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Multilateral Development Banks' Environmental Assessment and Information Policies: Impact of the Pelosi Amendment

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Summary

In 1989, the U.S. Congress passed legislation that included a provision known as the "Pelosi Amendment" after its sponsor, Congresswoman Nancy Pelosi. It requires U.S. Executive Directors at the World Bank and all the regional multilateral development banks (MDBs) to abstain or vote against any proposed action with significant environmental effects if it has not received an appropriate environmental assessment, or if the assessment has not been available to the Executive Directors and the public for 120 days before a vote. This report describes, reviews and evaluates the environmental assessment and information disclosure policies of the multilateral development banks that have been in effect in the period since the Pelosi Amendment went into effect in 1991, and actions taken by the U.S. Government to implement it.

Environmental assessment and information access procedures have been adopted and put into practice by all the major MDBs, due in large part, most observers agree, to the Pelosi Amendment. These are widely credited with increasing the attention paid to environmental concerns in projects, and with creating greater environmental awareness in the banks.

However, evaluations by the World Bank and commentary by U.S. Government and non-governmental organizations identify continuing problems in the actual use by MDB decisionmakers of information generated by environmental assessments, and in the adequacy of their content. In many cases, environmental assessments may be done on a "parallel track," not as an integral part of project design and decisionmaking, and they may overlook factors such as "downstream" impacts that are not directly connected with the viability of the project itself. There also have been problems--and benefits--with the way categories are used by the banks to differentiate among projects that need full environmental assessments, and those that need a reduced level of environmental analysis or do not have environmental impacts.

Examination of information availability reveals that while environmental information is much more available now than before the Pelosi Amendment, there are inconsistencies and gaps in how the banks implement their information policies and procedures. Public access to environmental assessment information may not occur in the early stages of project development, when key decisions are made.

Although the United States has invoked the Pelosi Amendment on both substantive grounds and because of failure to make information available on time, and voted "no" or abstained on numerous projects at the banks, these projects are virtually always approved by the full boards. However, these occasions have been reduced significantly over the past three years due to the banks' implementation of their environmental assessment and information policies and important informal interaction between the bank staff and U.S. officials.

Contents

Executive Summary	1
Environmental Assessment at the MDBs	1
Access to MDB Information	3
Executive Branch Implementation of the Pelosi Amendment	6
Introduction	9
I. Policies of the MDBs on Environmental Assessment	11
A. Environmental Procedures at the World Bank	11
Environmental Screening and Assessment Process	12
Choosing or Changing Environmental Categories	13
Clearance by Environmental Officials	14
Costs of Environmental Assessments	15
Effectiveness of the Bank's Environmental Assessment Process	16
Problems Found by the OED Report	16
Reorganization and Reformulation of Environmental Procedures	18
B. Environmental Procedures at the International Finance Corporation (IFC)	19
The IFC Requirement	19
The IFC's Environmental Screening and Assessment Process	20
C. Environmental Procedures at the Inter-American Development Bank (IDB)	21
The IDB Requirement	21
The Bank's Environmental Screening and Assessment Process	21
Categories	21
The EIA Process	22
Reorganization and Reformulation of Environmental Procedures	23
New Procedures	23
Continuing Concerns	24
D. Environmental Procedures at the Asian Development Bank (ADB)	24
The ADB Requirement	24
The Bank's Environmental Screening and Assessment Process	24
Effectiveness of the Bank's Environmental Assessment Process	25
E. Environmental Procedures at the African Development Bank (AFDB)	26
The AFDB/AFDF Requirement	26
The Bank's Environmental Screening and Assessment Process	27
Effectiveness of the Bank's Environmental Assessment Process	27
Reorganization and Reformulation of Environmental Procedures	28
F. Environmental Procedures at the European Bank For Reconstruction And Development (EBRD)	28
The EBRD Requirement	28
The Bank's Environmental Screening and Assessment Process	29
G. Evaluation of MDB Environmental Assessment Procedures	30
Environmental Operations of MDBs and Responses to the Pelosi Amendment	31
Impact on MDB Procedures	31
MDB Reviews of Their Own Performance	31
Critical Role of Task Managers	31

Inadequate Integration of Assessments into Project Design	32
Effect of Categorization on Assessment Procedures	32
Problems of Categorization and Miscategorization	32
Changes in Environmental Organization and Procedures	33
Project Oversight, Evaluation, and the Approval Process	34
Impact of U.S. Opposition on the Approval of MDB Loans	34
Effect of "Behind the Scenes" Negotiations	34
Concerns About the Adequacy of Environmental Analysis	34
EIAs as Benchmarks during Implementation	34
The Role and Impact of NGOs	35
A Key Role in the Evaluation Process	35
Environmental Assessments and Public Dialogue	35
II. Public Access to MDB Information	36
A. Introduction	36
B. General Characteristics of the Disclosure Process	36
C. Rationale for Public Disclosure	37
D. Who Uses the Banks' Public Information Centers?	39
E. Types of Information Available to the Public from the Banks	40
Description of Current Pipeline	40
Information on Proposed Projects	41
Public Sector Projects	41
Private Sector Projects	41
Environmental Studies: Public Sector Projects	42
Environmental Studies: World Bank and IDB	45
Environmental Studies: ADB	45
Environmental Studies: EBRD	46
Environmental Studies: AFDB	46
Environmental Studies: Private Sector Projects	46
Availability of Loan Documents	47
Other Information	48
The ADB Web Page	48
The EBRD Web Page	49
The IDB Web Page	49
The World Bank Web Page	49
The IFC, MIGA and GEF Web Pages	49
The AFDB	50
F. Information Not Available to the Public	50
G. Limitations of the Current Disclosure Procedures	51
Completeness of the Banks' Lists of Pending Projects	55
Availability of Environmental Information	58
Availability of Information: World Bank	58
Availability of Information: IDB	60
Availability of Information: IFC	61
Availability of Information: ADB	61
Availability of Information: EBRD	62
Information Included in PIDs	62
What Information Should be Included?	62
Information in PIDs World Bank	65
Information in PIDs: IFC	66
Information in PIDs: ADB	67
Information in PIDs: IDB	68

Information in PIDs: EBRD	69
H. MDB Information Access Procedures:	
Evaluation and Discussion	70
1. Failure of Documents To Meet Stated MDB Goals	70
Need for Additional Information	70
ADB and EBRD: Too Little Information on Pending Projects	70
Inadequacy of Environmental Information in PIDs	71
Out of Date Documents	71
Unavailability of Old Project Information	71
Need for Earlier Availability of PIDs	72
Need for More Information on Projects in Early Stages of Preparation	72
III. Executive Branch Implementation of the Pelosi Amendment	73
A. Basic Findings	73
B. Executive Branch Procedural Rules	73
Procedural Requirements of the Pelosi Amendment	73
The 1992 Temporary Rule	74
Public Comments on the 1992 Rule	75
C. Current Executive Branch Procedures for Implementing the Pelosi Amendment	77
Official Forums for Analyzing MDB Environmental Issues	77
The WGMA	77
The Staff Environmental Group	78
Other Avenues for Information	78
The Tuesday Group	78
The USAID Early Warning System	79
Internet	80
NGO-Government Cooperation	80
D. U.S. Votes in the MDBs on Environmentally Sensitive Loan Proposals	80
The Record and Rationale for U.S. Votes	80
A Non-Confrontational Initial Approach	85
More Recent U.S. Efforts to Strengthen the Process	86
EIAs Should Have an Impact on Project Design	86
EIAs Should Be Done for Planned Subprojects	86
EIAs Should Consider Alternatives and Consult the Public	86
E. Evaluation and Discussion	87
Changing MDB Procedures	87
Information about U.S. Votes	87
Compliance with the Law	88
The Pelosi Amendment and MDB Loans to Private Sector Borrowers	90
The Other MDBs and the Pelosi Amendment	90
Arguments Why the Amendment Does Not Apply	91
Problems with the Argument for Non-Application	92
Areas of Possible Agreement	93
Reclassification of MDB Loans	94
Circumscribed Scope of U.S. Review	95
Consultation with the Public	98

Appendix A. Description of the Environmental Categories Used by the MDBs	102
Appendix B. Text of the Pelosi Amendment	108
Appendix C. Text of Treasury's 1992 Temporary Rule	111

List of Tables

Table 1. Information Available to the Public from Each MDB	43
Table 2. Consistency of MDB Reports about Projects under Consideration ...	56
Table 3. Scope of MDB Project Information Documents	64
Table 4. Reasons for U.S. Opposition to MDB Loans on Environmental Grounds	82
Table 5. U.S. Opposition to MDB Loans Because of the Pelosi Amendment, 1992-1996	83

Note

This report was prepared at the request of Representatives Barney Frank and Congresswoman Nancy Pelosi. It was released on July 21, 1997 in a somewhat different format. The present document is the same material that was released in 1997, reformatted for release as a CRS report for general congressional use.

Since the report was originally released, two substantive changes has occurred. First, Congress mandated in the Foreign Operations Appropriations Act for fiscal 1998 (P.L. 105-118) that the International Finance Corporation (IFC) is to be considered a multilateral development bank as regards the requirements of the Pelosi Amendment. As noted on pp. 90-94, the Administration had argued that the Pelosi Amendment did not apply to the IFC. Second, the African Development Bank has proposed adoption of an access to information plan that the Treasury Department believes is comparable to those in effect at the other multilateral development banks.

Multilateral Development Banks' Environmental Assessment and Information Policies: Impact of the Pelosi Amendment

Executive Summary

Environmental Assessment at the MDBs

In 1989, the U.S. Congress passed legislation (Public Law 101-240; 22 U.S.C. 262m-7) that included a provision known as the "Pelosi Amendment" after its sponsor, Congresswoman Nancy Pelosi. It provides that beginning in 1991, the U.S. Executive Director (USED) at each multilateral development bank (MDB) is prohibited from voting in favor of any project that might have a significant negative effect on the human environment unless an environmental assessment (EA) or comprehensive environmental summary has been done and made available to the USED and the public at least 120 days before a vote on approval of the project.

The Pelosi Amendment has achieved a major portion of its intended effect--establishment of environmental assessment procedures in the major multilateral development banks--although MDB critics continue to express their concerns about the quality of assessments and the extent to which they are used in decisionmaking. The amendment has been a major factor, most observers of MDBs would generally agree, in the environmental progress of the MDBs in the 1990s. Environmental assessment (EA) procedures are in effect at all the major multilateral development banks, and are generally being carried out in accord with the MDBs' policies. As several observers agreed, "Without Pelosi, we wouldn't be where we are today" with respect to environmental assessment and public access to environmental information. A recent World Bank evaluation of its environmental assessment procedures reported that such assessment is now "standard practice in development planning."

Despite these improvements in EA procedures, critics and observers find cause for continuing concern regarding the adequacy and content of the MDB environmental assessments and analyses. They find cases in which there are major gaps in the analysis of impacts, overly rapid appraisal techniques for large projects that may overlook important elements, use of outdated material and poor data bases, and other problems.

The effective use of environmental information produced in the environmental assessments remains problematic. On the plus side, many observers find that the need for internalization of environmental concerns into project planning design is recognized by MDB staff, and the degree of emphasis on mitigation of environmental impacts has also generally improved. This increased focus on environmental issues is attributed to the Bank's EA policies, coupled with

information disclosure policies. However, there remain serious problems with optimal use of EA analyses: World Bank evaluations of its experience with EA procedures indicate that the EAs are frequently not available in time and/or are not used in project design and decision-making. Environmental assessments are often conducted in relative isolation from project preparation, and frequently have not been used appropriately--or at all--in project design.

The MDBs have responded over the past several years with similar approaches to environmental assessment. All the Banks have established categories for levels/degree of environmental impacts, requiring a full environmental assessment for projects with significant and serious environmental impacts. A second category includes projects with environmental impacts that must be analyzed but with flexibility for how extensive "appropriate" analysis must be. A third category covers projects with no environmental impacts, that do not require environmental analysis.

This process of screening and categorizing projects has produced some problematic results, especially in the early years of most MDBs' experience. According to some Bank staff, project supervisors/managers have tried (often successfully) to get their projects placed in the second category -- requiring less environmental analysis -- rather than in the first category. In most cases, roughly 10% (to an upper range of 20%) of projects of a bank have been placed in the first, (usually "A") category. Bank staff and others report that in recent years there seems to be less resistance to placing projects in the first category, and that fuller analysis is more often done even on projects in the second category. Nevertheless, appropriate scrutiny and treatment of second category, (usually "B") projects and information about them remains problematic. A recent World Bank evaluation highlighted this challenge. Partly in response to these concerns, the Inter-American Development Bank (IDB) recently abandoned the use of categories, a move which may raise questions of its own.

As discussed Chapters I and III of this report, most MDB and U.S. Government staff and non-governmental observers and critics generally have found the use of categories beneficial, in terms of flagging projects with major environmental concerns that bear close assessment and on-going scrutiny. However, it has also been the case that Bank staff, U.S. agency staff, and NGOs tend to concentrate their relatively scarce staff resources on the "A" projects, with relatively little routine or systematic scrutiny of "B" projects -- some of which may be nearly as significant as "A" projects. Moreover, it is unclear to many Bank staff whether the Pelosi Amendment applies to projects that are not in category "A" -- although U.S. Treasury is clear that it does. As a result, less attention is sometimes paid to deadlines and levels of environmental analysis and information availability in lower ranked projects.

As discussed in Chapter III, the U.S. Government has invoked the Pelosi Amendment and opposed (voted "no" or abstained) MDB loans less often in recent years than it did in the early 1990s. It has been invoked both on substantive grounds -- for example, when an adequate environmental assessment has not been done on a proposed project -- and when MDBs have not adhered to the 120-day deadline for information availability. However, projects opposed by the United States virtually always win approval of the Boards. Although additional interest and concern in

environmental problems is reportedly evident among some other countries' executive directors, this results mainly in the queries about projects before they come to a vote rather than opposition during the voting itself.

Notwithstanding the limited ability of the U.S. executive directors to impede projects that do not meet Pelosi Amendment requirements, the legislation can be said to have helped sensitize the MDBs to environmental issues and to have stimulated extensive examination of projects, inquiries during project preparation, expressions of concern, and negotiation between U.S. government agency staff and MDB staff. This activity has resulted in additional information and some changes in project operations before projects come to a vote. Thus the impacts of the Pelosi Amendment include sometimes extensive "behind the scenes" activity by U.S. government staff and undocumented, "informal" responses by MDB officials.

Non-governmental organizations (NGOs) play a key role in identifying problems in MDB projects, networking with NGOs in the field in the affected countries, and documenting problems, as well as directly negotiating with Bank managers on such problems. Such NGO activity and assistance significantly augments the activity of U.S. government staff in Treasury and other agencies. This is a relatively ad hoc process--often highly effective, but lacking in capability to systematically or rigorously review all MDB projects. The Pelosi Amendment appears to have significantly aided this process, first because environmental assessments provide critically useful information, and second because the information availability requirements have made the information far more accessible.

Many of the problems with MDB projects and loans reported or investigated by NGOs and U.S. government officials arise during implementation phase when the environmental mitigation and other measures spelled out in loan agreements are not being carried out satisfactorily. Though beyond the scope of the Pelosi Amendment, this problem with implementation is often discussed and documented in the World Bank evaluation reports. However, the environmental assessment process has been useful in documenting the need for mitigation, assuring that environmental measures are written into loan agreements or conditions, and providing the baseline documentation for ascertaining where there are failures in implementation of such measures.

Access to MDB Information

Much more information about MDB operations is available to the public today than was the case before the Pelosi Amendment was enacted. The World Bank, International Finance Corporation (IFC), Asian Development Bank (ADB), and Inter-American Development Bank (IDB) all have systems for informing their member countries and the public about projects they are considering. The information is generally made public through the banks' Public Information Centers (PICs). The European Bank for Reconstruction and Development (EBRD) implemented a new information disclosure system in late 1996. It is still incomplete. The African Development Bank (AFDB) has submitted to its Board a proposal for the establishment of an information disclosure policy similar to those used by the other multilateral banks.

Prior to identification and design of individual projects, the MDBs develop country strategies that set forth their proposed country programs over the short to medium term (typically three years.) The ADB makes these country operational strategies and country program notes available to the public after Board approval. This allows for public input into the ADB planning process, in many cases, before individual projects have entered the project pipeline. The EBRD makes summaries of its country strategies available to the public. The president of the AFDB has proposed that his Bank should also make its country strategy papers publicly available once they have been distributed to the AFDB executive board. The other MDBs do not disclose the content of their country strategies. At the World Bank, for example, the public has no way of knowing whether the suggestions or concerns of outsiders have been taken into account in Bank planning documents.

The MDBs do not disclose much information to the public on projects in the earliest stages of preparation. Generally, they release their project summary documents to the public after the project's overall scope and design have been determined and its likely environmental impact has been assessed. In recent years, the banks have directed their staff to solicit views from potential beneficiaries and other members of the public during the early phases of the project design process.¹ Reports differ as to the extent to which members of the public are involved in the project selection and project design processes at the banks. The burden of complying with these directives lies with the task manager for each project. There is no way of knowing whether task managers see such consultation as an opportunity or a burden and whether they comply fully with the requirement. Many NGOs complain that they are not consulted adequately or their input is not given sufficient weight in the project preparation process. Participation in the process seems to be at the invitation of bank staff. None of the banks appear to have procedures for soliciting input from the general public during the preparation process as regards the likely environmental impact, the environmental categorization, or the remedial measures needed for prospective projects.

¹The Asian Development Bank has an operational directive to staff titled Framework for Mainstreaming Participatory Development Processes into Bank Operations which encourages such staff consultation with members of the public. The IDB distributes through its web page a Resource Book on Participation, which is both a directive to staff and information for the public. (See: <http://www.iadb.org/ENGLISH/POLICIES/participate/index.html>.) See also: Normal Schwartz and Anne Deruyttere, Community Consultation, Sustainable Development and the Inter-American Development Bank, a Concept Paper. IDB March 26, 1996. No. IND-101. The AFDB has a similar directives to staff, Procedures, Mechanisms, and Guidelines for Cooperation between the African Development Bank and Non-Governmental Organizations in Africa and Policy Paper on the Promotion of Cooperation Between the African Development Bank and Non-Governmental Organizations in Africa, approved in 1990 and 1991. The World Bank provides through its web page a number of documents promoting consultation, including The World Bank Participation Sourcebook, World Bank Environmental Department paper no. 19, Environmental Management Series, 1996. The methods and case studies in the Sourcebook are what the Bank calls "good practices" that staff are supposed to emulate. The Bank has also issued Working with NGOs: A Toolkit for World Bank Field Offices, to help Bank country offices in this area. (See: <http://www.worldbank.org/html/hcovp/ngo/products/toolkit/a-c.html> and [.../d-f.html](http://www.worldbank.org/html/hcovp/ngo/products/toolkit/d-f.html).)

A great deal of information is available in MDB project or environmental reports, once these are released by the banks. These can be very useful to persons studying planned projects. The documents available in the MDB public disclosure systems are often outdated, however, or lacking important information, such as the name of the MDB task manager, the exact location of the project, the groups in the recipient country who might be affected by the projects, and the project's environmental classification.

As noted above, the MDBs categorize loans according to their anticipated effect on the environment. Category A projects are expected to have major, diverse, and irreversible effects on the environment. Category B projects are expected to have environmental effects that are potentially less significant and more subject to mitigation by known procedures. All but one of the MDBs have procedures in place providing the public with information on the likely impact of category A projects. The current AFDB system informs its executive board, but information is released to the public only if the borrower consents. The 120 day timetable is built explicitly into the process only in the ADB and EBRD. (It is also built into the proposed new AFDB policy for Category A projects.) Public disclosure occurs early enough in the World Bank and IDB review processes, however, for there to be some assurance that information on projects will be available to the public for at least 120 days before their executive boards consider prospective loans.

The MDBs provide much less information to their member countries and the public, however, about category B projects. The World Bank, for example, does not regularly provide environmental analyses of proposed category B projects in its project information documents, although its information disclosure policy states that it should. Likewise, its quarterly environmental data sheets for projects are neither as extensive nor as timely as the information disclosure policy says they should be. Most of the regional MDBs provide little environmental information on category B projects. The EBRD, however, provides a brief summary in its project information documents.

The banks decide in accordance with their policies and procedures how projects will be categorized and how much information will be made available. The U.S. Government has some alternative sources of information, though they lack the completeness and detail the MDB systems can provide. NGOs and U.S. agencies can identify particular projects they believe merit further study. Information about them can be sought from the MDBs. However, the breadth and thoroughness of the U.S. evaluation process for projects are affected by the limited amount of information the banks' routinely provide. The paucity of MDB information on category B projects seems in particular a constraint on the overall thoroughness of the U.S. evaluation process.

The MDBs assert that they have made a real commitment to openness and effective communication with the public. A great deal of information about the banks is available through their Public Information Centers. However, a close examination of the information provided by the centers shows that, in many cases, information promised in the banks' policy statements about public disclosure was not available. In other cases, when information was provided, it was sometimes outdated, incomplete, or lacking in detail. The issue seems to be one of performance

shortfalls, not policy or intent. The MDBs could improve the utility of their systems if they each appointed a person with the authority and responsibility to ensure that the requirements of their information disclosure policies are met and their existing databases are properly maintained.

Executive Branch Implementation of the Pelosi Amendment

The Administration adopted rules in 1992 establishing procedures for the implementation of the Pelosi Amendment. Despite initial concern by the Center for International Environmental Law and other environmental organizations that they would be used narrowly, the 1992 rules have not limited public access to MDB information or constrained participation by non-governmental organizations (NGOs) in the U.S. policy process. In fact, close collaboration between U.S. government agencies and private environmental organizations is a principal characteristic of that process. Without such collaboration and the foreign contacts and information it provides, the Treasury Department and other U.S. agencies would most likely be unable to effectively implement the Pelosi Amendment.

Between 1992 and 1996, the U.S. representatives at the MDBs cast more than 100 votes in opposition to MDB loans on Pelosi Amendment-related environmental grounds. Most of these votes were cast in 1992 and 1993. Since that time, the procedures in the MDBs have been adjusted in ways that meet the expectations of the U.S. legislation. The United States rarely opposes MDB loans now on grounds that their environmental analyses have not been publicly available for at least 120 days. In the few instances where it has opposed MDB loans on environmental grounds in recent years, the U.S. government is more likely to cite specific concerns about the project or substantive problems with the environmental impact analysis (EIA) as the reasons for its vote.

The Administration supplies Congress with a memorandum every three months informing it about U.S. votes and the reasons for U.S. opposition to some MDB loans. Congress does not normally publish this information. There is no comparable method for informing the public about U.S. votes in the multilateral banks apart from the information provided to Congress. The annual reports to Congress and the public, required by law, have not been filed for several years.

The Treasury Department and other U.S. agencies seem to be making a good faith effort to implement the Pelosi Amendment. In the main, they seem to have complied with its requirements. However, this study identified some areas of uncertainty and some areas where improvement might be possible.

The Pelosi Amendment says the U.S. representatives at the MDBs should oppose loans unless information on their environmental effects has been publicly available for 120 days. But it is not clear who counts the days and when "availability" begins. Treasury Department officials say they presume that environmental studies are publicly available the moment they are released locally by the prospective borrower. The time needed to distribute the information internationally and to make it available to people in distant areas who may be affected by the project is subsumed within those 120 days.

Treasury officials maintain that the Pelosi Amendment does not apply to the International Finance Corporation (IFC) and other MDB private sector loan operations. Key committees of Congress have indicated on several occasions their disagreement with Treasury's interpretation of the Pelosi Amendment in this area. In recent years, the IFC has released about half the EIAs for its projects with potentially the most serious environmental implications (category A) early enough to meet the requirements of the Pelosi Amendment. IFC rules stipulate, however, that this information needs to be released only 60 days prior to Board consideration.

The proportion of MDB projects receiving the highest (category A) environmental categorization is relatively small. Most are included in the next highest environmental category. To some extent, this may be due to the fact that the banks are now emphasizing activities such as institution-building which have fewer direct environmental effects. To a major extent, though, it may be due to a seeming tendency of the MDBs to avoid using the higher categorization when possible.

The Treasury Department and other U.S. agencies say they are not limited, in their scrutiny, by the environmental classification the banks give their projects. Nevertheless, relatively little information is available on the likely environmental impact of category B projects and that information is only generally available late in the review process. Treasury may raise questions about category B projects or ask the banks to upgrade their rating if it has environmental concerns. The banks will provide additional data to member country governments on request but they rarely upgrade their environmental classifications. Treasury's interest in these projects is often sparked by sources outside the government's MDB project information system. It is difficult to know how many potentially significant category B projects are not scrutinized by U.S. officials because unofficial sources do not identify them as meriting examination.

The Pelosi Amendment says that U.S. executive directors (USEDs) shall oppose any prospective "action" by an MDB which is likely to have a significant impact on the environment unless information is made available to the public beforehand. The rule the Administration adopted in 1992 to govern its implementation of the Pelosi Amendment specifies that U.S. agency staff shall examine MDB "projects" in this regard.

The meaning of the term "action" as regards MDB operations is not clear. Treasury officials say that MDB environmental strategy papers or policy guidelines are not covered by the Pelosi Amendment. A full environmental impact study for policy papers and operational directives may not be appropriate. On the other hand, it seems reasonable to expect that environmental issues should be considered in any far-reaching MDB policy paper. Moreover, it could be argued, on the basis of the Pelosi Amendment, that the public should be informed that the banks are considering such actions before they are approved by their executive boards.

Often, for MDB loans designed to fund a range of smaller projects, it is not feasible for the banks to identify the future recipients of subloans in advance.² In

²In effect, the MDBs are the wholesalers and local development agencies in the borrower (continued...)

1992 and 1993, the United States opposed, on the Pelosi Amendment grounds, several MDB loans which lacked sufficient procedures for scrutinizing the environmental effects of activities that would be ultimately funded by a loan but were not fully planned at the time the project went before the MDB executive board. The banks now require that borrower agencies have stringent procedures in effect to assess the likely environmental effect of such future activities. They do not also require, however, that borrowers have procedures for informing the public about the existence of these loan applications and their likely environmental effects. Treasury officials say that information on the potential environmental impact of subprojects is available to the public prior to their approval. However, field examinations did not show this to be the case. There is no evident reason why the environmental review aspect of the Pelosi Amendment should apply to subloans but the public access to information aspect should not. U.S. representatives at the MDBs have not opposed any loans on grounds that they lack procedures for informing the public about the potential environmental impact of the subloans they will finance.

Consultation with the public is a key element of the U.S. process for implementing the Pelosi Amendment. Non-governmental organizations play a valuable role helping the U.S. government identify and track projects for which there might be environmental concerns. Information from the banks is also very decisive in facilitating U.S. compliance with the requirements of this legislation. The U.S. government has few alternative sources of information, other than those provided by the public or by the banks, for assessing the likely environmental effects of prospective MDB projects. The Early Warning System maintained by the U.S. Agency for International Development (USAID) is the only independent system the U.S. Government has for obtaining and analyzing this sort of information. The Early Warning System has not been a major source of information. However, with the closure of many U.S. aid missions abroad, its capacity may be diminished in the future. In that case, the Administration will depend almost entirely on the multilateral banks and on members of the public for information about the environmental effects of prospective MDB operations.

[This report was prepared at the request of Representatives Barney Frank and Congresswoman Nancy Pelosi and was released in mid-1997 in a different format. It was reformatted in 1998 for release as a CRS report for general congressional use.]

²(...continued)

countries are the retailers of loans to the ultimate recipients. These loans are often too small or specialized for cost effective consideration by the MDBs. Frequently, the recipient of a microenterprise loan or a private sector development project or small town water and sewerage project would not have thought about applying until after the MDB loan to the development agency has been approved and the agency had persuaded them to seek such assistance.

Introduction

In the mid-1980's, possible negative impacts of the projects of the World Bank and other multilateral development banks (MDBs) emerged as a major concern among environmental organizations, the U.S. Congress, and the U.S. Government generally. A number of provisions promoting increased priority for environmental concerns were enacted into law by the U.S. Congress during the 1980s, and the World Bank and other MDBs responded with a series of reorganizations and policy directives. A central Environment Division was established in 1987, as part of a major reorganization of the World Bank, and has evolved over the years to a staff of 90, with environmental divisions in each of the regional operations. However, by 1989 there had still not been a systematic effort put into place by these institutions to carry out formal assessments of environmental impacts.

A concurrent concern that emerged with environmental issues was the issue of adequate availability of information on project design and environmental and social impacts of MDB loans and projects. Many of the environmental and social problems connected to MDB loan projects have been brought to the attention of policymakers by citizen organizations--often environmental non-governmental organizations (NGOs). However, these organizations usually found it extremely difficult or impossible to gain access to project plans and documents. Therefore, the accessibility of project planning documents is an issue closely related to environmental concerns, and was included in the Pelosi Amendment.

