. My observations regarding international advising stated herewith are based on my limited and specific experience and by no means could be generalized.

In India's context where aid forms a very small percentage of the government's total expenditure on development, ODA offers the opportunity to explore the best in terms of global good practices, niche expertise, and advise, which may strengthen local knowledge and subsequently

accelerate growth and development. Consultants have the potential to work as catalytic agents bringing in specialized technical know how that could be shared with local counterparts and modified to suit the Indian context. They could help improve the local capacity by way of training new skills or developing systems that may usher sustainable positive changes. To the extent that this is a real possibility, external aid and accompanying consultancy support offer much room for learning new skills and innovations. The laboratory function of foreign funded programs have much value as is evident from the external expertise that has been instrumental in various sectoral achievements such as improved agricultural practices, eradication of diseases, gender sensitization, safe drinking water, and large power projects.

External experts also have the advantage of neutrality and immunity that allows them to independently assess, criticize, and expose aspects of the system in a way that people who are part of or dependent on the system may not be able to do. There are known instances where only consultants could be brave enough to expose failed policies, misspent money, and biased administration.

Positive gains of international advising, however, are overshadowed by several instances of their failure to deliver for which both Indian recipients and international donors share the responsibility. Some issues that, in my experience, affect quality of delivery in international consulting include the following:

- To attract the best technical expertise at the most competitive rates, an efficient and technically sound system is needed for identifying and optimally utilizing the best in the field. This may include drafting clear Terms of Reference, assessing Expressions of Interest and Technical and Financial Bids, developing well-outlined deliverables, benchmarks, and reporting systems, putting in place an in-built method for ensuring transparency and accountability while also maintaining flexibility for midcourse corrections based on learning during project life cycle. Any ad hoc system with vagueness creates spaces for manipulation. The business of consultancy does not have more than the usual share of immoral, incompetent, and corrupt people. However the vagueness of the system and the absence of appropriate checks and balances create those loopholes that may be exploited easily.
- The local agenda and motives of key players involved in obtaining and utilizing aid and international advice within India play a critical role in determining the outcomes. At the highest levels once the

aid is received and adequate political mileage drawn from making an announcement about it, many times the momentum is lost. The aid money lies un-/underutilized and in the end unrealistic results are expected from experts who are brought in to deliver at short notice. At the implementation level, consultants are exposed to red tape, favoritism, nepotism, bribe seeking, lack of transparency, and other hurdles usually generated by local leaders and officials who deny them access to full information, relevant institutional support, and so on. In the end these factors are concealed or overlooked when consultants' role and effectiveness are assessed, thereby implying or directly putting the blame for failure on the consultants.

- Corruption in the field of international advising is, however, a two-way game. Consultancies for advising about procurement of goods and services available within/outside the country are particularly vulnerable to manipulation through giving and receiving commissions, service charges, and so on. In such deals both sides tend to benefit, while the quality of output suffers. Such collusions involve the consultants and unscrupulous officials among others and may often lead the recipient to settle for less than the best available services and products.
- While corruption on the part of the recipient countries mars the process of hiring the best available services for obtaining optimum results, international consultancy is not without its own set of overt and covert vices. Highly paid experts who often fly into a setting for a few days and claim to have solutions to local needs without having the time to gain insights into the real situation have usually been found to be of little value. That is especially true in the social and institutional development sectors, which do not have straight-jacketed solutions and where understanding of subtle sociocultural practices, local work ethics, political environment, and so on is crucial. By virtue of their high fees these experts are not "affordable" for more than a few days. In these few days they bring with them lessons and successes from other settings, which they impose upon a given situation. Artificial indices of commonality are used to justify this replication. For example, lessons from a Sri Lankan experience may be applied within an Indian village that may be much different in a subtle way, despite being part of the same region. More recently the world is witnessing the outflow of expertise that Northern consultants have gained in Africa in the field of HIV/AIDS, which they use in Indian and Chinese contexts where this experience is partly or largely irrelevant.

- It is the preconceived notion of a certain system of knowledge (read: Western, scientific) as being superior to another (read: local, traditional) that often leads to the disregard for traditional knowledge and solutions by these experts who are generally convinced about the unquestionable superiority of their own system of knowledge. In the end the results are not owned and internalized by the local population and, therefore, unsustainable and nonviable when reviewed in the context of the costs involved. This is by no means a defense of those traditional practices (e.g., casteism, socially sanctioned violence against women and children, etc.) that external advisors have been known to challenge and change through bringing in global experiences. However, in the case of India there are not too many successful examples of this.
- Most often the primary recipient of the contract, which is usually a Northern consulting firm, subcontracts a local partner to undertake much of the share of the work. This is usually for two reasons: to use local expertise and share knowledge and to take advantage of cheap services and save a bulk share of the contract money. The subcontractor who gets disproportionately smaller amount of funding in comparison to the share of work subsequently cuts corners through devious means to save money. In the end the quality of work suffers.
- With increased flow of foreign assistance and the growing trend of seeking international advising, the last decade has witnessed a mushrooming of consultant firms and specialists within India. There is not only cutthroat competition among them to align with consultants holding foreign tabs but also unethical practices of concealing areas of comparative advantages through camouflaged CVs and engagement of substandard individuals. This has brought disrepute to the profession, affecting local consultants even more due to their regular direct interface with the client.
- Unaware of the local politics and social dynamics in which they have to operate, foreign consultants are also dependent on their local partners who exploit the situation to suit their profiteering motives over the public interest by aligning themselves to those who could win them more projects in future. Such firms/individuals are project-hungry rather than performance-sensitive. Their poor competence and outputs makes one wonder about the motive of the foreign agency who on the one hand ushers in dreams of extraordinary development and on the other hobnobs with local partners whose expertise is highly questionable. This raises serious questions about

their relevance and integrity. It is worth exploring whether they are ignorant, innocent, or a partner in this profit-making game.

- Lack of exposure and experience regarding latest technologies among recipients provide opportunities to the international consultants to cut down cost by engaging cheaper expertise for transferring technologies of yester years. Unless agreements are carefully worded and scrutinized by experts there may be hidden elements, which could be bothersome and irreversible during its implementation. For example, World Bank procurement rules provide many safeguards to the consultants putting the recipients on a weaker footing in case of any dispute.
- The time frames for flow of funds prescribed by the donors are sometimes unrealistic, demonstrating a lack of understanding of local realities. The consultants who prepare these are unaware of the situation on the ground and are often guided by the donors' perceptions and agenda in conceiving, planning, and formulating development strategies, without the involvement of local partners who are best placed to inform these aspects of the project. Their primary involvement is in implementation. Thus projects end up being unrealistic and do not deliver expected outcomes.

From this discussion it is evident that there is a role and place for both international and local consulting to enhance the recipient country's capacity. They can play complementary roles: international expertise can enrich local knowledge and local expertise can strategically inform project design and implementation by bringing in understanding of ground realities. However, as discussed, this does not always happen and quite often the ambiguities of the consulting profession and a mixture of incompetence, corruption, and devious intentions on all sides make it possible for each of the partners, including the clients, to manipulate the situation toward short-term gains for themselves, thereby adversely affecting outcomes.

The question is how to address the challenges constructively, accepting that international advising will continue to be an integral part of foreign assistance. Will formulation of a "code of ethics" ensure accountability in the profession? Does it not already exist? Who will be the ombudsman? What will ensure its effective application? Will the social, political, and cultural milieu of aid-recipient countries not influence this? Even the most brilliant, sensitive, and decent consultants will not accomplish more than the political, administrative, and social environment will allow them to. Unless the aid recipient is sensitive to its own needs, the

consultants, domestic or international, can get away without delivering the best. Whistleblowers in the systems should be protected through institutional arrangements to bring accountability in the business of consultancy. Those consultants/officials found engaged in unethical practices should be blacklisted and their names widely circulated on an internationally available network. Such examples of strict actions against the defaulter are rare, if any, in the area of foreign assistance. But even here the risk exists of mis-utilization of this method to threaten consultants and seek favors. What we must remember is that consultancy is a recent phenomenon and there is much that remains to be understood.

The Means to Achieve the Effective and Efficient work of International Economic Advisors and Consultants and to Provide Supervision of Their Activities

*Victor N. Melnikov, Deputy Chairman,
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A. Performance of the Work of International Economic Advisors and Consultants

The process of providing the international expertise and consulting involves a number of stages:

1. *Preliminary stage:* A list of candidates to be considered for hiring as international economic advisors and consultants is developed through the process of analyzing the scope of outstanding work in the field of interest. Relevant background data is then collected to help in deciding on a short list of candidates who will be considered for hiring to carry out the development assistance project at hand. Project related data is also collected so that it can quickly be made available to the consultant or consultants chosen.
2. *Initial stage:* Through consultations, a framework is developed in order to guide the work that will be performed by the international economic advisors and consultants who will be asked to provide recommendations in the sphere of institutional reforms and development programs to developing/transitional countries. The development of a clear and well-structured framework is important to getting the work quickly off to a productive start.
3. *Basic stage:* In this stage, mutual cooperation begins between international economic advisors and consultants on the one hand and recipient country personnel on the other. This stage is critical to the transition

to a new high quality level of work, which makes the most effective and efficient use of the international consulting expertise available.

The process of properly supporting projects requires the identification of the following problem areas to address:

- preparation and preliminary work;
- practical measures to support project realization;
- supervision of the activities of international economic advisors and consultants.

B. Methods for Increasing the Work's Effectiveness and Efficiency

In order for them to be able to provide high quality advice to the countries with whom they are consulting, international economic advisors and consultants objectively should not only have general theoretical knowledge, but also practical experience and deep knowledge about the country with which they are working. The preliminary and initial stages are aimed at providing to countries international economic advisors and consultants who possess the necessary knowledge of their country and along with it the key work skills required for the project. Because the basic stage is the most productive one for international economic advisors and consultants as for the recipient country, one of the means to improve the quality of the work is to shorten the adaptation period of the international economic advisors and consultants (through the work done in the preliminary and initial stages).

It is important to carefully budget the time spent by international economic advisors and consultants in the recipient country among a variety of demands and objectives, keeping in mind that a substantial part of that time will be involved in interacting with the public authorities of the recipient country. The more limited the time available, the more important it is that the selection of international economic advisors and consultants and their background preparation for the work proceed in the minimum period of time.

The adoption of a number of organization-related measures focusing on the selection of candidates for hiring international economic advisors and consultants should contribute to attaining this objective:

1. The recipient country should determine precise requirements for advisors and consultants:
 - a. Professional background, including, especially, educational background and work experience is obviously critical. Advisors

- and consultants should have not only appropriate theoretical and practical background but also work experience that would help them to know the specific conditions of interaction with different regions of the world, as well as the necessary knowledge about a recipient country.
- b. Personal abilities and characteristics are also important. These should be appraised by the persons in the recipient country in charge of decision-making on candidate selection, taking into account the opinion of experts the consultants might have contact with.
2. Selection of advisors and consultants should be competitive with compulsory participation of the recipient country in the decision process, taking into account its requirements for the qualification of the candidates.
 3. The recipient country, as part of its participation in the committee created to oversee the competitive selection process, should have knowledge beforehand about the candidates. It is presumed that they would gain that knowledge during negotiations with representatives of donor country representatives involved in decision-making on candidate selection.

C. Supervision of the Activities of International Economic Advisors and Consultants

Supervisory actions are critical at three stages of the project: during candidate selection; while carrying out their duties as advisors and consultants; and when advisors and consultants have completed work assessment. During the candidate selection process the key element of supervision is that actions are taken to assure that the candidates are selected through a process that is both competitive and fair. National or international supervision of the activities of individual international economic advisors and consultants carrying out assistance projects, as well as supervision of the companies and funds under their control is essential for the purpose of preventing and suppressing any attempt to monopolize the provision of consulting services. At the same time, monitoring and supervision should be provided or coordinated by an authorized body. It is also important to provide active supervision during the stage at which the work is actually being performed.

Finally, it is necessary to determine the proper criteria for assessing the work performed by advisors and consultants when the assignment is completed. Notwithstanding that the criteria would be dependent first

of all on rendering efficacious service, they should provide for a comprehensive assessment while also allowing for anonymity of at least some of the assessors when that is judged useful to getting an accurate and unbiased assessment. To maximize its usefulness, a multilateral process of assessment of the project work performed by advisors and consultants would be best. It should include assessment by appropriate persons in the recipient country, a self-assessment by the advisors and consultants, and an assessment carried out by an independent expert.

It is very important that the third parties asked to provide an independent assessment of the work performance of advisors and consultants be carefully selected. Two key criteria should be helpful in this process. First, the assessment should be provided either by international advisors or by national experts that have had no involvement whatsoever in the assistance project being assessed. Second, information on the work performance of advisors and consultants should come from sources within the economic sector that the advisors and consultants were hired to assist in making improvements. It is necessary to organize the work of assessment so that opinions of all the principal groups of persons whose interests have been affected by the project aimed at improving their sector are reflected in the performance assessment. It would be useful to consider asking research centers or professional organizations to be responsible for the collection and analysis of assessment-related information.

Properly assessing the outcomes of the completed work of advisors and consultants is difficult. At this stage, it is first of all necessary to compare objectives and tasks given to the advisors and consultants with the outcomes achieved at the end of their work. Methods of supervising the work assessment of intermediary international economic advisors and consultants could also be applied at this stage. These are the selection criteria for a proper trilateral assessment of advisors' and consultants' work.

D. The Bank of Russia's Experience as a Recipient of International Economic Advising Assistance

The Bank of Russia has had a generally positive experience in cooperating with international experts in the field of countering the practice of money laundering. There have been a series of visits of international economic advisors and consultants in Russia with the purpose of providing assistance in this process. The principal staff of consultants that visited Russia remained permanent during the process of providing assistance. Both the high level of qualification of the principal staff of international advisors and consultants and the fact that the composition of the group remained

constant helped us succeed in quickly achieving effective and efficient cooperation. We overcame the problems of the first and the second stages (preliminary and initial stages), and rapidly became acquainted with the international experience we needed to create an effective system for preventing the use of the Russian banking system for criminal purposes.

There was active bilateral cooperation. First, international advisors or consultants visited the Russian Federation and the Russian delegation had visits abroad to take part in meetings of the international organization that provided assistance in the field of preventing money laundering. Additionally, Bank of Russia legislative acts on anti-money laundering were being worked out taking into account the opinions of the international advisors and consultants that had been expressed during their visits to Russia. These acts were subsequently sent them for comment and approval.

The outcome of our cooperation with international advisors and consultants allows me to confirm the opinion that Bank of Russia's experience of cooperation with Financial Action Task Force on Money Laundering (FATF), the Council of Europe Select Committee of Experts on the Evaluation of Anti-Money Laundering Measures—MONEYVAL was quite successful.

Building Accountability into International Development Advising in an Age of Diffused Governance

Natalia Lakiza-Sachuk, Vice President of the Civic Center for Anti-Crisis Studies, Kiev, Ukraine

International technical assistance to Ukraine began with the establishment of the Support East European Democracy Program (SEED) in the fall of 1990. Cumulative foreign direct investment in Ukraine since 1991 through the end of 2002 was about \$5.3 billion. The largest investor was the United States; it had an investment of roughly \$900 million.

Since 1992, the United States has provided over \$2 billion dollars in grant economic assistance to Ukraine, with \$678 million dollars in Cooperative Threat Reduction programs. While not strictly a U.S. contribution, the United States has played a key role in channeling an additional \$3.4 billion from the World Bank and \$3 billion from the IMF, for a total of roughly \$9 billion dollars. The moneys flowing from the European Bank for Reconstruction and Development (EBRD) would probably add up to another 10 percent. In addition more than \$528 million were delivered to Ukraine as humanitarian assistance since the end of 1994. The level of foreign direct investment (FDI) in Ukraine

continues to be one of the lowest in Europe, reflecting a high level of corruption, poor enforcement of legal decisions, political pressure on a poorly functioning judiciary, and a confusing and burdensome array of taxes—according to the statements of donors.

The main goals of aid were fostering economic, social, and political progress or better governance, as well as providing public goods on a global scale. Technical assistance to Ukraine was realized in three forms: training, expert assignment, and advisory missions.

The United States has supported the development of civic society in Ukraine. Over thirty thousand Ukrainians have gone on exchange programs outside of Ukraine, twenty thousand of them being sent to the United States during the 1990s and early 2000s. They participated in exchange and educational reform programs, democracy programs, economic development programs, trade and investments programs, energy and environment programs, social sector programs, security, regional stability and law enforcement programs, humanitarian programs, partnership programs, and cross-sectoral programs. Approximately 40 percent of such programs for Ukraine focused on economic restructuring, 35 percent on democratic reform, and 25 percent on social stabilization and cross-sectoral issues.

Technical experts work with some Ukrainian ministries to provide Ukrainian leaders and professionals with the practical knowledge and technical skills needed to create policies, programs, and institutions to support Ukraine's transition to democratic governance and a free market economy. These include the following efforts:

- USAID Banking Reform Program funded advisors continued work with National Bank of Ukraine (NBU) staff in “problem bank” units, assisting with on-site examinations, providing intensive on-the-job training, and developing new regulations to implement the NBU's functions under the new banking law.
- USAID funded Commercial Law Center provides assistance to the Parliament and government ministries in improving commercial legislation.
- U.S. Department of Treasury Technical Advisor on Budget Policy and Management at Ukrainian Ministry of Finance reviewed the Ministry's budget preparation guidance as well as developed the recommendations on cooperation between Ministry of Finance and Ministry of Economics.
- U.S. Department of Treasury had three technical advisors on Government Debt Issuance and Management between 1995 and

2001—two at the NBU and one at the Ministry of Finances. During that time the Department reported significant progress in the development of Ukraine’s domestic and external government securities markets.

- In mid-2000 the Treasury Department received a request to place an advisor with NBU to assist in the resolution of problem-bank issues, with particular emphasis on the liquidation of Bank “Ukraina” (BU). The advisor arrived in November 2000, but due to the politicization of the BU resolution process and lack of the progress in the issue, the advisor was transferred from the post in March 2001.
- U.S. Department of Treasury had two tax administration advisors—one in assistance to the State Tax Authority to facilitate its tax modernization and reorganization efforts.
- U.S. Department of Labor provides assistance to the Ukraine’s Ministry of Labor and Social Policy in three areas: dislocated worker services, employment services, and mine safety.
- U.S. Department of Commerce, Commercial Law Development Program, had one advisor in Kiev to facilitate Ukraine’s efforts to accede to the World Trade organization—in particular to improve the nation’s legislation on the protection of intellectual property rights—which was the main obstacle to Ukraine’s WTO accession (Ukraine joined the WTO in 2008).
- USAID/U.S. Department of Energy /U.S. Environmental Protection Agency Environmental Program sent a technical advisor to Kiev at the request of Ukrainian Government in 2000 to reduce environmental risks to human health and to develop local NGO environmental programs.
- USAID Health Program in 2000–2002 sent numerous international experts to assist the development of a National 2001–2005 Reproductive Health Program for Ukraine.
- USAID provided technical assistance to the Pension Fund of Ukraine (PFU) to help determine its financial soundness, expand elements of the PFU system nationwide, develop software to assure the system effectiveness automation, and establish the website for the Pension Fund of Ukraine.
- U.S. Embassy in Kiev and U.S. Justice and Treasury Department experts worked in close collaboration with high-level Ukrainian government officials to develop an anti-money laundering law and a complementary regulatory framework that would meet international standards. The draft was accepted by the Verkhovna Rada (the unicameral parliament of Ukraine) in its first reading in January 2002.

The history of foreign assistance to Ukraine, as well as to other newly independent states of the former Soviet Union, is full of achievements and gaps, success stories and problems. Aid from the United States has had a positive effect on the development of free media, the realization of democratic elections, and the development of civic and other nongovernmental organizations in the post-Soviet Ukraine. At the same time, the policy recommendations, advice, and strategies that were copied from those that were previously successful in replacing other long-lasting dictatorships (in Europe, Latin America, and Asia) do not appear to have always been properly designed for or directly applicable to the situations of Ukraine and other newly independent states.

As the U.S. ambassador to Ukraine Carlos Pascual said in his farewell speech in Kiev on July 21, 2003:

What is Ukraine? Is it a country with four years of successive GDP growth of 6%, 9.1 %, 4.8%, and this year on a path of 7%? Or is it a country that has been in an agricultural crisis as a result of political recriminations that could threaten the vast progress that has been made in this sector? Is it a country that issued \$800 million dollars in Eurobonds that were vastly over-subscribed? Or is it a country with a shallow banking sector where Bank Ukraina and Oshchadny Bank fell into bankruptcy as result of a legacy of badly directed loans? Is it a country of emerging civic organizations where the press has also organized itself and seeks to protect its interests? Or is it a country where we've had difficulties registering two democracy-building institutions, the National Democratic Institute and the International Republican Institute? Or where the former honorary president of Inter was forced to resign from his television station as a result of his efforts to reform it? The reality is that these are all parts of Ukraine that reflect an internal tug of war as Ukraine seeks to define itself. If we don't acknowledge all of these parts of Ukraine, it is impossible to understand it.

And if the country is not properly understood, it is also impossible to effectively assist Ukraine in changing and improving the nation's different structural components in an appropriate way.

The main problems have been how the assistance was planned, how the resources provided for assistance were allocated, and how the whole process was reviewed. In particular, donors have mostly used foreign aid as a tool to satisfy their own needs. An important additional issue is the problem of corruption in every one of the aspects of aid delivery. Funds delivered to governments are often partly used to support the position of one or other governmental departments, partly flow to the pockets of officials, to private banks, or to offshore zones.

Furthermore, when new cabinets replace the previous ones, they do not necessarily take responsibility and feel bound by the obligation to fulfill the negotiated agreements with international donors undertaken by previous cabinets. International donors' assistance is not properly coordinated; sometimes one targeted sphere receives double and triple the attention given to others, while some very important spheres are not supported at all and stay underdeveloped. There is only weak transparency and insufficient accountability in development assistance projects, which permits corruption on the donor's side as well as at the national and municipal levels of government in the recipient country.

In terms of assessing the impact and effectiveness of development aid and other forms of international economic assistance, there are some objectives of some aid projects that can reasonably be measured by quantitative indicators, such as mortality or literacy. These quantitative indicators can therefore be useful in judging the extent to which the project has met—or failed to meet—its objectives. But it is also important to recognize both that there are limitations to every quantitative indicator and that limiting our attention only to quantitative indicators when engaging in assessment can distort the process rather than making it more objective. Qualitative issues also matter.

There are a number of ways in which the design and delivery of development assistance can be improved:

1. It is important to mobilize additional resources for technical assistance from both inside and outside the recipient country—which in turn would require the cooperation of member countries and the international community as a whole.
2. It would be helpful to receive more precise information in the budget on plans for specific allocation of technical assistance resources.
3. There needs to be better coordination between providers (IMF, World Bank, etc.) of international development aid. This might be accomplished by creating a special Office of Technical Assistance Coordination (or Management) within each of the main international donor organizations.
4. The effectiveness of development assistance could be enhanced by considerably more active involvement of recipient country authorities in the whole process of the design, monitoring, and implementation of technical assistance.

It would also be a good idea to make more transparent the system for reporting the results of technical assistance delivery, monitoring,

follow-up, and evaluation of activities for the domestic and international communities as well as for other donors. For example, it was not until 2002 that the IMF started to produce annual reports on its activities.

***Cooperation for Development: Some Comments
from the Chilean Experience***

Gonzalo Rivas, Former Vice President of CORFO, Economic Development Agency, Chile

I would like to begin by explaining what is, from my point of view, the main difference between cooperation and aid.

Through aid one is trying to alleviate a particular problem situation in a country. However, when we think about cooperation, it necessarily involves the idea of using the strength of both parties engaged in a common endeavor. Moreover, I would add that through cooperation, we want to foster the capacities of the recipient party.

It follows then that cooperation should be seen as an action that is a potential “victim” of all the problems that arise from transactions that are done in conditions of imperfect information: moral hazard, high transaction costs, information asymmetries. When we engage ourselves in cooperation activities, we should keep in mind those concerns.

In the following, I will refer to two experiences that were aimed at having a positive and durable impact on some aspect of Chilean economic development. As we will see, their results were nonetheless different in each case. Trying to distinguish the aspects of the cooperation process that explain those different outcomes is my final purpose.

The first case is a program agreed between CORFO and SIDA (the Swedish International Development Authority) in the early 1990s. The goal of the program—mainly, but not totally, funded by Sweden—was to increase technological and commercial capabilities of Chilean firms, through an increased contact with Swedish partners. Promoting commercial exchanges among the firms participating, and eventually helping to create strategic alliances and joint ventures between them, was an explicit purpose of the program. This aspect was crucial for the expected success of the program, since its final subjects were private entrepreneurs of both countries.

Drawing from previous experience, CORFO proposed that to ensure proper results, dedicated animators be appointed in each country. They would have to report to the signature institutions in each country, and would periodically be evaluated according to established parameters.

Resources for a final impact evaluation of the program were reserved from the start.

The results of the program were seen as a success by both parties, as various joint ventures and alliances were achieved. Building on this experience, CORFO and SIDA decided to continue their cooperation, through enhanced ways. However, SIDA declared that the funding of a new initiative should be shared in equal parts.

After an intense period of mutual exchanges of information and technical arguments, a new program was launched. A bi-national technological fund with a budget of one million dollars was established for three years in CORFO. Through this Fund matching grants would be allocated to specific projects including: Chilean firms that wanted to produce technological innovations using Swedish expertise or in cooperation with Swedish firms; Chilean firms that wanted to capture Swedish technologies either by traveling to Sweden or by hiring Swedish experts; Chilean and Swedish firms looking for establishing strategic alliances and joint ventures; helping Swedish firms to invest in new facilities in Chile.

Beginning its operation in mid-2002, within a few years four projects had already been financed, and various others were being evaluated.

I think that in analyzing this experience, at least two aspects of the process deserve to be highlighted: first, there were two institutions with clear and transparent goals involved in shaping the program; second, as those were permanent public institutions, they could learn from past experiences.

I will now turn to an example of failure. During the 1980s and part of the 1990s, an ambitious program aimed to improve the quality of the Chilean artisan fishing was launched with generous help from Japan. Following the advice of a series of reports made with direct involvement of Japanese experts, various modern facilities with training and commercial purposes were built thanks to significant grants from Japan. Those facilities were intended to allow Chilean fishermen to handle and process their capture in new, more healthy, and productive ways.

Today most of those great facilities lay lost to any practical purpose, unused and spoiled as a result of the lack of care and maintenance.

The fact is that the people who were supposed to use these methods, simply were not interested, or they lacked the basic skills to take advantage of the training offered to them. Moreover, some of the leaders of the fishermen saw this program as a distractive maneuver of a government that was not interested in addressing their real concerns: namely the amount of the quota of capture assigned to the artisan sectors.

The foreign technicians could not grasp this reality. They were just trying to do a good deed. The government, on its side, did not have enough leverage to induce the artisan fishermen to participate in the program. The fishermen were not even asked for their opinion about the program when it was designed.

One of the fatal flaws of the program was that there was no operational agency in charge of running it. Organized and implemented from a ministry, when the people that were committed to the program were gone, nobody was there to continue the program with the same energy. It was just another initiative of the precedent minister or undersecretary, not a priority of the new one.

Some final thoughts about the subject. *The most effective cooperation is one that is able to create a learning process in the “recipient” party, and helps develop new capabilities.* Cooperation programs should not be embraced because of guilt, and are not simply a matter of compassion. When cooperatively designed and implemented, assistance programs are simply more effective than when they arise from unilateral approaches. When designed, they should take into account questions such as future sustainability, real commitment of the parties involved, strengths of partners involved, and the like. Not addressing these issues from the start will result in total failure in most cases.

***Accounting in International Development Advising:
When Individual Conscience is Not Enough***

Janine R. Wedel, Professor, School of Public Policy, George Mason University, United States

In a world of multiple, diffused authority, each of us shares Pinocchio’s problem; our individual consciences are our only guide.