By 1989, efforts in the United States to call attention to environmental problems and lack of information access had been underway since hearings in 1983, with subsequent passage of provisions in both authorization and appropriations legislation to promote higher priority for these issues in the MDBs, and to make improvements a condition of future U.S. funding. Although the World Bank, and to a lesser extent the regional MDBs, responded with reorganizations and/or formulation of policy and operational directives on environment and information availability, there was still no systematic process of environmental assessment in place to assure that environmental impacts and consequences would be identified and, it was hoped, avoided or mitigated. It was also clear that without an effective policy on making information on such assessments available to affected people and the public (on "transparency", as this issue is termed), there would continue to be major questions and concerns about implementation of environmental priorities and policies.

In 1989, the U.S. Congress passed legislation (Public Law 101-240, 22 U.S.C. 262m-7) which included a provision known as the "Pelosi Amendment" after its sponsor, Congresswoman Nancy Pelosi. This amendment provides that beginning in 1991, the U.S. Executive Director (USED) of each multilateral development bank (MDB) is prohibited from voting in favor of any project or action with significant impacts on the environment unless an environmental assessment (EA) or comprehensive environmental summary has been done and made available to the executive director and the public for 120 days before the vote.

Following passage of this amendment, the U.S. Treasury Department actively engaged the MDBs to achieve its objectives. They responded in most cases by

undertaking extensive activity, and both environmental assessment and information disclosure policies have been adopted by nearly all of the MDBs since that time.

This report provides a summary of the environmental assessment and information disclosure policies in place in the World Bank, the International Finance Corporation (IFC), and the regional development banks.³ It analyzes the MDBs' implementation of environmental assessment and information policies, using available documentation and evaluations from the MDBs and by other organizations, as well as interviews of experts inside and outside these institutions. It also reviews the procedures the Department of the Treasury and other U.S. agencies have used to implement the Pelosi Amendment.

The appendices provide a brief description of each MDB's system for categorizing prospective projects in terms of their likely impact on the environment. They also include the text of the Pelosi Amendment and the text of the rule the Treasury Department adopted in 1992 to guide its implementation of that Amendment.

³The Inter-American Development Bank (IDB), the Asian Development Bank (ADB), the African Development Bank (AFDB), and the European Bank for Reconstruction and Development (EBRD).

I. Policies of the MDBs on Environmental Assessment*

In the period since the Pelosi Amendment was passed, the World Bank and the other MDBs have instituted policies on environmental assessment. This chapter describes and discusses these policies and their implementation for each major multilateral development bank, and reviews available evaluations of their experiences. It seems clear that all of the banks have integrated consideration of environmental impacts of their activities into their procedures, and there is extensive consensus that the Pelosi amendment stimulated and/or hastened this process. However, it is less clear that the environmental assessment procedures have had optimal influence on decisionmaking in these institutions.

The World Bank has conducted extensive evaluations of its experience with environmental assessment, concluding both that a great deal of progress has been made, and that there remain problems with implementation of the policies and with the degree to which they are used by decisionmakers. The other MDBs have not conducted such assessments of their experiences, and in some cases, they have had these policies in effect for a shorter time. However, many of the government officials and non-governmental organizations involved in evaluating MDB environmental performance express the view that similar problems and concerns seem to be shared by the MDBs on many of the issues discussed here.

A. Environmental Procedures at the World Bank

In 1989, the World Bank adopted Operational Directive 4.00, requiring that all projects under consideration for Bank loans must be screened for potential environmental and social impacts. In 1991, this directive was updated with Operational Directive (OD) 4.01. This provided specific procedures to be used in environmental screening and assessment. This is the directive that has been in effect during the period in which the Pelosi amendment has been operative. The 1991 Operational Directive says that:

EA is a flexible procedure, which should vary in breadth, depth, and type of analysis depending on the project...EA is carried out during project preparation, before appraisal, and is closely linked to the feasibility study. For the purpose of this directive, EA covers project specific and other environmental impacts in the area of influence of a project.¹

In its section discussing the "Purpose and Nature of EA," the 1991 Operational Directive indicates that:

The purpose of EA is to improve decision making and to ensure that the project options under consideration are environmentally sound and sustainable. All environmental consequences should be recognized early in the project cycle and

*Prepared by Susan R. Fletcher, Senior Analyst in International Environmental Policy, Environment and Natural Resources Policy Division.

¹The World Bank Operational Manual, Environmental Assessment. Operational Directive 4.01. October 1991, p. 1.

taken into account in project selection, site selection, planning and design. EAs identify ways of improving projects environmentally, by preventing, minimizing, mitigating, or compensating for adverse impacts. These steps help avoid costly remedial measures after the fact.²

To assist Bank staff, and all environmental assessment practitioners, the Bank put together in 1991 a three-volume *Environmental Assessment Sourcebook* with extensive discussion and detailed guidelines for all aspects of environmental assessment operations in the Bank (hereafter referred to as the *Sourcebook*).³ According to this Sourcebook, "Environmental review is required for all Bank loans and credits except sectoral adjustment loans and structural adjustment loans." It noted that sector investment projects and the investment component of hybrid loans and credits are, however, subject to environmental review requirements. The *Sourcebook* has been amended periodically with updates. Through June 1996, 15 of these have been issued.

The 1991 Operational Directive and *Sourcebook* updates provided for several categories into which loan proposals are placed. Category A projects have major environmental impacts and require a full environmental assessment. Category B projects have less significant impacts that can be remedied with known techniques and require "environmental analysis" that is less extensive than a full environmental assessment. Category C projects are regarded as not having environmental impacts, thus do not require environmental analysis. Appendix A provides a description and some discussion of the categories used by each of the banks.

The Bank's operational directive and the procedures it lays out have become somewhat of a model for comprehensive environmental assessment procedures followed by other MDBs and development assistance organizations.

Environmental Screening and Assessment Process. Organizationally, the World Bank has established several focal points for environmental responsibilities. A Vice President for Environmentally Sustainable Development was established in 1993, under whom a central Environment Department staffed by approximately 90 professionals operates. Within each regional vice presidency, there is a Regional Environment Division (RED), with staff that has first-line responsibility for assisting task managers with environmental screening, and for later approving and signing off on environmental analysis and assessment reports. They participate in the scoping, monitoring, and supervision on environment in projects in that region. The staffing level varies considerably among regions, from about 8 to 9 in the smallest division to up to 40 in very large divisions, such as Asia.

The environmental screening/review process begins at the time of project identification, and is the responsibility of Bank task managers, with the advice and

²Ibid.

³Environmental Assessment Sourcebook, Volume I: Policies, Procedures, and Cross-Sectoral Issues, World Bank Technical Paper Number 139, 227 pages; Volume II: Sectoral Guidelines, World Bank Technical Paper Number 140, 282 pages; Volume III: Guidelines for Environmental Assessment of Energy and Industry Projects, World Bank Technical Paper Number 154 (237 pages). World Bank, Washington, D.C. 1991.

assistance of the Regional Environment Division. The categorization finding is included in the Initial Executive Project Summary (IEPS), and is reviewed with the borrowing country. The screening results are also supposed to be included in the Bank's published *Monthly Operational Summary* (MOS), and the information recorded on an Environmental Data Sheet. (See discussion in Chapter II).

It is the responsibility of the borrowing country to finance and carry out the environmental assessment or analysis, often after consultation with World Bank Task Managers (TMs). Consultants specializing in such analysis are often used. The task manager also approves the terms of reference to be followed for category A assessments by the borrowing country. Bank procedures require that the Bank must receive the final EA report from the borrower prior to appraisal, and it should be available before the Staff Appraisal Report (SAR).

The *Sourcebook* states:

The TM should agree with the borrower on which drafts, if any, the Bank wishes to see, and when. At a minimum, however, the TM should review a final draft, with RED assistance, in order to ascertain that the issues of importance to the Bank have been addressed, to obtain any clarification needed, and to provide other comments to the borrower in the interest of having information on all the critical environmental issues ready before appraisal.⁴

The World Bank *Sourcebook* notes that, in practice, some final EAs may be available only shortly before appraisal. Therefore, it says preliminary review at interim stages is desirable, for example when significant environmental issues have been identified and mitigating measures described. The *Sourcebook* states, "In general, most major concerns become known within the first few months; the remainder of the EA period focuses on mitigating measures."

This statement appears to acknowledge that mitigation is often the main focus of an assessment. Yet it is the analysis of alternatives--which the World Bank's own evaluations identify as a weak point in the EA process--that often provides for a possible influence on changes in project design or location. If EAs focus almost entirely on mitigation of the chosen approach, serious effort to consider any alternatives in the EA as realistic options is less likely. On the other hand, some informal and undocumented consideration of alternatives is likely to have occurred prior to and during the environmental screening process. It is this informal process that should, according to Bank procedures, be done and documented in a systematic way.

Choosing or Changing Environmental Categories. Changing categories into which a project has been placed during the screening process has been problematic in the view of U.S. government officials and NGO bank watchers, who attempt to negotiate such changes when they see projects that are not getting what they consider to be an adequate level of scrutiny. The 1993 *Sourcebook* Update on environmental screening notes the option to reclassify a project from B to A if new information

⁴Op.cit., supra note 5, p. 8.

reveals that it may have more significant environmental impacts than originally thought, or from A to B if a component with significant effects is deleted.⁵

This Update acknowledges the tendency to opt for lower categories, and implicitly, the difficulty in changing to a higher category:

While the option to reclassify projects relieves some of the pressure on the TM to make the initial decision the correct and final one, it may also result in a tendency to assign a borderline project to Category B in the hope that nothing more serious will emerge from the environmental analysis. However, the reclassification of a proposed project is not free of cost. For example, if a Category B project is later changed to Category A, additional resources will be required for environmental studies, public consultation, and report preparation. The schedule for project preparation will almost certainly be affected.⁶

Reading between the lines, there appears to be a strong presumption here against reclassification, and this has been reflected in the difficulty that has been experienced by Treasury and U.S. AID staff who approach Bank staff--usually unsuccessfully--to try to get projects upgraded from B to A, in order to be able to obtain sufficient environmental assessment.

Clearance by Environmental Officials. The *Sourcebook* states that the final EA report must be submitted to the Bank for detailed examination before Bank staff may begin the project appraisal process. World Bank procedures require formal environmental clearance for the project. This is to be issued by the Regional Environment Division, based on information in the Staff Appraisal Report (SAR). The SAR is to contain summaries of the EA and its main findings, and the EA itself. The *Sourcebook* states, "[This] Clearance is a necessary prerequisite to the Regional Vice President's authorization to begin negotiations. In the negotiations themselves, the issues and actions critical to environmental soundness and sustainability in the project are discussed, and appropriate covenants are incorporated into loan or credit documents."⁷

According to a 1996 World Bank report evaluating the Bank's EA experience, "The EA process is not intended to determine whether a project should proceed; rather, it defines the conditions under which projects may proceed."⁸

As discussed in Chapter II, the World Bank and some regional MDBs do not require explicitly that an environmental analysis or summary be publicly available

⁵*World Bank, Environmental Assessment Sourcebook Update: Environmental Screening*. April, 1993, Number 2. Environment Department, the World Bank, Washington, D.C. 4 pages.

⁶*Ibid.*, p. 1.

⁷*Op. Cit.*, supra note 5, p. 10.

⁸World Bank. Operations Evaluation Department. *Effectiveness of Environmental Assessments and National Environmental Action Plans: A Process Study*. Report No. 15835. World Bank, Washington, D.C. June 28, 1996. p. 20.

for a specific number of days (for example, the 120 days stipulated in the Pelosi Amendment) before projects can be submitted to the Executive Directors for action. However, the banks argue that the policy of having the environmental assessment or summary available before the staff appraisal report will, *in effect*, result in having this information available at least 120 days or more before submission to the Board. As discussed in Chapter II, Treasury Department staff report that in negotiations with the MDBs regarding U.S. requirements for 120-day advance availability, the United States agreed that this policy would be adequate, with the understanding that this 120-day period is critical to the U.S. executive directors.

Costs of Environmental Assessments. The expense of conducting EAs has been a source of complaints by borrowing countries. Most cost between \$60,000 and \$200,000 and take more than a year to complete. Those for very large projects may cost significantly more. In most cases, consultants are hired by borrowing countries to do the environmental assessment or analysis.

The cost of these studies may have an impact on the kind of projects undertaken, or their design, especially in poorer developing countries. The issue of cost raises some problems, discussed in the World Bank evaluation reports. The 1996 report of the Environment Department (ENV), for example, notes that in the Africa region, most EAs cost less than \$100,000. It suggests one reason is that large construction activities are less emphasized in Africa than in other regions, but the report also notes that funding constraints may play a role:

Another reason might be that funding for EA work is less readily available [in African countries]. Relatively few countries have EA requirements of their own (which would trigger financing through internal budgetary processes), and many are reluctant to finance EA work from internal or borrowed funds. External grant financing is sometimes a solution, but is often limited to smaller amounts. Thus EAs may be somewhat scaled down, and/or Bank environmental specialists may take on a larger role in the EA preparation process (which brings the cost down for the country).⁹

Some funding is available from World Bank Trust Funds set up for project preparation, or from bilateral aid to assist countries with EAs. However, use of a proposed project's prospective loan funds during preparatory stages--prior to loan approval--is usually not an option. Countries with budgetary problems face difficulties in funding all phases of preparation for a project that has not been approved for a loan, including environmental assessment.

Effectiveness of the Bank's Environmental Assessment Process. The World Bank has conducted several evaluations of its environmental procedures, two of them very recently. The World Bank Operational Evaluation Department (OED) completed in June 1996 a report, "Effectiveness of Environmental Assessments and National Environmental Action Plans: A Process Study," (hereafter referred to as the

⁹World Bank. Land, Water, and Natural Habitats Division, Environment Department. The Impact of Environmental Assessment: The World Bank's Experience. Second Environmental Assessment Review. World Bank, Washington, D.C., November 1996, p. 15.

OED report) which reviewed the Bank's experience with environmental screening and assessment.¹⁰ It evaluates the experience of the World Bank and compares its policies to other MDBs. It found in general that although environmental assessment policies have been carried out in accord with Bank procedures, the underlying purpose or objective -- influencing project design to reflect and avoid environmental concerns -- often has not been realized.

In November 1996, the Environment Division completed its Second Environmental Assessment Review, providing another frank evaluation of the World Bank's experience with the EA process (hereafter referred to as the ENV report for the acronym used for the Environment Division).¹¹ Among other things, this report found progress in impact identification, assessment, and mitigation planning. It found continuing weaknesses in public participation and analysis of alternatives, and identified the treatment of Category B projects as a special challenge, to be a major focus in the next evaluation. The ENV report stated:

Examining development projects for the impact they are likely to have on the environment is now standard practice in development planning. Environmental Assessment (EA) and similar methodologies are required by most multilateral and bilateral development agencies and a growing number of developing countries.¹²

Both reports found a great deal of progress in environmental assessment procedures. There are many areas where the experience of the past six years has led to improvements and remedies to previous problems that had led to frequent invocation of the Pelosi requirements by the U.S. directors in 1992-1993. Both reports present evidence of these improvements in environmental assessments and analyses. However, in addition to such progress, they also found a number of continuing significant problems, discussed below.

Problems Found by the OED Report. The OED report found that since 1989, more than a thousand projects have been through the screening process. Some 10% were rated Category A, 41% been placed in Category B, and 49% were in Category C. The report indicates that in subsequent reviews conducted by the World Bank of its own EA activities, it was the fulfillment of the above-quoted "purpose and nature" of the process--improving integration of environmental considerations into project design and decision-making--that appeared most problematic. While environmental screening and the conduct of both environmental assessments and analyses largely followed the procedures set forth, the Bank study found that the assessments were

¹⁰World Bank, Operations Evaluation Department. *Effectiveness of Environmental Assessments and National Environmental Action Plans: A Process Study*. Report No. 15835. [OED report] World Bank, Washington, D.C. June 28, 1996. 158 pages.

¹¹World Bank. Land, Water, and Natural Habitats Division, Environment Department. *The Impact of Environmental Assessment: The World Bank's Experience*. Second Environmental Assessment Review. [ENV report] World Bank, Washington, D.C. November 1996. 146 pages.

¹²*Ibid.*, p. xiii.

often conducted separately from the project preparation, and did not generally have a significant influence in the project design.

The OED report stated: "The study found that in 17% of the projects (nine of the 53 projects [evaluated]: two category A and seven category B projects) design had been modified to some degree because of EA findings."¹³ Moreover, the OED reported that the Bank's Second EA Review found that supervision in the implementation phase of projects in Category A "...is generally insufficient to determine environmental performance, and may limit the Bank's ability to detect or address environment-related problems during implementation in a timely fashion."¹⁴

In a summary of its findings, the Bank's OED report states that:

The EA directives, some of the most comprehensive in the world, have been followed by and large, thus ensuring that environmental considerations are reflected in Bank project documents, and that the mitigation of environmental impacts is a prerequisite for project approval. Still, the impact of this process on project design and implementation may well be below its potential. Because most EAs strive for comprehensiveness rather than focus on major risk factors, massive volumes are generated that increase cost and are of limited use. Analysis of project alternatives in many EAs, when done at all, is weak. EAs are often prepared when the project design is already well developed and the implementation of the agreed action plan is often not well supervised. There is no adequate reporting procedure and public participation and information disclosure, while improving, remain weak. Borrower capacity is often severely strained because EA procedures overwhelm recently established, understaffed environmental institutions as further developed in Chapter Four. Finally, sector and area specific EAs, which can improve quality and save time, are infrequent.¹⁵

Summarizing the views of Bank staff and borrowers, the OED report showed that 76% and 81% respectively "complain that by the time the results [of the EA or analysis] are ready, it is too late to use them." The OED notes "Because it often takes more than one year to conduct an EA, project design evolves more quickly and often fails to take the environment into account, especially if the task manager believes that EA is just a pro forma ritual and fails to monitor the process closely."¹⁶

The environmental screening process, in which categories are assigned, presents several problems. The ENV report notes that the Bank has improved its consistency in classifications, and that the problematic disagreements between operational and environmental staff, which were evident in the early 1990's, are "rare." The report indicates that the screening process results in identification of environmentally sensitive components, which are sometimes altered or dropped. However, it also

¹³Op.cit., supra note 12 (OED report), p. 24.

¹⁴Ibid., p. 15.

¹⁵Ibid., (OED report), p. 19.

¹⁶Ibid., (OED report), p. 26

notes that "Nevertheless, the need to decide on a particular classification sometimes draws attention away from the actual environmental issues and impacts associated with a proposed project."¹⁷

It goes on to identify problematic practices that have been used during screening in the past, and which it recommends be avoided. "This Review stresses that project environmental classification should be based primarily on information obtained in the field, and less on checklists, past precedents with similar projects, or external pressures."¹⁸

In discussing the influence of EA on project design, the ENV report notes the possible negative role of high EA costs: "Another problem is that borrowers are frequently interested in cutting costs, which may lead to the utilization of consultants who do not have sufficient expertise to take an active part in the project design process."¹⁹ The ENV report notes a finding also made by the OED review, "Many EAs are still not an integral part of project preparation. Rather, they tend to be relatively independent assessments, usually carried out by consultants that may be detached from the broader preparation process."²⁰

The Pelosi Amendment has been invoked only rarely in the last two years by U.S. Executive Directors. But challenging situations continue to occur. As recently as May 1996, the United States voted "no" on a transport sector project in Cameroon because there was no environmental analysis before appraisal.

Reorganization and Reformulation of Environmental Procedures. The World Bank is currently reformulating most of its policy and operational directives, with the expressed goal of streamlining them and reducing what some regarded as an unmanageable proliferation of detailed requirements for each project. Concerns have been raised in the case of some of these reformulations that previously mandatory practices have become "best practice" guidelines that are discretionary and no longer mandatory. However, according to Bank officials, these reformulations are not intended to change policy, only to streamline it and make it easier to apply.

Early drafts of the environmental assessment operational directive seemed to narrow the types of projects in various categories, and introduce other vehicles such as environmental audits perhaps as alternatives to EA or environmental analysis. It is not clear when a final draft will be completed and submitted to the Board for approval.

The Bank is also undergoing substantial reorganization, a process sometimes cited by Bank staff as holding up some implementation of improvements recommended in the environmental assessment evaluations. One change in the World Bank is to establish "networks" that will link staff throughout the Bank, with

¹⁷Op. Cit., supra note 13 [ENV report] p. xv.

¹⁸Ibid.

¹⁹Ibid., p. 52.

²⁰Ibid., p. 51-52.

a goal of more effective coordination and mobilization of appropriate expertise. To date, details and how these changes may affect the environmental assessment process are unclear, but some critics have expressed concern that the reorganization will consolidate decisionmaking in country directors and task managers to a greater extent, and reduce the opportunities for technical staff such as environmental experts to exert leverage and obtain necessary analysis and consideration of environmental issues/concerns.

B. Environmental Procedures at the International Finance Corporation (IFC)

The IFC Requirement. In September 1993 the IFC issued its guidance document on environmental analysis entitled "Environmental Analysis and Review of International Finance Corporation Projects. It noted that this document and the World Bank's Operational Directive 4.01, summarized above and in Appendix A, are "similar in many respects and have identical goals--to ensure that projects are carried out in an environmentally responsible manner and meet high environmental standards." It also notes that the IFC's and World Bank's procedures differ in some details, "due to differences between IFC and the World Bank in mission, organization, project cycle, and clientele (private sector versus national governments)."

One difference cited is that the World Bank OD 4.01 requires that an EA be completed prior to departure of the appraisal mission, whereas the IFC has no such requirement. According to the IFC, this is feasible for the World Bank because it becomes involved in projects at the concept stage with a relatively long lead time prior to appraisal. The IFC argues, by contrast,

Project sponsors normally approach IFC much later in the project cycle, often after feasibility studies, site selection, and preliminary design work are completed. Many projects sponsors have already completed some level of environmental analysis prior to contacting IFC. However, some project sponsors do not do any environmental analysis until required by IFC. Since IFC's project cycle is short--three to six months for appraisal and management approval--in such cases it may be necessary for the sponsor to do the environmental analysis concurrently with the appraisal and other aspects of the project. While IFC recognizes that environmental analysis should be integrated into the feasibility study and encourages potential project sponsors to do so prior to approaching IFC for financing, IFC's procedure is designed to allow the flexibility to accommodate projects which are brought to IFC in various stages of development.²¹

However, the basic IFC policy is that all operations "must comply with appropriate World Bank environmental policies and guidelines." In potential contradiction of the statement on how IFC differs from the World Bank in length of project cycle, the procedure includes as part of its purpose to ensure

²¹International Finance Corporation. Environmental Analysis and Review of Projects. September 1993. Washington, D.C. p. 1

"...Environmental issues are addressed early enough in the project cycle to consider all relevant alternatives, mitigation measures and efficiency improvements."²² In accord with this policy, it would seem possible for the IFC to institute a requirement that project sponsors complete EAs prior to appraisal, accepting some delays as a necessary cost of ensuring environmental soundness.

The IFC's Environmental Screening and Assessment Process. The IFC procedure notes that environmental analysis is part of project preparation, thus is the responsibility of the project sponsor. The document indicates the preferability of use of independent consultants to do this work.

The IFC uses the same categories A, B, and C as the World Bank. It adds a category "FI" for financial intermediary, spelling out a procedure in line with World Bank policy on how to deal with environmental impacts of subprojects when the loan is to a financial institution that may be a lending agent for projects that are not known or defined at the time of the IFC loan to the FI. The procedure states for this category: "Projects may include financing for a variety of subprojects that may result in environmental impacts. Verification that the financial intermediary is capable of and committed to conducting environmental review of subprojects is required."²³

IFC procedures provide for an Environment Information Memorandum (EIM) to be prepared as part of the Initial Project Review (IPR) that follows a decision to put a project in IFC's "pipeline." In this document the project category, rationale for categorization and environmental issues are outlined. On the basis of this IPR, the IFC's Investment Review Committee determines whether or not to proceed with appraisal.

At this point, the project is entered into the IFC's Monthly Operational Report, which is reportedly available to the Board of Directors but not to the public. This provides notice that a project is under consideration. In the next stage, appraisal, a team collects more information, including environmental data for Categories A, B, and FI projects. According to the procedures, the team usually consists of an investment officer, a technical specialist, an economist, an environmental specialist, and a lawyer, plus other support as needed.

In the case of Category A projects with full EA documentation, according to the IFC document, the EA is to be released to the public--with sponsor's consent, and without IFC's endorsement--at least 60 days before a proposed date for Board consideration and vote. The application of the Pelosi Amendment to the IFC has been a matter of some dispute among NGO's, the U.S. Government and the IFC--this dispute is discussed below in Chapter III.

²²Ibid., p. 7.

²³Ibid., p. 13.

C. Environmental Procedures at the Inter-American Development Bank (IDB)

The IDB Requirement. The Inter-American Development Bank adopted its "Procedures for Classifying and Evaluating Environmental Impacts of Bank Operations"²⁴ in February, 1990. They covered "all operations of the Bank, including (a) Specific and global loans, (b) Sector loans, (c) Technical cooperation loans."

The procedures declared that their general objective was ensuring "that all Bank operations include the investments and other actions necessary to prevent, control and mitigate negative environmental impacts and improve environmental quality." Determining the type and magnitude of potential environmental problems is necessary in the initial (identification) stage of the project cycle. The IDB's Environmental Management Committee (CMA in its Spanish acronym) approves the project's proposed environmental classification.

The CMA is the key institutional unit dealing with environmental issues. The CMA membership includes heads of the Environment Divisions within each of the three Regional Operations Departments, and designated Division Chiefs from the Strategic Planning Department, the Legal Department and the External Relations Department, and Chiefs of the Environment, Indigenous Peoples, and Women in Development Units in the Sustainable Development Department (SDS). The Committee meets weekly to review projects, usually some 5 to 6 per week. Over the course of a year, the IDB initiates some 50 to 60 projects, plus some 100 to 150 technical assistance projects (which rarely require environmental analysis).

The Bank's Environmental Screening and Assessment Process.

Categories. The IDB established four categories into which projects were placed, reflecting the degree of impact on the environment, and consequent level of environmental assessment or analysis. Category IV in the IDB is similar to the World Bank's Category A (requiring a full environmental assessment), and III is similar to the World Bank's Category B. (See Appendix A for a description of requirements for these categories.) The IDB eliminated this system of categorization in early 1997; it is described here because it is the system in use during most of the period reviewed by this report.

The terms of reference for Environmental Impact Assessments (EIAs),²⁵ where needed, were defined by the IDB to be "...analyses in different forms and levels (overview, survey, semi-detailed, or detailed) of impacts of development activities on the environment, on renewable natural resources, on natural habitat, on human

²⁴Inter-American Development Bank, Environmental Management Committee. Procedures for Classifying and Evaluating Environmental Impacts of Bank Operations. Washington, D.C., February 1990. 5 pp.

²⁵For the purposes of this report, the terms "Environmental Assessment" (EA) and "Environmental Impact Assessment" (EIA) are interchangeable.

settlements, the economy and society." Such EIAs should, the IDB indicates, include direct and indirect impacts and propose solutions for problems identified--which should be analyzed in the feasibility study and in final project designs.

The third and fourth steps would be review of the EIA by Bank staff and fourth, approval by the CMA of the measures to be taken to avoid or minimize environmental consequences during implementation stages.

The EIA Process. Following an initial scoping process, the IDB team/task management staff prepare an Environmental Brief, giving the classification (the category of the project for purposes of environmental assessment/analysis) and identifying potential environmental impacts and the elements that will be important in subsequent environmental analysis. The CMA must approve the classification, and then the Environmental Brief and classification are included in a Profile II report on the project, which recommends the studies or activities needed to determine the magnitude of the impacts to be assessed by an environmental impact assessment.

The EIA is formally the responsibility of the prospective borrowing country. Terms of reference for an EIA are to be prepared by the borrowing country and agreed to by the IDB. IDB procedures state that beneficiaries as well as the general public, such as local environmental groups, "should participate in a formal, verifiable way in the preparation of the terms of reference of the EIA." The procedures also indicate that "whenever possible", the Bank is to provide technical assistance to a country for preparation of an EIA, "in agreement with Bank policies and the availability of resources."

Primary supervisory responsibility for EIA preparation is assigned to the Project Team, supported by the Environment division. According to interviews, the IDB has also had problems with the appropriate assignment of categories. Avoiding category IV was a high priority among project and team managers. Some 90% of projects with environmental effects were in category III. As noted in Chapter II of this report, a spot-check by CRS of projects in the pipeline for three large countries showed only one in category IV, although environmental assessments were available for two of the category III projects listed.

In its 1997 draft report to Congress on project proposals that might have significant environmental problems (see Chapter 3 for discussion of this "Early Warning System" report), U.S. AID listed seven projects of the IDB, up from three such projects in its 1996 report. U.S. AID cautions that listing a project does not mean that problems will not be resolved by the time the project preparation process is completed. Several of these projects were categorized in Category III (equivalent to "B" category for the World Bank), and the U.S. AID comments indicated its opinion that they should be in category IV in order to receive a full environmental assessment.

As in the case of the other MDBs, while the original purpose of having categories was to establish a "must" category that required an extensive EIA, the practical effect often was to establish instead a category that MDB staff made every effort to avoid.

Reorganization and Reformulation of Environmental Procedures.

New Procedures. In November 1996, the IDB reformulated its environmental procedures and eliminated classification categories partly in an effort to avoid the "bunching" of environmentally sensitive projects in Category III. Its new procedures say that every project should be subjected to environmental review and evaluation that is appropriate to its potential environmental impact.