—Susan Strange, *The Retreat of the State*

Although they have long been engaged in development, the role of international economic advisors has expanded substantially in the past fifteen–twenty years, spurred by the needs of the nations of Central and Eastern Europe and the former Soviet Union, as well as by a proliferation of nation-building projects. Today, economic advisors and consultants not only design, manage, and implement aid programs, but also sometimes make crucial decisions on behalf of international organizations and governments, whose capacity to hold them to account, monitor their activities, or even gather independent information does not seem to have kept up with this outsourcing trend.

Following the Asian economic crises of the late 1990s and the Russian collapse of 1998, greater attention has been devoted to development policy, particularly to encouraging policies that are tailored to specific developmental environments.⁸ That is to the good. However, the effectiveness of development is not only determined by broad policy choices, but also crucially by more specific policy decisions made at many levels of the development process (frequently by nongovernmental actors). It is also very much determined by the ways in which those policies are implemented.

In addition to offering advice, economic consultants often serve as sources of information and as intermediaries between developing or transitional countries on the one hand, and international organizations or donors on the other. They are thus in a position either to facilitate or to frustrate the processes of development and nation-building. In theory, drawing on economic advisors and other nongovernmental actors should encourage flexibility, competition, and the inclusion of a broad range of expertise. But there is a danger that such actors will engage in activities that may serve their personal and/or professional interests, while at the same time inadvertently undermining the developmental goals of those nations and organizations on whose behalf they supposedly work.

International development consulting is different in this regard from domestic consulting. In the latter, both parties (the contracting government and the contractor) are subject to common rules and cultural expectations that presumably condition the contractors' activities. However, in the international arena, advisors generally operate in specific country environments that are not well known to their sponsors. When the activities of advisors are difficult to observe, there can be strong temptations for them to work the rules to their own advantage.

Collision and Collusion in Advice to Central and Eastern Europe

In a decade-long study of Western aid to Eastern Europe following the collapse of communism, I followed the aid story from the policies, prescriptions, rhetoric, and mode of organization of the donors, who were the source of policies, through to the recipients affected by those policies.⁹ This involved years of back-and-forth fieldwork between Western aid donors and Central and Eastern European recipients. It culminated in a number of articles and a book *Collision and Collusion: The Strange Case of Western Aid to Eastern Europe*.¹⁰

Foreign aid delivery is often thought of as a simple conveyor belt, carrying a product (advice) from one side to another. But, in the cases I studied (primarily in Poland and Russia), aid appears more like a series

of chemical reactions that begin with the donor's policies, but are transformed by the agendas, interests, and interactions of the donor and recipient representatives at each stage of implementation and interface.

The way in which donor and recipient representatives connect with each other can play a pivotal role in aid outcomes, but it is rare for attention to be devoted to the relationships of aid. The way in which aid relationships were structured on each side and between sides, the individuals who are chosen as agents of assistance and the relationships formed between them, as well as the roles and activities of those individuals can shape the nature of the aid, how recipients respond to it, and, ultimately, whether aid succeeds or fails.

In Eastern Europe, much technical assistance consisted of “fly-in, fly-out” consultants who visited the region on a short-term basis, developed weak links with recipients, and then disappeared from the scene. These consultants often were considered redundant and even meddlesome by recipients. On the other hand, the dispatching of long-term resident advisors, mutually agreed upon in advance, to work in the host country for a year or more on specific topics requested by the recipients was generally better received and more effective.¹¹ Consultants who made a long-term commitment and were integrated into host institutions were much more likely to offer assistance that in the end had a more positive impact.

With few monitoring mechanisms employed either in the West or in the “Wild East,” some consultants developed crony relationships with local elites for mutual profit. This would prove to be especially destructive when, at the same time, donors were supporting an exclusive transnational group at the expense of other interests and voices for reform. For example, much Western aid, including the U.S. economic aid program to Russia, was entrusted to such a group made up jointly of advisors from Harvard University (Harvard Institute for International Development) on the American side and Anatoly Chubais and other members of the so-called Chubais Clan on the Russian side.

Although the ostensible goal was to spur market reform and democratization, aid based on promoting a particular group does not necessarily advance the building of nonaligned, transparent institutions. This is especially true in societies in which personal ties and handshakes are crucial to the way business is conducted. I found that the Harvard-Chubais partners developed a *modus operandi* that crucially shaped Russian reform processes of the 1990s—and not always for the good. In 2000, the U.S. Department of Justice filed a lawsuit against Harvard for \$120 million, claiming that its advisors were using their positions, inside information,

and influence, as well as USAID-funded resources, to advance their own personal business interests and investments and those of their spouses and friends.¹² The developmental goals that were undermined include the building of a regulatory infrastructure for a market economy. The U.S. Department of Justice concluded that “Harvard’s actions, instead of fulfilling their intended purpose of fostering trust and openness in the nascent mutual fund market, in fact involved exactly the type of favoritism and perceived and actual barriers to entry and success that the United States was spending hundreds of millions of dollars to dispel.”¹³

The Harvard economists followed in a long tradition of American economists from prestigious schools providing expertise to countries less advanced and rich than their own. The activities of then-Harvard economist Jeffrey Sachs in promoting radical reform programs for debt-ridden Bolivia and Poland in the 1980s and early 1990s received considerable media coverage. This is not entirely new. Sixty years earlier, another American economist Edwin W. Kemmerer rewrote the economic legislation of those same countries to mollify foreign lenders.¹⁴ But what is new is that the increased delegation of authority by international and national organizations appears to have created many more opportunities for such advisors to play multiple, sometimes conflicting, and ambiguous roles that can have the effect of furthering their own—rather than developmental—goals. As Bryant G. Garth and Yves Dezalay note,

An individual can act as a political scientist in one context, for example, and a lawyer in another; a spokesperson for nationalistic values in one context, a booster of the international “rule of law” in another. The international arena . . . multiplies the possibilities for double strategies of smugglers, compradors, and brokers, since there are many potential uncertainties and mis-translations surrounding individual positions.¹⁵

An individual can advise or be retained by a number of organizations, engage a variety of sponsors, and pursue his own business interests—all at the same time. This can be perfectly benign, but it is not likely to be so when activities under one organization, sponsor, or interest are at odds with those of another organization, sponsor, or interest. For example, the list of sponsors, funding sources, and employers of one American economist working in Russia in the 1990s simultaneously included his own consulting firm; his university; several foundations; the U.S., Russian, and other governments; and the International Monetary Fund. At present, it can be so difficult to detect where an advisor’s ambitions and

loyalties lie that it is impossible to judge whether conflicting interests are interfering with the quality and reliability of the advice being given.

A Post-Pinocchio Agenda

These analyses direct attention to several systemic problems in international consulting. First, development misdoings of the past decade point to a lack of information on the part of recipient officials and development organizations, and a failure to carefully and systematically scrutinize the track records, interests, and roles of those who serve as economic advisors. The problems of the past decade also highlight the difficulties that may occur when one group of consultants serves as the sole source of information for powerful international, national, and/or domestic economic policies. Recipient officials and development organizations often overlook the importance of monitoring, or simply lack access to the intelligence they need to engage in effective monitoring. Finally, incentive structures are not always designed to encourage consultants to act on behalf of the organizations or nations for whom they supposedly work.

These problems point to the need to address the issue of international standards and codes of conduct for economic advisors and consultants. It is my hope and intention that this book, which arose out of the research project on “Building Accountability into International Development Advising in an Age of Diffused Governance” (co-organized with Lloyd J. Dumas and sponsored by the Ford Foundation) will stimulate discussion among recipient governments, donors, and consultants about defining adaptable accountability and monitoring mechanisms. The goal of the project, and thus of this book, is to help develop a body of practices and a code of ethics that can be used widely to streamline consulting practices and reduce waste and frustration in organizations relying on economic advisors.

Brief Summary of The Internationalization of Global Palace Wars: Lawyers, Economists, and the International Restructuring of the State

Yves Dezalay, Professor, Maison des Sciences de l'Homme, C.N.R.S., France; and Bryant G. Garth, Director of the American Bar Foundation and Distinguished Scholar, Institute for Legal Studies, University of Wisconsin-Madison Law School, United States

Our book *The Internationalization of Global Palace Wars: Lawyers, Economists, and the International Restructuring of the State* seeks to make a contribution

to two topics: (1) the processes of transformation from more activist or developmental states into neoliberal states in Latin America over the period from the 1960s to the present, and (2) the related transformation during that period of the position and orientation of law in the state and economy. Both topics necessitate detailed investigations of the role of the economics and economists who compete with law and who generated the leading international expertise used to support the national transformations. The focus of the book is therefore on the competitive processes of importing and exporting expertise, ideas, and approaches from the north to the south.

In contrast to much of the literature, we seek to go beyond the question of whether the countries of the South chose to adopt the new approaches voluntarily or were instead coerced by the power of the United States and supporting institutions such as the International Monetary Fund and the World Bank. We focus instead on the generation of ideas and expertise in the North and the structures in the South that lead both to importation and to the particular institutional impacts of the new investment in different local settings. The countries we studied in detail were Argentina, Brazil, Chile, and Mexico; our method was to interview some four hundred individuals involved in what might be called the traffic in ideas and technologies of development through organizations including the World Bank, the International Monetary Fund, U.S. Agency for International Development, the Ford Foundation, the MacArthur Foundation, as well as others. What may be most interesting to the purposes of the meeting of the Workshop at Pultusk is that we have highlighted the way that individuals in particular countries use international strategies, areas of expertise, resources, connections, organizations, and degrees to build their power at home, and in the process invest international ideas and approaches in local political and economic contexts.

While a key theme of our work is showing how similar Northern strategies behave differently according to the position of the importers in the South, there is also a major focus on the construction of these specific strategies in the North. The story of state transformations is therefore a story about the construction of new universals around human rights, the Washington Consensus, democracy, and the rule of law, and about how their construction—and exportation—relates to what happens in the South. We seek therefore to provide a fresh look at the rise of neoliberal economics in the United States on the one hand, and the human rights movement on the other, connecting them both to events in the United States and international developments.

Our work also focuses on the distinctive features of the four countries studied in Latin America, again highlighting challenges to a particular establishment. The countries are compared along two different axes. One takes the four countries and compares the way they received the exports of state areas of expertise coming from the North. The second concentrates on particular issues and expertise, in particular neoliberal economics, business law, and public interest law. There are strong differences both among the states and among the issues and elements of expertise.

From a policy point of view, *The Internationalization of Global Palace Wars* raises some questions about the durability of the new orthodoxy that is emerging beyond the Washington Consensus, which includes a renewed focus on the rule of law. We suggest that there are major differences between business law, which appears well-institutionalized, and the core of the institutions—the courts, the law schools—connected to law. This unevenness in law raises questions about the legitimacy of the new state expertise in Southern countries that to date appear to have embraced them. The rule of law in particular settings can be challenged not only as a consequence of its being based on foreign recipes, but also as being locally illegitimate even in foreign terms. From a more sociological point of view and based on the ambiguous social position of the leading importers, we seek in our conclusion to provide an explanation for the persistence of a process that leads to ambitious exports of foreign expertise into the South combined with later proclamations that the exercise was unsuccessful.

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APPENDIX B

HOST GOVERNMENTS AND MULTINATIONAL CORPORATIONS: ENRON COMES TO NEPAL

Dipak Gyawali

There was a time when any senior American corporate manager could walk into a Southern (Third World) country and be treated like royalty. Ministers and directors of government agencies would roll out the red carpet and lavish attention befitting visiting heads of states on such CEOs. It was unquestioned: these high-powered business visitors were not only the princes of their age, but also the paragon of business virtues. It was assumed that their advice could only be imbued with sagacity and benevolence—even to suspect otherwise was unthinkable.

Enron changed all of that.

Before its ignominious fall, Southern governments would fall over each other to capture even an iota of Enron's attention. Inviting this company to invest in one's county promised a cornucopia of energy wealth, either in petro or hydro dollars. After Enron's collapse, even genuine multinational CEOs with honest proposals are faced today with a glass wall that requires them to prove that they are not another Enron. In that sense, Enron was a big loss of social capital for multinational corporations akin to an economic 9/11. Nepal's case is particularly instructive, and provides insights into this corporate marauder's hyper-globalized rapacity around the world, especially in the context of weak economic and political institutions in the countries of the Global South.

Between 1996 and 1998, Enron had pushed to develop the 402 MW Arun-3 hydroelectric project, as well as the 10,800 MW Karnali Chisapani multipurpose high dam project, in Nepal. The Karnali mega dam had been a dream shared by Nepali and Indian planners for about half a century. It had seen four international feasibility studies with no possibility of finding the six to ten billion dollars required for its construction. It was further shackled by the inability of Nepali and Indian “hydrocrats” to properly value and share the benefits from regulated water for the dry season that the Karnali reservoir would provide.

The World Bank had withdrawn from the Arun-3 in 1995 after activists convincingly campaigned to prove that, as the Bank had planned it, it would be an unnecessarily expensive project four times more expensive on a “dollar per kilowatt” basis than the cost of small hydro-plants built by the Nepali private sector. Political parties, both ruling and in the opposition, had built their careers on development hype (and the lucrative lubrications that contract decisions on large projects provided them to fight elections and run their party machines). Hence, rather than learn the right lessons from the Bank’s pulling out of Arun-3, they engaged in a blame game of “who lost Arun-3.”

Enron was cashing in on this frustration of the hydrocrats, as well as that of the politicians, that things were not moving forward as envisioned. Enron’s claim that it would bring in the necessary investments (and a development bonanza along with it) had most Nepali politicians bowled over. Indeed, when a “small-is-beautiful” water resources minister from the ruling party of democratic socialists balked at giving the license for this mega dam site to Enron, the communist opposition in parliament went all out in support of this multinational, threatening a jihad against the government. (This might have been the first instance of communists fully backing an American multinational!)

Enron’s hyperbole and disregard of established procedures were its eventual undoing, despite the fact that all U.S. diplomatic energy in Nepal during the second half of the 1990s was concentrated on getting Enron the license to build Karnali. Knowing Nepali historical sensibilities regarding water agreements with the large downstream riparian India, Enron proposed exporting the 10,800 MW of electricity from Karnali, not to major Indian load centers four hundred kilometers away but to China in the north with its grid thirty-five hundred kilometers away at Xian—across the Himalaya, across the Brahmaputra, Mekong, and Yangtse gorges, and across the Tibetan plateau. Distance-wise, it would be shorter to build a transmission line from the Karnali site to Bangkok or Tashkent (to say nothing of any point in nearby north India with huge shortfalls in electricity supply) than to Xian. It did not take long for skepticism to set in, and wiser counsel from social auditors to prevail.

APPENDIX C

GUIDELINES AND RECOMMENDATIONS FOR OFFICIALS IN RECIPIENT COUNTRIES FOR USE IN CONTRACTING AND NEGOTIATING CONSULTING SERVICES

Gonzalo Rivas and Belma Ejupovic

Many developing countries today are recipients of at least some kind of technical assistance (TA) or consulting services (CS). Very often this assistance is provided by international organizations, such as the World Bank Group, the International Monetary Fund, and agencies of the United Nations, or by development agencies of particular countries. The latter include agencies such as the U.S. Agency for International Development (USAID), the U.K. Department for International Development (DFID), the Canadian International Development Agency (CIDA), the German Gesellschaft für Technische Zusammenarbeit (GTZ), the Swedish International Development Cooperation Agency (SIDA), and the Swiss Direktion für Entwicklung und Zusammenarbeit (DEZA). This assistance may also be delivered through more independent consulting firms and foundations.

The way projects are implemented is extremely important to the likelihood that assistance or aid received will have long-lasting positive

impacts on the recipient country. That is why, whenever possible, each recipient country should set forth its own general policies and procedures with regard to the use of international consultants and project negotiations.

Some of the basic steps that representatives in developing countries should follow to ensure adequate and beneficial implementation of the project and selection of the consultant are: (1) being actively involved from the beginning in developing the idea of the project and its objectives; (2) writing the Terms of Reference (TOR) for the project proposal; and (3) defining the outcomes, evaluating the results, and following up on the project.

Only if both sides, donor and recipient, actively participate in all of these stages can one hope that the project will work properly and that its end results will be satisfactory. However, more often than not, there are situations where good intentions and support from only one side do not produce the desired results.

One factor that can make a big difference in making an entire project a success story—or just another failed attempt to encourage development—is the role of an international consultant. In order to get more value added from the consultant's role, representatives of recipient countries should work toward creating an adequate in-house capacity to actively participate in developing and negotiating projects.

The First Phase: Conceiving of and Developing the Project Idea

Some of the basic questions that should be addressed in this phase are:

- Who is proposing the project and why?
- How does this particular project fit into the government's overall strategy?
- How high will the proposed project be on the priority list?
- Is there a clear counterpart or focal point in the government with the appropriate competences and time available to be actively and effectively engaged in the project?
- Who will be given the responsibility for project follow up and just what will they be expected to do?

In this phase, it is particularly important to pay special attention to coordinating work of this specific project with other similar initiatives and projects currently being developed or already in the process of

implementation. When competition for international technical assistance, financial aid, and other key resources is great, representatives of a recipient country should try to do their best to maximize coordination among all the projects in the country.

The Second Phase: Developing the TOR as Part of the Project Proposal

Before the actual process of selecting a consultant starts, the objective and scope of the proposed work and the functions and duties to be assigned to the consultant should be clearly and adequately defined in the “terms of reference” (TOR).

This means that, once the project idea is developed and both sides know exactly what they expect from the project, they should move into defining responsibilities by deciding who will actually draft the terms of reference for the work commissioned. It is then important to make sure to check that the TOR clearly specifies the objectives of the consultancy and the timeframe within which the consultant or consultants should operate. Both the measurable “what” and “when” of intermediate goals or “milestones” should be made clear, so that there is as little ambiguity as possible as to what work the consultant is expected to have accomplished and by what point in time that part of the project is expected to be completed.

Even such apparent “housekeeping” details as specifying the format in which the results of the work are to be delivered affect the usefulness of the consultant’s activity. And, of course, to avoid disputes that can be time consuming, expensive, and frustrating, it is in the best interest of both the contracting parties—the consultant and the recipient of consulting services—to be clear about the conditions the completed consulting work is expected to satisfy. It is also important to specify who the contracting party is, and who is responsible for approving the work that has been done.

Whenever appropriate, the recipient country should specify in the TOR itself the person (or persons) in the government designated to work closely with the international consultant. This person will become even more important later on in the process of transition and follow up when the consultant finishes her or his mandate. Once the consultant finishes her or his work, the recipient government should be able to transfer responsibility to local experts to take over the project. It is extremely important to recognize that, for successful implementation of many projects, ongoing work is required, and, in most cases, the work done exclusively by consultants is simply not enough.

There are many issues involved in the process of selecting and contracting with a consultant. Some of them seem obvious; some less so. But if certain key issues are taken lightly and not given proper attention, there is a high probability of encountering difficulties serious enough to undermine the value of the consultancy. The first and most basic of these is to require that the consultant present references related to previous work he or she has done in the field of interest—and to carefully check these references, by personal contact if at all possible. The second is to require that the consultant formally declare that she or he is not engaged and will not engage in any other projects, investments, or activities that will result in a conflict of interest with the project for which he or she is being recruited.

The selection process itself raises a number of other issues, including which individuals will participate in the selection of the consultant and how the selection process will be carried out. If a short list has been proposed, who formulated it? On what basis was it created? Which criteria were used to evaluate proposals and any other supplementary information? It is also very important to be sure that the consultants being seriously considered have the capacity to understand the particular social, political, economic, and cultural characteristics of any country that they are advising. Past experience has shown that such a capacity is a necessary, though not sufficient, condition for providing meaningful and practical advice. The selection process should take into account the way in which the consultant's work will ultimately be evaluated—by whom and using what criteria. Finally, policy should be in place that makes sure that consultants selected for the project observe the highest standard of ethics during the selection process and in execution of the project.

There are also issues involved in the process of contracting with the donor. The most critical of these is to be sure that the contract gives the recipient the ability to actively participate in selecting the consultant, supervising the consultant, and equally important, dismissing the consultant if the recipient is not satisfied with the work done.

Third Phase: Outcomes, Results, and Follow Up of the Project

It is common for people to fail to recognize the criticality of this third and final phase. However, we should be aware that this is the time when all hard work comes together. The outcomes and results of the project should be presented in such manner that the recipient government could actually use and profit from them. There are a number of dimensions that

are integral to evaluating the overall success of project-related activities. The most obvious and important of these is the question of whether or not the earlier stated objectives were fulfilled. But this is also the appropriate point at which to have another look at the time frame of the project and ask whether the initial timeline proved reasonable and was in fact respected, or needed to be revised and adjusted. If more than minor adjustments were necessary, were they the result of performance problems, unforeseen external problems that could and should have been foreseen, or unforeseeable contingencies?

A thorough evaluation should also consider whether the project fulfilled immediate objectives, and did so in a way that is consistent with long-term goals. Were the results of the consultant's activities substantively useful and delivered in a format that maximized their usefulness? And, most importantly, what lessons can and should be learned both from the way in which the contract consulting process proceeded and from the advice the consultant ultimately delivered?

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APPENDIX D

PROTOTYPE CONSULTANCY AGREEMENT

Ibrahim Fawzy

This Agreement is made this ____ day of ____ month in the year ____, by and between:

1. “ _____ ,” an [type of entity, i.e., legal form etc.], having its head office at [_____] (hereinafter referred to as “the Project Coordinator”)

OF THE FIRST PART

2. “ _____ ,” an [_____] national, holding passport number [_____] issued on [_____], residing at [_____] (hereinafter referred to as “the Consultant”)

OF THE SECOND PART

Whereas:

1. The Project Coordinator is in the process of implementation of the Project ____ [need to give the name and a description of the project].
2. The Consultant has the experience to review and evaluate the project document and select the local organizations to be involved in implementation of the Project (hereinafter referred to as “the Services”).
3. The Project Coordinator wishes to retain the Consultant, who so accepts, to provide the Services required for the Project.

THEREFORE, in light of the above Preamble, which forms an integral part of this Agreement, the Parties hereto agreed upon the following terms and conditions:

Article (1)

Scope of Agreement

The Consultant shall carry out the Services required by the Project Coordinator in relation to the Project. This Agreement shall not be construed as an employment relationship between the Consultant and the Project Coordinator.

Article (2)

Interest in the Project

In order to avoid any conflict of interest that may arise in relation to the Project, and to maintain transparency during the performance of the Services by the Consultant, the Consultant agrees to provide the Project Coordinator with the following information:

- 2.1 A list of the names of individuals and/or institutions with whom the Consultant has dealt with during the previous year, and which may have a relationship of interest to the Project. (To be provided by the Consultant and attached to this Agreement as Annex 1.)
- 2.2 A statement regarding the nature of the relationship between the Consultant and the individuals and/or institutions listed in Annex 1; including dates of last contact and any other information that the Project Coordinator may reasonably request. (To be provided by the Consultant and attached to this Agreement as Annex 2.)
- 2.3 A statement of the methods to be used to recruit any local individuals and/or firm with whom the Consultant intends to cooperate. (To be provided by the Consultant and attached to this Agreement as Annex 3.)

Article (3)

Confidentiality

- 3.1 All information, data, and documents related to the Project covered under this Agreement or its implementation thereof (hereinafter “the Information”) that may be provided to the Consultant

by the Project Coordinator under this Agreement shall be confidential. The Consultant agrees that he shall use the Information solely in accordance with the provisions of this Agreement and that he shall not at any time within or after the term of this Agreement, or termination thereof, disclose same whether directly or indirectly to any other person or entity.

- 3.2 The Consultant shall operate and implement all reasonable procedures to prevent the unauthorized use or disclosure of the Information including without limitation restrictions on disclosure thereof to any individuals who assist with or are involved in any manner with the Services provided by the Consultant.
- 3.3 During the performance of the Services, the Consultant shall maintain professional and fair methods of reasonable conduct in accordance with the provisions of [indicate the relevant code of professional ethics]. However if during the course of the work, any third party attempts to employ or influence the conduct of the Consultant, the Consultant is obliged to report such action to the Project Coordinator.

Article (4)

Term of the Agreement

The term of this Agreement shall be from [] and ending on []. This Agreement may be renewed for an additional term, by written agreement of both parties, if the need arises for such renewal.

Article (5)

Consultancy Fees

- 5.1 Throughout the term of this Agreement, the Project Coordinator shall pay the Consultant a sum of [] (hereinafter the “Consultancy Fees”), to be paid as follows:
[The payment of fees should be divided in phases or specified to be conditional on achieving certain milestones.]
- 5.2 The Consultancy Fees do not cover any costs incurred by the Consultant, including travel expenses (if any), which shall be borne by the Project Coordinator. However, the Project Coordinator must be provided with such expenses and approve them prior to disbursement. Furthermore, the Consultant shall be responsible to settle any taxes, dues, or levies applicable with

respect to the Consultancy Fees. If same is to be remitted by Project Coordinator, then such amounts shall be deducted from the Consultancy Fees.

- 5.3 In the event that there is a delay in providing the Services, the Consultant shall be penalized an amount of [] for every week of delay, beyond the agreed upon dates, as detailed in Article 5 herewith.

Article (6)

Termination

Without need for any further legal or judicial procedures of any kind, this Agreement may be terminated by either party if the other party commits a breach of any of its obligations under this Agreement and fails to remedy such breach within 30 (thirty) days from the date written notice is given to it requesting the breach to be remedied.

Article (7)

Applicable Law and Arbitration

7.1 This Agreement is subject to, and shall be interpreted in accordance with, the laws of [insert the name of the recipient nation].

7.2 Any dispute, claim, controversy, or difference between the parties hereto, arising out of or in connection with this Agreement, shall be referred to arbitration in accordance with the rules of arbitration of the [Insert the name of a well-respected and qualified national arbitration center in your country here]. The arbitration shall be before a sole arbitrator to be appointed in accordance with said rules. The arbitration shall take place in [the country name], and shall be conducted in the [insert appropriate language]. This arbitration clause shall survive the termination of this Agreement, and shall remain in force until all disputes, claims, controversies, and differences arising from this Agreement, or in connection with it, are settled.

Article (8)

Entire Agreement

This Agreement constitutes the entire agreement between the parties relating to the subject matter hereof, and supersedes any previous oral or written agreements or understandings between the parties.

Article (9)**Waiver**

No waiver of any rights arising under this Agreement or any provision of this Agreement shall be effective unless made in writing and signed by the party against whom the waiver is sought to be enforced. No failure or delay by either party in exercising any right, power, or remedy under this Agreement shall operate as a waiver of any such right, power, or remedy.

Article (10)**Notices**

All notices under this Agreement shall be in writing and shall be sent to the notified party at its address set out in this Agreement by registered mail, return receipt requested, or delivered by hand against signature for receipt. A notice shall be effective as of the date of its receipt, and either party may change its notice address by notice to the other party.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be signed by their duly authorized representatives in two counterparts on the day and year first above written.

The Consultant: []

Name:

Address:

Signature:

The Project Coordinator: []

Name:

Address:

Signature:

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APPENDIX E

A CLOSER LOOK AT THE WORLD BANK PROCESS

This appendix deals primarily with consultants hired directly by the borrower and not by the World Bank because the policies dealing with Bank-hired consultants are not accessible to the public (although, according to the Bank, it follows essentially the same guidelines to which it holds borrowers). It attempts to focus on individual consultants as much as possible, but also deals with consulting firms as well, since many of the Bank's policies focus on consulting firms, and individual consultants may also work for such firms. When a consultant is employed as an individual but also works for a firm, certain policies (e.g., those pertaining to conflict of interest) are applied to the firm and not the consultant.

For this appendix, we relied primarily on two sources: (1) *Guidelines: Selection and Employment of Consultants by World Bank Borrowers* (2004), World Bank, the guidelines that should apply to all borrower-hired consultants working on Bank-financed projects; and (2) *Consulting Services Manual: A Comprehensive Guide to Selection of Consultants* (2006). Both of these texts were developed by the World Bank to help insure that its staff and its borrowers procure consulting services in a manner that accords with bank policy.