The new Environmental and Social Equity procedures retain the institutional focal point for environment in the CMA, renamed the Committee on Environment and Social Equity, but retaining the same acronym. The General Framework of the procedures states that the environmental policy of the IDB "require that all operations financed by the Bank be environmentally and socially sustainable." The procedures are "designed to implement these mandates in a manner that is consistent with the organizational structure of the Bank and with the demands of its programming and project preparation cycles."

The new procedures do not include environmental classification categories for types or severity of environmental impacts. Instead, during the identification stage of any proposal, Project Teams are required to "determine the scope of environmental and related social equity issues." At the center of the scoping process is an Environmental and Social Equity Brief (ESEB) as part of the Profile II report. Operations under \$3 million will be screened without an ESEB. The procedures note that:

"The ESEB, once approved by the CMA, establishes the environmental assessment requirements to be met in preparing the operation, and identifies the environmental and social equity issues that must be resolved to ensure that the operation is viable and eligible for Bank support."

The procedures outline the contents required for the ESEB. These include an indication whether a full EIA, or other more specific or limited study is needed and a description of the depth, breadth and analytical requirements to be met.

The ESEB is to be made available to the public in accordance with the Bank's Disclosure of Information Policy. During the evaluation stage for a Bank operation, the EIA, if required, is to be prepared. The new procedures outline the objectives of an EIA, and state that "...an Environmental Impact Assessment (EIA) will be carried out for all operations with potential impacts on the environment."

The required elements of an EIA are listed. There must be an analysis of direct and indirect environmental and social equity impacts and risks. A summary description and evaluation of the alternatives considered and the rationale for selecting the proposed method is required. A record of the process and a summary of the results of consultations with affected groups must be provided. The EIA must also provide details on options and budget for preventing, avoiding, and reducing impacts of the selected alternative.

The new procedures say that some operations "may require environmental and/or social equity studies of limited scope and relatively minor importance to the overall design or impact of an operation." These studies are not called EAs. The

Bank says these studies are "identified on a case by case basis, and designated by a title which reflects the specificity of their scope."

Continuing Concerns. These new procedures, by avoiding establishment of entire categories that allow minimal or no environmental assessment, are -- among other things -- intended to avoid the problem of "bunching" of projects and operations in these categories -- outside of the category that requires a full environmental assessment. However, a decision must still be made under the new procedures as to whether such a full EIA would be needed. For projects that need less than a full EIA, environmental evaluation/analysis would be done at a level of detail regarded by the team leaders and the CMA as appropriate. The supposition that there are categories that require minimal or no analysis for projects with little or no presumed impact on the environment is avoided in the new procedures, although it seems a decision along these lines could still be likely for many of the projects that are now in the lowest-impact categories.

The challenge under the new system will be that even without the need to categorize projects, there could still be avoidance of a determination that a full EIA is needed, and "bunching" at the lower levels of analysis. What concerns some NGOs and U.S. government staff is that the "red flag" of a category IV (or III) designation that has in the past served to alert them to the need for special attention and scrutiny will no longer be used.

D. Environmental Procedures at the Asian Development Bank (ADB)

The ADB Requirement. The Asian Development Bank published in March 1993 its current "Environmental Assessment Requirements and Environmental Review Procedures of the Asian Development Bank."²⁶ The foreword of the document notes that environmental assessment procedures were instituted in the early 1980's, and formal environmental review procedures in the mid-1980's. These were updated and revised regularly. The current document notes that it is prepared especially for Bank project staff.

The Bank's Environmental Screening and Assessment Process. Like the other MDBs, the ADB provides for categorization of projects. It has categories A, B, and C, similar to those of the World Bank. (See Appendix A for description of categories). Initial screening of all projects, as well as sub-projects, sector and financial intermediary lending is done by the Bank's Environment Division (ENVD) of the Office of Environment and Social Development (OESD), which is the focal point for all environmental and social issues relating to projects and Bank policies. After consultation with staff in Projects Departments, a category is assigned to each project.

The ADB procedures document indicates that environmentally sensitive projects may be placed in Category A or in Category B according to location, type,

²⁶Asian Development Bank, Office of the Environment. Environmental Assessment Requirements and Environmental Review Procedures of the Asian Development Bank. March 1993. 44 pp.

sensitivity, scale or nature of impacts. The ADB reports that each project and its category is entered into the Environmental Monitoring Information System (EMIS), which includes relevant environmental information and suggested mitigation measures. Environmental aspects of projects that may need to be reviewed are also entered.

The ADB expects that by the time of project appraisal, the environmental and social assessments should have been completed, and at appraisal, environmental concerns, issues and proposed solutions are to be written into a Memorandum of Understanding that creates commitments to the obligations associated with environmental issues that have been identified. During the preparatory phases, the ADB describes the categorization process as an evolving one. An Initial Environmental Examination (IEE) is done during the Project preparatory Technical Assistance, prior to loan fact finding; during this process, the IEE may reveal greater or lesser environmental impacts that may occasionally lead to recategorization of a project from B to A or vice-versa. Summaries of EIAs or IEEs are made available to the public; full EIAs are available on request, according to ADB procedures.

The ADB reports that it regards environmental assessment as an integral part of project preparations. In contrast to some other regional banks, the ADB notes that most of the its developing country members have established their own environmental procedures, which are often comprehensive and include preparation of EIAs and public consultation.

The costs of preparing an EIA may be financed, the Bank notes, under project preparatory technical assistance. However, the borrowing and private sector investment entities are in charge of the environmental studies and documentation. During preparation of environmental studies, the Bank interacts with these entities, and this may result in changes in the EIA.

The ADB reports that its Environmental Loan Covenants with borrowers have become increasingly detailed in stipulating the environmental requirements for a loan. The ADB's 1992 and 1993 reports indicate that the ADB prefers use of such legally binding covenants to the conditions for loan disbursements used more commonly by the World Bank. The ADB has concluded that use of such covenants is important in assuring adherence to environmental requirements during implementation phases of its loans.

Effectiveness of the Bank's Environmental Assessment Process. In its 1994 report to Congress on MDBs and the Environment, Treasury reported on the completion of environmental assessment requirements in 1993, and progress in several areas. It said that "As a result, the U.S. abstained from only 4% of ADB projects on Pelosi grounds, down from 15% in 1992."²⁷

²⁷Department of the Treasury. 1994 Annual Report to Congress: Environment and the Multilateral Development Banks. Unpublished report directly to Congress ["The following report is submitted in compliance with section 539(e) of Title V of Public Law 99-591; section 533(b) of Public Law 101-167; section 533(b) of Public Law 101-513; and section 532(c)(1) of Public Law 102-391. These Congressional Requirements instruct the Secretary (continued...)

However, as with other MDBs, there continue to be some problems. In the fall of 1996, the United States abstained on Pelosi Amendment or other environmental and social grounds in Board votes on two ADB projects. A Pelosi abstention occurred on a Laos community irrigation project due to lack of an EA on a sensitive road component. A bridge access road project in Bangladesh did not have a resettlement plan until after the staff appraisal, and Treasury said that its "B" category was inappropriate in the face of significant resettlement.

In general, however, Treasury staff commented that the ADB has very reliably adhered to its EA policies, especially in meeting the 120 day deadline for making environmental documents available to the public and to the Executive Directors. Of the 20 projects listed in the U.S. AID "Early Warning" report to Congress in March 1995 on MDB projects with potential environmental problems, two were ADB projects in the Philippines. The March 1996 U.S. AID report to Congress did not list any ADB projects on upcoming projects with environmental concerns. In the draft 1997 report, one of seven projects in Asia listed in the report was an ADB project. (See Chapter III of this report for a discussion of this U.S. Agency for International Development reporting process).

E. Environmental Procedures at the African Development Bank (AFDB)

The AFDB/AFDF Requirement. The African Development Bank and African Development Fund jointly approved in 1990 an "Environmental Policy Paper" that outlined environmental assessment procedures. These procedures provide for screening and categorization of projects that are generally similar to the World Bank procedures.

In May, 1992, the Bank's Environment and Social Policy Division of the Central Projects Department approved and finalized operational "Environmental Assessment Guidelines" to implement the policy outlined in 1990. These guidelines stated what kinds of environmental review and procedures are required at each stage of the project cycle, and listed types of projects and ecological areas that would be in the various categories.

As in the other MDBs, if a full environmental assessment is required, this is the responsibility of the recipient government, with assistance from Bank and/or consultant experts.

The Bank's Environmental Screening and Assessment Process. Environmental information collected during preparation stages is to be presented and evaluated in the appraisal stage. The appraisal report should, according to the policy paper, suggest mitigating measures and alternative designs for avoiding or limiting adverse environmental impacts. The guidelines and policy paper also indicate the need to assure that environmental mitigation measures are employed during the

²⁷(...continued)

of the Treasury to account how the MDBs have been moving to meet goals in the areas of the environment and sustainable development."] Washington, D.C. Treasury Department 1994 report to Congress, op. Cit., p. 5.

implementation stage, and that monitoring of such implementation is important to determine that environmental conditions for the loan have been met.

The 1990 Policy Paper concludes with a section on institutional, staffing and financial implications. The financial implications cited include major constraints on implementation of the policy, due to lack of resources available to borrowing countries for environmental assessment studies.

Effectiveness of the Bank's Environmental Assessment Process. The African Development Fund ran out of money and has not lent since 1994. There is no evaluation of AfDB environmental assessment policy and procedures such as the studies done by the World Bank on its EA procedures. In the 1994 report submitted by the Treasury Department to Congress on Environment and the Multilateral Development Banks, Treasury stated:

The environmental impact assessments which have been carried out for AfDB projects have generally been of poor quality, often omitting essential information such as a complete description of the project and project site, analysis of alternatives, or discussion of public participation. The United States, through its Executive Director, has made suggestions to bank management for improving the quality of environmental impact assessments by focusing on aspects such as these. Despite these shortcomings, however, progress continues to be made; in 1993, the U.S. abstained from only 6 percent of African Bank projects on Pelosi grounds, down from 25 percent in 1992.²⁸

A Treasury staff member who recently visited the headquarters of the AfDB and reviews AfDB projects, reported that loans being prepared over the past several months show encouraging indications of integration of environmental concerns into project design and decision-making. A restructuring of the Bank has already resulted in additional environmental personnel, with expectations that eventually there will be 16 professionals in an Environment Division, including five stationed in regional divisions.

AfDB observers note that, as is often the case in the MDBs, the attitudes and approaches of task managers toward meaningful integration of environment in their projects vary widely, and constitute a key variable. If a task manager believes that environmental concerns are important, he or she will assure their integration. If they are seen as peripheral -- or an unwelcome obstacle to swift project design -- they may be treated superficially at best.

Reorganization and Reformulation of Environmental Procedures. The recent AfDB reorganization has created an Environment and Sustainable Development Unit. The June 1996 document that outlines the mandate and functions of the new unit indicates that the environmental policy will be reformulated, although the director of the unit has reportedly recently stated that the environmental policy will not change. The June 1996 document states policy functions related to environment as including: "Revise environment policies and strategies to better

²⁸Ibid., p. 2.

incorporate the new global environmental agenda, ensure that other sectoral policies address environmental issues."²⁹

F. Environmental Procedures at the European Bank For Reconstruction And Development (EBRD)

The EBRD Requirement. At its September 1996 meeting, the Board of Directors of the EBRD approved its Environmental Policy and Environmental Procedures, documents that had been long awaited since the EBRD began functioning in 1991. The policy points out that the EBRD is the first international financial institution to be given a "proactive environmental mandate" in the agreement establishing it. The Environmental Policy cites Article 2.1.vii of the agreement, which directs the Bank to "promote in the full range of its activities environmentally sound and sustainable development."

The EBRD states in its first item among its General Principles and Objectives, that "The Bank will ensure, through its environmental appraisal process, not only that its projects are environmentally sound, but that their environmental performance is monitored. It will seek to realize additional environmental benefits through its operations, in particular if they also provide economic benefits."³⁰ The Bank generally uses the term "environmental appraisal" for the process that involves screening, assigning categories, and carrying out environmental assessments or analyses.

In order to implement the mandate in its Environmental Policy, the EBRD also formulated its Environmental Procedures, "to ensure that all of its investment and technical cooperation activities undergo environmental appraisal as part of the overall financial, economic, legal and technical due diligence which is carried out."³¹

The Procedures indicate that the purpose of environmental appraisal is "both to help the Bank decide if an activity should be financed and, if so, the way in which environmental issues should be incorporated in operation financing, planning and implementation. An overall objective of environmental appraisal is to improve decision-making." A project sponsor is expected to provide sufficient environmental information to the Bank to make decisions possible, usually by commissioning or conducting necessary environmental investigations that would be satisfactory to the Bank.

The Bank's Environmental Screening and Assessment Process. The Operation Leader in the Bank has responsibility within the Bank for environmental aspects of the operation. The Environmental Appraisal Unit (EAU) is to provide assistance in preparing terms of reference for environmental studies, "such as

²⁹African Development Bank, report from the President, Report on Environment and Development Unit. June 1996, p.3.

³⁰Environmental Policy. Document of the European Bank for Reconstruction and Development. BDS96-24 (Final). 19 November 1996. P. 4.

³¹Environmental Procedures. Document of the European Bank for Reconstruction and Development. BDS96-23 (Final). 19 November 1996. P. 5.

assessments or audits," and to review any preliminary environmental information about an operation and identify concerns. It then prepares an Environmental Screening Memorandum outlining environmental concerns and the nature of environmental investigations that will be needed. This screening, undertaken by the EAU, identifies the environmental category, A, B, or C, into which a proposed project is to be placed. It also decides whether or not an environmental audit is required.

After terms of reference are completed by the Operation Leader, with EAU help, the EAU reviews the results of the environmental investigation, including the public investigation. The EAU then prepares an Environmental Review Memorandum detailing which environmental control and/or enhancement measures should be incorporated into the operation. The EAU also assists in monitoring implementation of environmental aspects of the operation.

The procedures describe types of environmental appraisal work to be done by the EBRD. They indicate that an Environmental Impact Assessment (EIA) is carried out to identify, predict and assess the future environmental impacts of an operation where these impacts are "potentially significant and cannot be readily identified, assessed or mitigated. The procedures reference Annex D in which types of greenfield projects (operations in previously undeveloped areas), major expansion projects, or transformation-conversion operations are listed that will be subject to an EIA, regardless of their location, due to their environmental significance. It indicates that additional types of operations may also be subject to EIA if they are in environmentally protected or sensitive areas like parks and nature reserves.

The procedures also describe Environmental Analysis. It is "carried out on operations or activities where any future environmental impacts are potentially significant but where, because of their nature, size and location, they can be readily identified, assessed and mitigated. The content of an environmental analysis is similar to that for an EIA although the scope of environmental analysis is usually more limited."³²

Annex D of the EBRD procedures lists 24 types of operations as "A" level operations, although the procedures themselves and the discussion of operations needing an EIA do not refer to categories "A", "B" or "C." The 24 types of operations listed in the Annex for Category A include crude oil refineries, nuclear fuel enrichment installations, integrated chemical installations, large dams and reservoirs, large diameter oil and gas pipelines, large scale logging, large scale tourism development, tanneries, etc.

Following the list of examples, the A Level Operations section states:

The above list is clearly non-exhaustive and the types of projects it contains are examples only. EIAs are also required for "greenfield" or major extension or transformation operations which pose a serious accident or health risk....planned to be carried out in sensitive locations, even if the operation category does not appear in the above list. These

³²Ibid. (Procedures), p. 9.

sensitive areas include National Parks and other conservation areas of national or regional importance, such as wetlands and areas of archaeological significance, areas prone to erosion and/or desertification, and areas of importance to ethnic groups.³³

Annex D state that all "greenfield" or major extension or transformation projects not receiving an "A" rating "are subject to a project-specific "B" level environmental analysis unless location, scale or other factors require an "A" level EIA to be undertaken.³⁴" Since the "A" category list is described as non-exhaustive and as examples only, it is unclear why Category "B" should include all operations not on the "A" list.

A third section of Annex D specifies the treatment of "C" level operations. "Operations which do not require either an "A" level environmental impact assessment or a "B" level environmental analysis are screened," it says, "in Category "C" which do not require an environmental assessment."³⁵

Annex D concludes by saying that operations in any category may be subject to an environmental audit, which "identifies past or present concerns and potential environmental and health and safety risks and liabilities associated with the operation." It may also identify baseline conditions for agreeing on responsibility for environmental damage, and may encompass one or more phases of an operation.

Because the EBRD policy and procedures on environmental assessment are so recent, there have been no opportunities to evaluate how they will operate.

G. Evaluation of MDB Environmental Assessment Procedures

The following section provides a general critique of the MDB environmental assessment procedures, and summarizes some of the points made in the sections above on the individual banks. It is based on a distillation of comments by interviewees at the banks, the U.S. Treasury Department, and NGOs, and an analysis of relevant documents. The comments in this chapter reflect the preponderant view of these sources, but do not include all possible perspectives.

Environmental Operations of MDBs and Responses to the Pelosi Amendment.

Impact on MDB Procedures. Environmental assessment policies are now in place in all of the MDBs, and have become a standard part of the operations of the banks. Although the banks point to an evolution of policies on environment that led up to the environmental assessment procedures, most observers outside the Banks (and some inside them) credit the Pelosi Amendment with getting the process started, first at the World Bank and then in the other MDBs, and creating incentives for environmental assessments and related mitigation and planning.

³³Ibid., p. 35.

³⁴Ibid., p. 35.

³⁵Ibid., p. 35.

From the perspective of those who see all or most loan proposals--whose major focus is on overall bank performance, not environment per se--it seems apparent that, as one of them put it, "Pelosi worked." They see a change in project preparation that reflects the institutionalization of environmental procedures, satisfactory implementation of these procedures, and internalization of the need for environmental screening and analysis on the part of MDB managers. Moreover, according to many observers, the inclusion of environmental concern in scoping projects, deciding on project location or design, and the responsiveness to environmental concerns from outside the MDBs have all improved.

However, from the perspective of those who are concerned primarily about environmental issues, and whose attention is mainly on projects where environmental problems may still remain, there are continuing problems with adequacy of analysis, and with various elements of environmental assessment such as participation, analysis of alternatives, etc. From this perspective there is considerable reason for continuing concern about the adequacy of environmental analysis and incorporation of environmental issues into MDB decision-making.

MDB Reviews of Their Own Performance. The World Bank has developed a great deal of experience in environmental assessment since its policy went into effect in 1989, and it has made extensive efforts to candidly evaluate the EA experience in the Bank. In two late-1996 evaluations, the Bank found adherence to its policies, along with problems remaining in several areas, discussed in the section on the World Bank. No comparable evaluations have been done by the other MDBs, and their experience is generally over a shorter time period because their environmental assessment policies were adopted later than that of the World Bank. However, a review of Pelosi votes and comments by observers indicate that many similar issues and problems affect the environmental assessment process across all the MDBs.

Critical Role of Task Managers. Task managers vary considerably in their attitudes toward the incorporation of environmental issues into the project design process. Some have tended--and some reportedly still continue--to view environmental concerns as an unwelcome obstacle, and will accept relatively inadequate EAs or analyses unless challenged by other bank staff, concerned citizens or Treasury officials. When approached by concerned U.S. officials or NGOs, their cooperation may be problematic in addressing such problems.

However, there are other task managers who are interested in assuring environmental soundness, and take the view that this is important to the success of the project. When problems are brought up, a task manager with this approach is more likely to try to investigate problems and find remedies. The World Bank evaluations acknowledge that training for Bank staff on environmental issues and concerns has been insufficient and needs to be broadened and spread throughout the staff. The situation is likely to be similar at the other MDBs.

Inadequate Integration of Assessments into Project Design. One of the stated goals of most MDB environmental assessment policies is that environmental concerns should be addressed early in the project preparation process, and environmental protection goals should be integrated into project design. Both World Bank evaluations found that environmental assessments often were completed too

late to have the desired influence on project design. The need to "upstream" the environmental analysis and to integrate it into the project design remains a major challenge at the banks.

Effect of Categorization on Assessment Procedures. Because Category A projects are almost by definition large projects with potentially serious environmental effects, they receive most of the scrutiny given to MDB projects by the banks, by U.S. officials, and by NGOs. (The MDBs use different terms for their categories, but Category A is the one most commonly used for those needing a full EIA). All parties cite their own scarce resources in describing their tendency to concentrate on "A" projects. The "A" category serves as a "red flag" indicating which projects need to be watched for quality of analysis--and for conformance with Pelosi Amendment requirements on timing of information availability. (Some 20 or so Category A projects come up for a vote each year at the World Bank). For this reason, the move by the IDB to eliminate all categories is viewed with concern by those who depend upon the categories to flag projects with especially sensitive environmental aspects.

The Treasury Department also routinely reviews environmental information on "A" projects. Its attention to "B" projects is much less systematic, however, again due to scarce resources. It is the policy of the U.S. government that any project, regardless of category, that has significant potential environmental effects must have an appropriate environmental assessment. In several cases, especially in the early 1990's, "B" projects were subject to Pelosi abstentions or no votes because they lacked the necessary level of environmental assessment. Thus, when problems with "B" or "C" projects are brought to the attention of the U.S. agency officials, either through the AID Early Warning process, through NGO contacts, or other means, the U.S. government will enter into inquiries and negotiations with the relevant Bank to attempt to get improvements and adequate analysis. (See discussion in Chapter III, below.)

However, it remains the case that NGOs, U.S. government staff, and the MDB environment staff continue to concentrate most of their efforts on the large category A projects, with less routine attention to Category B. Some U.S. government officials view with concern the possibility of ending categorization, as the IDB has done.

Problems of Categorization and Miscategorization. Miscategorization can be a problem. There have been a number of abstentions by the United States in votes on second-category projects because they did not have the more thorough and comprehensive environmental impact assessment that U.S. officials thought the project needed. Projects placed in the second category, thereby receiving more limited environmental analysis, do not receive the more thorough analysis that some of them may deserve. Information available to the public about such projects is much more limited.

Some projects placed in the third--no impacts or "C"--category may have subcomponents that have environmental impacts that many feel should be analyzed. One recent example concerns health services projects that have medical waste incineration elements opposed by local people or NGOs on environmental grounds.

Yet, having been placed in Category C, they do not receive environmental analysis. NGOs concerned about these health services projects point out serious health hazards associated with emissions from medical waste incinerators that are not designed to control such emissions. Because of the "C" category, alternatives favored by environmental groups and local NGOs have not received analysis or consideration in these cases.

The World Bank's 1993 Environmental Screening Update to its *Environmental Sourcebook* notes that some aspects of a Category C project may have environmental impacts. It states, "not all Category C projects are entirely devoid of environmental impacts. For example, in a health project, the design may have to provide for disposal of medical wastes." However, the Update does not go on to state how or if such components would be treated in terms of assessing impacts, or whether some environmental assessment would then be required. Thus the medical waste disposal components of larger health projects have not always been assessed or alternatives examined, despite concerns raised by NGOs about harmful toxic emissions and environmental impacts of incineration.

Categorization usually occurs at a very early stage of the project identification process. It is uncommon for a Bank to change a category once it has been determined -- especially to one requiring more extensive environmental assessment or analysis. In some cases, this is true even in the face of extensive urging by Treasury and/or NGOs concerned about the project. Bank officials and critics alike acknowledge a tendency toward "oversubscription" in the second environmental category, but it should be noted that no systematic analysis of this concern has been made by the U.S. Government.

Changes in Environmental Organization and Procedures. The current period continues to be one of extensive change. Several of the banks are reformulating their environmental policies, as discussed in sections above on the individual banks. In some cases, this involves potentially major shifts in resources and in approach. Because of the current changes underway, some not yet finalized, the experience to date is more instructive as to the process and what has been achieved so far than as a guide to future outcomes once new policies take effect. At the same time, problems of miscategorization, inadequate analysis, bureaucratic inertia, and other general problems appear deep-seated and are likely to persist, absent fundamental shifts in lending philosophy that have yet to become operative.

Project Oversight, Evaluation, and the Approval Process.

Impact of U.S. Opposition on the Approval of MDB Loans. The Pelosi Amendment has been invoked on numerous occasions (albeit on a small minority of projects considered) by U.S. Executive Directors in all the MDBs, with statements by directors explaining U.S. opposition. Sometimes it is because of lack of substantive analysis on important environmental aspects of a proposed loan, or because of lack of the 120-day lead time before a vote. In virtually every case, the proposed project has won Board endorsement, with few or no directors from other countries joining the United States in its concerns, and the projects have gone ahead.

Staff of the U.S. Executive Director at the World Bank report that, recently, there has been more interest in environmental concerns among other EDs, who now are more inclined to join in the process of inquiring about environmental issues that have surfaced through U.S. government or NGO processes. They do not usually share U.S. concerns about the 120-day deadline for information availability, but they are more likely to join in substantive inquiries and concern over the need for better analysis or mitigation.

Effect of "Behind the Scenes" Negotiations. Prior to invoking the Pelosi Amendment, and in many other cases where it is not invoked, the U.S. Treasury Department, the U.S. Executive Director's office, the U.S. Agency for International Development and/or the Environmental Protection Agency may have determined that a project has problems. In these cases, U.S. officials will have conducted investigations and/or entered into negotiations with the Bank--first, to get additional information and then to try to get a satisfactory remedy. In some cases, U.S. officials and NGOs indicate, improvements are made as a result of these discussions, but the process is very ad hoc, and these "behind the scenes" negotiations are not formally documented.

Concerns About the Adequacy of Environmental Analysis. There is widespread agreement that there has been significant improvement in meeting procedural requirements in MDB policies on environmental screening and assessment, as well as in institutional capacity among borrowers and consultants involved. However, problem projects continue to be identified by Bank critics in which the adequacy of analysis is challenged. The World Bank ENV and OED evaluations agree that analysis of alternatives is a continuing area of difficulty, as well as targeting the need for remedying insufficiencies in bank staff training and knowledge in the EA area.

Some large assessments are done on a rapid appraisal track, sometimes in six weeks, a timeframe that many experts feel is too fast to allow appropriate data collection and analysis, or appropriate consultation with the public in the affected areas. Moreover, experts in U.S. agencies have sometimes identified major gaps in impact analysis, such as lack of analysis of downstream impacts of dam projects. At present, it appears that neither the Banks nor the U.S. government have been able to establish a mechanism for quality control that would consistently identify and rectify poor quality environmental analysis.

EIAs as Benchmarks during Implementation. Environmental problems continue to arise as the banks implement projects following their approval. The existence of an environmental assessment may provide a benchmark that is of critical value when problems arise. The establishment of the World Bank Inspection Panel in 1994 arose out of implementation concerns. Recent preliminary investigations by the Panel substantiate complaints that environmental and social elements included in loan agreements are not always carried out. According to one observer, it can too often be the case that once a loan is approved, the bank in question considers the matter closed and "moves on to other things," with little on-going supervision and little effort to assure that environmental and other conditions or requirements are being met. However, bank staff point out that effective supervision requires

intensive environmental staff work, and that the environment staff has been cut back in recent years as part of over-all bank budgetary constraints.

The Role and Impact of NGOs.

A Key Role in the Evaluation Process. According to U.S. officials, non-governmental organizations play a key role in the process of identifying environmental concerns in MDB projects and evaluating the quality of EAs. The Treasury and other agency staff work to obtain environmental improvements in Bank projects, but these staff are few in number and cannot monitor all MDB projects on a systematic basis. They are highly dependent upon notification and/or feedback from NGOs to identify projects with potential problems, and to document the nature of problems in the field. Government staff are both dependent on and responsive to NGOs, as has been the case since Treasury first began tracking environmental aspects of MDB operations in the mid- to late 1980s. This is an example of how government and private/NGO actors can work synergistically; however, the "downside" is that the process is essentially ad hoc, with effective work done on the relatively few projects that are identified as problems and become the focus of intensive activity, but little or no attention to others that may also be problematic.

The process also is heavily dependent on the capability of NGO staff who "volunteer" their services to assist--and pressure--the government and the banks to take action on the problems they perceive and document. Also, as noted below, while EAs of "Category A" projects are available and of value, it is less clear how accessible and useful the less extensive analyses for "Category B" projects are.

Environmental Assessments and Public Dialogue. NGO spokesmen say that the existence of environmental assessments--especially in a context that provides for public access--has proven to be very valuable to the process of tracking MDB activity to identify and work to remedy environmental problems. The EAs provide documentation and data on project plans and environmental aspects of them, and they establish the need for mitigation options--often written into loan documents as conditions, covenants, or requirements--that can be tracked during implementation. There is broad consensus that the Pelosi Amendment, with its requirements for the EA and for public availability of environmental information, has been instrumental in enhancing opportunities for public participation and dialogue.