Overview

The Bank has fairly well-defined policies that relate to conflict of interest and misrepresentation on the part of consultants. Although there are several categories of consultants working on Bank-financed projects, the Bank assures us that essentially the same policies should apply to each category. There are two general categories: Bank

consultants, those consultants who work directly for the Bank, and borrower consultants, those consultants who are hired by the recipient country. Further, consultants who work directly for the Bank may be “internal” (working primarily within Bank offices) or external (working primarily in the field, or in-country). We focus here on borrower consultants, since documentation for Bank consultants is not publicly available.

The consultant hiring process varies depending on the nature of the project, the timeline, the budget, and whether the work is to be implemented by an individual or a firm. The procedures are fairly complex when firms are hired to implement expensive projects. The process of hiring individuals is greatly simplified: Consultants are identified in a number of ways. The Bank houses and maintains several registries, and seems to be in the process of developing more. Of course, recommendations made via professional networks are often used to identify individual consultants when there is a need to move quickly.

With respect to consultants, the World Bank focuses on three types of conflict of interest: (1) “downstream” conflicts of interest, that is, conflicts of interest between the consultant’s own future work and the client’s interests; (2) conflicting assignments, which occur when a consultant accepts two or more assignments that create conflicting interests or obligations; and (3) inappropriate relationships, which occur when the consultant and borrower have a relationship of the sort that may generate conflicting interests.

According to the Bank’s *Consulting Services Manual*, Bank policy on the selection of consultants emphasizes high quality of services, economy, and efficiency, along with competition among qualified consultants from all eligible countries, participation of national consultants, and transparency. “High quality of services” appears to include the notion that services are free of fraud, corruption, and conflict of interest.

The *Manual* cites three primary developments in the consulting industry over the past thirty years: the outsourcing of experts; the pursuit of economies of scope; and the use of information technology. Each of these developments may exhibit some relevance to the aim of building integrity and accountability in development consulting. How does the consulting firm ensure the quality and efficiency of its services when the composition and distribution of roles/responsibilities change for each project? A consulting firm’s pursuit of economies of scope has the natural tendency to generate conflicts of interest. This is because it may be an intrinsic aspect of the consulting firm’s business model to provide several,

related services to a single client. However, many of the primary forms of conflict of interest discussed in the Bank's manual warn against just this situation. It seems logical that a firm should be required to limit the services it provides to a given client in a manner that eliminates the potential for conflict of interest. Finally, advances in information technology have reduced or eliminated the entry or exit barrier posed by the financial costs of physical capital, enhancing the potential for competition in the consulting realm.

As mentioned earlier, there are two types of consultants working directly for the Bank, internal and external consultants; the former are hired by the Bank through its human resource department, while the latter's services are acquired through the procurement department. Both internal and external consultants often work on the preparation of Bank financed projects. According to the *Consulting Services Manual*, the policies and procedures followed by the Bank when hiring consultants are "tailored in strict accordance" with the *Guidelines*, which apply to consultants hired by the borrower.¹

The borrower (recipient) may also hire consultants to contribute to project implementation. The Bank's role is to ensure that the borrower follows hiring/procurement procedures that it finds acceptable. *The Consulting Services Manual* and the Bank's *Guidelines: Selection and Employment of Consultants by World Bank Borrowers* lay out the policies that apply when borrowers hire consultants during project implementation.

Each set of relationships comes with a distinct set of legal agreements. The Loan Agreement document delineates the legal relationship between the World Bank and the borrower. It seems as though the *Guidelines* are incorporated into this legal relationship by a specific reference in the Loan Agreement. (The *Manual*, on the other hand, is a publication intended to help Bank staff and borrowers to select and engage consultants in accordance with bank procedures.)

The legal relationship between the borrower and the consultant is set out in both the Request for Proposals (RFP) and the contract signed by both parties. However, the Loan Agreement and the Bank's *Guidelines* appear to have no direct bearing on the legal relationship between the borrower and the consultant.

It is important to note that the borrower, not the Bank, is responsible for preparing and implementing the project, for selecting consultants, and for awarding and administering contracts with consultants. The Loan Agreement specifies what methods and process may be employed by the borrower to select consultants.

Basic Process and Roles

There are several pathways that may be employed during the initial selection process. Most include the following key steps. First, the “terms of reference” (TOR, as discussed in chapter four) must be finalized. It is also necessary to finalize the estimate of project costs and establish the required budget. The next steps are to call for an “expression of interest” and prepare a shortlist. The criteria to be used for evaluation must be defined, as well as what constitutes the “minimum qualifying mark.” A “request for proposals” (RFP) must be prepared and sent. In response, consultants vying for the contract prepare and submit technical and financial proposals. These technical proposals must then be evaluated. The financial proposals should then be publicly opened, and any necessary negotiations may commence with the maker of the best proposal. Finally the contract is awarded and the assigned project work begins.

According to the *Guidelines*, the Bank reviews and evaluates the proposals, award recommendations, and contracts prior to issuance. The Bank may at any stage of the selection process, even after award of contract, declare misprocurement if it “concludes that the agreed procedures were not followed in any substantial respect.” The Bank may still declare misprocurement even after garnering a “no objection” from the Bank if the no objection was issued based on “incomplete, inaccurate, or misleading information furnished by the borrower.” These measures may include imposing sanctions if the Bank establishes that representatives of the borrower or the consultant have engaged in “corrupt or fraudulent practices.”²

It seems as though there is some opportunity for the consultant to hide a conflict of interest and/or to misrepresent himself within each step in the process. However, it is important to note that Single Source Selection and Selection Based on Consultant Quality are both abbreviated processes with far fewer steps and controls. Therefore, these two processes may increase the potential for collusion between the borrower and the consultant. The details of the selection process are presented in chart E.1.

Selection Process Acronyms and Explanations

QCBS or Quality and Cost Based Selection: Under QCBS the technical and financial proposals are submitted simultaneously in separate sealed envelopes (two-envelope system). Proposals received after the submission deadline should be rejected. Evaluation of proposals is carried out in two stages: (1) quality and (2) cost. The technical envelopes are opened by a

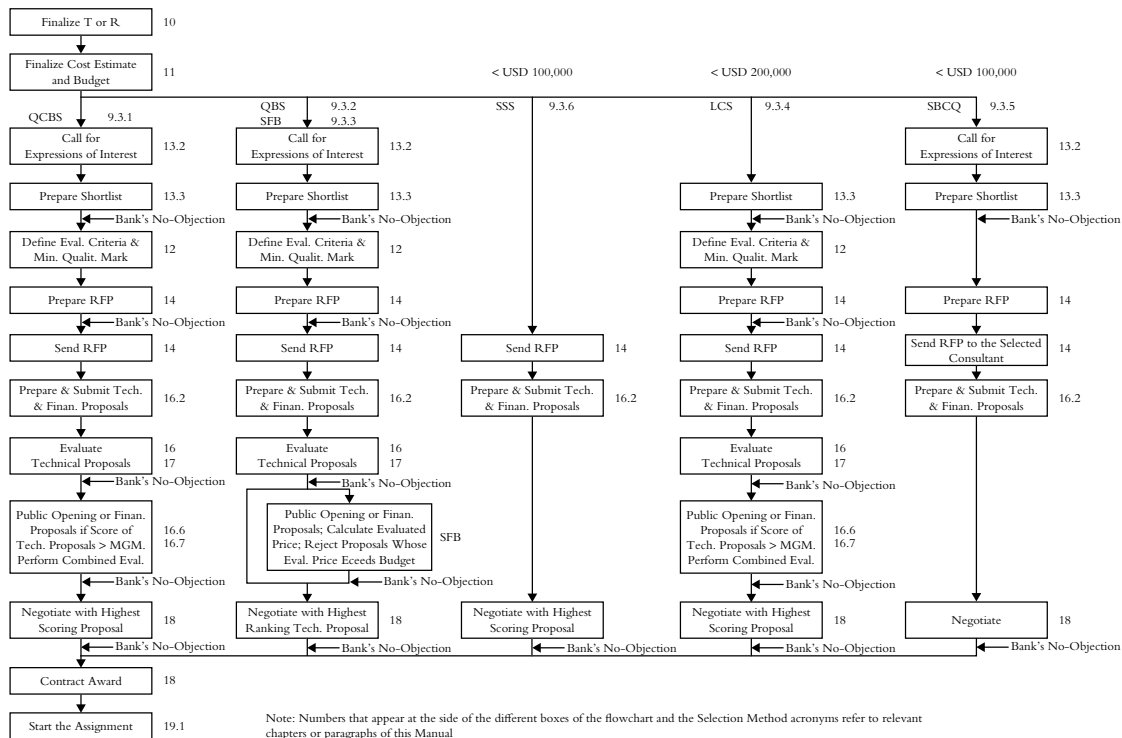


Chart E.1 The steps of the selection process.

LCS: Least Cost Selection; QBS: Quality Based Selection; QCBS: Quality and Cost Based Selection; SBCQ: Selection Based on Consultant's Qualifications; SFB: Selection under a Fixed Budget; SSS: Single Source Selection.

Source: *Consulting Services Manual 2006: A Comprehensive Guide to Selection of Consultants*. The World Bank Group, 2006. Figure 9.1: "The Steps of the Selection Process," p. 38. <http://siteresources.worldbank.org/INTPROCUREMENT/Resources/2006ConsultantManual.pdf>.

committee of officials of the borrower immediately after the closing time for submission of proposals; the financial proposals remain sealed and shall be deposited with a reputable public auditor until the technical evaluation and the evaluation report are completed and approved by the Bank and the technical scores are disclosed publicly (see also paragraphs 16.6 and 16.7). The financial envelopes of those consultants who submitted responsive technical proposals meeting the minimum qualifying mark are opened in the presence of the consultants or their representatives. The proposals are then evaluated. Once the financial proposals are evaluated, a combined evaluation of the technical and financial proposals is carried out by weighting and adding the quality and the cost scores, and the consultant obtaining the highest combined score is invited for negotiations. Since price is a factor of selection, staff rates and other unit rates shall not be negotiated (see chapter 18).³

QBS or Quality Based Selection is based on an evaluation of the quality of the proposals and the subsequent negotiation of the financial proposal and the contract with the consultant who submitted the highest-ranked technical proposal.⁴

SFB or Selection under a Fixed Budget is based on disclosing the available budget to invited consultants in the RFP and selecting the consultant with the highest-ranking technical proposal within the budget. Because consultants are subject to a cost constraint, they will adapt the scope and quality of their services to that budget. The borrower must therefore ensure that the budget is compatible with the TOR and that consultants will be able to perform the tasks within the budget.⁵

LCS or Under Least Cost Selection: A minimum qualifying mark for quality is established and indicated in the RFP. Short-listed consultants have to submit their proposals in two envelopes. The technical proposals are opened first and evaluated. Proposals scoring less than the minimum technical qualifying mark are rejected, and the financial envelopes of the rest are opened in public. The consultant with the lowest evaluated price is selected.⁶

SBCQ or the Selection Based on Consultant's Qualifications method applies to very small assignments for which the cost of a full-fledged selection process would not be justified. Under SBCQ the borrower first prepares the TOR, then requests expressions of interest and qualification information on the consultants' experience and competence relevant to the assignment. The borrower establishes a shortlist and selects the firm with the best qualifications and references. The selected firm is asked to submit a combined technical and financial proposal and is then invited to negotiate the contract if the technical proposal proves acceptable.⁷

Under SSS, or Single Source Selection, the borrower asks a specific consultant to prepare technical and financial proposals, which are then negotiated. Since there is no competition, this method is acceptable to the Bank only in exceptional cases and made on the basis of strong and convincing justifications where it offers clear advantages over the competition.⁸

With respect to the selection and evaluation of personnel, the guidelines recommend the “evaluation of only the key personnel” and require the borrower to review and verify (and an authorized official of the consulting firm to sign off on) the consultants’ qualifications and experience. The guidelines specify that consultants be rated with regard to three criteria: “general qualifications,” such as education and experience; “adequacy for the assignment”; and “experience in the region.”

It might be interesting to know what, if anything, the Bank does to facilitate the checking of consultant resumes by the borrowers. From what we can gather, some borrowers are very accepting and uncritical of the qualifications of the consultants sent to them by the Bank, while others insist on choosing their own people.

In the interest of transparency, section 2.28 of the *Guidelines* requires borrowers to publish in *UNDB online* and *dqMarket* information that includes the name of all consultants who put forward proposals, the point rankings they were assigned, and the name of the winning consultant and details about their contract.

Making this information public allows other entities, whether watchdog agencies, competing contractors, and so on, to evaluate the existence of potential conflicts of interest and/or misrepresentation. For example, a competing contractor may notice that the winning consultant won a contract for an assignment last week that would create a conflict of interest for the assignment in question. Access to *dqMarket* is free, while *UNDB online* is a subscription service.⁹

The *Manual* also indicates that the employment of individual consultants seems to be an integral part of the development work financed by the Bank: “Borrowers often engage individual consultants on Bank-financed assignments. Individual consultants also are employed extensively by the Bank itself to assist in all areas of Bank operations.”¹⁰ At the same time, the *Manual* notes that “the Bank believes that a policy of hiring individuals as opposed to firms may lead to abuse and other undesirable practices such as nepotism.”¹¹ Specifically, the *Manual* points to cases in which the candidate consultant is a relative of the borrower official:

Cases arise in which individual consultants seek to be engaged by the Borrower agencies where their relatives are employed in positions of influence. These cases may cause perceived, potential, and real conflict of interest situations for the employee as well as for the consultant while discouraging good candidates with no connections. The Bank considers that such candidates are not to be taken into consideration under any circumstances.¹²

The *Manual* does not explain its belief that nepotism is more likely to occur when hiring individuals rather than firms; of course, one of the partners in the consulting firm might be a relative of a borrower official. It is not all that obvious that nepotism is ruled out when dealing with consulting firms, rather than individuals. In any case, what is the definition of a firm? How many consultants does a company have to have to be considered a firm? In the United States, for example, one person can easily declare himself or herself a firm.

Excerpts from both the *Guidelines* and the *Manual* that are relevant to the hiring of individual consultants are reproduced here, interspersed with observations and questions for further research. We focus on aspects of these processes that may provide an opportunity to identify and respond to conflicts of interest and misrepresentation. Among these, we include excerpts relevant to (1) how the assignment is defined, (2) how the position is advertised, and (3) how the consultant is selected.

According to paragraphs 5.2 and 5.4 of the *Guidelines*: The borrower should hire individual consultants through a competitive and merit-based process involving at least three candidates. The borrower is expected to hire the most qualified of the candidates. Capabilities may include academic training, professional experience, and knowledge of the locale of the assignment. Sole-sourcing is allowed only under exceptional circumstances.

This raises a number of questions. How often are three legitimate candidates chosen? When in the process would the consultant be expected to study the project and disclose any potential conflicts of interest? How often are consultants sole-sourced? When consultants are selected on a sole-source basis, does an agent of the borrower first present the assignment and request a disclosure of possible conflicts of interest? If not, when and how is the consultant asked to do so?

The *Manual* states that:

Borrowers should first prepare a TOR [statement of terms of reference] for the consultant assignment, including the scope of work and its estimated budget. Bank staff responsible for the project should review the TOR and

provide the Bank no-objection for any assignments whose cost is estimated to be above the prior review threshold established for individual consultant contracts in the Loan Agreement.¹³

This implies that, given the budget is below a previously agreed limit, the borrower may hire consultants without a “no objection” from the Bank. It is interesting that budget is a factor but the potential cost of hiring a consultant with misplaced incentives is not mentioned here.

From informal conversations with Bank staff, it seems as though the most common way to identify a consultant is through one’s professional network. One would simply send an email to a few colleagues asking, “Who do we have/know that can do X, speaks Y, and has some in-country experience in Z.” However, the Bank also has several consultant registries that may be used to identify consultants.

The *Manual* includes eligibility requirements for contractors that appear intended to prevent “revolving door” scenarios. The guidelines state that

Government officials and civil servants may only be hired under consulting contracts, either as individuals or as members of a team of a consulting firm, if they (i) are on leave of absence without pay; (ii) are not being hired by the agency they were working for immediately before going on leave; and (iii) their employment would not create a conflict of interest.¹⁴

In general then, the procurement policies seem to be more flexible when hiring individual consultants. There are essentially three steps: TOR, advertising (which is optional), and selection. Further, it seems that the process is subject to a single Bank affirmation that it has no objection at the TOR stage. Even this is dependent on the value of the contract. It is interesting to note that the length and value of the contract are considered in the procurement process, but the importance and potential impact of the advice on the borrowing country’s economy and society is not mentioned. Yet, it is not difficult to imagine that an individual consultant might be paid a relatively small sum, say one hundred thousand dollars, to provide economic development advice that could have enormous impacts on the borrower country.

Common Problems and Policy Responses: Fraud and Corruption

The *Manual* includes a list of the “most common corrupt and fraudulent practices.” In the selection stage (5.2.1 of the *Manual*), consultants could

“bribe the client’s officials in order to be short-listed,” “collude with each other and/or with the client to limit competition,” “bribe the client’s officials in order to obtain confidential information or undue advantages in the selection and evaluation process,” “exert undue pressure on members of the client’s Evaluation Committee,” “misrepresent facts in expressions of interest and in technical proposals and falsify or forge documents submitted in support of their proposals,” “collude with the client to fraudulently change essential data of the financial proposal after bid submission,” or “withhold critical information pertaining to serious conflicts of interest.” According to the *Manual*, “experience shows” that the client could engage in the following activities: “ask for bribes,” “provide unequal access to information” by, for instance, advertising insufficiently, “ignore conflicts of interest affecting particular consultants,” “adopt selection methods that unduly favor certain consultants,” “knowingly overlook” a consultant’s misrepresentation or false statement, “hire consultants by single-source selection method (SSS) where competitive selection would be expected to elicit different results,” or “violate the confidentiality of bidding.”

In the implementation stage (5.2.2 of the *Manual*), consultants could carry out the following activities: “seek unjustified contract extensions or payments with no justification,” “make unjustified changes of experts,” “overcharge the client by, for example, in a time-based contract, billing more staff-months than actually worked,” “provide less service than agreed upon under the contract without informing the client,” “seek unjustified increases of consulting staff to work on the assignment,” “fraudulently justify work delays or misrepresent a need for extension of time,” “engage in unauthorized use of project property and services,” or “alter accounting records of their assignment to misappropriate project funds.”

In general, one can infer from this list that the Bank has confronted corruption on the part of both consultants and borrowers with regard to misrepresentation and conflict of interest. The consultants may hide or falsify information, and the borrower may look the other way.

The *Manual* often stresses the importance of limiting the Bank’s role in the consulting process. Upon the borrower’s request, Bank staff can assist and offer guidance in the various steps toward hiring consultants, such as preparation of the RFP and the TOR, and the type of contract to be adopted. However, the *Manual* emphasizes that “Bank staff must not unduly influence the borrower’s decisions and must ensure that the choice of consultants to be shortlisted remains exclusively the borrower’s prerogative.”¹⁵

The *Manual* offers the following as the “Main Considerations” with regard to the prevention of corrupt practices (5.5.1) during the preparation stage of the project. According to the *Manual*, the Bank evaluates “risks related to all aspects of the procurement process and recommends a strategy and concrete measures to minimize the occurrence of fraud and corruption and mitigate their impact.” In Bank-financed projects, the *Manual* states, fraud and corruption can be discouraged by “encouraging borrowers to adopt transparent and fair procedures for selection of consultants” and “ensuring that consultants’ work is closely monitored and that the agreed upon procedures are consistently applied during the entire course of the assignment.”

In sections 5.5.2–5.5.3, the *Manual* outlines the roles of the borrower, the Bank, and the consultant, respectively. Those measures most relevant to the issues at hand are reproduced here:

The Borrower is expected to:

“Shortlist only those consultants who are qualified for the assignment.”

[But it is not at all obvious that most borrowers have the capacity to collect independent information regarding a consultant’s qualifications under present conditions. Indeed, the need to alleviate this problem is one of the key focuses of the analysis and recommendations contained in this book.]

“Appoint an Evaluation committee with impartial and competent officials,” “prohibit committee members from unofficial contacts with consultants,” and “report, investigate, and sanction cases of attempted or actual corruption.”

[Again, there is the issue of whether most borrowers have the capacity to do this, and the further question of whether borrower governments are typically given support when they make a serious attempt to follow this guideline.]

“Adopt an enforceable code of conduct with proper sanction.”

[See our proposed code of ethics and suggested mechanisms for its implementation and enforcement in chapter 4, “Measures Across Organizations and Contexts.”]

“Establish a reporting channel for incidents of alleged fraud and corruption.”

The Bank is expected to:

“Assign an experienced procurement specialist to supervise the selection of consultants,” and “make adequate arrangements for project supervision, especially when Borrower institutions are weak”

The Bank is expected not to:

“Offer suggestions on consultants to be short-listed unless the Borrower requests it in writing,” “make decisions on behalf of the Borrower,” “neglect to perform its fiduciary responsibilities, including failing to carry out prior

and post-review,” “maintain unnecessary contacts with consultants during the selection process, or during the implementation of the assignment, except as permitted in the RFP or agreed upon with the Borrower,” and “accept any gift, hospitality, or favor from consultants.”

The consultant is expected to:

“Submit proposals that reflect their true qualifications and capabilities,” “act with competence and integrity and solely in the interest of the Borrower,” “abstain and resist from entering into arrangements with contractors, suppliers, and clients that will conflict with their assignment.”

Common Problems and Policy Responses: Conflicts of Interest

In general, a conflict of interest exists if the consultant has, or develops during the course of the assignment, an interest and/or duties that conflict with the obligation to provide impartial advice to the client on a given matter. It is important to note that, using this definition, the consultant does not actually have to offer biased advice for a conflict of interest to exist; if conflicting duties and/or interests exists, then a conflict of interest exists.

Conflict of interest is specifically and independently addressed in section 1.9 of the Bank’s *Guidelines*. (This important section of the *Guidelines* is reproduced in full separately in appendix G.)

Bank policy requires that consultants provide professional, objective, and impartial advice and at all times hold the client’s interests paramount, without any consideration for future work, and that in providing advice they avoid conflicts with other assignments and their own corporate interests. Consultants shall not be hired for any assignment that would be in conflict with their prior or current obligations to other clients, or that may place them in a position of being unable to carry out the assignment in the best interest of the Borrower.

The *Manual’s* section on “Prevention of Conflicts of Interest” focuses on conflicts of interest relevant to any consultant who took any given assignment, as follows:

In Bank-funded projects, the risk of a conflict of interest deriving from the consultant’s assignment under consideration must be identified in the Request For Proposals. In addition, the related provisions for the avoidance

or mitigation of conflicts of interest (such as disqualification, cooling-off periods, and corporate separations) must be clearly stipulated in the Information to Consultants (ITC) and in the Contract.

For example, if the project is to be conducted in several phases of related work, then any firm with the resources to carry out multiple phases is likely to experience a “downstream” or “intrinsic” conflict of interest. Such issues are not as difficult to identify as those in which the conflict involves other assignments, especially those being undertaken for other clients. In the case of such “extrinsic” conflicts of interest, the borrower (and the Bank) are more dependent on the consultant’s disclosure of interests and/or on their own capacities to investigate the other obligations and interests of the consultant. Here, the issues of consultant controls and borrower capacity become central.

The *Manual* notes that

Because the safeguards put in place by the Borrower may not be sufficient to eliminate or acceptably mitigate [conflict of interest] COI, consultants have an obligation to disclose any potential COIs that they consider could affect their services (...) This is particularly important if the Borrower lacks the capacity to thoroughly assess consultant qualifications and performance or if the Borrower’s regulatory framework about COIs is not sufficiently robust.¹⁶

This statement places a great deal of responsibility on the consultant. But not all “professions” have accepted standards regarding conflict of interest disclosure. In particular, at this point, there does not appear to be any existing code of conduct for international development advisors. This section of the *Manual* suggests that there is a real value in having such a code of ethics. As Douglas North, Nobel laureate in economics, has put it, “The importance of self-imposed codes of behavior in constraining maximizing behavior in many contexts... is evident.”¹⁷ It is for this reason among others that we present a proposed model or prototype “Code of Ethics for International Economic Advisors” in chapter four. This proposed code draws on the relevant portions of the existing and enforced codes of ethics of nearly twenty widely varying professions.

Where professional standards do not exist or are not monitored and enforced, the issue of borrower capacity becomes critical. Sections 4.4.5–4.4.7 outline the borrower’s role with regard to identifying and managing conflicts of interest.

4.4.5 Evaluation of Technical Proposals

When evaluating technical proposals, the document states, “the Borrower should ascertain that no new COI situations have arisen since the consultant was shortlisted... If the Borrower identifies a COI at this stage, it should determine whether the specific conflict is substantive and take action.” Proposed actions include “reducing the scope of work of the assignment, asking the consultant to remove the conflict, or (if the COI cannot be mitigated) by declaring the consultant not eligible for the assignment.” In the event that “a consultant has misled the Borrower by neglecting to provide information or by denying the existence of a major COI situation, the consultant’s proposal should be rejected, and the opportunity for further sanctioning by the Borrower and the Bank could be considered.”

4.4.6 Contract Negotiations

The *Manual* states that, before the contract negotiation is completed, “the Borrower should review the draft contract to identify COI situations that may not have been disclosed or may have arisen after the proposal was submitted.” An instance of this would be, the document notes, a change-of-ownership situation in which the consultant that won the contract was “absorbed by a financial institution interested in participating in the Borrower’s project.” In this case, the *Manual* continues, “the Borrower would have to disregard proposals from that institution or disqualify the consultant or both (if it is found that the two had been conniving at the expense of the Borrower).”

4.4.7 Implementation of the Assignment

While implementing the assignment and reviewing or monitoring the work of consultants, the *Manual* states that “the Borrower should check for any new circumstances that could create downstream conflicts of interest.” The *Manual* specifies that, during this project phase, the most frequent conflict of interest occurs when people affiliated with the consultant “show an interest in offering goods, work, or services to the Borrower related to the services rendered by the consultant.” The *Manual* directs that, upon the emergence or discovery of “a substantive conflict of interest situation... during execution of an assignment, the matter should be referred to the bank to examine possible corrective action.”

Finally, it is important to note that this discussion regarding addressing conflict of interest is premised upon the notion that the borrower has good intentions, that is, that there is little or no collusion between the borrower and consultant. If the responsibility to uncover a consultant conflict of interest rests with the borrower, but the borrower has no intention of exploring such matters, borrower capacity is clearly irrelevant.

The *Manual* notes the Bank’s support for programs at the level of the consulting firm aimed at “improving corporate culture and introducing

internal controls, codes of conduct, and structured systems to manage integrity.” It also notes the Bank’s support for initiatives at the level of consulting association that aim to “encourage and assist their members to develop integrity management systems.” Professional codes of ethics and mechanisms for their enforcement are clearly one potentially important component of such systems. (Again, see the proposed prototype code of ethics we have developed and the discussion surrounding its development in chapter four, “Measures Across Organizations and Contexts.”)

It seems as though the World Bank is interested in trying to give work to consultants from a great variety of countries. Among the initiatives it is undertaking is the phasing out of tied-aid in the form of consultant trust funds, and establishing in-country liaison offices and Washington D.C. based bureaus to help consultants and contractors win Bank assignments. Although these efforts are designed to make the system fairer (in terms of international competition), it is *possible* that introducing these offices/roles will simply create new opportunities for conflict of interest, nepotism, and other forms of corruption. The creation of additional bureaucracy, combined with a move toward “diversifying opportunities for access to Bank work,” might generate a greater opportunity for fraud, corruption, and collusion, to the extent that it introduces “local” gatekeepers and information brokers who are operating under less scrutiny.

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APPENDIX F

RECURRENT THEMES AMONG RECIPIENT AND DONOR REPRESENTATIVES

Recurrent Themes Among Recipient Country Representatives: Workshop (Pultusk, Poland, September 2003)

A number of core themes repeatedly emerged during the discussions of the workshop on *Building Accountability into International Development Advising In an Age of Diffused Governance* we held in Pultusk, Poland, in fall 2003. (The names and biographical statements of the participants are included in appendix A.) These themes emerged from a combination of the written personal statements (also reproduced in appendix A), case studies prepared by some of the individuals invited to participate,¹ and long and highly interactive plenary group discussions. They represent a distillation of considerably more complex analysis of the accumulated experiences and observations of members of the Working Group. It is worth noting that these themes are intended to represent a general consensus of the group's thinking. They do not imply unanimous agreement in every detail. It is also worth noting that many of these and other issues raised by the group are addressed by the prototype code of ethics presented in chapter four.