II. Public Access to MDB Information*

A. Introduction

The Pelosi Amendment seeks to strengthen the environmental standards for multilateral development bank (MDB) projects by making information on MDB operations available to the public in a timely fashion. It says the United States may support MDB loans that are likely to have a significant effect on the environment only if an environmental impact assessment (or a comprehensive summary of such an assessment) is available to the U.S. Government and the public at least 120 days prior to the loans being considered by the MDBs' executive boards. This chapter examines the MDBs' policy statements regarding public access to information, noting in particular their requirements for disseminating information and the procedures used to put them into effect. The chapter examines the project descriptions, environmental analyses, and other relevant documents issued by the banks. A sample of each type of document for each bank was obtained from their public information systems and the contents were compared with the guidelines set forth in the banks' policies on the disclosure of information. The analysis is based on interviews with staff from the MDBs and U.S. government agencies, and representatives from various non-governmental organizations (NGOs). A field visit to El Salvador and Honduras provided insights into the ways banks' procedures for public access to information work in practice.³⁶

B. General Characteristics of the Disclosure Process

As a result of the Pelosi Amendment and persistent U.S. pressure, all the MDBs have adopted (or are in the process of adopting) procedures giving the public access to information about their plans and operations. Previously, the multilateral banks operated under confidentiality ground rules that limited the amount of information outsiders could obtain about their procedures or operations. Beginning in 1989, however, with the adoption of the World Bank's environmental assessment procedures, the MDBs began to adopt procedures making environmental assessments available to the public and member country governments prior to their executive boards' consideration of proposed loans.

In 1993, at the urging of the United States and with the concurrence of other member countries, the World Bank approved new information disclosure procedures giving the general public expanded access to certain kinds of information about Bank

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³⁶The author wishes to thank the USAID missions and Inter-American Development Bank resident missions in El Salvador and Honduras for their assistance during this visit, particularly their assistance making contacts with key government officials and grassroots leaders from a diverse sampling of NGOs. The World Bank does not have resident missions there. Some examples of development programs or situations in these two countries are mentioned in this chapter. Based on conversations with MDB officials and NGO personnel, it is very likely that field visits elsewhere would have revealed similar situations. The findings of this chapter should not be taken as relevant only to Central America.

policy and operations. Also with strong U.S. encouragement, the Asian Development Bank (ADB) and Inter-American Development Bank (IDB) adopted similar guidelines in 1994. The International Finance Corporation (IFC) approved somewhat more limited procedures in 1995. The European Bank for Reconstruction and Development (EBRD) implemented procedures resembling those of the World Bank and the IFC in 1996.

In July 1996, top management of the African Development Bank (AFDB) proposed a draft policy on information disclosure that was less extensive and less open than those currently used by the other MDBs. With the strong encouragement of the United States, the AFDB held a symposium for NGOs in December 1996 to discuss the draft policy and other key issues of concern to African NGOs. According to the Treasury Department, a new draft information policy similar to those currently in use at the other MDBs has been sent to NGOs and member country governments for their comment.

Generally, the MDB procedures provide more and prompter access to information on MDB-financed projects when a government is the borrower or the guarantor for a loan. For reasons related to concerns about proprietary business information, less information is made available to the public and that information is provided at a later stage in the MDB deliberation process when the borrower is a private organization and the loan is not officially guaranteed.

C. Rationale for Public Disclosure

In a 1994 publication explaining its new information disclosure policy, the World Bank said it "recognizes and endorses the fundamental importance of accountability and transparency in the development process. Accordingly," the document reported, "it is the Bank's policy to be open about its activities and to welcome and seek out opportunities to explain its work to the widest possible audience.³⁷" The policy applies to the Bank's two largest components, the International Bank for Reconstruction and Development (IBRD) and the International Development Association (IDA).

The World Bank cited several justifications for its new policy. Broader distribution of information would help expand public understanding and support for development activities, it argued. The dissemination of information to local groups and non-governmental organizations would facilitate their participation in Bank-financed projects. The Bank said this would strongly enhance the effective implementation and sustainability of those projects. Finally, it reported, increased openness would help keep the Bank accountable to its stockholders, strengthen its relationship with its bondholders, and improve its staff's understanding and participation in the Bank decision-making process.

³⁷World Bank. *The World Bank Policy on Disclosure of Information*. Washington, D.C.: The World Bank, March 1994, p. 2.

Taking this all together, the World Bank concluded in its policy statement, "there is a presumption in favor of disclosure."³⁸ To facilitate the distribution of information, the Bank created a Public Information Center (PIC) as a principal contact for people seeking to obtain Bank documents. The Bank directed that the staff should prepare a variety of documents describing projects in the pipeline (i.e., under consideration as possible loans). It also specified that other existing documents or studies should also be made available to the public through the PIC.

The other MDBs have explained their information access policies in similar language. All say that broader public access to their data will help improve public understanding and support for their activities, enhance the effectiveness of their operations, and improve accountability. The IDB and ADB echo the World Bank's presumption in favor of disclosure. The IDB states, in its policy statement, that "absent a specific reason to the contrary, any Bank policies which affect the control of Bank information should be interpreted as permitting public release of the information."³⁹ The ADB notes in its policy on disclosure that there may be situations where information may not be released. Still, it says, the ADB "should provide the fullest possible degree of transparency and disclosure in all areas of the Bank's operations." To implement the policy, it suggests, "the Bank should instill among its staff 'a presumption in favor of disclosure of information,' in the absence of [certain specified] constraints."⁴⁰

The institutions whose activities focus primarily on the private sector put more emphasis on the need for confidentiality. The EBRD says its policy is "based on the presumption that, whenever possible, information concerning the Bank's operational activities would be made available to the public in the absence of a compelling reason for confidentiality."⁴¹ The IFC has more reservations. Its policy statement says "there is a presumption in favor of disclosure where disclosure would not materially harm the business and competitive interest of clients."⁴²

Management at the African Development Bank recommended, in its March 1997 policy proposal concerning the disclosure of information, that the Bank adopt "a presumption in favor of public disclosure of information about the Bank Group's

³⁸Ibid., p. 3.

³⁹Inter-American Development Bank. Memorandum to the Board of Executive Directors titled "Information disclosure policy," transmitting document titled "Policy on Disclosure of Information." GN-1831-3, November 2, 1994, p. 2, paragraph 3.3.

⁴⁰Asian Development Bank. Board of Directors. Paper titled "Confidentiality and Disclosure of Information." R134-94, August 18, 1994. The quotes are found on pp. 20 and 10.

⁴¹European Bank for Reconstruction and Development. Document titled "Public Access and Disclosure of Information." BDS95-68 (Final), April 3, 1996, p. 1.

⁴²International Finance Corporation. Policy on Disclosure of Information, January 1997, p. 5. IFC Executive Vice President Jannik Lindbaek says, in his introduction to this document, that the IFC policy "is designed to balance the need for openness and transparency with the need for confidentiality to protect the competitive and proprietary business interests of our private sector clients." Ibid., p. 2.

activities." It said that "existing or future Bank Group policies which affect the control of Bank Group information should be interpreted as permitting public release of such information."⁴³ Nevertheless, the draft AFDB policy specifies several kinds of information which should remain confidential by definition. Most are comparable to exceptions allowed by the other MDBs. The list includes, however, "Information concerning the Bank Group's operations, including proposed projects whose public disclosure might prove prejudicial or adverse to the national interest of any member states." It also exempts "Other information which the Bank Group, an individual member state, or a co-financing institution determines to be confidential or sensitive and which would adversely affect its interests."⁴⁴ Treasury and the USED Office at the AFDB say they believe that, with some additional fine-tuning, the final policy should be similar to that of the World Bank.

D. Who Uses the Banks' Public Information Centers?

The World Bank Public Information Center reports⁴⁵ that, in 1996, it received 20,546 requests for information by telephone or in person from requestors whose constituency type could be identified. (Another 10,133 requests by fax or electronic mail were not categorized.) Of the requests received in person or by telephone, over two-thirds came from businesses and nearly another quarter came from public agencies (including governments). Inquiries from scholars and other academics comprised 8% and questions from members of the World Bank staff accounted for another 6% of the total. Less than 3% of all inquiries in this total came from non-governmental organizations. The World Bank PIC distributed 9,493 documents in 1996 in response to these inquiries. Staff appraisal reports and other loan documents accounted for half, while economic and sector reports comprised almost another third of the total. Environmental assessments accounted for 7% of the documents distributed, while other environmental documents (national environmental action plans, policy statements, etc.) comprised another 2% of the total.

The ADB Public Information Center received inquiries from 666 members of the public in 1996.⁴⁶ Nearly half came from business firms, while another quarter each were from individuals and institutions. Inquiries from non-governmental organizations comprised about 6% of the total. The Asian Bank PIC distributed 1,672 documents in 1996 in response to these inquiries. Technical assistance reports and loan documents accounted for over half, while country economic reviews and country strategy papers together accounted for almost a quarter of the total.

⁴³African Development Bank. Memorandum to the AFDB Board of Directors from Cheikh I Fall, Secretary-General. ADB Group--Draft Policy on Disclosure of Information, Revised Document. ADF/BD/WP/97/11/Rev.1. March 16, 1997, para. 3.1 and 3.3. This version incorporates changes which the Bank's Joint Administrative Affairs and Operations Committee made in the proposal originally submitted by AFDB President Omar Kabbaj in February 1997.

⁴⁴Ibid., para. 3.4, items 6 and 11. Emphasis in the original.

⁴⁵World Bank. The World Bank Public Information Center. Annual Report, FY96, July 1996. Distributed by the PIC on its home page and at <http://www.worldbank.org/html/pic/AR-FY96.pdf>.

⁴⁶Information provided by the office of the U.S. Executive Director, ADB.

Summary EIA documents comprised less than 6% of all documents distributed to the public.

The IDB says⁴⁷ that, in 1996, its Public Information Center received 9,217 inquiries by telephone or in person. A breakdown according to the type of requestor was kept for this data. (The IDB PIC also received another 1,562 requests by fax or electronic mail for which no breakdown is available.) Of the telephone or personal inquiries, almost 53% came from the private sector. Requests from government agencies or other international organizations comprised about 17%, while inquiries from IDB staff accounted for another 6% of the requests. About 13% of the telephone and personal inquiries came from non-governmental organizations and about 12% came from academics.

E. Types of Information Available to the Public from the Banks

Description of Current Pipeline. The World Bank's *Monthly Operational Summary* (MOS) has long been a major vehicle for informing Bank staff and outsiders about the status of pending loan proposals (i.e., the "pipeline"). The MOS contains a brief paragraph describing the project and an indication (updated monthly) of the latest action on the proposal. Except for those in the earliest stages of consideration, an environmental impact category is provided for each project. Redesigned in November 1996, the MOS is now easier to read but less clear about the status of proposed loans. The MOS is an internal document, distributed to executive directors and senior Bank management or officials. In practice, however, copies circulate widely outside the Bank. A commercial version (with a larger press run) is available by paid subscription. Copies of the MOS may be viewed at the World Bank PIC but are not distributed electronically by the Center.

The other MDBs provide similar reports. Ten times annually, the IDB issues a report titled *IDB Projects* (available by subscription), showing the status of all loan proposals under consideration by the Bank. This report is also available free from the IDB's world wide web Internet page under the "business opportunities" heading.⁴⁸ The ADB also publishes a report, *ADB Business Opportunities Monthly* (available by subscription), showing the status of projects in its pipeline. The identical report is also distributed electronically through the ADB home page.⁴⁹ For the EBRD, the list of projects in the pipeline shown on its home page includes only those offering procurement opportunities.⁵⁰ Private sector projects are not listed.

⁴⁷Information supplied by IDB External Relations office.

⁴⁸This information can be found at <http://www.iadb.org/pipeline/projects.html>, at "Project Pipeline: listing by country." That address is <http://www.iadb.org/pipeline/zcountry.html>.

⁴⁹The address for the ADB home page is <http://www.asiandevbank.org>. On that web page, click on "business opportunities" and on the next web page, click on "proposed projects." The list of proposed projects can be found directly at <http://www.asiandevbank.org/adbbo/proproj.html>.

⁵⁰The address for the EBRD web page is <http://www.ebrd.com>. The EBRD does not use the ".org" extension. Click on "operations" to get to the listing for "project summary documents." The direct address is <http://www.ebrd.com/opera/index.html>.

The ADB pipeline document often similarly omits information on prospective private sector projects.

The AFDB publishes a quarterly operational summary of the projects it has under consideration. The Treasury Department says that, once the AFDB is linked to the Internet and its new disclosure policy is in effect, information on projects in its pipeline should also be available from the AFDB web page.

The IFC also reportedly prepares a *Monthly Operational Summary* for the projects it has under consideration. A confidential document, this report is shared with member country governments but is not available to the public.

Information on Proposed Projects.

Public Sector Projects. The World Bank operational manual requires its country departments to file a Project Information Document (PID) with its public information center when they approve an Initial Executive Project Summary (IEPS) for a project or an Initiating Memorandum (IM) for an adjustment operation. These documents are the first official signal by Bank management that a project is under consideration. Initially, PIDs were brief two page statements. Now, reportedly as a result of U.S. encouragement and oversight, they are longer and more detailed. The operational manual says PIDs must be updated as projects develop and revised later if major changes occur in the plan. PIDs are available to the public electronically from the World Bank's worldwide web page on the Internet. As discussed below, the World Bank information disclosure policy says that PIDs should contain information on the project's likely environmental effects.

The IDB, ADB, and IFC provide summary descriptions of proposed projects on their Internet pages similar to those from the World Bank. The IDB says the full text of a project proposal may be purchased (free to nationals of the borrower country) from its PIC. The EBRD began listing summaries on its page in September 1996, but the coverage is currently incomplete. Treasury officials suggest this may stem from the fact that the EBRD policy is not retroactive and from the greater confidentiality the EBRD accords to private sector projects.

AFDB management says the AFDB should use a similar procedure. Once the AFDB formally adopts a new information disclosure policy and once the AFDB is fully connected to the Internet (reportedly scheduled for late 1997), its prospective project briefs (PPB) will be available from its public information center at least 6 months prior to the project's presentation to the Board. The IDB and ADB say information on public sector projects is listed as soon as a project enters the pipeline. The EBRD makes information on public sector projects available following Initial Review, a stage comparable to the IEPS process at the World Bank.

Private Sector Projects. All IFC assistance goes to private firms or majority state-owned firms in the process of privatization, without government repayment guarantees. To protect the interests of its clients, the IFC does not distribute information about pending projects (as in the World Bank) when they have received initial authorization by management to prepare a project design. Rather, the IFC information access policy says that summary information on projects will be available through the World Bank PIC at least 30 days before they are scheduled for

consideration by the IFC executive board.⁵¹ The IFC may waive the 30 day notice provision if it believes market conditions or other factors make observance of the 30-day notice period inappropriate.⁵² The EBRD and ADB follow the IFC example in their private sector non-guaranteed projects. AFDB management recommended, in its February 1997 information disclosure policy proposal, that the African Bank do likewise for any private sector projects it might finance.

Environmental Studies: Public Sector Projects. The World Bank, IDB, ADB, AFDB, and EBRD require borrowers to prepare environmental impact assessments (EIAs) for all public sector projects the banks believe likely to have a major impact on the environment. In many cases, copies of the EIA summary for a project may be obtained electronically from the banks' world wide web pages. Printed copies of the full EIA can be purchased at a nominal charge. They are generally free to nationals of the country where the project is located.

⁵¹The IFC is a legally separate organization from the IBRD and IDA. It has its own staff and its own executive vice president, overseeing IFC operations. IFC executive vice president reports to the President of the World Bank Group, however, and the IFC executive board consists of the same individuals who comprise the executive board of the other World Bank Group agencies.

⁵²International Finance Corporation. Policy on Disclosure of Information, January 1997, p. 8. The IFC says, in its information disclosure statement, that project summary documents should contain a brief factual summary of the main elements of the project, its sponsors, the project company's shareholders, total project cost, the location of the project, a description of the project and its purpose, the environmental category, a brief description of any environmental issues (including mitigating environmental effects) and methods for accessing information in-country.

TABLE 1. Information Available to the Public from Each MDB

	<u>World Bank</u>	<u>IFC</u>	<u>ADB</u>	<u>AFDB (March 1997 draft)</u>	<u>IDB</u>	<u>EBRD</u>
<i>Name of Project Info Document (PID)</i>	Project Information Document	Summary Project Information	Program or Project Profile	Prospective Project Brief (Proposed)	Project Profile	Project Summary
<i>When Available</i>	When IEPS approved by country dept (often 4-5 months before Board action)	At least 30 days before board action	<i>Public sector:</i> like WB <i>Private sector:</i> like IFC	<i>Public sector:</i> like WB <i>Private sector:</i> like IFC	<i>both sectors:</i> like WB	<i>Public sector:</i> ASAP after initial review (min:60 days) <i>Private sector:</i> Like IFC
<i>EIA Available? (Category A Projects)</i>	When done by borrower (before appraisal, often 6 mo before Board vote)	At least 60 days before Board vote	Summary EIA released 120 days before scheduled board vote	Like World Bank	Like World Bank	When released by borrower (see below)
<i>Minimum Waiting Period from EIA to Board Action?</i>	No	60 days	120 days	No	No	<i>Public sector:</i> 120 days <i>Private sector:</i> min 60 days
<i>Environ Analyses Available? (Category B projects)</i>	Before appraisal; summary in PID	At least 30 days before Board vote, summary in PID	Some like Category A; most have no information available	Like Category A Projects (if Board OKs release)	Released before staff analysis mission	<i>Public sector:</i> summary in PID <i>Private sector:</i> min 30 days before Bd vote

TABLE 1 (continued)

	<u>World Bank</u>	<u>IFC</u>	<u>ADB</u>	<u>AFDB</u>	<u>IDB</u>	<u>EBRD</u>
<i>Other Environmental Information Available to Public</i>	Environ rept on IDA proj if submitted), Quarterly environ data sheets for current proj, Environ action plans (if submitted)	None	Initial Environ Examination, Summary Environ Examination: both to be available on request	No indication	Environ Brief (staff's initial statement of likely environ impact & recommended remedies	No indication
<i>Inspection Panel</i>	Yes	Proposed	Yes	Proposed	Yes	No
<i>Pipeline Document Availability & Distribution</i>	Monthly Operational Summary (print)	None	ADB Business Opportunities (Print & PIC)	Quarterly Operational Summary (print only)	IDB Projects (Print & PIC)	EBRD Pipeline (PIC only)
<i>Loan Document Availability (after approval by the MDB Executive Board)</i>	Staff Appraisal Report (SAR); summary from PIC; full text available	No	<i>Public sector:</i> Report & Recommendation of President (RRP). Summary from PIC, full text available <i>Private sector:</i> RRP available if borrower consents	Project Appraisal Report (available from PIC)	Loan Proposal (summary in PIC; full text available). Contains no sensitive information	<i>Public sector:</i> Board report edited and available on request <i>Private sector:</i> no indication
<i>Country Econ & Sector Studies Available</i>	<i>Country:</i> when given to Board* <i>Sector:</i> after okayed by Board *but not country strategy paper	No	<i>Both:</i> after Board approval	<i>Country:</i> rarely <i>Sector:</i> after after OKed by Board	<i>Country:</i> no indication <i>Sector:</i> after seen by Board	<i>Both:</i> after Board approval

Environmental Studies: World Bank and IDB. The World Bank and IDB say EIAs for all potential public sector projects will be available publicly as soon as they have been released publicly in the borrower country and submitted officially to the respective banks. Technically, these two banks do not specify a minimum time period which must elapse after release of this information before loans can be considered by their Executive Boards. In practice, however, these documents are generally available well in advance of board deliberations. The World Bank and IDB say their staff may not visit a country to assess an environmentally-sensitive project until after the prospective borrower has released the EIA to the public and given a copy to the banks. Most projects require at least 5-to-6 months additional work following the assessment mission to prepare them for final consideration. Consequently, in most case, 120 days will elapse between the release of the EIA and Board action. Copies of the EIA for proposed IDB projects are available for a charge from its PIC.

The World Bank and IDB say, in their information disclosure policy statements, that bank staff will prepare environmental analyses for category B projects. These are supposed to be available through the World Bank or IDB public information centers either as annexes to PIDs or as separate environmental documents. The IDB information disclosure policy also says that copies of its Environmental Brief for each project should be available to the public by request from headquarters, country, and European offices. This document shows the IDB staff's initial assessment of a project's potential environmental impact and its recommendations concerning means of addressing those issues during the project preparation process.

The World Bank operational manual provides that, when IDA finances a category B project, the borrower may submit an environmental analysis of its own to the Bank. These are then to be made available in the borrower country in the same manner as are EIAs for projects with more substantial environmental effects. World Bank officials report that few if any separate analyses for IDA projects have been filed.

The World Bank information disclosure policy also says that environmental data sheets for "all projects in the Bank lending program" will be publicly available through the Bank's PIC. Updated quarterly, these are supposed to briefly describe the major environmental issues identified or suspected in the project and issues of lesser scope. They are also supposed to show what actions are planned to mitigate adverse impacts. Copies are supposed to be available from the World Bank PIC web page.

The World Bank encourages, but it does not require, countries to prepare National Environmental Action Plans (NEAPs). In many cases, the Bank contributes technical assistance and seed money to the preparation of these plans. The Bank operational manual says that, if a country files such a plan with the Bank and if the country consents to public distribution of the plan, the Bank country desk must send a copy to the PIC. The public can then order a printed copy of the plan from the PIC. One such report (from Bangladesh) is currently listed in the PIC menu.

Environmental Studies: ADB. The ADB environmental review and information disclosure policies say that Summary Environmental Impact

Assessments (SEIA) of both public and private sector projects to be made available to the Board at least 120 days prior to Board consideration. (The 120 day requirement is embedded in the ADB environmental rules rather than in its information disclosure policy.) The Treasury Department says that, in accordance with Bank policy, the ADB Board provides the public with access to these documents upon their receipt. The ADB information disclosure policy says that others related documents -- Environmental Impact Assessments (EIAs), Initial Environmental Examinations (IEEs), and Summary Initial Environmental Examinations (SIEEs) -- for category A and category B projects with significant environmental impacts shall also be available to the public on request after they have been released locally and transmitted to the Bank.⁵³

Environmental Studies: EBRD. The EBRD requires that EIAs be prepared by the project sponsor for all projects having a potentially significant effect on the environment which cannot be readily identified and for which remedial measures cannot easily be prescribed.⁵⁴ The project sponsor must make the EIA and an executive summary in the local language available for public comment in the country where the project will be located, in accordance with relevant national legislation. For public sector operations, the EBRD requires that at least 120 days must elapse before a loan proposal may be considered by the Executive Board. The public may examine the EIA studies for EBRD projects at the Bank's PIC, though no photocopies may be made and copies are not available (electronically or otherwise) to potential users outside the PIC. The EBRD recently began allowing the public to view draft EIA studies at its PIC. The EBRD requires that an Environmental Analysis be prepared for category B projects that are likely to have significant environmental effects. The EBRD does not require, however, that these must be available to the executive board or the public any particular number of days before a loan may be considered by the board.

Environmental Studies: AFDB. The president of the AFDB proposed in March 1997 that environmental impact assessments prepared by the borrower country should be made available to the public (including affected groups and NGOs) in the borrower country before the AFDB proceeds with its appraisal of the proposed project. No specific time period is mandated. As with the comparable process at the World Bank, however, more than 120 days are normally required to take a project from appraisal to final submission to the executive board. A proposal to allow countries to restrict circulation of this information outside their borders was dropped in the March version of the plan, as was a proposal allowing the AFDB Board to restrict public access to summary EIAs. The latter, prepared by the AFDB staff, would contain its conclusions and recommendations regarding the project. Both documents will now apparently be available from the Bank's PIC.

Environmental Studies: Private Sector Projects. Less information is publicly available and it is provided later when the MDBs assist private sector firms in the absence of government repayment guarantees. The IFC information guidelines say

⁵³ADB policy statement Confidentiality and Disclosure of Information, para. 39.

⁵⁴The EBRD says these are category A projects. EBRD. Public Access and Disclosure of Information. Document BDS95-68 (Final), April 3, 1996, p. 7.

that EIAs and accompanying summaries for category A projects will be released through the World Bank Group PIC at least 60 days before a project is considered by the IFC executive board. An environmental review summary, less extensive than a full EIA, is released for category B projects at least 30 days before board consideration.

The U.S. Government and NGOs contend that the IFC often lists as category B projects whose characteristics would suggest an "A" categorization is more appropriate.⁵⁵ In an effort to respond to these concerns about "Big B" projects, the IFC says that more scrutiny will be given to category B projects which have "special components that may cause additional environmental impacts."⁵⁶ Project sponsors will be required to do additional environmental studies of these components and to release the results to locally affected groups as part of the appraisal process. It is not clear whether the environmental review summaries for these projects will be upgraded to full EIAs or whether they will be as publicly available as EIAs for category A projects. The World Bank PIC evidently will still treat these as category B projects, releasing their environmental review summaries at least 30 days (not 60 days, as if they were category A projects) before the loan is scheduled to go to the IFC board.

The EBRD rules say that EIA reports and summaries must be released to the public and provided to the executive board at least 60 days before a project is scheduled for board consideration. The rules say this must also occur at least 30 days before the staff prepares a proposal for its final examination by top EBRD management.

The Asian Bank's information rules state that EIAs for private sector projects must be released publicly and provided to the ADB Executive Board at least 120 days before Board consideration. However, the rules also say ADB management may reduce the time period or block any release if it decides commercial conditions require that no information should be released publicly before the proposal goes to the Board. The rule proposed by AFDB management in its February 1997 draft policy does not mention any similar limitation on the release of EIA studies for private sector loans. It does indicate, however, that information on private sector projects (including environmental categorizations) will be available to the public 30 days before a project is presented to the Bank's Executive Board.

The IDB does not distinguish, in its statement about public access to environmental data, between loans to public and private sectors borrowers. The disclosure requirement of EIA studies applies to both kinds of borrowers.

Availability of Loan Documents. For many years, MDB loan documents were not available publicly, though copies were often obtainable unofficially from bank

⁵⁵See, for example: Christopher H. Chamberlain. Public Access to Information at the International Finance Corporation and the Multilateral Investment Guarantee Agency: A Bank Information Center Review. A study prepared for the Bank Information Center, March 1997. (Photocopy).

⁵⁶IFC, Policy on Disclosure of Information, pp. 9-10.

or member government officials. In recent years, the MDBs have taken steps to allow the public access to edited versions of these documents.

At the World Bank, Staff Appraisal Reports (SARs) are the basic documents the executive board reviews when it considers a proposed project. Since 1993, prospective borrowers are told the SAR will be available to the public. Borrowers can ask that sections be deleted if they consider them confidential or sensitive or likely to adversely affect relations between the Bank and the borrower country government. Summaries of the SARs for approved loans are available from the World Bank PIC web page. Printed copies of the full SAR may be ordered, for a nominal price. Nationals of the borrower country can reportedly obtain the full SAR at no charge from the field office responsible for that country. The Bank operational memorandum says the staff must submit an update to the PIC if major changes are subsequently approved in a project. However, there seems to be no device for requiring that updates be filed.

The other multilateral banks have (or, in the case of the AFDB, plan to have) similar procedures for releasing loan proposals to the public once their executive boards decide to finance the projects. Generally, the text available to the public is the same text that was submitted to the banks' executive boards. However, the banks' information access policies usually say sensitive or confidential information about projects may be transmitted to the boards by other means. At the IDB, loan documents for private sector non-guaranteed projects and regular IDB public sector loans are both available to the public. At the AFDB, management says the investment briefs for private sector projects will be available to the public 30 days before Board presentation once they have been edited to remove all proprietary information. Project appraisal reports (the loan documents that go to the Board) will evidently not be available for AFDB private sector projects. The ADB, EBRD, and IFC do not distribute loan documents for their private sector projects, though summaries are provided in their annual reports, web pages, and press releases.

Other Information. The MDBs make public a variety of other documents or reports. Economic reports on individual countries or staff studies of particular economic issues can often be obtained, for example, from their web pages. Generally, as the World Bank operational manual says, borrower countries may identify confidential information they wish deleted from the public version of the studies and MDB staff will modify them "as appropriate." The World Bank has established 240 depository libraries, three-quarters of them in developing countries, where members of the public can read any of the books or studies that the Bank publishes (about 300 titles a year). The ADB has also established comparable depository libraries in its member countries.

The ADB Web Page. The ADB supplies a considerable amount of information through its web page. Besides project information documents and environmental data, for example, the public can access statistical information on ADB borrower countries, lists of ADB publications (often with actual text or summaries), press releases and descriptions of approved projects, country economic reviews, and policy papers. The public can also order copies of the ADB's country strategy papers and country notes for individual countries. Much of the information available from the ADB web page is incomplete or out of date, however. For example, most country

economic studies in April 1997 were several years old (that for India being dated 1992). Only 8 country operational strategy papers were listed (for Kazakstan, Nauru, Kyrgyz Republic, Cambodia, India, Maldives, Pakistan, and Vietnam). No information was provided on the page offering access to ADB country notes. The ADB is currently taking steps to improve the content and scope of its web page.

The EBRD Web Page. The EBRD web page offers a summary description of the Bank's current operations and policies in each borrower country (in effect, its country strategy.) It also supplies detail about each signed project in the pipeline, a summary of new economic or business laws in borrower countries, and a list of titles (without text) of EBRD publications or studies. Most of the information seemed (in April 1997) up to date, though often little detail was available.