1. There are often vast inequalities of resources, policy experience, and technical sophistication between donor governments or organizations and associated international economic consultants on the one hand, and recipient governments on the other. It is clear that this imbalance has resulted in foreigners having huge influence on

the policies and programs of aid recipients, while facing little or no accountability for any negative consequences of that influence on the society or individual lives of those living in the recipient countries.

2. Advisors should be selected competitively, with input from the recipient country, not imposed as a condition of receiving aid. Procurement rules established by donors often protect favored consultants, giving them an inappropriate advantage over other international consultants, recipient country experts, and local government officials.
3. Recipient country personnel should in general play a larger role in designing aid programs in cooperation with donors. Too often aid donors and their favored home-country experts tend to disregard local solutions and expertise, never questioning the superiority of their own knowledge or its applicability to recipient country problems, despite the fact that they may know little about key political, economic, social, and cultural aspects of the recipient country society.
4. For their part, donors have not always required enough transparency or accountability from recipients, inadvertently facilitating corrupt behavior. This not only undermines the effectiveness of aid projects in improving conditions in the recipient country, but also calls into question the donor's motives in providing the aid in the first place.
5. All too often there is a revolving door for client country personnel between employment in government departments and in international consulting firms that repeatedly win lucrative contracts with that same client government.
6. Foreign consultants are in a position to independently assess and critique a local system in a way that locals dependent on that system cannot, but they do not always deliver advice with that degree of directness and independence. Without the presence of sufficient controls, consultants may be too ready instead to manipulate the situation for their personal gain.
7. Governments like to hire consultants who will give advice (to others, in the case of donor governments; to themselves, in the case of recipient governments) that the governments want to hear. Often enough, consultants are used in this way not to help develop policy that will most effectively solve problems, but rather to provide a supporting rationale for policies on which the client government has already decided. This gives the appearance—but not the

reality—of policy making based on objective, independent advice tailored to the needs of the local population.

8. All documents intended to define the responsibilities of international economic consultants and recipient governments must be written as clearly and unambiguously as possible. Terms of reference, in particular, should clearly specify deliverables and milestones. There should be tight oversight of consultants, including monitoring of their activities and follow up. Any ad hoc system or vagueness creates space for manipulation by unethical or incompetent consultants.
9. Insiders who provide reliable information to the public or to appropriate authorities about corruption or other forms of rampant misbehavior within a project or organization (commonly known as “whistleblowers”) should be encouraged to come forward and be rewarded. It is crucial that they be protected against retaliation for having exposed bad behavior.

Recurrent Themes Among Recipient Country Representatives: Focus Group Participants (Brasilia, Brazil, 2005)

In addition to the themes that emerged from recipient country personnel at the Pułtusk Workshop, a number of other themes consistently emerged during the focus group that we held among recipient country representatives at the Global Forum on Combating Corruption, which took place in Brasilia, Brazil, in 2005. These are:

1. The International development consulting system is complex, involving a dynamic network of players and interests. Any attempt to define associated problems or possible solutions must take such complexity into account.
2. Unfortunately, it is too often the case that consultants are asked to write evaluations of their own work, which is obviously inappropriate. These evaluations may or may not be verified by the manager responsible for oversight.
3. Although there is a greater trend toward making debarment lists public, evaluations are rarely made public.
4. Incentives within donor agencies often promote expediency, relegating activities such as investigating consultant disclosures to a lower priority. Donors do not seem to have judged the benefits of these “lower priority” activities to be worth the cost.

5. Donors do not generally have the information-sharing capacity to identify consultants who deliver the same work to more than one donor.

**Recurrent Themes Among Donor
Representatives: Focus Group Participants
(Brasilia, Brazil, 2005)**

The following observations and insights into the issues involved in the process of international development advising were shared by donor focus group participants at the 2005 Global Forum on Combating Corruption held in Brasilia, Brazil:

1. Organizational incentives within donor agencies often promote expediency, relegating activities such as investigating consultant disclosures to a lower priority. It is worth applying the perspectives of cost-benefit analysis and risk analysis to try to answer this key question: Under what conditions does it make sense for donors to spend the necessary resources to investigate the disclosures that consultants have made?
2. As a practical matter, recipient country officials usually know whom they are hiring to provide consulting services. Lack of information is less likely than is collusion between the official and the consultant.
3. Assuring the accountability of donor *organizations* that recommend, hire, or fund consultants should come before assuring *consultant* accountability. But there should be less focus on donor accountability than on the often suspect behavior of recipient country officials.
4. Donors, recipients, and consultants must all be involved in reaching common ground in order to successfully deal with the problem of consultant accountability.

APPENDIX G

WORLD BANK GUIDELINES REGARDING CONFLICTS OF INTEREST: AN ANALYSIS AND TAXONOMY

Sections of the guidelines set forth by the World Bank that directly relate to conflicts of interest with respect to the consulting relationship are reproduced here, followed by an analysis of these sections and an implicit taxonomy of conflicts of interest derived from them.

World Bank *Guidelines (Section 1.9)*:

1.9 Bank policy requires that consultants provide professional, objective, and impartial advice and at all times hold the client's interests paramount, without any consideration for future work, and that in providing advice they avoid conflicts with other assignments and their own corporate interests. Consultants shall not be hired for any assignment that would be in conflict with their prior or current obligations to other clients, or that may place them in a position of being unable to carry out the assignment in the best interest of the Borrower. Without limitation on the generality of the forgoing, consultants shall not be hired under the circumstances set forth below:

(a) Conflict between consulting activities and procurement of goods, works or services (other than consulting services covered by these Guidelines): A firm that has been engaged by the Borrower to provide goods, works, or services (other than consulting services covered by these Guidelines) for a project, and each of its affiliates, shall be disqualified from providing consulting services related to those

goods, works or services. Conversely, a firm hired to provide consulting services for the preparation or implementation of a project, and each of its affiliates, shall be disqualified from subsequently providing goods, works or services (other than consulting services covered by these Guidelines) resulting from or directly related to the firm's consulting services for such preparation or implementation.

(b) Conflict among consulting assignments: Neither consultants (including their personnel and sub-consultants) nor any of their affiliates shall be hired for any assignment that, by its nature, may be in conflict with another assignment of the consultants. As an example, consultants hired to prepare engineering design for an infrastructure project shall not be engaged to prepare an independent environmental assessment for the same project, and consultants assisting a client in the privatization of public assets shall neither purchase, nor advise purchasers of, such assets. Similarly, consultants hired to prepare Terms of Reference (TOR) for an assignment shall not be hired for the assignment in question.

(c) Relationship with Borrower's staff: Consultants (including their personnel and sub-consultants) that have a business or family relationship with a member of the Borrower's staff (or of the project implementing agency's staff, or of a beneficiary of the loan) who are directly or indirectly involved in any part of: (i) the preparation of the TOR of the contract, (ii) the selection process for such contract, or (iii) supervision of such contract may not be awarded a contract, unless the conflict stemming from this relationship has been resolved in a manner acceptable to the Bank throughout the selection process and the execution of the contract.¹

Further, Important Provisions, paragraph 4.12 of the *Guidelines*, focus on conflict of interest:

4.12 Conflict of interest. The consultant shall not receive any remuneration in connection with the assignment except as provided in the contract. The consultant and its affiliates shall not engage in consulting or other activities that conflict with the interest of the client under the contract. The contract shall include provisions limiting future engagement of the consultant for other services resulting from or directly related to the firm's consulting services in accordance with the requirements of paragraphs 1.9 and 1.10 of the Guidelines.²

An Analysis and Taxonomy of Conflicts of Interest

The first category of conflict of interest, treated in appendix A (Section 1.9) of the World Bank *Guidelines* (reproduced here) might be

generally defined as those conflicts of interest in which the consultant's interest in obtaining subsequent work has the tendency to generate a conflict with the consultant's contractual obligation to provide services most applicable to the current assignment. We might abbreviate this as the "downstream conflict of interest." Individual consultants may have a substantial relationship with a consulting firm that would provide upstream or downstream goods, works, and/or services. For example, an individual may work both independently and as part of a large consulting firm, or that individual may be financially, socially, and/or politically invested in a consulting firm. While working as an independent consultant, this person may draft TOR that favor the firm with whom he or she is affiliated in some way. The introduction to section 1.9 would appear to cover this scenario in a general way, and the provisions for hiring individual consultants note that the conflict of interest should apply to the firm and not the individual. However, the situation in which the *firm* does not have a conflict of interest, or where the individual does not actually work for the firm, does not seem to be specifically treated by these policies.

The second category, outlined in Section 1.9 (b) of the Bank's *Guidelines*, is clearly defined as those conflicts of interest generated when a consultant agrees to implement two or more assignments that somehow conflict with one another. We might abbreviate this type as "conflicting assignments." One of the examples given, pertaining to privatization, may be particularly relevant: "consultants assisting a client in the privatization of public assets shall neither purchase, nor advise purchasers of, such assets." The example relates to a situation in which the consultant advises both the seller and the buyer (or becomes the buyer). However, it does not specifically address the situation in which the consultant's advice to the seller is intrinsically partisan as a result of some relationship—whether familial, social, financial, political, or otherwise, with a potential buyer. As earlier, this situation would seem to be covered in general language by the introduction to section 1.9. However, it would be helpful to learn more about the Bank's perspective on how extended networks of interests are relevant to conflicting assignment issues.

Regarding the Bank's presentation of these first two categories of problematic behavior, we can note that in both cases the sphere of involvement, or the network of interest, may be too narrowly defined. These paragraphs do not explicitly mention the existence or problematic nature of extended networks of influence and interest. As noted earlier, the introduction to section 1.9 includes some general language that may seem to allude to the existence of such problems. For example, it states that

consultants should not place their “corporate interests” before those of the client. However, such terminology may not include the kinds of interests that result from multiple affiliations and similar dynamics.

The third and final category, outlined in Section 1.9 (c), is clearly defined as those conflicts of interest that result from a previous relationship between the consultant and a member of the borrower’s staff. This might also include the situation in which the consultant is on secondment or leave from a government department in the borrower country. However, this paragraph does not explicitly define the types of problems being addressed. Given a focus on conflict of interest and the prevention of biased advice, the scenario of most relevance might be one in which the borrower and consultant collude in the provision of biased advice, and not those in which they collude in order to circumvent the selection process or the monitoring and evaluation mechanisms, for example. However, this scenario, in which the consultant and borrower official collude in the provision of biased advice, would not necessarily require the existence of a “relationship.” The two parties might simply share a desire for the government to implement a particular policy due to overlapping interests. However, it is not hard to imagine that a preexisting relationship may be the source of converging interests. One example might be a situation in which the consultant brings his borrower contact in on the deal. It is also possible that a foundation of trust would increase the ease with which the parties collude.

NOTES

Chapter 1

1. Leslie Wayne, "A Promise to Be Ethical in an Era of Immorality," *New York Times* (May 30, 2009), accessed on June 2, 2009, at <http://www.nytimes.com/2009/05/30/business/30oath.html>.

Chapter 2

1. Since then, the anticorruption agenda has increasingly become part of the mainstream: Every Country Assistance Strategy at the Bank must now include a plan for how it will account for issues of corruption and governance.
2. Paul Volcker, former chairman of the Federal Reserve, who was enlisted to head an investigation found that former Iraqi president Saddam Hussein sold oil to foreign nations in hopes of obtaining their support for lifting UN sanctions, while enriching himself with a \$1.8 billion kick-back scheme.
3. The publicity surrounding the work of Joseph E. Stiglitz, winner of the 2001 Nobel Prize in economics, has given high visibility to this issue. While serving as chief economist at the World Bank, Stiglitz became increasingly disillusioned with and critical of what he later referred to as the policies of "market fundamentalism" known as "The Washington Consensus." These policies were promulgated by the International Monetary Fund, the World Bank, and the U.S. Treasury. His controversial and hard-hitting book *Globalization and its Discontents* (New York, NY: W.W. Norton & Company, 2002), argues that these institutions often put the interests of the financial community ahead of developing nations.
4. Anil Chitrakar, "The Good, the Bad and Development Consultants," *Himal*, vol. 1, issue 1, July 1988, Kathmandu, p. 11.
5. Melvin J. Dubnick, "Seeking Salvation for Accountability," American Political Science Association, 2002, p.4. <http://pubpages.unh.edu/dubnick/papers/2002/salv2002.pdf>.
6. *Ibid.*, p. 3.

7. Ibid., p. 9.
8. Ibid., pp. 3, 7.
9. Ibid., p. 8.
10. Cris Shore, and Susan Wright and Martin A. Mills, "Audit Culture and Anthropology: Neo-liberalism in British Higher Education," *Journal of the Royal Anthropological Institute*, vol. 5, i4, December 1999, 557–575.
11. Ibid., pp. 558–561.
12. Ibid.
13. Ibid., p. 562.
14. Ibid.
15. Ibid.
16. Ibid.
17. Ibid.
18. Shore et al., "Audit Culture and Anthropology," p. 562.
19. Michael E. McIntyre, "Audit, Education, and Goodhart's Law Or, Taking Rigidity Seriously." <http://www.atm.damtp.cam.ac.uk/people/mem/papers/LHCE/dilnot-analysis.html>.
20. Ibid.
21. Shore et al., "Audit Culture and Anthropology," 557–575; Dubnick, "Seeking Salvation for Accountability."
22. Dubnick, "Seeking Salvation for Accountability," p. 16.
23. Ibid., pp. 16, 17.
24. Ibid., pp. 6–7; emphasis in the original.
25. Ibid., p. 2.
26. Ibid., pp. 16, 17.