The IDB Web Page. Unique among the MDB web pages, the IDB web page contains articles on Latin American development issues or Bank activity in the region. It also provides access to a substantial body of socio-economic data on IDB borrower countries, the text and explanations for IDB policy statements, text of IDB strategy papers and best practice guidelines for addressing particular issues, and a list and brief synopsis of IDB publications. Information is available both in English and Spanish. No country strategy paper is provided.

The World Bank Web Page. The World Bank web page supplies information on Bank policy and operations. It provides, for example, official statements on issues of current interest and articles on development issues and Bank activity from the Bank's monthly news report. It offers summary economic reports on particular regions or countries. These were current as regards their content, in April 1997, but no information was available for many countries. (None were listed for countries in sub-Saharan Africa, for example.) Country economic reports are valuable, but copies of the Bank's country strategy papers are not provided. The web page lists all the titles (966 items) in the Bank publications catalog, with a detailed summary of the more "popular" titles and articles from the Bank's economic journals. A search facility was provided, allowing readers to search the Bank publication list for works containing key words or phrases. The Bank has a similar facility on its home page allowing readers to search these sources as well as documents not in the Bank catalog (minutes of public seminars, statements by study groups, consultant reports, and other selected Bank internal documents) for information.

The World Bank web page has links to other web pages, such as those for the Consultative Group to Assist the Poorest (CGAP), the Special Program for African Agricultural Research, the Consultative Group on International Agricultural Research (CGIAR), the International Center for the Settlement of Investment Disputes (ICSID), the Multilateral Investment Guarantee Agency (MIGA), the International Finance Corporation (IFC), and the Global Environment Fund (GEF). All are or have been affiliates of the World Bank.

The IFC, MIGA and GEF Web Pages. The IFC web page⁵⁷ provides summaries of IFC discussion papers and studies, with full text in some instances. It supplies access to the IFC's Emerging Markets Data Base, with information on stock

⁵⁷The address of the IFC web page is <http://www.ifc.org>.

markets in developing countries. It also supplies access to the IFC's data base on trends in private investment in developing countries. Text of some IFC policy statements are also available. Project summaries and environmental data are supplied via the IFC listing on the World Bank PIC web page. The MIGA web page⁵⁸ provides a description of the organizational structure, services, and recent history of MIGA. It also lists upcoming activities. No description of prospective projects or environmental data is supplied, however. The GEF web page⁵⁹ provides information on the organization's structure and purpose as well as copies of its semi-annual newsletter and a list (titles only) of GEF working papers. It shows the countries where the GEF has projects, but no information is provided about potential projects or their likely environmental effects. The Treasury Department maintains that the IFC (and, presumably, the MIGA) are not covered by the Pelosi Amendment. (See discussion in the next chapter.) It is not evident, from a reading of the Amendment, that the GEF is covered by that legislation.

The AFDB. The AFDB hopes to have its web page in service by late 1997. At the present time, nearly half the countries of sub-Saharan Africa lack effective participation in the Internet. The United Nations, USAID, World Bank, and others are seeking to initiate and expand connectivity in African and other regions. AFDB management recommended in February 1997 that country strategy papers should be available to the public from its new PIC following consultation with the borrower and approval by the Board. Treasury says that the AFDB directors later agreed that sensitive or confidential portions of those papers should be removed prior to publication.

F. Information Not Available to the Public

Several types of information on MDB activity are not accessible. The proceedings of the banks' boards of executive directors are not available, for example. This includes statements and votes by members of the boards, text of resolutions or documents prepared for consideration of the boards, or similar information they chose not to release. However, individual executive directors can release information on their own votes and statements if they choose.

Similarly, internal documents, reports, or memoranda prepared by bank staff or by outside advisers for use in its internal decision-making process are not available to outsiders, executive directors, representatives of member country governments, and the public. Operations evaluation reports on particular activities, project evaluation reports on projects currently under implementation, recommendations or determinations about proposed projects, information on some Bank financial management operations or current procurement bidding, and other similar data are considered confidential and not circulated. Access to information received on a

⁵⁸The address of the MIGA web page is <http://www.miga.org>.

⁵⁹The address of the GEF is <http://www.worldbank.org/html/gef/gefgraph.htm>. The GEF is a legally separate international organization, with its own staff and decision-making structure. As its web address indicates, however, the GEF depends on the World Bank for many technical and operational functions.

confidential basis from borrowers, countries, or other financial institutions is similarly restricted.

The World Bank, IDB, and ADB have established independent panels with authority to investigate whether the banks have complied with their established policies and procedures in specific situations. At the World Bank, it is called the Inspection Panel. At the IDB and ADB, respectively, they are called the Independent Investigation Mechanism or Inspection Committee.

Private citizens, groups, or others may appeal to these panels for assistance if they believe they have been adversely affected because a bank failed to follow its own policies or procedures on a bank-funded project. If the World Bank, IDB, or ADB executive board believe a sufficient complaint has been made, it may ask the independent panel to study the problem. The panels have full authority to interview bank staff or management, hold hearings, conduct field inspections, and examine all relevant bank files or information. The panels file their reports with the banks' executive boards. However, board action is required in a specific period of time and the guidelines specify that the banks shall release these reports to the public within two weeks (seven days for the ADB and fifteen days at the IDB) of board action.

The independent panel procedure is not a device for releasing internal bank communications and confidential data publicly. The World Bank guidelines specify that "Documents of a confidential nature will not be released by the Panel without the express written consent of the party concerned." The IDB guidelines say "The Panel shall maintain the confidentiality of any information to which it has access, but which is required by Bank policies to be confidential." Nevertheless, confidential information can be communicated to the banks' executive boards and the panels can make findings based on that information without revealing it publicly. The procedure seems to suggest that actions by the World Bank, IDB, or ADB staff or management that violate their institutions' declared policies cannot be hidden from public view simply on account of the banks' rules concerning confidentiality.

G. Limitations of the Current Disclosure Procedures

Availability. Spokesmen for non-governmental organizations indicate dissatisfaction with the adequacy of information disclosed by the banks. For example, they report that MDB resident missions (MDB offices located in borrower countries) have declined to supply NGO requestors with copies of EIA studies or other project information that should be available publicly. The USED office at the ADB says this has never happened at the Asian Bank. Spokesmen for other MDBs admit that some of their local personnel are not familiar enough with the new bank policies. They acknowledge that more work needs to be done to attune them with the new procedures. Some of the NGO reports about non-cooperation by MDB country offices are quite recent.

There are indications that NGOs in borrower countries may not be relying on MDB country offices for information on pending projects. The IDB offices in Honduras and El Salvador indicated, for example, that they had received relatively few requests from local groups for environmental information on proposed projects. An NGO in El Salvador reported that its people had to travel to Washington, D.C.

to obtain information on a World Bank project of particular concern. (The World Bank has no office in El Salvador, though it does have a regional office in Costa Rica.) On the other hand, staff report -- and interviews with NGOs and municipal officials in the two countries affirm -- that the MDBs often require prospective borrowers to consult widely with local groups and communities about environmental and other issues during the project preparation process. In Honduras, for example, local NGOs were a major source of environmental data for several IDB projects.

To publicize and distribute information, the MDBs rely heavily on the internet. Many NGOs argue that this places an undue burden on local groups and organizations. Spokesmen for local NGOs in El Salvador and Honduras told the author in September 1996, for example, that they lack the funds and capacity to use the internet. Many developing countries have only been recently connected to the internet via local networks. (See box on the following page.) Telephone service is often very expensive and undependable and many users must pay long-distance charges to connect with internet providers inside their country. The NGOs claim that local MDB offices have not been willing, despite claims to the contrary by headquarters officials, to allow local NGOs or communities to use their network connections to access information from the banks' public information centers. MDB spokesmen say that network connections will improve in most countries in the future and the internet is the fastest and most cost-effective method available for the worldwide distribution of information on their operations.

Some MDB officials argue that it would be wrong to slow the pace of MDB operations by requiring the physical distribution of printed material to local requestors because some local NGOs lack the resources to subscribe to Internet services. NGOs say it is a mistake to use technical "fixes" that are beyond the organizational and financial capabilities of most potential beneficiaries.

Both points have supporters, but they argue from different perspectives. The internet is an inexpensive way for the MDBs to disseminate information, but it is currently an expensive way for private citizens and NGOs in developing countries to receive that information. Many developing countries lack effective internet service and the service often costs more than most private citizens and most NGOs can afford to pay. (See box.) Governments are sometimes reluctant to see private use of the internet expand because of concern about implicit challenges to their authority caused by the free flow of information and ideas, foreign cultural influence, security, or the loss of revenue from their current telecommunications setup. Often, the local networks in developing countries are connected only through intermediaries in Europe or North America. This increases their cost and decreases their flexibility. In dollar terms, the cost of internet service is often higher in low-income countries than in middle income countries. This is particularly so if relative income levels are taken into account. The number of users (particularly private or non-official users) connected to the internet most developing countries is relatively small, by world standards. In sub-Saharan Africa, according to one expert, "those [countries

Internet Service in Developing Countries: Availability and Cost

Most developing countries have some access to the internet's world wide web, though in some the extent and scope of the available service is limited. Many poor countries, however, lack internet connections. In Asia, at least 10 countries have no connectivity. These include Afghanistan, Bhutan, Burma, Cambodia, Laos, Kiribati, North Korea, Solomon Islands, Tajikistan, and Vietnam. For the most part, the MDBs do not have large loan programs in these countries.

On the other hand, the World Bank's loan program in sub-Saharan Africa is large and comprises a substantial share of its concessional lending operations. Nevertheless, at least 18 countries of the region have no public internet connections. These include Burundi, Cape Verde, Chad, Congo, Djibouti, Eritrea, Equatorial Guinea, Gambia, Gabon, Guinea, Guinea Bissau, Liberia, Malawi, Mauritania, Rwanda, Sierra Leone, Togo, and Zaire. Several other countries with internet connections seem to have only limited public availability.

The cost of internet service varies considerably from country to country. A brief survey of available information or inquiries to providers provided the following information on the monthly cost of dial-up service. The price is usually the cost for unlimited hourly access, though in some cases an hourly use charge was levied. In such cases (marked*), a 10 hour monthly use is assumed. Access to a computer and local telephone service are required and taxes may be levied, though these costs are not included in the figures below. For reference, the average monthly income in each country is also shown.

	Monthly Dialup Cost	Monthly Per Capita Income		Monthly Dialup Cost	Monthly Per Capita Income
Argentina	\$50	\$669	Romania	\$40	\$123
Armenia	\$95	\$61	Senegal	\$88*	\$50
Brazil	\$30	\$303	Pakistan	\$19*	\$38
Bolivia	\$20	\$67	Côte d'Ivoire	\$41	\$55
Haiti	\$50	\$21	Nigeria	\$125	\$22
Panama	\$30	\$229	Honduras	\$30	\$50
Botswana	\$41	\$252	Ghana	\$40	\$33
Zambia	\$43	\$33	Ukraine	\$40*	\$136
Zimbabwe	\$38	\$45	Fiji	\$140*	\$203
Tanzania	\$50	\$10	Thailand	\$25	\$228
Malaysia	\$20	\$324	Jordan	\$73	\$126
Namibia	\$10	\$167	Russia	\$16*	\$221
Latvia	\$52	\$189	Bangladesh	\$28*	\$20

Sources: Network Resource Startup Center (<http://www.nrsc.org>), USAID (<http://hawkeye.info.usaid.gov/africalink/search/isps-cpr.cfm>), direct inquiries to providers, and World Bank, *World Development Indicators*, 1997, table 1.1.

connected to full Internet Providers score the least density [of local connectivity] in the world.⁶⁰

If the MDBs want to use the internet as their principal means for channeling information to the public, they might help NGOs in developing countries make more effective use of the medium.⁶¹ In most countries, the MDBs use leased lines to connect their resident missions electronically to their headquarters offices. At little additional cost to themselves, the banks could set up work stations in their country offices where NGOs, scholars, and other appropriate members of the public could connect via the internet to the banks' public information centers or to other sources of information on development issues. This need not hamper the work of the banks' local personnel. The MDBs would need to be sure that their local representatives understand and comply with their policies regarding public access to MDB information.

As discussed in Chapter I, the MDBs require a full environmental assessment of projects only when they believe they might have a substantial effect on the environment. The decision whether a project meets this standard is made at the beginning of the process and is based on criteria set forth in the Bank's environmental assessment procedures and the professional judgment of Bank staff. MDB project officers have a principal voice in the categorization process. The decision is not subject to appeal by outsiders or member country governments. Generally, a project's environmental category is not reassessed or changed as it moves through the review process.

⁶⁰Lishan Adams, African Connectivity, Problems, Solutions and Actions: Some Recommendations from Inet'96, at <http://www.nsrc.org/AFRICA/regional-reports/inet.txt>.

⁶¹There is controversy about the extent to which the World Bank has fostered connectivity in Africa. Some have suggested that the Bank has been the principal force in wiring the continent into the internet. (See, for example: Christopher Koch. "It's a Wired World." WebMaster, March 1997. Internet version: http://www.cio.com/WebMaster/030197_wired_content.html.) The World Bank hosted meetings with the Internet Society and White House in 1994 that endorsed the Society's proposal for a plan to establish full connectivity in 20 African countries then lacking service. The Bank subsequently sponsored the participation by some potential African internet providers in various training programs held by the Society. It also helped finance the initiation of full internet service in several African countries. In 1995, the Bank initiated its Information for Development Program (infoDev), which held its first donors meeting in November 1995 and began funding work programs in April 1996. The creation of programs to help countries better use connectivity, rather than the funding of connectivity itself, seems the principal focus of infoDev activity. (See: <http://www.worldbank.org/html/fpd/infodev>. Also see other sources generated by the query "internet" on the World Bank home page.) The Bank's Electronic Media Center says it generates ideas and proposals for strengthening the internet's infrastructure in developing countries and for expanding the internet's use as a development tool.

Nevertheless, many countries in Africa already had internet connectivity programs underway before the World Bank initiated its efforts in this area. The UN Development Programme, USAID, the French research agency ORSTOM, and several others have been active in the region. The records of the Network Startup Resource Center (<http://www.nsrc.org>) show that, for the African countries mentioned in the WebMaster article and for other countries in the region as well, the first "ping" evidencing full internet connectivity occurred well before World Bank involvement. The World Bank's technical efforts seem designed to strengthen and extend these existing initiatives.

NGOs and others argue that many projects with potentially significant environmental effects are given a lower rating (category B rather than A, in the World Bank system, for example) to avoid the delay that would likely be caused by preparation of a full EIA. The banks study the potential environmental effects of category B projects, but in these cases, their analyses are generally less extensive and the amount of information provided to the public is generally less than that available for full EIAs. Some MDBs provide minimal information to the public on the analysis of environmental implications of category B projects.

Confidence in the banks' system for environmental categorization could be enhanced if the decision making system were more transparent and autonomous. Also, procedures might be adopted allowing the public or member country governments to provide formal input during the categorization process or to appeal categorization decisions to the banks' inspection panels or their executive boards for reconsideration.

Completeness of the Banks' Lists of Pending Projects. The World Bank, EBRD, and IDB have two main vehicles for informing the public about prospective projects--their monthly operational summaries (or pipeline list) and their project information documents (or project list). Neither seems to be a complete description of all the projects currently under review at these banks. Projects may be discussed on the pipeline list but not on the project list or vice versa. (See Table 2, below.) Comparison of the two lists for the World Bank showed that 40% of the projects in the sample⁶² were listed only in the MOS, 20% were listed solely in the project list (PIDs on the World Bank Internet page), and 40% were listed in both sources. There was more overlap in the IDB and less overlap in the EBRD reporting systems.

The two systems have different goals. The project pipeline list was originally intended to keep bank officials informed about the status of pending projects. It is also used to keep businesses informed about future procurement opportunities at the banks. The project summaries are designed to inform the public about the details (including possible environmental effects) of prospective projects. The project pipeline lists for the EBRD and IDB are available from their Internet web pages. The ADB uses its list of potential projects as its pipeline list. It does not have a separate list of projects currently in its project preparation pipeline.

⁶²For the World Bank, the sample examined all projects listed in the MOS and PIC data base for the first ten countries (alphabetical order) in each of the Bank's operational regions. For the IDB, the projects listed in the pipeline document and PIC data base for the first ten countries were scrutinized. For the EBRD, the projects for all countries in both sources were compared.

**TABLE 2. Consistency of MDB Reports about
Projects under Consideration, 1996***

	Total <u>Projects</u>	(A) Listed in <u>Pipeline Only</u>	(B) Listed in <u>Project List Only</u>	(C) Listed in <u>Both</u>	Projects in (B) That Were Already <u>Approved</u>
World Bank					
Sub-Saharan Africa	63	32	15	16	10
East Asia/Pacific	123	63	10	50	8
Europe/Cent Asia	67	26	21	20	11
Latin America	94	44	20	30	9
Mid East/No Africa	90	26	29	35	16
South Asia	91	28	14	49	8
<i>Total World Bank</i>	<i>528</i>	<i>219</i>	<i>109</i>	<i>200</i>	<i>62</i>
Inter-American Development Bank					
	135	38	29	68	2
European Bank for Recon and Develop					
	105	32	61	12	3

* For World Bank and IDB, first 10 countries in each group only.

Neither system seems to provide a comprehensive and up-to-date source of information on prospective MDB projects. The MDB project development process can be quite lengthy -- typically one or two years but sometimes longer -- and project concepts and specifics can change substantially during this process. Projects are entered in the project pipeline document when a country first expresses interest in a loan and the idea takes shape. Little detailed information is provided about them in the pipeline list. Nevertheless, the pipeline list is published well before any information about the planned project is available for distribution through the banks' public information centers. A considerable amount of work will have taken place and firm decisions may have been made regarding the shape, direction, and environmental categorization of the project before a project information document is ready for distribution through a bank's PIC.

The banks differ in this regard. The World Bank MOS often says, for example, that identification missions or appraisal missions may visit a country even though no PID has yet appeared for the project in question. The MOS sometimes says that the PID will not be written until specific actions have taken place. The USED office at the ADB reports, on the other hand, that the PIDs for potential ADB projects are written before a fact finding mission visits its borrower countries. This suggests that the ADB makes its environmental categorizations before its staff inspect the prospective projects.

Projects may occasionally go through most or all their development process without their being publicly identified. Several instances might be cited.

- At the World Bank, a loan for secondary education in Sumatra (Indonesia) was approved by the executive board in September 1996 even though no PID seemed to be available to the public. The World Bank executive board also approved a poverty alleviation loan for Bangladesh on September 17, 1996, though the date of preparation for the PID for that loan was two days later.
- At the IDB, the pipeline document for October reported that an urban development loan for Bolivia was scheduled for board consideration in February 1997, though no project information document was then available at the PIC. The same document said an energy efficiency project for Colombia was scheduled for board action in mid-December 1996. The PID for this loan seems to have appeared on the PIC menu in November. At the time of its appearance, no environmental classification had yet been made for the loan.
- At the EBRD, all 32 projects on the pipeline list for December 1996 were infrastructure projects with official (public sector) borrowers. For 9 of these, consideration by the executive board was the next step in the process. Project information documents were available for only three of them. No commercial or private sector projects were shown on the EBRD pipeline list. In fact, an examination of the project information documents available from the EBRD public information center suggested that three-fifths of the loans under consideration by the EBRD -- mostly private sector projects -- were not shown on its pipeline list.

The ADB does not issue both a project list and a pipeline list. In effect, it uses its pipeline document as its list of pending projects. Unlike the World Bank and IDB, it does not publish one document listing the proposals it is contemplating and another showing in more detail the draft projects it is actually preparing for Board review. Projects are listed in the ADB web page's list of projects when they have received concept clearance (presumably a step comparable to the approval of an Initial Executive Project Summary at the World Bank). There is no way of knowing how many potential projects the ADB has under consideration that have not yet reached this stage of development. As noted earlier, 40%-to-50% of the projects in the World Bank or IDB monthly operational summaries (most of them at the early stages of identification or conceptualization) are not listed in those banks' lists of projects in active preparation. If a similar situation pertains at the ADB, then no information is available from its PIC on a significant share of the projects the ADB staff has under consideration.

Projects often remain in both the project pipeline document and the PIC project information menu for several months after they have been approved by a bank's executive board. They may even continue to be listed on the PIC project information after they have been removed from the pipeline list. According to the World Bank, this often occurs when task managers do not submit a Staff Assessment Report to

the PIC.⁶³ The project information document is then kept in the system as a source of data in lieu of the SAR and a notation is placed on the PID list to that effect.

If projects are not listed in the pipeline, outsiders cannot easily monitor their progress or ascertain their likely schedule. Pipeline documents may be difficult to use for this purpose anyway, since (except for the project summaries reported by the ADB) none of them show dates. One cannot tell how long a prospective project has been under consideration or when the last action on the proposal occurred.

Most MDB project information documents have dates showing when they were entered into the PIC data base. The World Bank and EBRD show when the PID was originally prepared and when it was updated. The PIDs for the other banks often have no indication whether they have been updated. The dates on PIDs are often months or even a year or more old. Sometimes, as at the IDB, there are no dates on project summary documents.

Availability of Environmental Information. The environmental data available to the public from the MDBs are neither as complete nor as extensive as the banks' disclosure policies might lead one to expect. The banks all have (or anticipate having) procedures giving the public access to the full text or detailed summaries of the EIAs for all prospective projects with major (category A) environmental effects. Their procedures for informing the public about the possible environmental effects of category B projects are often considerably less extensive.

Availability of Information: World Bank. The World Bank indicates in its information disclosure policy statement that staff assessments of the likely environmental effects of category B projects should be attached as annexes to the project information documents distributed by its public information center.⁶⁴ Inspection shows that this rarely occurs. A sample of 17 PIDs for category B projects on four continents, selected for this inquiry, showed that only one had an environmental annex (a copy of the environmental data sheet) attached. In the body of each PID, a brief paragraph mentioned environmental issues. In 11 of the 17, the paragraph said the project raised no environmental concerns (though by definition--since all were category B projects--some environmental issues must have existed.) One said, for example, that the project was "not expected to result in any significant negative environmental impact and has been rated 'Category B'." Three of the 17

⁶³The reasons why Bank staff did not submit SARs to the PIC are not clear. The PIC says, in its description of its functions, that certain types of projects (structural adjustment operations, technical assistance loans, emergency loans) do not have an SAR. World Bank. Public Information Center, p. 7. However, the instances in the sample where PID remained in the PIC system after the loan had been approved do not seem to be of this sort. The Bank's information disclosure policy says that a country director may restrict release of an SAR "in exceptional cases, [where] extensive issues of confidentiality arise." World Bank. The World Bank Policy on Disclosure of Information, p. 6. The instances in the sample did not seem to fit this criterion.

⁶⁴"The environmental analysis of a 'Category B' project, whether it is a separate document or is contained in a relevant section of the SAR, is attached as an annex to the PID and is publicly available through the PIC." The World Bank Policy on Disclosure of Information, p. 8.

PIDs mentioned potential environmental concerns in general terms. Three others provided some detail or specific references to possible environmental issues and prospective remedies.

A PID for a small South American country, selected at random during this inquiry, had no environmental rating and no environmental paragraph. The text mentioned, however, that the project would fund (among other things) solid waste disposal and construction of marketplaces and slaughterhouses in secondary towns. It also mentioned plans to expand and upgrade the network of all-weather roads in rural areas. Road improvements of this sort sometimes have led to migration into previously inaccessible or marginal forest lands.

The World Bank distributes environmental data sheets for many of its projects through its public information centers. These are potentially useful documents. They ask the staff to list the major environmental issues and other environmental issues likely to arise in the project and the actions the staff proposes for dealing with those issues. They also ask the staff to specify the reporting schedule for action along this line. Environmental data sheets are supposed to be "prepared and updated quarterly for each project in the Bank lending program," the World Bank reports.⁶⁵

The quality of the environmental data sheets currently available from the World Bank PIC is uneven. Generally, for category A projects, a substantial body of information is provided. (This information would have been generated previously in the EIA study for the project.) For category B projects, however, the content of environmental data sheets is more mixed. In random sample of 22 sheets for category B projects selected for this study, 10 indicated that the project had no environmental implications. Most limited themselves to describing the project components or goals. One health project said the only environmental issue had to do with the disposal of toxic medical waste, though it gave no indication how the Bank planned to deal with the question. A transportation project for a Baltic country said "There are no negative environmental issues other than the emission of fumes and waste from the asphalt mixing plants." It did not say what steps might be contemplated to deal with this detail.

Five of the environmental data sheets discussed possible environmental risks and countermeasures in general terms. Some were projects in the early stages of preparation, for which little detail was likely available. Seven sheets provided a catalog of likely environmental risks and a description of the steps planned to counter them.

There is little evidence that the environmental data sheets in the World Bank system are updated quarterly. Many had old dates and said that issues would be addressed during a future period which often seems to be well before the date in January 1997 when CRS drew the data from the system. Often the estimated dates when the projects will come before the Executive Board are several calendar quarters old. If environmental sheets are out of date, they are of little use to persons outside or inside the banks who are monitoring the formulation or implementation process.

⁶⁵Ibid., p. 7

They are also of little use to Bank staff members who are responsible for developing procedures to mitigate potentially negative environmental effects.

The coverage also falls far short of the Bank's statement that the data sheets include "all projects in the Bank lending program." The only data sheets available are for projects currently under consideration or recently approved. No data sheets are provided for projects approved earlier, where money is still being disbursed, even though these projects are still "in the Bank lending program." Outsiders have no systematic way of knowing what new environmental concerns or actions might have arisen since these projects were initially approved.

The regional scope of the system is limited. In January 1997, environmental data sheets were available from the PIC for only some of the projects being considered or implemented by the Bank. These included 117 in sub-Saharan Africa, 41 in East Asia, 17 in South Asia, 78 in Europe and Central Asia, 28 in the Middle East and North Africa, and 69 in Latin America. The Bank had many more projects under consideration or in the early stages of implementation at that time.

Availability of Information: IDB. For category IV projects, which are deemed most likely to have a substantial effect on the environment, borrowers are required to prepare an EIA and release it to the public early in the IDB project cycle. Copies may be obtained from the Bank's PIC. Category IV projects at the IDB are the functional equivalent of category A projects in the World Bank. In April 1997, 26 EIAs were available from the IDB. Many of these have been approved by the IDB executive board and are no longer pending.

The IDB staff prepares environmental briefs or environmental reports for pending projects deemed likely to have a significant though remediable effect on the environment. These are category III and II projects, roughly equivalent to the World Bank's category B operations. The IDB's environmental reports for category III projects are very detailed, often running to 11 or 12 pages in length. Those for category II projects are generally shorter and less detailed.

In January 1997, the author examined the 67 projects then under consideration for Argentina, Brazil, and Mexico. Nineteen environmental reports were on file, 14 for category III and 5 for category II projects. Seven category III projects had no environmental report. No category IV projects were identified. In April 1997, the author made a second examination of the 57 projects then pending for these three countries. Seventeen environmental reports were found, 13 for category III and 3 for category II projects. One project had an environmental report but no environmental classification. Two category III projects had no environmental briefs. One category IV project was identified. No environmental report was available, but some information on its likely environmental impact was included in the project description.

Many of the projects surveyed in January and April 1997 seemed to be the kinds of projects that would have received a category B rating in some other MDBs. Many projects for port or highway construction, development of sanitation systems, water resource development, and similar activities had no environmental rating. Little information about their likely environmental effects was included in their project descriptions. The IDB presumably categorized them as category I or II, equivalent

to category C in the other banks. In the absence of more information, it is difficult for the public to judge whether such IDB projects might have worrisome implications.

Availability of Information: IFC. IFC project information documents may identify the kinds of concerns raised by the project (air emissions, liquid effluent, fire prevention, etc.). Discussion of those issues in the PID is often very brief, however. For category A projects, a copy of the full EIA can be ordered; no summary is available from the PIC. On the other hand, the World Bank PIC has a substantial list of environmental review summaries (ERS) for IFC projects, all evidently for category B projects. In January 1997, 169 PIDs and 107 ERS for pending IFC projects were available from the PIC. (Most of the projects lacking environmental review summaries were category A projects for which copies of the EIA were available.) Ten ERS were selected at random. For the most part, they provided a detailed assessment of the environmental issues raised in the pending loans and discussion of the types of actions contemplated to deal with these concerns. They averaged almost 3 pages in length (single space, small type).

Availability of Information: ADB. The ADB does not include information on environmental issues in its project information documents. Copies of the Summary Environmental Impact Assessments (SEIAs) for category A projects are available to the public on request, at least 120 days before Board consideration. Often 15 to 30 pages in length, these explore the project's possible environmental implications in considerable detail. The Bank says SEIAs are also available some category B projects if they have aspects (in areas such as biodiversity, resettlement, handling or disposal of toxic or hazardous substances) that warrant rigorous examination.

The ADB's information disclosure policy says that "environmentally-related documents for all Category A and Category B projects which have significant environmental impact will be made available to the public" once they have been released locally to borrowers. SEIAs, EIAs, Initial Environmental Examinations (IEEs), and Summary Environmental Examinations (SEEs) are specifically mentioned. The ADB staff reportedly prepares IEEs for all category B projects. Based on the findings for those studies, EIAs are subsequently prepared for projects deemed likely to have significant adverse environmental effects.

The ADB said, in response to a CRS inquiry, that more than 70 SEIAs had been circulated to the executive board and outside groups as of the end of 1996. The ADB Public Information Center lists 39 SEIAs, issued during the period 1995-1997, which the public may request. Five of these were category B projects; the rest were category A projects.⁶⁶

To see if data on other category B projects might be available upon request, the Congressional Research Service asked in May 1997 to see copies of IEEs and SEEs for four category B projects. Given their descriptions, none appeared likely to have

⁶⁶Strictly speaking, the document available for the five category B projects was the SIEE; no SEIAs were listed for them. Two other projects on the list had been originally designated as category B in their SIEEs but were upgraded to category A when their SEIAs were prepared.

extraordinary environmental effects. These projects were among the oldest in the ADB list of pending proposals. ADB management reported that the IEEs for the four had not yet been prepared. They may not be prepared, management said, until about the time the projects were scheduled to go to the executive board.

Availability of Information: EBRD. The EBRD listed 63 projects in its public information center as being under consideration in 1996. (More than this were under review, but the PIC began operations only in September.) Of these, two were category A projects and 28 were category B projects. EBRD borrowers must provide the public with copies of the EIA studies for projects the EBRD believes likely to have a significant (category A) impact on the environment. For both category A and B projects, a summary environmental analysis is attached to project summary documents. Examination of the 30 category A and B in the system in January 1997 showed that the environmental summaries ranged from a few paragraphs to a page in length. Most identified the major environmental concerns associated with the project and steps that might be taken to respond to those concerns. The amount of detail was limited; in some cases, potential remedial steps were not specified.

Information Included in PIDs.

What Information Should be Included? In October 1995, the Bank Information Center (BIC) issued a report assessing the World Bank's information disclosure policy.⁶⁷ This section of the present study looks at the information currently available in MDB project information documents in light of the concerns raised by the BIC study. A table shows relevant information obtained from documents currently in the banks' public information systems.

BIC is a clearing house organized by non-governmental organizations that helps NGOs in developed and developing countries obtain information on the activities of the multilateral banks, with a major emphasis on environmental issues. Created during the period when public information on MDB operations was scarce, BIC and its affiliates have been leading critics of the banks' information policies.

The authors of the 1995 BIC study sent copies of World Bank project information documents to NGOs in developing countries. Many of the responses from NGOs said the PIDs lacked critical information. In particular, many stressed the need for a detailed explanation of the potential environmental and social impact of prospective projects. Many also said the PIDs needed to explain more clearly the reasons for the projects' environmental categorization.

The BIC study examined a half-dozen PIDs released by the Bank in 1995. Based on the responses from local NGOs and their own study of Bank documents,

⁶⁷Chamberlain, Christopher H. and Martha L. Hall. *The World Bank's Revised information Disclosure Policy: a Report on Content and Accessibility.* Washington, D.C.: Bank Information Center, October 1995 (photocopy).

BIC: What Information Should Be Included in PIDs?

The Bank Information Center recommended in 1995 that PIDs issued by the multilateral banks should include the following kinds of information.

- PIDs should identify the individuals and key agencies with primary responsibility for the project, including their name and phone number.
- For projects still being negotiated, PIDs should name the individuals and agencies negotiating on behalf of the borrower.
- PIDs should show the name, address, and phone number for the MDB task manager responsible for the prospective project.
- PIDs should show at the outset the project's environmental category.
- PIDs should identify the groups most affected by the prospective project, including names and addresses.
- PIDs should indicate which non-governmental organizations or individuals had been consulted during the preparation of the project and they should inform readers about ways they can participate in the consultative process.
- PIDs should indicate the specific location of the prospective project and not merely list the province or general locale.
- PIDs should discuss the background and context for the project.
- PIDs should explain the rationale for Bank involvement in a project.
- PIDs should provide a full explanation of the project's risks and not just discuss the major concerns.
- PIDs should be translated into the predominant local language in the borrower country, rather than being available only in English.
- PIDs should provide a full description of the planned project. Only sensitive or confidential information in the IEPS should be omitted.

the authors made several recommendations as to ways PIDs might be made more useful. These are listed in the box on the previous page.

TABLE 3. Scope of MDB Project Information Documents

	World									
	<u>Bank</u>		<u>IFC</u>		<u>ADB</u>		<u>IDB</u>		<u>EBRD</u>	
	<u>A5</u>	<u>B8</u>	<u>A2</u>	<u>10B</u>	<u>6A</u>	<u>?B</u>	<u>6A</u>	<u>?B</u>	<u>1A</u>	<u>10B</u>
	<u>yes</u>	<u>no</u>	<u>yes</u>	<u>no</u>	<u>yes</u>	<u>no</u>	<u>yes</u>	<u>no</u>	<u>yes</u>	<u>no</u>
Number of Loans	15		12		12		12		11	
Breakdown*										
Agency implementing project identified?	12	3	12	0	9	3	12	0	11	0
Agency negotiating loan identified?	1	14	12	0	1	11	0	12	11	0
Name of MDB task manager?	6	9	0	12	1	11	12	0	0	11
Environ category on top of PID?	1	14	0	12	0	12	8	4	0	11
Specific location of project shown?	7	8	10	2	10	2	7	5	9	2
NGOs consulted?	1	14	0	12	0	12	1	11	0	11
Cite affected groups?	5	10	3	9	1	11	3	9	0	11
Project background?	12	3	0	12	0	12	0	12	0	11
Rational for MDB involvement?	3	12	0	12	0	12	0	12	0	11
Full discussion of adverse risks?	0	15	4	8	0	12	1	11	0	11
Environ impact discussed in PID?										
For A projects?	1	4	0	2	0	6	2	4	1	0
For B projects?	1	9	0	10	0	6	0	6	10	0
Environ annex for B?	6	4	10	0	0	6	1	5	0	10

* Sample included only projects with likely A or B category (based on description).

In the absence of direct knowledge about projects or access to IEPS reports or other internal bank data, the accuracy or completeness of PIDs currently distributed by the banks cannot be assessed. Some general impressions can be registered, however, and the contents of PIDs can be assessed in terms of the criteria mentioned in the BIC study. Table 3 shows the results of a survey by the Congressional Research Service of PIDs for projects under consideration by the World Bank and regional banks.⁶⁸

⁶⁸The PIDs generally contain more information on the prospective projects than the points listed for Table 3. The purpose of the table is to determine whether these particular items are also included in PIDs.

Information in PIDs World Bank. Project Information Documents from the World Bank were originally supposed to be two pages in length. Following criticism by NGOs and others about excessive brevity, Bank management decided in late 1993 to relax the length limits on PIDs.⁶⁹ The PIDs currently issued by the Bank are now more detailed and informative, running (in the sample used for Table 3) an average five of pages each (single spaced, small type). Most show the organization responsible for implementing the project, though often the name of the responsible person was not included. Generally, however, even though many projects were in the negotiating stage, the PIDs did not indicate which agencies or individuals were negotiating on behalf of the borrower. Likewise, in many cases, PIDs did not show which unit or individual at the Bank was responsible for the projects. These deficiencies can be an impediment to persons seeking further information about a project.

The documents distributed by the Bank PIC all seem to be in English. The Bank reports that its country offices in Russia, Bulgaria, India, Bangladesh, Brazil, and Cote d'Ivoire are translating PIDs for local projects into local languages. No effort was made by the Congressional Research Service to determine if these translations have taken place or if the resulting documents are available to local users.

In most, but not all cases, World Bank PIDs indicate somewhere in the text what the environmental category is for the proposed project. Very rarely, however, is this shown at the outset. World Bank PIDs generally provide a substantial review of the background and context for the proposed loan, though they rarely explain why the World Bank is involved with the project. Also very rare is any indication that NGOs or affected groups were consulted during the loan preparation process. Occasionally, PIDs indicated what groups might be affected by the project, though (as with information on consultations) no further identification is shown. PIDs did not indicate how NGOs or other members of the public could participate in the consultative process. Most PIDs emphasized the likely benefits of the proposed projects; none provided what seemed a comprehensive review of the likely risks or adverse effects.

Most PIDs indicated the location for the proposed project, though none included maps specifying the exact site. However, for projects with a broad geographic distribution or with an institutional or sectoral focus, the location for the activities funded by the loan was often not indicated.

Full texts of Staff Appraisal Reports (SARs) for projects approved by the World Bank may be ordered. An abstract is also available for most projects from the PIC web page. According to World Bank staff, the country desks sometimes decide not to submit SAR abstracts to the PIC. In those cases, the PIDs for approved projects are left in the system. SAR abstracts provide a one-paragraph summary of the components and purposes of the project. In only one of the 12 abstracts surveyed, however, was there any indication of the amount of money the Bank had lent for the project. None revealed the environmental categorization. Only one noted any

⁶⁹Memorandum from Jan Wijnand, Acting Director, Operations, to all staff recipients of the World Bank operational manual, December 2, 1993.

environmental concerns to be addressed. None discussed other issues to be addressed in the projects.

Once PIDs for approved projects are removed from the PIC data base, SAR abstracts are the most detailed description of ongoing projects that outsiders may obtain without incurring the \$15 cost for the full SARs. SAR abstracts are very concise. They do not clarify issues or show changes that may have occurred after the project was approved by the Bank's executive board.⁷⁰

Information in PIDs: IFC. The project summary documents for prospective IFC projects are concise and seem to follow the original two-page model for World Bank project information documents. Some examined for this survey were one page in length. All the projects surveyed for this study identified the borrower and (since the borrower negotiates on its own behalf) the party negotiating on behalf of the recipient. None identified the unit of the IFC or the IFC task manager responsible for the project. All contained the types of project data the IFC said should be in these documents (see footnote 22).

⁷⁰For example, according to U.S. government and Salvadoran sources, the World Bank approved a loan in 1996 to improve the land registration system in El Salvador. The original plan for the project included some policy suggestions or comments by consultants which sought to encourage private ownership of land in order to strengthen the incentives and opportunities for higher production. If farmers owned individual parcels of land, for instance, they would have assets they could use as security to get loans to increase their productivity. Cooperatives often rely on grants or discount loans from government, rather than commercial credit, for such purposes. Campesino organizations and agricultural cooperatives saw these as efforts by the Bank and Government of El Salvador to break up cooperatives. The project information document for this project, prepared in February 1995, made no mention of such goals or gave any indication that such issues had been raised. See: World Bank Public Information Center. The original PID, titled El Salvador--Land Administration, Project ID SVPA7174, prepared February 2, 1995, was obtained from the PIC by CRS through special request. An extensive survey of campesino and cooperative organizations and NGOs in El Salvador during a field visit by CRS in September 1996 found no one who had seen the PID. Some had obtained the Staff Appraisal Report, however, which contained the language that concerned the Salvadoran organizations.

Alerted to this concern, representatives of the U.S. Government reportedly met with officials of the Bank and received assurances that the table of policy recommendations and guidelines in the SAR would not govern implementation of the land tenure project. This information was apparently never communicated back to the Salvadoran organizations. The SAR abstract the World Bank placed in the PIC system did not address the issue. The SAR copies available from the PIC are the same version that alarmed the Salvadoran organizations. The Government of El Salvador persuaded its National Assembly to pass legislation embodying some of the policy recommendations presented in the original SAR. The Government reportedly told Salvadoran legislators that the World Bank required adoption of those policies as a condition of the land registration loan.

It is not clear whether the World Bank intended to seek adoption of the policy guidelines, notwithstanding its assurances to the U.S. Government, or whether those guidelines were implemented solely at the initiative of the Salvadoran Government. It is clear, however, that the project was implemented in ways different from those the U.S. Government reportedly expected, and the World Bank has been held responsible (in Salvadoran eyes) for the new policy regime. The Bank's information access system does nothing to clarify the situation or to show the Bank's actual objective in this situation.

The IFC project summary documents are sometimes vague as to the identity of the local partners. The IFC disclosure policy says this information will be included in these documents. Names are sometimes provided. In many cases, however, the IFC documents say that certain number of unnamed local citizens will own the firm or they say that certain corporations would own stated shares of the project company's stock. In many countries, the existing corporate registration procedures do not show clearly who the beneficial owners of a corporation might be. If this information is not included in the IFC document, the public may not be able to ascertain it otherwise.

All the IFC project summaries examined for this survey had a separate section discussing the project's environmental categorization and implications. The category was not listed at the top of the report, though in some cases, the report being one page in length, the categorization was easily apparent.

The IFC project summaries and environmental reviews provided little background on the proposed project and no justification for IFC involvement. None discussed any consultation with NGOs or local groups, though three of the 12 project summaries mentioned (in general terms) the groups or types of persons likely to be affected by the undertaking. Four of the 10 environmental summary reports for category B projects provided some discussion of the broader risks or possible adverse implications.

The IFC does not release to the public copies of the project documents which go to the World Bank executive board when prospective projects are considered for approval. Except for information provided in press releases and brief references in IFC annual reports, no detailed descriptions of IFC projects are available to the public once a project is approved and the documents relevant to it are removed from the World Bank PIC data base.

Information in PIDs: ADB. The descriptions of projects not yet approved by the ADB are very concise.⁷¹ None of the twelve selected at random were much longer than a page in length, and most were shorter. The objectives and scope of the project are often stated in one paragraph. Another sentence shows its status in the project preparation process. The environmental category is one of the last entries. In some cases, because of the shortness of the document, it can be found in the top half of the page. The ADB task manager and the organization responsible for implementing the project are always listed. No background for the project or rationale for ADB involvement are usually shown, nor is there any indication that any non-governmental groups were consulted. In one case, the project description says poor people will be the beneficiaries. In other cases, there is no identification of affected groups. Generally, there is no discussion of likely benefits or possible adverse effects from the project.

⁷¹These are found at <http://www.asiandevbank.org/adbbo/adbbo.html>.

Considerably more information is available on projects already approved by the ADB. Called project profiles, these are available from the ADB web page and PIC.⁷² These are much lengthier documents. They include discussions of the cost and financing arrangements for the project, issues in the ADB policy dialogue with the borrower, environmental impact and mitigation measures, social aspects and remedy measures, target beneficiaries, consultation with the public, and participation by beneficiaries in project implementation. For some projects, the entries in each category may be no more than a sentence or two. For others, a lengthy paragraph is provided.

Projects are listed among the project profiles as long as they are in the process of implementation. Project profiles do not seem to be updated very often.⁷³ They do not seem to include information about problems or new issues that emerge during the implementation process. As a device for informing the public about progress achieved in the implementation of projects, they are not very useful. ADB management and member country governments presumably have some other method for monitoring the implementation of projects previously approved by the executive board.

Project profiles appear, from their structure and content, to be documents prepared for use by the Bank during the project preparation process. In many respects, they resemble the project information documents issued by the World Bank or project profiles released by the IDB. They appear to be information recorded before projects go to the executive board. Unlike the World Bank or IDB, the ADB does not put the information in this document on-line as it becomes available during the project preparation process.

Information in PIDs: IDB. The project summary documents (project profiles) for the IDB provide considerable amounts of information on proposed projects. The dozen IDB summaries examined for this survey averaged almost 5 pages (single space, small type) in length. One comprised 12 and another 9 pages. The project summaries and environmental reports in the sample were not dated, so it is impossible to determine the currency of the data they contain. Project summary documents are retired from the system once projects have been approved by the IDB executive board. The IDB has no documents comparable to the World Bank quarterly environmental data sheets or ADB project profiles for informing the public about projects in the implementation process.

⁷²These may be found at <http://www.asiandevbank.org/projects/projlist.html>. The office of the USED at the ADB says the Bank may now be including on this list projects currently under preparation. As of May 1997, the list did not show dates when projects had been approved by the ADB executive board. Consequently, it was not possible to distinguish approved projects from those that were pending.

⁷³A CRS survey of all 174 projects listed in May 1997 showed that one profile for a project approved prior to 1997 (in Laos) had been updated in 1997. Two projects initially listed in 1993, one initially listed in 1994, and eleven originally listed in 1995 (five of them in Nepal) had been updated in 1996. Most profiles had not been updated since the year they went in the system.

The documents available from the IDB PIC are usually available in the language of the borrower country. However, the project summaries in the sample for two Brazilian loans were written in Spanish and the environmental report for a Colombian loan was written in English. Other project summaries or environmental reports (not in the sample) were in the local language.

Most project summaries from the IDB identify the agencies responsible for implementing the proposed project, though few show the agencies responsible for the negotiations. None of the 12 project summaries in the sample identified any of the key individuals involved. Only one identified the IDB task manager.

Almost half the IDB summaries in the sample indicated somewhere near their top the environmental category for the proposed project. Most also provided a substantial review of the background and context for the project and half provided some rationale for IDB involvement. None mentioned any NGOs or local groups that might have been consulted. Two of the 12 referred in general terms to groups likely to be affected by the project. Two provided an overview of the project's likely risks and implications. The others were silent or very brief in their discussion of possible adverse effects from the project.

Copies of project appraisal documents may be purchased from the IDB after the IDB executive board approves a loan. The PIC also provides a two-to-three page summary of the main points for each loan. These generally include a few paragraphs describing the purpose, composition, and specific objectives of the project. They also indicate what consultant services will be needed during the implementation of the project, what goods and equipment are to be procured, and what civil works will be constructed. Persons familiar with the country or with the type of project under consideration might be able to mine this information for insights regarding the project's likely scope and implications.

Information in PIDs: EBRD. The project summary documents for loans being considered by the EBRD are generally one or two pages long, depending whether a summary environmental analysis is attached. Eleven project summaries were surveyed by CRS. The agency or firm responsible for implementing the project was always shown, but no listing was provided for the EBRD task manager. A number is provided for all projects, however, where callers can initiate inquiries about pending projects. The EBRD says that task managers can be reached through that number, if they are needed to provide further information. The EBRD project summary documents show the environmental category only if a summary environmental analysis is attached. The specific location for the project was generally indicated, though this information was not provided for projects with a broader institutional or geographic focus. No background or context or rationale for EBRD involvement was shown. Likewise, there was no discussion about consultations with NGOs, affected groups, or the broader risks or benefits of the undertaking.

The EBRD also provides on its web page a list of projects previously approved by the Bank. It identifies the borrower and the economic sector involved and it gives a one sentence description of the undertaking. No information is given, however,

about its status of implementation or any problems or issues that might have arisen since the loan was approved.

The EBRD guidelines on public access and disclosure of information say that, after a project has been approved by the EBRD executive board, an edited copy of the Board report (loan document) will normally be made available to the public on request. It is not evident from the EBRD web page, however, how the public can request this information.

H. MDB Information Access Procedures: Evaluation and Discussion

- 1. Failure of Documents To Meet Stated MDB Goals.** The multilateral banks say, in their policy statements on public access to information, that their procedures are intended to inform the public about the content and purpose of their pending operations. Increased public access to information about MDB projects is likewise intended to expand public understanding and confidence in the multilateral agencies.

The project summaries and project documents available from the World Bank and IDB seem conducive to the achievement of these goals, though (as noted below) they could be improved in several areas. By contrast, the project summaries available from the IFC, ADB, and EBRD are either very concise or silent on issues of potential concern to outside observers. On the whole, these project summaries seem to fall short of the goals articulated in the IFC, ADB, and EBRD policy statements on information access and public disclosure. In many cases, for all the banks, the project and environmental documents issued by the banks do not include information that the banks' policy statements say they should include.

Need for Additional Information. One need not accept as necessary all the criteria suggested by the authors of the BIC study and listed in Table 3. However, it seems reasonable that some background and context for the prospective project and a rationale for bank involvement might be useful to outsiders and to MDB stockholders as well. Likewise, it seems reasonable to expect that project information documents will identify the persons at the borrower organization and the bank with principal responsibility for the prospective loan. A list of the NGOs consulted for a project might be counterproductive and perhaps (in some countries) detrimental to the interests of the NGOs themselves. However, some discussion of the groups likely to be affected by a project and the overall risks and benefits might be useful both to the bank and to the public.

ADB and EBRD: Too Little Information on Pending Projects. The ADB could enhance the effectiveness of its information disclosure policy if it published a separate list showing all the projects currently under consideration at the Bank and their status. As with the monthly operational summaries of the World Bank and IDB, the amount of detail provided in this pipeline document would not need to be substantial. But its comprehensive nature and its inclusion of projects in the earliest stages of consideration would enhance public confidence in the ADB disclosure process. A separate list, comparable to the one published on the ADB web page, could provide detailed information on projects that have received ADB managements

initial tentative approval. This would parallel the current practice of the World Bank and IDB.

The EBRD would likewise enhance the utility of its information disclosure system if it took steps to include more projects in its pipeline document and its project list. The EBRD disclosure policy says that project summary documents are supposed to be listed as soon as they are prepared (for public sector borrowers) or at least 60 days before Board action (for private sector borrowers.) The EBRD does not seem to be adhering to either criterion. Likewise, the EBRD omits many private sector projects from its pipeline document. A pipeline document that lists only projects which offer procurement opportunities may be useful to potential suppliers but it is not very useful to persons wishing to monitor the potential environmental impact of EBRD operations. Such a list does not seem to comply with the requirements of the Pelosi Amendment.

A side question arises as to whether the EBRD should fund projects where the international competitive bidding procedures do not apply and where procurement is limited in advance to certain providers.

Inadequacy of Environmental Information in PIDs. From all the banks, written copies of the full environmental impact assessment can be obtained by request for category A projects. However, only the World Bank, IFC, IDB, and EBRD make summary environmental analyses regularly available for category B projects, and these are often quite brief. Though less substantial in their anticipated impact, category B projects by definition are expected to have a significant effect on the environment. The project information documents for category B projects would be more useful if they provided information about the project's likely environmental effects and the steps planned to ameliorate those effects. Among other things, this would help strengthen the reader's confidence in the banks' categorization system and in their judgment concerning the risks and benefits of prospective projects.

Out of Date Documents. The banks' information access guidelines say that project summaries should be updated during the preparation process as the project takes shape. They also say that staff appraisal reports or other descriptions of projects previously approved by the banks should be updated if significant changes are effected in their plans. Often, however, the banks' project information documents reviewed by CRS were undated or they carried dates that were several months or perhaps a year old. Consequently, it may be impossible for outsiders to know whether the information in those documents is current and if it represents the banks' most recent thinking on those projects. Listing the dates for each update and the dates for each important benchmark would at least help the outside reader to monitor the status of the project preparation process.

Unavailability of Old Project Information. The banks all retire their project information documents from their PIC systems once the projects have been approved and a summary Staff Appraisal Report or project profile has been received. Sometimes, however, researchers may find they need copies of old project information documents (PIDs). For example, they may need to see whether issues or problems that gained prominence during the implementation of a project were discussed in the PID prior to project approval. CRS encountered two such instances in the preparation of this report. The World Bank PIC staff found that these old PIDs

were in an electronic archive and they provided CRS with copies by special arrangement. The MDBs would enhance public understanding if they created some mechanisms in their web pages giving the public access to old PIDs and other relevant documents, or if they indicated that they were available upon request. This information would be particularly useful to persons examining the project implementation process.

The MDBs could also facilitate better public understanding if they released more information about the implementation of projects they have already approved. Project information documents and environmental impact assessments help predict what the effects of prospective projects might be. The MDBs have no effective vehicle, however, for informing the public or their member country governments about the actual results of previously approved projects. The World Bank quarterly environmental data sheets and the ADB project profiles are efforts in this direction. However, they are not maintained in a timely fashion and they do not seem to encompass information about new issues or problems encountered in the implementation process.

The Pelosi Amendment addresses the issue of public access to information about projects that have not yet approved by the banks. It does not deal with the question of public access to information about projects as issues arise during the implementation process or about the ultimate impact of projects once they have been put into effect.

Need for Earlier Availability of PIDs. If the banks want to facilitate public information and public consultation in the project development process, they might reexamine the timetable they use for their reports. Project information documents (PIDs) are the basic vehicles the banks use to inform the public about their prospective loans. However, these are made available only after the bank staff and the borrower have reached agreement on the basic purposes and components of the prospective loan. Some information about projects in earlier stages of preparation can be gleaned from the banks' pipeline documents (monthly operating summary, etc.). However, the PIDs would be more useful if they were available to the public earlier in the project cycle, while the basic outlines and purposes of the projects are still under discussion.

Need for More Information on Projects in Early Stages of Preparation. At any one time, 40%-to-50% of all the proposals under consideration by a bank will be in the early stages of development. This may be, in fact, the moment when consultation with NGOs and local groups could have the most impact on the shape of the project. The World Bank and IDB provide some information about projects in this stage of preparation in their monthly operational summaries. The other MDBs do not tell the public or their member country governments what projects they are considering until the project information documents have been written and bank staff have given them an environmental categorization. The banks could enhance the consultation process if they included more information in their pipeline documents about projects in the early stages of consideration. Alternatively, as noted before, they could issue their initial PID for a project when it is still just an idea (i.e., before bank management has agreed it should be a potential candidate for assistance) and before its environmental category has been determined.

III. Executive Branch Implementation of the Pelosi Amendment*

A. Basic Findings

Strictly speaking, even though the MDBs have adopted new procedures in response to the U.S. legislation, the Pelosi Amendment directly governs only the way U.S. Government officials respond to environmental issues at the multilateral banks. First, the law requires the USEDs to abstain or vote against MDB actions likely to have a significant effect on the environment unless environmental impact assessments (or comprehensive summaries) have been performed and released to the public at least 120 days in advance of board deliberations. Second, as discussed below, the Pelosi Amendment requires the U.S. Government to establish procedures for considering the environmental implications of proposed MDB actions and for instructing USEDs on the way they should vote.

This chapter examines the regulations and procedures the Administration has established to monitor the environmental implications of MDB projects. It also discusses how the United States has voted on environmentally sensitive MDB loans since 1992.

B. Executive Branch Procedural Rules

Procedural Requirements of the Pelosi Amendment. The Pelosi Amendment requires⁷⁴ the Secretary of the Treasury, in Section 1307(c) of the IFI Act, to "ensure that an environmental impact assessment or comprehensive summary of such assessment...accompanies loan proposals through the agency review process...." It also directs the Secretary to "take into consideration recommendations from all other interested Federal agencies and interested members of the public."

The Pelosi Amendment instructs the Secretary of the Treasury to develop and prescribe procedures for determining the U.S. position on any action the MDBs propose to take that would have a significant effect on the environment. These procedures must consider the environmental impact assessment of the proposed MDB action, allow "interagency and public review of such assessment", and permit other "environmental review or consultation of such action that is required by other [U.S.] law."

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⁷⁴Section 1307 of the International Financial Institutions Act (P.L. 95-118), added to that law by section 521 of the International Development and Finance Act of 1989 (P.L. 101-240). For the full text of the Pelosi Amendment, see appendix A.

The 1992 Temporary Rule. The Pelosi Amendment went into effect two years after it was signed into law on December 19, 1989. In April 1992, the Treasury Department issued a temporary rule establishing procedures the U.S. Government would use to comply with the requirements of the Amendment.⁷⁵ The public was invited to comment on the temporary rule. The 1992 temporary rule remains in effect and has not been superseded by any newer rules, regulations or administrative guidelines governing the implementation of the Pelosi Amendment or U.S. participation in the MDBs.

Treasury Department officials say the rule is being followed, albeit as one admitted "rather loosely." With the adoption of public disclosure policies and the establishment of public information centers by the MDBs, many of its provisions have been overtaken by events. Treasury has been waiting to establish a final rule until the AFDB adopts an information disclosure policy comparable to those in force at the other MDBs. AFDB action on this score is expected in 1997. Treasury officials say revision of the 1992 rule is currently underway.

In its preface to the 1992 rule, the Treasury Department stated that the Pelosi Amendment requirement for U.S. Government and public review of proposed MDB actions "is satisfied by circulating a comprehensive summary of an EIA and making the full EIA available upon request." The primary purpose of the environmental assessment and comment process, the Department indicated, is encouragement of borrower countries "to conduct a wide-ranging and detailed environmental assessment, including consultation and full sharing of information with local non-governmental organizations and affected parties." The rule stated that the U.S. Government will seek to encourage the MDBs to expand the consultative process and it will also work "to ensure that the public will have direct access to EIAs and summaries thereof at the MDBs and in the borrowing countries, without the U.S. Government's acting as intermediary."

The 1992 rule said the office of multilateral development bank affairs at Treasury will assure that a variety of U.S. agencies and private organizations concerned with environmental issues will receive information on prospective MDB projects. Specifically mentioned were five U.S. government agencies -- the U.S. Environmental Protection Agency (EPA), Council on Environmental Quality (CEQ), U.S. Agency for International Development (USAID), Department of State, National Oceanic and Atmospheric Administration -- and one non-governmental organization (NGO) -- the Bank Information Center (BIC). As noted in the previous chapter, the latter is a private NGO located in Washington, D.C. It is not an affiliate of the multilateral banks or their public information centers. In particular, the rule says the MDB office will see that the U.S. agencies and BIC receive copies of the relevant MDB project documents and EIA summaries. If copies of this information are not subsequently available to the public from BIC, the rule says members of the public may make arrangement to examine or copy the documents through the Treasury Department library.

⁷⁵Department of the Treasury. United States Government Procedures for the Consideration of Environmental Impact Assessments for Multilateral Development Bank Projects. 31 CFR Part 26. For the full text of the 1992 Temporary Rule, see appendix B.