Chapter 3

1. See Janine R. Wedel, *Shadow Elite: How the World's New Power Brokers Undermine Democracy, Government, and the Free Market* (New York, NY: Basic Books, 2009), chapters 1 and 2.
2. See *ibid.*, chapters 1 and 2.
3. Yves Dezalay and Bryant Garth, *The Internationalization of Palace Wars: Lawyers, Economists, and the Contest to Transform Latin American States* (Chicago, IL: University of Chicago Press, 2002), pp. 11, 10.
4. Moral hazard is virtually an inherent feature of principal-agent problems. For example, suppose a patient (principal) hires a medical doctor (agent) to decide what treatment would be most effective, given the patient's condition. Because the doctor's medical knowledge is so much more than the patient's, the latter is not in a position to judge whether the treatment recommended is actually best. The patient is thus at risk that the doctor will (immorally) recommend a treatment that is more lucrative for the doctor, even though it is not the best treatment available. Of course, one obvious risk mitigating strategy for the patient is to get a second opinion from another well-qualified, independent doctor.

5. Large multinational corporations have been playing just such games for years. For example, suppose one nation in which they have a subsidiary increases a tax on the profits of companies operating in their country. The multinational can lower the price at which its subsidiary in that country “sells” its output to another division of the same multinational located in a country without a profits tax. (This is called “transfer pricing.”) That will reduce the profits of the subsidiary in the country that raised taxes and increase the profits of the division operating where there is no tax. The result: the multinational completely avoids the tax increase without violating any country’s laws.
6. For this reason, one of our informants suggested that there should be something like a consultant advisory service: Consultants often form relationships with both donors and recipients, which may contribute to certain forms of conflict of interest. It would be helpful if consultants could get expert advice on how to deal with complicated ethical situations.

Chapter 4

1. For reasons of confidentiality the name of the firm is not being disclosed. Suffice it to say that the firm is a well-known international consulting company with operations in several countries.
2. This idea was introduced by workshop participant and Ford Foundation program officer Manuel “Butch” Montes.
3. This statement was one of several made to the U.S. Foreign Relations Committee, chaired by Senator Richard Lugar. The committee held a series of public hearings between May 2004 and April 2005, each focused on addressing corruption at the multilateral development banks.
4. J. Paul Martin, “The MDGs: How to Achieve Accountability?” *The Cooperation South Journal*, 2005. The United Nations Development Programme, <http://tcdc.undp.org/coopsouth/2005> (accessed on October 23, 2006).
5. James Owen Drife, honorary consultant and senior lecturer in obstetrics and gynecology, Leicester Royal Infirmary.
6. James Owen Drife, “Consultant Accountability,” *British Medical Journal*, vol. 294, Issue # 2947, 1987, pp. 789–790.
7. The information in this section was developed by Joseph Sany, member of the research team for this project.
8. All information related to the description of the model originates from www.ebay.com. For more details, visit the ebay website.
9. Peter Kennedy, “Are Consultants Accountable?” *British Medical Journal*, vol. 293, Issue #293, 1986, p. 1566.
10. Douglass C. North, *Institutions, Institutional Change and Economic Performance* (Cambridge, UK: Cambridge University Press, 1990), p. 43.
11. For more information on ISO, see <http://www.iso.org/iso/home.htm>.

12. This approach is similar to the approach taken by the private U.S. organization generally known as the Better Business Bureau.
13. Website can be found at: <http://www.gdln.org/WBSITE/EXTERNAL/GDLNCHILD/0,,menuPK:1409420~pagePK:64233373~piPK:64234192~theSitePK:841731,00.html>.

Chapter 5

1. A “white list” is essentially the opposite of a blacklist. It simply lists recommended individuals, rather than those who should be barred from future work.
2. Other members of the study team include Ronald L. Gainer and Cuyler H. Walker.
3. Richard Thornburgh, Ronald L. Gainier, and Cuyler H. Walker, *Report Concerning the Debarment Processes of the World Bank* (Washington, D.C.: World Bank, 2002).
4. *Ibid.*, p. 33.
5. Department of Institutional Integrity (INT) Website: <http://web.worldbank.org/WBSITE/EXTERNAL/EXTABOUTUS/ORGANIZATION/ORGUNITS/EXTDOI/0,,contentMDK:20542001~pagePK:64168427~piPK:64168435~theSitePK:588921,00.html>.
6. Department of Institutional Integrity (INT), *Annual Report on Investigations and Sanctions of Staff Misconduct and Fraud and Corruption in Bank-Financed Projects* (Washington, D.C.: World Bank, 2004).
7. *Ibid.*, p. 6
8. Government Accountability Project, *Challenging the Culture of Secrecy: A Status Report on Freedom of Speech at the World Bank* (Washington, D.C.: World Bank, July 2004), p. 9.
9. *Ibid.*, Executive Summary.
10. GAP website, <http://www.whistleblower.org>.
11. Department of Institutional Integrity, *Annual Report*.
12. Thornburgh et al., *Report Concerning the Debarment Processes of the World Bank*, p. 8.
13. Department of Institutional Integrity, *Annual Report*, p. 6.
14. Thornburgh et al., *Report Concerning the Debarment Processes of the World Bank*.
15. Department of Institutional Integrity, *Annual Report*.
16. *Ibid.*
17. *Ibid.*
18. Thornburgh et al., *Report Concerning the Debarment Processes of the World Bank*.
19. *Ibid.*, p. 31.
20. Department of Institutional Integrity, *Annual Report*, p. 13.

21. Thornburgh et al., *Report Concerning the Debarment Processes of the World Bank; Report Concerning Mechanisms to Address Problems of Fraud and Corruption* (Washington, D.C.: World Bank, 2000).
22. All World Bank sanctions are published on the Bank's website at <http://web.worldbank.org/external/default/main?theSitePK=84266&contentMDK=64069844&menuPK=116730&pagePK=64148989&piPK=64148984>.
23. Thornburgh et al., *Report Concerning the Debarment Processes of the World Bank*, p. 63.
24. *Ibid.*, p. 64.
25. *Ibid.*
26. *Ibid.*, pp. 69–70. In criminal investigations and prosecutions undertaken in national jurisdictions, the subject of providing some form of consideration in exchange for the cooperation of a participant in an offense has long been viewed as problematic. Nonetheless, the practice exists to some degree in virtually all jurisdictions. In some it is openly acknowledged; in others it is covert; and in still others it is denied to exist at all but is accomplished in practice through the exercise of discretion at a relatively low level. Even in jurisdictions where it is acknowledged and controlled by procedural safeguards, the practice still conveys the impression that it is a somewhat unseemly short-circuiting of the criminal justice process. The principal reason for the impression is that a cooperating wrongdoer is popularly believed to “deserve” the same punishment that is due to any other wrongdoer.
Thornburgh goes on to explain that such concerns are addressed in national criminal justice systems by “imposing controls on promises made by investigators and prosecutors,” that is, limiting the sweetness of any agreement made with the alleged or known wrongdoer. He notes one provision that would seem to be particularly applicable to the Bank's position. The provision entails “limiting an agreement to the provision of a binding assurance that all evidence obtained as a result of the information will be used only against others and not against the person providing the information.”
27. According to the Department of Institutional Integrity's website, this program encourages companies who have engaged in fraudulent or corrupt practices in relation to Bank-financed projects to disclose to the Bank the details of those practices in exchange for a reduction in the application of sanctions that would otherwise apply, such as debarment. A small pilot exercise has been carried out. Such an approach has the potential to generate significant additional information, not otherwise available to the Bank, at a relatively low cost. Such information is then used to strengthen the Bank's internal controls and to inform the identification of future Bank-financed projects. It also increases the probability of detection and sanction of other, noncompliant companies. A variety of voluntary disclosure programs are currently in use in the

- United States, the EU, several European countries, and Australia for different compliance purposes. See: <http://web.worldbank.org/WBSITE/EXTERNAL/EXTABOUTUS/ORGANIZATION/ORGUNITS/EXTDOII/0,,contentMDK:20542001~pagePK:64168427~piPK:64168435~theSitePK:588921,00.html>.
28. Jon Moran, Jeremy Pope, and Alan Doig, *Debarment as an Anti-corruption Means—A Review Report*. Report for the Utstein Group, September 2004.
 29. *Ibid.*

Chapter 6

1. One important technical reason was that the lower levels of capital stock in the developing countries raised the marginal productivity of capital there relative to the more developed countries. This implied a higher rate of return on capital investment in the developing countries, which according to prevailing microeconomic theory would naturally attract more investment to those countries, reducing the disparity in capital stock between the more developed and less developed nations. Another equally important reason was the possibility of relatively rapid technology transfer from the developed to the developing nations that would narrow the technology gap between them. This was a consequence of the developing countries being able to pick and choose among a wide variety of existing technologies already invented and produced in the more developed countries, rather than having to go through the arduous and time consuming process of inventing those technologies for themselves, as the more developed countries had had to do.

Appendix A

1. A good description of cultural theory's social solidarities can be found in Michael Thompson M., Ellis, R., and A. Wildavsky, *Cultural Theory* (Boulder: Westview Press, 1990); and M. Thompson, G. Grendstad, and P. Selle, *Cultural Theory as Political Science* (London: Routledge, 1999).
2. After Brazil, China, Mexico, Russian Federation, Argentina, Indonesia, Turkey, and the Republic of Korea.
3. Source: Global Development Finance, 2003, Country Tables, The World Bank.
4. Source: <http://www.finmin.nic.in> (GoI official website).
5. Source: Chapter 6 of Annual Report 2002–03 of Ministry of Finance and Company Affairs, GoI.

6. As of June 2003.
7. The United Kingdom, the United States, FRG, Japan, EC, and the Russian Federation.
8. The publicity surrounding the work of Joseph E. Stiglitz, winner of the 2001 Nobel Prize in economics, has given high visibility to this issue. While serving as chief economist at the World Bank, Stiglitz became increasingly disillusioned with and critical of what he later referred to as the policies of “market fundamentalism”, known as “The Washington Consensus”. These policies were promulgated by the International Monetary Fund, the World Bank, and the U.S. Treasury. His controversial and hard-hitting book *Globalization and Its Discontents* (New York, NY: W.W. Norton & Company, 2002) argues that these institutions often put the interests of the financial community ahead of developing nations.
9. This has been called “studying through,” as anthropologists Chris Shore and Susan Wright detail. Studying through entails tracing “policy connections between different organizational and everyday worlds even where actors in different sites do not know each other or share a moral universe” [Cris Shore and Susan Wright, eds., *Anthropology of Policy: Critical Perspectives on Governance and Power* (New York, NY: Routledge, 1997), Introduction].
10. Janine R. Wedel, *Collision and Collusion: The Strange Case of Western Aid to Eastern Europe* (New York, NY: Palgrave, 2001).
11. These also are among the conclusions of a 1995 international conference, co-organized by the author and cosponsored by the Woodrow Wilson International Center for Scholars and the Friedrich Ebert Stiftung, on “*Western Aid to Central and Eastern Europe: What We are Doing Right, What We are Doing Wrong, How We Can Do It Better.*” The conference brought together donors and recipients for informal discussion.
12. U.S. attorney, District of Massachusetts, “United States Sues Harvard and Others for False Claims Relating to USAID Programs in Russia,” Press Release, U.S. Department of Justice, September 26, 2000.
13. U.S. District Court, District of Massachusetts, “United States of America, Plaintiff v. The President and Fellows of Harvard College.” Andrei Shleifer, Jonathan Hay, Nancy Zimmerman, and Elizabeth Hebert, Defendants. Civil Action No. OOCV11977DPW, September 26, 2000, p. 30.
14. Paul W. Drake, ed., *Money Doctors, Foreign Debts, and Economic Reforms in Latin American from the 1890s to the Present* (Wilmington, DE: Scholarly Resources, 1994), p. xi.
15. Yves Dezalay and Bryant G. Garth, *The Internationalization of Palace Wars: Lawyers, Economists, and the Contest to Transform Latin American States* (Chicago, Illinois, University of Chicago Press, 2002), p. 10.

Appendix E

1. The World Bank, *Consulting Services Manual: A Comprehensive Guide to Selection of Consultants* (Washington, D.C.: The World Bank Group, 2006), p. 14.
2. The World Bank, *Guidelines: Selection and Employment of Consultants by World Bank Borrowers* (Washington, D.C.: The World Bank Group, 2004), p. 54.
3. *Consulting Services Manual*, p. 60.
4. *Ibid.*
5. *Ibid.*, p. 61.
6. *Ibid.*, p. 62.
7. *Ibid.*, p. 63.
8. *Ibid.*
9. Rates are posted on <http://www.devbusiness.com/telesubscribe.asp?action=subscribe>. There are several registries currently in operation, according to *UN Development Business (UNDB)*, published by the United Nations Department of Public Information and available by subscription. Since 1979, *UNDB* has been the only business publication providing a comprehensive source of information on opportunities to supply goods, works, and services for projects financed by the United Nations, governments, and the world's leading development banks (the World Bank, Inter-American Development Bank, African Development Bank Group, Asian Development Bank, Caribbean Development Bank, European Bank for Reconstruction and Development, and North American Development Bank).
10. See *Consulting Services Manual*, p. 110.
11. *Ibid.*
12. *Ibid.*, p. 111.
13. *Ibid.*, p. 110.
14. See sections 3.2.4, p. 10, and 20.3, p. 111, of the *Consulting Service Manual*.
15. See *Consulting Services Manual*, p. 36.
16. *Ibid.*, p. 18.
17. Douglas C. North, *Institutions, Institutional Change and Economic Performance* (New York: Cambridge University Press, 1990), p. 43.

Appendix F

1. Written personal statements, drawn from the work experience and research of working group members, were provided by Yves Dezalay (France), Bryant Garth (United States), Stephen Gelb (South Africa), Dipak Gyawali (Nepal, who also supplied a separate case study), Natalia Lakiza-Sachuk (Ukraine), Viktor Melnikov (Russia, who was ultimately

unable to attend), D.S. Mishra (India, who also provided a separate case study), Gonzalo Rivas (Chile), and Janine R. Wedel (United States).

Appendix G

1. *Guidelines: Selection and Employment of Consultants by World Bank Borrowers*. The World Bank Group, 2004, pp. 3–4. <http://siteresources.worldbank.org/INTPROCUREMENT/Resources/ConGuid-10-06-RevMay10-ev2.doc>.
2. *Ibid.*, p. 29.

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