Environmental Impact Assessments (EIAs) for projects sponsored by the AFDB, EBRD, and ADB may be examined, by prior arrangement, the rule said, at the Treasury Department library. EIA studies for IBRD, IDA, or IDB projects may be seen at the World Bank or IDB public reading rooms. The rule indicated that documents can be viewed and copied at the Treasury Department library by arrangement if the World Bank or IDB do not have a public reading room. (The two banks subsequently allowed public use of reading rooms.)

The rule said that members of the public may file written comments with the MDB office for any MDB documents they have reviewed. The public can make oral comments on prospective MDB projects "in [the] periodic meetings convened by BIC."⁷⁶ The rule indicated that Treasury Department officials will summarize these written or oral comments and communicate them to the Working Group on Multilateral Assistance (WGMA), the inter-agency committee that coordinates U.S. policy concerning prospective MDB loan.

The 1992 rule specified that, if the WGMA and Treasury Department believe a prospective MDB project is likely to have a significant effect on the environment and they believe it has not received the appropriate environmental categorization, they shall instruct the USED at the relevant bank to seek an upgrade. Upgrades would require the MDBs to do additional environmental assessments or analyses. If the WGMA and Treasury believe a project will have a significant environmental effect but they believe a full EIA is not necessarily warranted, the rule stipulated, they are to obtain more information from the bank on the project. Examples cited were the environmental chapters from feasibility studies or environmental data sheets. The rule said Treasury shall provide this material to the relevant U.S. agencies and BIC. The 1992 rule said that Treasury shall instruct the USED at the bank to oppose a project if this additional information does not provide "an adequate basis for analyzing the environmental impact of the proposed project and alternatives to the proposed project."

Public Comments on the 1992 Rule. Two comments were filed with Treasury in response to the invitation for public comment on the 1992 rule. One was from the World Bank; the other was from the Center for International Environmental Law (CIEL), an NGO that focuses primarily on environmental issues. Though requested on several occasions, the Treasury Department and World Bank did not provide CRS with a copy of the World Bank's comments on the rule. The preface to the rule says that all comments will be available for public inspection.

The comments in 1992 by the Center for International Environmental Law⁷⁷ said the coverage in the 1992 rule was too limited. First, it noted, the rule covered only projects funded by the MDBs. The Pelosi Amendment was considerably broader, CIEL noted, as it addressed whether the United States could vote for "any action proposed to be taken" by the multilateral banks. The proposed rule was too constrained, CIEL said, as it ignored votes the USEDs might cast on MDB policy

⁷⁶1992 Temporary Rule, section 26.4(a)(2).

⁷⁷David R. Downes, Robert F. Housman, David Hunter. Comments on Temporary Procedures for the Environmental Assessment of Multilateral Development Bank Activities. Center for International Environmental Law, July 31, 1992. Photocopy.

guidelines or on policy reform or adjustment loans. MDB policies and MDB adjustment loans might cause bank staff or borrowers to act in ways that would have a negative environmental effect, CIEL argued. It said the 1992 rule puts such MDB actions outside the scope of the Pelosi Amendment's environmental requirements.

Secondly, CIEL noted that the 1992 rule omitted several multilateral agencies from its jurisdiction. The IFC, EBRD, and Multilateral Investment Guarantee Agency (MIGA) are not mentioned in the rule. CIEL held that these three institutions are included in the term multilateral development bank, as that term is used by the Pelosi Amendment. The Treasury Department has decided, as a matter of policy, that the IFC is not an MDB within the meaning of that legislation and that the regional banks' private sector operations are not be governed by the Pelosi Amendment. (See below.) Treasury would presumably hold that the MIGA would similarly be exempt from its requirements.

CIEL also contended that the 1992 rule fell short of the requirements of the Pelosi Amendment in several other respects. CIEL argued, for example, that it was not enough for Treasury to assign BIC the principal responsibility for disseminating MDB information to the public. CIEL said Treasury had a responsibility, under the Pelosi Amendment, for assuring that citizens' groups and environmentalists worldwide have access to copies of MDB environmental studies. Without such a global distribution of the information, CIEL argued, the Pelosi Amendment's goals concerning public dialogue about potential MDB operations cannot be realized. CIEL said Treasury should publish MDB environmental studies and take other steps to distribute information on MDB activities directly to persons in developing countries.

CIEL said the period for comment (two weeks after a person saw an MDB document) was too short. It said a 120 day period would be better and Treasury should create a method by which persons located outside Washington, D.C. would have time to comment. An international electronic mail network accessible to NGOs was one suggestion. CIEL also said the requirement that oral comments to executive branch officials about MDB projects could be made officially only at meetings held by BIC in Washington, D.C. was unduly restrictive. Organizations located abroad should be able to present oral comments, it said, to the USEDs at particular banks.

CIEL argued that the procedures needed for implementing the 1992 rule were not sufficiently precise. For example, it argued:

- There was no mechanism for determining whether a proposed MDB action would have "significant" environmental effects.
- There was no procedure for assuring that an environmental review occurs and is available to the public at least 120 days before a board vote.
- The rule does not say how Treasury will assure that other U.S. agencies receive MDB documents.
- There is no requirement that Treasury consider the MDB environmental study and the comments of other U.S. agencies or the public in the formulation of its position.

CIEL suggested that the language of the rule should be changed so the WGMA *must*, rather than "may", meet to consider MDB actions with potential environmental effects. It recommended that EPA and CEQ be given a significant voice in the development of U.S. policy on environmentally sensitive MDB initiatives.

Finally, CIEL said the 1992 rule was weak because it did not require Treasury to articulate a rational basis for the U.S. votes on MDB projects with environmental implications. The rule did not require Treasury to announce publicly how the U.S. had voted on an environmentally-sensitive loan. CIEL recommended that the rule be amended to require an explanation of the U.S. vote in the Federal Register. It said this would create a public record and require the Department to justify publicly its position.

C. Current Executive Branch Procedures for Implementing the Pelosi Amendment

Official Forums for Analyzing MDB Environmental Issues. The executive branch has two principal forums for analyzing the potential environmental impact of proposed MDB projects. The interagency Working Group on Multilateral Assistance (WGMA) meets weekly to examine loan proposals scheduled for consideration by the MDB executive boards during the next two to three weeks. A second interagency working group meets periodically to review environmental issues and impact assessments received from the MDBs for future loans. The executive branch also has several channels for gathering information from U.S. official and non-governmental sources about potential environmental problems affecting MDB projects.

The WGMA. The WGMA (usually pronounced "wig-ma") was created in 1977 as the successor to the National Advisory Council on International Monetary and Financial Policies (NAC), an interagency coordinating committee originally created in 1945 by the Bretton Woods Agreements Act. Chaired by Treasury, the WGMA includes members from the State, Agriculture and Commerce Departments, the Export-Import Bank, and the Agency for International Development. WGMA meetings examine a wide range of U.S. concerns and U.S. legal requirements touched by prospective MDB loans. It does not focus primarily on the environment. Staff working on environmental issues generally attend WGMA meetings only if environmental issues need to be resolved. Treasury officials say the relevant MDB documents are distributed directly by the banks to the WGMA participating agencies. Following WGMA sessions, staff of the Treasury Department MDB office make recommendations to Treasury policy officials about the instructions they might give to USEDs concerning their votes on MDB proposals. If Pelosi Amendment issues are involved, a decision memo is prepared for top Treasury decision makers.

Treasury staff say they look, during the WGMA loan review process, to see whether EIAs and other relevant documents have been publicly available for at least 120 days prior to the date loans are scheduled for action by the MDB executive boards. They report that it is sometimes difficult to tell from MDB documents when the local release occurred. Officials say they generally give the MDBs the benefit of the doubt, when counting days. They also say that, if environmental issues arise

during consideration of a project, enough questions can be raised to delay a vote on the project until 120 days have elapsed. According to U.S. officials, significant self-regulation takes place at the MDBs. For example, at the ADB one project in 1996 was postponed by management because the EA had only been circulated 119 days in advance of board consideration and the Bank wished to be in full compliance with Pelosi requirements.

The Staff Environmental Group. Staff with environmental responsibilities from various U.S. agencies also meet at irregular intervals to examine environmental issues and EIA studies received from the multilateral banks. The need for physical meetings is often obviated by telephone or electronic communications among the people concerned. The banks normally send documents to the agencies directly. The Treasury Department has three staff members in the MDB office working primarily on environmental issues. The State Department, EPA, USAID, and NOAA normally have one person each dealing with these topics in the multilateral banks. The technical assistants in the USED offices participate in these discussions, as they often have the prime responsibility for pursuing environmental issues with MDB staff.

Treasury and USAID officials acknowledge that the interagency environment group has no objective standard for determining whether a project will have a "significant" effect on the environment. They say, however, that the members of the group can recognize "significant" projects when they see them. They insist they do not use the banks' categorizations as the only determinants for their agenda. The interagency staff discussions mainly focus on category A projects, however. They do not normally review MDB staff assessments of the likely environmental effects of category B projects.

Occasionally the interagency group may decide that a category B (or even a category C) project may have a significant impact on the environment. Information received from NGOs or other members of the public is often instrumental in calling these projects to the attention of U.S. agency staff. In those cases, U.S. officials say, they will ask bank staff for additional information and for assurances that environmental problems the U.S. agencies perceive with these projects will be addressed. They may also argue, usually without success for a change to category A in such cases. The Treasury Department says it is not aware of any systematic analysis of the MDBs' record of changing the categorization of projects on the basis of new information or additional analysis, although it has happened in some instances.

Other Avenues for Information. In addition to these forums, U.S. officials have several established channels for assessing the potential environmental effects of pending MDB projects. These include the "Tuesday Group" and the U.S. Agency for International Development's Early Warning System on MDB projects.

The Tuesday Group. The Tuesday Group is a gathering of NGO participants and U.S. officials that convenes the first Tuesday of each month to discuss the environmental implications of proposed MDB projects. Sources say it has been meeting since at least 1988. Thirty to forty people may attend, including several from the Treasury and State Departments and EPA. Meetings are chaired jointly by

the Director of the Bank Information Center (BIC) and the USAID official who manages the USAID Early Warning System.

The 1992 Temporary Rule stipulates that the "periodic meetings convened by the BIC" shall be the official forum for the receipt of public oral comment about MDB projects. Treasury officials say they communicate information or views obtained from NGOs at these sessions to the other WGMA participant agencies. Discussion at Tuesday Group meetings normally goes well beyond the presentation of views to U.S. officials, however, to include a mutual exchange of information among the NGO and U.S. participants about specific projects or MDB activities.

The USAID Early Warning System. The Early Warning System was set up as a result of legislation enacted by Congress in 1986. The act making appropriations for foreign assistance and related programs for fiscal 1987 directed the Administrator for USAID to create a system, in consultation with the Secretaries of Treasury and State, for assessing the potential impact of pending MDB projects.⁷⁸ Overseas USAID missions and U.S. embassies were told to analyze the likely environmental and social impact of MDB projects under consideration for their host country. Among other things, they were to address the economic viability of the project, its likely impact on the environment, natural resources, and indigenous peoples, and any alternatives that might mitigate or eliminate adverse impacts. Unless restricted under the U.S. national security classification system, the information gathered by these reports was to be made available to the public.

The USAID Administrator was directed to report semiannually to the House and Senate Appropriations Committees, beginning in December 1986, on the information developed by the early warning system survey. The Secretary of the Treasury was directed to instruct the USEDs at the MDBs to seek changes in projects in order to eliminate or mitigate negative impacts discovered by the system.

The Early Warning System was made permanent in legislation adopted the following year.⁷⁹ The 1987 law added, to the duties enumerated the previous year, a requirement that USEDs seek to delay consideration of MDB loans (if the Early Warning System found them problematical) until other major MDB member countries also had time to examine the proposals. The 1987 law also directed that

⁷⁸Sec. 101(f) of the Continuing Appropriations Act, 1987 (Public Law 99-591), approved October 30, 1986, sec. 539(g).

⁷⁹Sec. 101(3) of the Continuing Appropriations for 1988 (Public Law 100-202), approved December 22, 1987, contained the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988. Sec. 537(h) of that Act restated the requirements for the Early Warning System enacted in 1986 with the additional requirement that reports also be sent to the House and Senate authorizing committees. Title I of that Act enacted by reference the bill H.R. 3750 as it had been introduced on December 11, 1997. Among other things, that bill inserted as section 1303 of the International Financial Institutions Act (Public Law 95-118) -- the permanent law embodying most MDB policy requirements -- a nearly identical requirement for an Early Warning System. This version includes a directive that USEDs seek to delay consideration of problematical MDB loans until other countries have had time to study them adequately.

the semi-annual reports to Congress should go to both the authorizing and appropriating committees of the House and Senate.

Internet. The Treasury Department recently installed equipment allowing it to examine information the MDBs publicize through their internet web pages. The capability of other U.S. agencies is not known. Treasury officials say the internet is not a significant source of information about pending MDB projects for U.S. agency personnel. The U.S. agencies rely more on the U.S. offices at the multilateral banks, on information provided by the MDBs, on MDB staff, and on members of the public to provide them information about MDB operations.

NGO-Government Cooperation. A close relationship between NGOs and the relevant U.S. agencies is widely viewed as important for the effective functioning of the U.S. process for monitoring the environmental impact of MDB projects. Treasury and other agency staff are few in number and they cannot monitor all MDB projects on a systematic basis. They depend on input from NGOs for help identifying problem projects, soliciting information about local conditions, and documenting deficiencies in the field.

This is often cited as a good example of how government agencies and private organizations can work synergistically, but there are some "downsides" to the relationship. For one thing, it tends to be ad hoc, with effective work done on the relatively few projects that are identified as problems. These become the focus of intensive activity, but little attention is paid to other projects that may also be problematic. For another, the priorities of the NGOs have a considerable impact on the kinds of projects that receive special attention. The NGOs have their own priorities and concerns that motivate their staff to "volunteer" their time to assist the official environmental review process. It is not always possible for U.S. officials to be sure the NGOs give equal weight to the government's own priorities or concerns in this area.

D. U.S. Votes in the MDBs on Environmentally Sensitive Loan Proposals

The Record and Rationale for U.S. Votes. The executive branch takes the position that the United States can register its opposition to pending MDB loans either through an abstention or through a negative vote.⁸⁰ In recent years, the U.S. representatives at the MDBs have opposed only a few MDB loans because of environmentally-related (Pelosi Amendment) concerns. As Tables 4 and 5 indicate,

⁸⁰This dates from at least 1977, when Congress approved language requiring the U.S. Executive Directors at the MDBs to "oppose" all assistance to countries that violate international standards of human rights. The House sponsor of the human rights amendment said, during House consideration of the conference report for the International Financial Institutions Act, that the word "oppose" meant "vote no". The Senate sponsor of the amendment said, during Senate action on the conference report, that the word "oppose" meant "abstain" or "vote no." The Administration has chosen to accept the Senate definition of the term. See: House Committee on International Relations. Congress and Foreign Policy, 1977. (Prepared by the Congressional Research Service) Committee Print. U.S.G.P.O., 1978, p. 112.

the U.S. Government opposed a large number of MDB loans in 1992 and 1993 because it believed they did not conform to the requirements of the Pelosi Amendment. Between 1994 and 1996, the United States voted 10 times to oppose MDB projects because of the requirements of the legislation. Two projects (the Jumuna Bridge in Bangladesh and Zhejiang Power in China) accounted for 5 of the 10 votes.

TABLE 4. Reasons for U.S. Opposition to MDB Loans on Environmental (Pelosi Amendment) Grounds

	<u>1992</u>	<u>1993</u>	<u>1994-6</u>
No EIA 120 Days in Advance of Vote	53	13	2
Plus Some Project Concerns	6	4	--
Plus Definite Project Concerns	11	1	3
Not Enough Public Circulation for EIA	5	--	--
EIA Available; Problems with Project	3	1	1
EIA on Time but Inadequate	2	2	3

Initially, as Table 4 indicates, the most common reason why the United States opposed MDB loans on environmental grounds was a concern that EIAs were not available 120 days before the votes occurred. In 75 of the 80 decision memoranda for 1992 and 18 of the 21 for 1993, this was the main reason why top Treasury officials directed USEDAs to oppose MDB loans on environmental grounds. On 53 occasions in 1992 and 13 in 1993, it was the sole reason cited to justify U.S. opposition to MDB loans. On 6 occasions in 1992 and 4 occasions in 1993, Treasury officials also believed some aspects of the proposed projects needed further study. In 11 instances in 1992 and one in 1993, Treasury had reservations about specific aspects of the projects. On 5 occasions, the United States opposed MDB loans because Treasury officials believed the EIAs had not been sufficiently circulated to the public (though they were done on time) to meet the requirements of the Pelosi Amendment.

Concern about the possible environmental impact of projects, rather than concern about the availability or timing of the EIA study, also prompted U.S. opposition to some MDB loans on a few occasions in 1992 and 1993. Three times, during those years, Treasury officials ordered U.S. opposition to MDB projects because they believed there were still serious environmental problems in their design even though the EIAs had been circulated at least 120 days prior to board action. On four other occasions, the United States voted against MDB loans because U.S. agencies found major flaws in the EIA studies.

In recent years, the record shows that Treasury officials believe the MDBs generally complete their EIA studies on time. They say the MDBs are aware of U.S. Pelosi Amendment voting requirements and attempt to avoid running afoul of them. Only twice, between 1994 and 1996, did Treasury officials require U.S. opposition to MDB loans solely on grounds that their EIA studies were not available 120 days

before the board votes. On 3 other occasions, where EIAs were not available on time, Treasury officials ordered U.S. opposition because they also believed significant environmental problems with the projects had not been corrected. (Some of these were category B projects where no EIA study was required by the banks but where U.S. analysts believed there was a significant impact on the environment.) On 4 occasions between 1994 and 1996, Treasury officials ordered U.S. opposition to loans because they believed the EIA study had major flaws or because they found major environmental deficiencies in the project itself.

Much of the U.S. effort in the initial years went toward persuading MDBs to get their environmental impact studies done early enough to avoid triggering a requirements under the Pelosi Amendment for U.S. opposition to a pending MDB loan. Treasury noted, in a decision memorandum in February 1992, that the loan in question was the first where an EIA had been received at least 120 days before a board vote. On several occasions, Treasury said the United States must insist that EIA studies be prepared in advance of the board vote rather than being funded with the proceeds of MDB loans after they were approved.

**TABLE 5. U.S. Opposition to MDB Loans
Because of the Pelosi Amendment, 1992-1996⁸¹**
(* indicates "no" vote; remainder were abstentions)

Date	Institution	Country	Project
<u>1992</u>			
01/07/92	World Bank	Angola	Lobito/Benguela Urban Enviro Rehab
01/07/92	World Bank	Maldives	Fisheries III
01/08/92	IDB	Mexico	National Potable Water
01/14/92	World Bank	China	Yanshi Thermal Power
01/14/92	World Bank	India	Shrimp and Fish Culture
01/14/92	ADB	Papua NG	Transport Infrastruct Development (A)
01/14/92	ADB	Papua NG	Transport Infrastruct Development (B)
01/16/92	ABD	Nepal	Tourism Infrastructure Development
01/27/92	AFDB	Senegal	Irrigated Ag Dev in Anambe Basin
01/27/92	AFDB	Sudan *	Ag Rehab Program II
01/27/92	AFDB	Tanzania	Livestock Marketing
01/27/92	AFDB	Tunisia	Fourth Line of Credit to BNDT
Date	Institution	Country	Project
01/28/92	World Bank	India	Power Utilization Effic Improvement
02/04/92	ADB	Indonesia	Water Pollution Control
02/05/92	IDB	Ecuador	Development of Pichincha West Area

⁸¹In a few of the instances listed here, the Administration explained its opposition to MDB loans on the basis of environmental concerns other than those specified in the Pelosi Amendment. An argument could be made, however, that the Administration would have had to oppose these loans on Pelosi Amendment grounds if it had not explained its opposition on the basis of other environmental concerns.

02/11/92	World Bank	China	Rural Water Supply
02/11/92	World Bank	Kenya	Protected Areas/Wildlife Services
02/11/92	World Bank	Kenya	Second Mombassa/Coastal Water Rehab
02/11/92	World Bank	Tanzania	Forest Resources Management
02/18/92	World Bank	Benin	Urban Rehab
02/18/92	World Bank	Philippines	Earthquake Reconstruction
02/25/92	World Bank	Philippines	Rural Electrification
02/26/92	AFDB	Gabon	Rubber Scheme Phase II Project
02/27/92	ADB	Bangladesh	Second Bhola Irrigation
03/10/92	World Bank	Brazil	Water Sector Modernization
03/17/92	World Bank	Bangladesh	Private Sector Industrial Credit
03/17/92	World Bank	Brazil	Rondonia Natural Resources Managemt
03/17/92	World Bank	China *	Regional Cement
03/17/92	World Bank	India	West Bengal Forestry
03/23/92	EBRD	Bulgaria	Marita East II Power
03/25/92	AFDB	Mali	Credit to Banque Malienne de Credit
03/25/92	AFDB	Morocco	Fifth Drinking Water Supply Project
03/26/92	ADB	India	Power Efficiency Sector Program
03/26/92	World Bank	Colombia	Third Natl Roads Sector
03/26/92	World Bank	Korea	Pusan and Taejon Sewerage
03/26/92	World Bank	Nigeria	National Fadama Development
03/31/92	World Bank	Philippines	Municipal Development III
04/21/92	AFDB	Eq Guinea	Structural Adjustment Loan
04/21/92	AFDB	Malawi	Blantyre Water Supply Phase VII
04/21/96	AFDB	Malawi	Sanitation Study
04/30/92	World Bank	Indonesia	Treetops Smallholder Develop
05/12/92	World Bank	India	National Highways II (A)
05/12/92	World Bank	India	National Highways II (B)
05/25/92	AFDB	Namibia	Trans-Kalahari Road
05/25/92	AFDB	Madagascar	Feasibility for Fertilizer Production
05/25/92	AFDB	Madagascar	Studies/Explor Drilling, Fertilizer Prod
05/25/92	AFDB	Multinatl	Dyke for Diama Dam, Senegal River
06/09/92	World Bank	Papua NG	Oro Smallholder Oil Palm Dev
06/17/92	World Bank	China	Ship Waste Disposal
06/17/92	World Bank	Mauritania	Water Supply
06/23/92	AFDB	Ethiopia	Chido-Sodo Road (A)
06/23/92	AFDB	Ethiopia	Chido-Sodo Road (B)
06/23/92	AFDB	Lesotho	Wool and Mohair Processing
06/25/92	World Bank	India	Maharashtra Power II
06/25/92	World Bank	Mexico	Housing Market Development
06/29/92	EBRD	Romania	Petroleum Pilot Modernization
07/02/92	World Bank	India	Rubber
07/02/92	World Bank	Jamaica	Energy Strengthening Dereg & Privat
07/13/92	EBRD	Poland	Warsaw Telecommunications
Date	Institution	Country	Project
07/16/92	ADB	Thailand	Third Power Transmission (Sector)
08/06/92	ADB	Malaysia	Sarawak Power
09/22/92	ADB	China	Guangzhou Pearl River Power Co

10/02/92	AFDB	Egypt *	Floating Glass Manufacturing
10/20/92	AFDB	Ethiopia	Study Addis Ababa Water Supply III
10/02/92	AFDB	Nigeria	First Multistate Water Supply (A)
10/02/92	AFDB	Nigeria	First Multistate Water Supply (B)
11/12/92	ADB	Indonesia	Smallholder Tree Crop Processing
11/17/92	ADB	China	Shanghai Yangpu Bridge
11/17/92	World Bank	China	Henan Highway
11/17/92	World Bank	China	Guangdong Provincial Highway
11/19/92	World Bank	India	Bihar Plateau Development
12/01/92	ADB	Sri Lanka	Fisheries Sector
12/01/92	AFDB	Burundi	Aquaculture and Artisinal Fisheries (A)
12/01/92	AFDB	Burundi	Aquaculture and Artisinal Fisheries (B)
12/01/92	AFDB	Burundi	Makebuki-Ruyigi Road (A)
12/01/92	AFDB	Burundi	Makebuki-Ruyigi Road (B)
12/01/92	AFDB	Gabon	Salt, Soda, Chloride
12/01/92	AFDB	Lesotho	Oxbow-Mokhotlong Road
12/01/92	AFDB	Tunisia	Second Agric Line of Credit to BNA
12/03/92	ADB	Bangladesh	Secondary Towns Flood Protection
12/14/92	AFDB	Egypt	Rehab of Agric Drainage Systems (A)
12/14/92	AFDB	Egypt	Rehab of Agric Drainage Systems (B)
12/14/92	AFDB	Morocco	Airport Rehab
12/14/92	AFDB	Tunisia	Barbara Dam
12/15/92	ADB	Papua NG	Third Urban Water Supply
12/17/92	World Bank	Egypt	Priv Sector Tourism & Enviro Managt

1993

01/21/93	ADB	China *	Shanghai Yangpuy Bridge
02/24/93	IDB	Colombia	Caribbean Pine Plantation Study
03/03/93	AFDB	Nigeria	Industrial Exports
03/03/93	AFDB	Mali	Bamako Expressway
03/04/93	World Bank	Algeria	Housing Completion and Sector Dev
03/09/93	World Bank	Poland	Roads Project
03/22/93	EBRD	Slovak Rep	International Road Corridor Proj
03/25/93	World Bank	China	Sixth Railway Project
04/14/93	IDB	Mexico	Feeder Highways and Rural Roads
04/19/93	EBRD	Czech Rep	Telecommunications
05/03/93	AFDB	Gabon *	Road Rehabilitation and Improvement
05/24/93	EBRD	Russia	W. Siberia Oil and Gas Fields Rehab
06/10/93	World Bank	Morocco	First Municipal Finance Project
06/10/93	World Bank	Morocco	Land Dev Proj for Low-Income Families
06/22/93	World Bank	Chad	Second Transport Sector Project
06/29/93	World Bank	India	NTPC Power Generation Project
07/29/93	World Bank	Madagascar	Petroleum Sector Reform Project
07/27/93	AFDB	Algeria *	Koudiat Acerdoune Dam
08/27/93	AFDB	Algeria *	Sidi Ban Taiba Irrigation Dam

Date	Institution	Country	Project
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08/27/93	AFDB	Mauritania	Fisheries Sector Support Proj
09/06/93	EBRD	Slovak Rep	ZSNP

09/06/93	EBRD	Slovak Rep	ZSNP Equity
11/25/93	ADB	Indonesia	Power XXIII
12/09/93	EBRD	Belarus	Power Plant Modernization Project
12/13/93	AFDB	Egypt	Ayoun Moussa Power Project
12/22/93	ADB	Laos	Industrial Tree Plantation

1994

02/17/94	World Bank	Bangladesh	Jamuna Bridge
03/08/94	ADB	Bangladesh	Jamuna Bridge
11/30/94	IDB	El Salvador	2d Stage, Electric Power Sector III
12/20/94	World Bank	Korea *	Waste Disposal Project

1995

02/28/95	World Bank	China	Zhejiang Power Development
02/28/95	World Bank	China	Zhejiang Power Develop (Guarantee)

1996

05/30/96	World Bank	Cameroon *	Road Sector
11/05/96	ADB	Bangladesh	Jamuna Bridge Roads
11/21/96	ADB	Laos	Community-Managed Irrigation Sector Proj

A Non-Confrontational Initial Approach. In seeking to improve bank performance, the Treasury Department chose not to be confrontational in its approach to questionable loans. A few examples might be noted. In April 1992, at the World Bank, the USED supported an IBRD power loan for an Asian country even though the EIA had not been circulated and was only deemed to be "available" upon request. Treasury directed the USED to inform the IBRD board that "We expect the Bank in the future to adhere to the established practice of circulating EIA summaries of category A projects at least 120 days prior to Board votes and are concerned that this did not occur in this case."

In May 1992, the United States opposed an AFDB loan for a sub-Saharan African country because the EIA had not been provided to the USED or the public 120 days beforehand, even though it was dated (and presumably prepared) earlier. The following month, the United States supported an IBRD loan to a Latin American country even though the EIA summary was received by the USED less than two months beforehand. Treasury accepted the argument by World Bank staff that the study had been completed five months earlier and would have been available on request.

In September 1992, the United States voted for an IBRD education loan for a Latin American country even though it was a category A project and no EIA had been prepared. Treasury said the project had no significant environmental effects. In October, the United States supported a category B-equivalent loan at the IDB, though it argued that an EIA should have been done because the project raised significant zoning and land-use concerns. In December 1992 and February 1993, the United States supported IBRD loans for two large Asian countries, even though the EIAs had been received less than 120 days beforehand. Treasury again accepted the argument of World Bank staff that the EIA studies had been prepared much earlier

and would have been available upon request. Treasury expressed doubt, in its analysis of one of these loans, whether the public would have been able to acquire copies of the EIA independent of a U.S. Government request, but it decided to support the loan anyway.

More Recent U.S. Efforts to Strengthen the Process.

EIAs Should Have an Impact on Project Design. As the timeliness and availability of EIA studies have improved, the United States had stressed other issues. In recent years, for example, Treasury officials have argued that EIA studies should be used to bring about improvements in proposed projects. Their preparation 120 days in advance of the board vote was not sufficient, if the issues raised in the EIA studies were not addressed in the subsequent project design. As discussed in Chapter I, the World Bank's own recent evaluations of its EIA performance have found that environmental analysis is often not used effectively in the MDB project design process. The United States opposed a loan to an Asian country in 1994 largely on account of these concerns. Likewise, the United States opposed three loans in 1993 and another in 1996 because the EIAs did not address resettlement questions when these were relevant and when the project was not consistent with the policy of the bank financing the loan.

EIAs Should Be Done for Planned Subprojects. The United States has also addressed other environmental issues in its reviews of MDB loans. The United States opposed an ADB loan for a large South Asian country in 1996, for example, because the EIA studies for its major subcomponents had not been completed. Efforts to improve environmental standards for project subcomponents have been a constant theme in Treasury Department analyses of prospective MDB projects. In 1993, the United States opposed two IBRD loans for countries in North Africa and Eastern Europe and an EBRD loan for a country in Central Europe on grounds that no EIA studies were being done for identifiable subprojects. The U.S. vote in 1996 suggests that the United States believes that EIA reviews for planned subprojects should not only be required but should be completed before the MDB loan is improved.

EIAs Should Consider Alternatives and Consult the Public. The United States opposed other loans in recent years because their EIAs were deemed inadequate or because they failed to examine alternatives to the project under consideration or because the public was not consulted or involved in the execution of the EIA study itself. The United States opposed an IDB power loan in 1994, for example, because of insufficient public participation in the EIA and project design. Treasury officials argue, and a CRS field study later confirmed, that the U.S. concerns on this score were alleviated after the IDB stressed the need for public participation in its implementation of the project. The examination of alternatives and increased public participation have been issues of continuing concern. As discussed in Chapter I, recent World Bank studies have confirmed that these are two areas of weakness in World Bank procedures. Since at least 1992, Treasury officials have mentioned them in decision memoranda as reasons why the United States should question and possibly abstain or vote against particular MDB loans.

E. Evaluation and Discussion

Changing MDB Procedures. The strategy envisioned by CIEL in its comments on the 1992 rule involved establishment of mechanisms in the U.S. Government for disseminating information and informing NGOs about MDB operations. The strategy which the U.S. Government pursued instead envisioned establishment of mechanisms in each bank for making information accessible to the public directly.

Most analysts agree the latter has been a preferable approach. All the MDBs have created or are creating systems for disclosing information to the public. The approach taken by the U.S. Government enabled it to sidestep many potential conflicts that might have occurred between it and the banks or other member country governments. For example, it avoided the controversy that would have likely occurred if the United States publicly distributed information the MDBs and other countries wished to keep confidential.

It also has contributed to changing the banks' attitudes. In many respects, the MDBs are now more open and more willing to inform the public about their plans and operations. (As noted in the previous chapter, there are problems or shortcomings with the banks' implementation of their procedures in that area.) The MDBs now say officially, and many MDB officials seem to believe, that disclosure of information and public discussion can help improve the prospects and effectiveness of their planned operations.

Information about U.S. Votes. CIEL recommended, in its comment on the 1992 Temporary Rule, that Treasury be required to publish a statement in the Federal Register justifying its vote on every MDB loan affected by the Pelosi Amendment. U.S. officials respond, with some frustration, that they already lack sufficient time and staff to meet all reporting requirements. More reporting requirements, they say, would either put them further behind or reduce the time they have to monitor MDB activities. CIEL may have been motivated, in 1992, by concern that Treasury would ignore the requirements of the Pelosi Amendment.

CIEL argued that the U.S. Government should tell the public how the USEDs vote on environmentally-sensitive MDB initiatives. The U.S. Government currently has no procedure for making this information systematically available to the public.

The Pelosi Amendment does not require the Administration to inform Congress or the public concerning about votes the USEDs have cast on environmentally-sensitive proposals.⁸² Other provisions of law require the Secretary of the Treasury to report annually to Congress and the public about U.S. policy in the MDBs and

⁸²The Pelosi Amendment requires the executive branch to report to Congress about the progress the United States has made encouraging the MDBs to adopt consistent and timely environmental review procedures for their projects. The question of publicizing the votes cast by U.S. Executive Directors is not addressed. International Financial Institutions Act, sec. 1307(f).

steps taken to meet particular legislative mandates. These do not require the Administration to disclose how the USEDs voted on individual MDB loans.

The human rights provisions of the International Financial Institutions Act require Treasury to report quarterly to Congress, however, about U.S. votes in the MDBs. Each loan and each vote must be listed and information must be provided about human rights conditions in the borrower country and any basic human needs orientation for the loans.⁸³ The Administration has used this report to Congress as a vehicle for explaining all U.S. abstentions and negative votes in the MDBs, including all loans opposed on account of Pelosi Amendment requirements.⁸⁴ The Treasury Department does not normally distribute copies of this report to the public and the Congressional committees do not normally publicize their contents.

The executive branch could delete references to the Pelosi Amendment (and other legislation which prompts U.S. opposition to MDB loans) from its quarterly human rights reports to Congress. This might be unacceptable to Congress, however, as it could hinder congressional oversight of the executive branch and MDB operations. Quarterly reports to Congress may be made available to the public by legal process under the Freedom of Information Act (FOIA).

Some officials argue that the United States should not publicize its votes on MDB loans. They say this will shift the focus of attention away from the overall content of the banks' environment policy towards debate about the details of particular loans. They also say more publicity could hurt U.S. relations with other countries and it could lessen the spirit of government-to-government cooperation necessary for the implementation of environmental reforms. Other observers argue, though, that the disclosure of U.S. votes will help the public monitor the implementation of U.S. policy. They also say it will help the public determine whether the banks' are complying in their loan programs with the principles and standards approved in their general policies.

In lieu of potentially being required to release the quarterly reports to the public under the FOIA, the Administration might establish a system for releasing a version of the quarterly reports voluntarily. The simplest procedure might be for Treasury to give the Commerce Department a copy of the quarterly report. The Commerce Information Service could then distribute it, at a nominal charge, to the public.

⁸³International Financial Institutions Act, sec. 701(c).

⁸⁴See, for example, the report to the House and Senate authorizing and appropriating committees, International Financial Institutions' Quarterly Transactions Opposed by the United States on the Basis of Human Rights Considerations (01/01/96 - 03/31/96), August 9, 1996. The Administration used to publish this same information in its public report on U.S. participation in the international financial institutions. This report has not been issued for several years, due to the shortage of staff at Treasury and the pressures of other, more immediate, obligations relating to U.S. participation in the IFIs. For the latest volume in the series, see: International Finance. Annual Report of the Chairman of the National Advisory Council [NAC] on International Monetary and Financial Policies to the President and to the Congress for Fiscal Year 1992. U.S.G.P.O., 1994. The Secretary of the Treasury chairs the NAC.

Compliance with the Law. Some U.S. votes in 1992 and 1993 seemed to be generous in their acceptance of propositions that seem only marginally in accord with the requirements of the Pelosi Amendment. Noteworthy was the view that unpublicized EIA studies would have been made available to the U.S. Government more than 120 days before the board vote if the U.S. Government had requested them. Also noteworthy was the assumption that these studies would have been equally available to the public if requested, even for countries where the concept and procedures for public disclosure are not well established.

Arguably, however, the executive branch's approach to the disclosure issue in 1992 and 1993 has borne fruit. The MDBs have all adopted (or plan to adopt) procedures providing the public with considerable access to information. In many ways, the focus of debate has undergone a major shift. Previously, there was considerable discussion whether the MDBs can or should disclose any information about their operations to the public. Now, the issue seems to be more a question whether enough of the right kinds of information is being disclosed to satisfy public concerns.

The Pelosi Amendment stipulates that USEDs may not vote for environmentally-sensitive MDB loans unless an EIA or a comprehensive summary "has been completed by the borrowing country or the institution, and has been made available to the board of directors of the institution" and to "affected groups and local nongovernmental organizations" at least 120 days before the date of the vote.⁸⁵ The executive branch interprets the 120 day rule quite broadly. Leaving aside controversy about the applicability of the Pelosi Amendment to IFC and other MDB non-guaranteed private sector loans (see below), however, there is little evidence that it is ignoring the requirement.

The MDBs generally require that EIA studies be released to the public in the borrower country before they are submitted to the banks and before the banks begin serious evaluation of the proposed project. The executive branch has no independent procedure for knowing when 120 days have elapsed between the public release of an EIA and consideration of the relevant loan by an MDB executive board. Some MDBs require that 120 days must elapse. Others (such as the World Bank) have no such requirement but they say that environmental studies must be released in the affected country at the same time they are submitted to the banks. Key steps in the project preparation process cannot occur before the EIAs are released. Treasury officials assert that this procedure will normally allow enough time for public discussion to meet the U.S. time requirement. The banks seem to have acknowledged through their procedures that 120-day waiting period is of critical importance to USEDs.

U.S. officials argue that the 120 day rule has been satisfied if the EIA is released early enough by the borrower country. They say the U.S. Government does not need to determine whether members of the public inside or outside the country or U.S. agencies have had possession of the EIA for the requisite 120 days. According to this interpretation, a document is "available" to the MDB board of directors, affected groups, and NGOs when it is publicly released in the borrower

⁸⁵International Financial Institutions Act, sec. 1307(A)(1)(a).

country. This interpretation seems to assume that it is the responsibility of the MDB board, affected groups, and NGOs to acquire copies of the publicly released environmental studies. It does not assume it is the banks' duty to see that copies are made available to all concerned members of the public 120 days before the scheduled vote.

The language of the Pelosi Amendment does not appear to address this interpretation of the 120 day rule. Analysts can debate whether MDB documents should be assumed to be "available" everywhere the moment they are available somewhere. Most would agree, however, that the executive branch does have some leeway (absent a firm legislative history to the contrary) in its interpretation of the law. Treasury's current position is more oriented towards disclosure than the position it took in 1992 and 1993. At that time, Treasury accepted the banks' argument that documents were "available" to the public and the U.S. executive director if they had been written at least 120 days before loans came up for consideration by the board -- even when they were held unpublicized and uncirculated in the files of MDB staff.

The Pelosi Amendment and MDB Loans to Private Sector Borrowers. The Treasury Department argues that the Pelosi Amendment does not apply to the IFC and the private sector financing programs of the regional banks. Many NGOs and other observers argue, by contrast, that the Pelosi Amendment applies to the multilateral agencies' private sector operations. These NGOs believe the executive branch is in violation of its responsibilities under the U.S. legislation in this regard.

The International Finance Corporation channels all its assistance (both loans and equity investments) to private firms without any provision for government guarantees of repayment. The EBRD channels most (about 75% of total commitments in 1995) of its funds to such recipients. The IDB and ADB lend a small portion (in 1995, 3% of all ADB and 2% of all IDB commitments) of their funds annually to private sector borrowers. The AFDB has announced plans to begin providing such assistance in the near future.

The Other MDBs and the Pelosi Amendment. The World Bank and the regional banks generally provide the public with information about their planned loans to public sector borrowers well in advance (usually at least 120 days) of their executive boards' action on those loans. For loans and equity investments involving private sector borrowers, however, they provide the public with less information and they disclose it later in the process than they do information on their public sector operations. (For more details, see chapter 2 of this report.) For example, the IFC says copies of its summary project information documents will be distributed to the World Bank public information center at least 30 days before the date the Bank's executive board is scheduled to consider the project. EIA studies for IFC projects likely to have a major impact on the environment will be distributed at least 60 days before the board vote. The EBRD seems to model its procedures in this area after those of the IFC. The IDB applies the same disclosure rules to its private and public sector operations. The ADB requires that summary EIAs for category A (and some category B) private sector projects must be available to the public and executive directors 120 days prior to Board consideration, as with its public sector lending.

Project briefs for private sector ADB projects are available, however, only 30 days beforehand.

Arguments Why the Amendment Does Not Apply. The Treasury Department posits three reasons why it believes the Pelosi Amendment does not apply.⁸⁶ First, it argues that the IFC is not a "multilateral development bank." The Pelosi Amendment speaks, on several occasions, about assistance provided to "borrower countries." Treasury argues that an organization such as the IFC, which lends only to private entities without official repayment guarantees, is not an MDB within the meaning of the Pelosi Amendment because it has no "borrower countries."

Second, Treasury says that application of the Pelosi Amendment to the private sector financing operations of the regional banks would be inappropriate. While agreeing that the EBRD, ADB, and IDB are multilateral development banks, Treasury officials argue that the need for confidentiality and the time requirements for MDB private sector operations are much more demanding than those for MDB public sector loans.⁸⁷ These projects are often developed much faster than the 120 day timetable will allow. Treasury Under Secretary Summers noted, for example, in a April 1995 decision memorandum approved by Treasury Secretary Rubin, that "The IFC project cycle is shorter than the World Bank's and often dependent on actions of a private sector investor responding to market conditions."⁸⁸ Treasury officials say the same situation prevails in the EBRD and other MDB private loan programs. Premature disclosure of the client's plans or other proprietary information could have a negative effect on a project's viability or the client's broader interests. Since the Pelosi Amendment does not address these concerns, Treasury officials say its application to the MDB private sector programs would be unwise.

Third, Treasury legal analysts says Congress has accepted the Treasury Department's interpretation of the Pelosi Amendment because it has not legislatively overturned or revoked it.⁸⁹ They cite, for example, language in a 1990 Senate Appropriations Committee report⁹⁰ which notes that the Committee included

⁸⁶Then-Treasury Secretary Lloyd Bentson first made this argument to Congress when responding to a question by Representative Pelosi in 1993. U.S. House of Representatives. Committee on Appropriations. Subcommittee on Foreign Operations. Foreign Operations, Export Financing, and Related Programs Appropriations for 1994. April 28, 1993. Part 4, p. 58. The argument was spelled out in more detail in a legal paper prepared by the department the following year. David D. Joy, Senior Counsel (International Affairs). Department of the Treasury Office of the General Council. Application of the Pelosi Amendment to the International Finance Corporation ("IFC"). August 1, 1994.

⁸⁷Discussion with Treasury Senior Council David Joy, February 1997.

⁸⁸U.S. Department of the Treasury. Memorandum from Lawrence Summers, Under Secretary for International Affairs, to Treasury Secretary Robert Rubin. FY 1995 IFC Appropriation: April 1 Conditions. April 25, 1995. Photocopy. Mr. Summers said he believed this was "a defensible legal argument" supporting this waiver of the Pelosi Amendment requirements.

⁸⁹Interview with Treasury Senior Counsel David Joy, February 1997.

⁹⁰Senate Committee on Appropriations. Foreign Operations, Export Financing, and Related (continued...)

provisions in the foreign operations appropriations bill relating to the EBRD in order to ensure that "efforts to broaden private sector activities in Eastern Europe will not further aggravate the existing environmental crisis, and actively promote economic activities which will contribute to the restoration of the environment in the region." These included procedures for "consultation with, and involvement of, the public and interested nongovernmental organizations in Bank operations, including an opportunity for comment by local communities which may be affected by Bank operations." Treasury legal experts argue that Congress knew in 1990 how the Treasury Department planned to interpret the Pelosi Amendment. The appropriations committees did not criticize the Department's interpretation in their reports. This shows, the Treasury legal experts indicate, that they accepted the Treasury interpretation of the Pelosi Amendment in 1990.

The House Banking Committee -- which had originated the Pelosi Amendment the previous year -- did not criticize the Treasury interpretation in its 1990 report authorizing U.S. participation in the EBRD. The Committee said that "environmental conditions in Eastern Europe are so degraded" as to warrant special action by the EBRD.⁹¹ Arguably, by this line of analysis, the absence of contrary language in the Banking Committee report is an indication that it accepts Treasury's view of the Pelosi Amendment in 1990.

Problems with the Argument for Non-Application. Whether Congress could be expected to agree in 1990 with an argument the Treasury Department did not express publicly until 1993 is a matter for conjecture. Congress has spoken more recently on this issue. In 1994, it included provision relating to the IFC and the environment in the FY1995 foreign operations appropriations act. It specified that half the funds appropriated for the IFC would be available for payment after April 1, 1995 only if the Secretary of the Treasury determined (and reported to Congress) that the IFC is pursuing "reforms comparable to those adopted by the [IBRD] regarding the environment, information disclosure, and resettlement."⁹² The House Appropriations Committee said, in its report accompanying that legislation that it "continues to believe that the IFC is lax in considering the environmental effects of its lending operations. The Committee believes that the IFC should come into compliance with the intent of the Pelosi Amendment." Treasury Secretary Rubin determined in April 1995, that the IFC's environmental reforms are comparable to those of the IBRD.⁹³ That Congress enacted this legislation would suggest that it did

⁹⁰(...continued)

Programs Appropriation Bill, 1991. S. Rept. 101-519, p. 55.

⁹¹House Committee on Banking, Finance and Urban Affairs. International Development and Eastern European Recovery Act of 1990. H. Rept. 101-590. Pp. 39-42. Though the issue did not come up in discussion, Treasury would presumably interpret the fact that the Banking Committee made no reference to the Pelosi Amendment in its discussion of the IFC (pp. 42-4) as further evidence that the Committee accepted the Treasury Department's interpretation.

⁹²Section 567(b)(2) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1995. (P.L. 103-306.)

⁹³Memorandum from Summers to Rubin, April 25, 1995. The formal document [Determination Required Under P.L. 103-306, Section 567, Subsection (b)] is dated April (continued...)

not accept the Treasury Department's argument that the Pelosi Amendment did not apply to the IFC or that different standards should apply to the IFC and other World Bank programs.

The Pelosi Amendment does not define the term "multilateral development bank." Therefore, the Treasury Department may have a basis for arguing that the IFC is not covered by that legislation. However, there are other reasons for believing the IFC might be covered by the Amendment.⁹⁴ Titles XII and XIII are the only parts of the International Financial Institution Act which do not define the term "multilateral development bank." The Pelosi Amendment is in Title XIII. The Administration has acted in the past as though those titles covered the IFC. For example, it has never said the IFC was exempt from the Title XII congressional consultation requirement. Likewise, it never argued that the IFC is exempt from the Title XIII language establishing the Early Warning System. Information on IFC funding plans and IFC projects have been included in both the congressional consultation and the early warning processes.

The immediate recipients of IFC assistance are not "borrower countries." Nevertheless, the idea of recipient countries is not foreign to the IFC's vocabulary. Its Articles of Agreement say the purpose of the IFC is to "further economic development by encouraging the growth of productive private enterprise in member countries, particularly in less developed areas, thus supplementing the activities of the International Bank for Reconstruction and Development." Assistance to private sector firms is therefore a means towards this goal, not the goal itself. The annual reports of the IFC, and the regional banks report prominently the amounts of money they have provided to individual countries. They do not organize their data as though the concept "country" is irrelevant. Governments have a role in IFC operations, even though they are not required to co-sign or guarantee the repayment of IFC funds. The IFC Articles of Agreement say that it "shall not finance an enterprise in the territories of any member if the member objects to such financing...."

Areas of Possible Agreement. There may be validity to the argument by Treasury and World Bank officials that the timetable and notification requirements of the Pelosi Amendment may not be appropriate for all MDB private sector operations. There is nothing intrinsically determinative about a 120 day requirement. The issue is whether the notification period allows sufficient time for the public and member country governments to assess proposed IFC projects and to inform the IFC about possible problems.

⁹³(...continued)

28, 1995. Under Secretary Summers notes in the memorandum that information on IFC projects with major environmental impacts is available 60 days and information on projects with lesser but still significant impact is available 8 days before the board vote. He noted that Treasury's environmental group "has opined that the IFC has not met the Congress's conditions."

⁹⁴For a further discussion of these points, see: Jonathan E. Sanford. Does the Pelosi Amendment Apply to the IFC? Memorandum to the Honorable John E. Porter. (Distributed by permission.) Congressional Research Service. August 12, 1994.

In some cases, where the technology is known, the project location is relatively accessible, and the applicant has a good environmental record, a shorter time period might be feasible. The fact that a potential IFC customer needs fast action on an application in order to protect its commercial viability may be a legitimate concern but not necessarily one that overrides appropriate environmental review of the proposed activity. Likewise, there may be times where the IFC needs to disclose project information of a proprietary nature to its member country governments but not to the public. However, a case-by-case rather than a general authority for such restrictions could meet these requirements. The IDB's private sector program seems able to function effectively using the same 120 day disclosure rule applicable to regular IDB public or publicly-guaranteed loans. The IFC itself reported that, in 1995, the EIA studies for over half its category A projects were released to the public more than 120 days before those projects were considered by the executive board.

The House Banking Committee said, in the committee report accompanying the original legislation containing the Pelosi Amendment, that any waivers of public disclosure shall "be the exception rather than the rule."⁹⁵ The basic question is whether the Pelosi Amendment applies to U.S. participation in the IFC and the other private sector MDB programs. The legal rationale the Administration cites to justify its position may seem strained. However, the operational concerns the Administration cites -- its assertion that the requirements for an MDB private sector assistance program are sometimes different from those for MDB public sector loans -- seem reasonable. This controversy likely complicates U.S. participation in the IFC and exacerbates public uneasiness about the MDB program. Congress and the Administration might want to consider whether they perceive any grounds for flexibility or compromise on this issue.

Reclassification of MDB Loans. The 1992 Temporary Rule for implementing the Pelosi Amendment says that U.S. officials should seek a reclassification to put proposed MDB projects in a higher category for environmental sensitivity if they believe these projects need more environmental analysis than the banks intend to require. Treasury and USAID officials say the interagency group has sometimes identified projects with lower categorizations that U.S. experts believe merit a category A classification.⁹⁶ They indicate, though, that it is extremely rare for projects to be upgraded because of a U.S. request, although they note they have not conducted any systematic analysis of the issue. They say that MDB staff may order an environmental review (including an EIA) for a project if the United States raises persistent concerns. The original "B" categorization, though, remains in effect.

The issue of reclassification is a major one. Success in persuading the banks to sometimes order the preparation of environmental studies for category B projects is a step towards that goal. However, it does not address the broader issue. As discussed above, those EIA studies may not be available to the public as easily or as

⁹⁵House Committee on Banking, Finance, and Urban Affairs. International Development and Finance Act of 1989. H. Rept. 101-271, October 6, 1989, p. 51.

⁹⁶The office of the USED at the ADB says there have been very few cases where the United States has made a formal request for reclassification. Hence, it says, the idea that reclassification happens only rarely is based on a rather small number of cases where it was sought.

early as are EIA studies done for category A projects. As discussed in Chapter I, many analysts believe the banks' current procedures result in too many projects with potentially significant environmental consequences being listed as category B projects. U.S. officials say they believe the banks' current procedures identify most of the projects that are likely to have significant negative effects on the environment. The record shows, however, that the United States has opposed some category B projects and raised questions about others regarding possibly negative environmental effects.

The banks generally do not have formal procedures for reconsidering the environmental classifications of projects determined when they are first listed with the MDB public information centers.⁹⁷ Consequently, there is no way to know whether many or few of the projects on their category B lists have unaddressed environmental problems. Absent information on this score and absent procedures for gathering that information, outsiders must trust that MDB staff will be correct in their judgments about the likely environmental effects of projects and their need for environmental impact analyses.

U.S. officials have few expectations of success when they seek the reclassification of particular projects. The executive branch might be more effective, and arguably more in compliance with the spirit of the rule, if it promoted instead reform of the MDB classification system and adoption of an official appeal mechanism within the multilateral banks.

Circumscribed Scope of U.S. Review. CIEL argued, in its comment on the 1992 Temporary Rule, that the executive branch was improperly limiting the scope of the Pelosi Amendment. The Amendment limits how USEDs may vote on a prospective "action" by a multilateral bank. The 1992 Temporary Rule governs how the U.S. Government shall deal with proposed MDB "projects" which might have a significant impact on the environment. Specific projects are only one of several kinds of activities the banks may finance through their loan programs. Others include structural adjustment (SAL) and sector adjustment loans (SECAL), technical assistance loans, financial sector loans, public sector reform loans, and loan guarantees. Other MDB board actions which may affect the environment include approval of MDB policies or operational directives regarding the environment, MDB organizational changes affecting the environmental staff, and MDB country strategy papers.

The interagency staff environmental group does not normally examine the possible environment effects of MDB adjustment loans. It does study SECALs, though, if they seem to include embedded projects -- particular activities funded as a part of the larger sector reform -- that might need environmental analyses if they were proposed as separate loans. Officials say they previously examined the possible environmental consequences of SECALs, but they found it was often difficult to show a direct effect on the environment. SECALs for some sectors -- transportation for example -- are still studied to see whether they contain embedded projects that require further attention. Officials say the interagency group also examines other

⁹⁷The Office of the USED at the ADB says the Asian Bank has a formal mechanism for reclassification, as the ADB Environment Division is involved in project processing.

MDB initiatives that touch upon the environment. In particular, they mention MDB policies and operational directives and the environmental aspects of MDB country strategy papers.

In their environmental review, the U.S. agencies do not limit themselves to an examination of MDB "projects," as the language of the 1992 Temporary Rule might suggest. It is not clear, however, that they take into account all the environmental issues that might be associated with prospective MDB "actions."

The World Bank Operation Evaluation Department (OED) has noted,⁹⁸ in a discussion of the lessons learned from the Bank's past programs of adjustment lending, that "Adjustment policies have both positive and negative implications for the environment." OED noted, for example, that trade liberalization, exchange rate depreciation, or changes in taxes or subsidies may "induce changes in the structure of production, which inevitably affects the environment." OED analysis said that more emphasis on the environmental implications of adjustment programs is needed.

Experts from the World Bank's environment department agree.⁹⁹ They found that the broad economic policies embodied in many MDB programs can have far-reaching effects on environmental conditions. "Although these programs are not intended to effect (*sic*) environmental quality," they report, "they can easily do so -- for good or bad." The linkages between economy-wide policies and the environment are not well understood. The World Bank environmental experts indicate, however, that they hope further "empirical work may help identify and deal with the most important potential environmental impacts."¹⁰⁰

An adequate methodology for determining the likely environmental effect of MDB adjustment loans does not currently exist. Consequently, there is no

⁹⁸World Bank. Operations Evaluation Department. Adjustment Lending: Lessons of Experience. World Bank Home Page (<http://www.worldbank.org>), OED Lessons and Practices, 12 pages. The reference to the environment is on p. 6.

⁹⁹Mohan Munasinghe and Wilfrido Cruz. Economywide Policies and the Environment: Lessons from Experience. World Bank Environment Paper Number 10. The World Bank, 1995, p. 1. Examining the effects of Bank macroeconomic or sectoral policies in eleven countries, the authors identified a number of key relationships and possible implications. They summarize their findings in five points (p. Ix). First, removal of price distortions, promotion of market incentives, and relaxation of other constraints will generally lead to both economic and environmental gain. Second, adverse side effects occur when economy-wide reforms are undertaken and other policy, market, or institutional imperfections remain unaddressed. Third, measures aimed at restoring macroeconomic stability will generally yield environmental benefits because instability undermines sustainable resource use. Fourth, the stabilization process may also have adverse short-term impacts on the environment. Fifth, economy-wide policies will have additional long-term effects on the environment through changes in employment and income distribution. The study was later rewritten (by the same authors with the addition of Jeremy Warford) for broader distribution. See: "Greening Development: Environmental Implications of Economic Policies." *Environment*, v. 38 (June 1996), pp. 6-11, 31-38.

¹⁰⁰Ismail Serageldin, World Bank Vice President for environmentally sustainable development, in his introduction to the study. *Ibid.*, p. iv.

systematic basis on which the Treasury can apply the Pelosi Amendment to these loans. Nevertheless, consistent with the goals of the Pelosi Amendment and the findings of the above-mentioned studies, the U.S. executive directors might urge the banks to pay more attention to possible environmental impact in MDB adjustment loans. They might, for example, ask their borrower countries to document whether they have adequate environmental procedures in effect to deal with the conditions that may exist if the policies embodied in the MDB adjustment loans have their intended effects.¹⁰¹ The banks often report that the environmental laws and enforcement procedures in developing countries need improvement.¹⁰²

It could be argued that the Pelosi Amendment requires U.S. executive directors to oppose MDB loans when the banks or the borrowers have no mechanism in effect to inform the public that project funded with MDB money is planned and what its likely environmental effects might be. As noted before, the MDBs finance many programs where the ultimate recipients of the money lent by the banks cannot be identified at the time the loan comes before the MDB executive board. The banks require that their borrowers have procedures for assessing the likely environmental impact of these future subloans, but they do not require that they also have procedures for making this information available to the public. Treasury says that this information is available to the public in borrower countries. The CRS examination of projects in Central America showed, however, that the MDBs do not normally require that their borrowers have procedures for informing the public

¹⁰¹In 1993, for example, the World Bank approved an IDA agricultural sector adjustment loan for Honduras which sought, among other things, to increase agricultural production (including non-traditional exports such as pineapples and melons) through reforms in the land titling and agricultural credit systems. The U.S. Executive Director voted for the loan. The World Bank did not attach any conditions to the loan requiring the Honduran Government to prevent the inappropriate conversion of forest to cropland, to restrict cropping of steep grades, or to regulate the post-use runoff of agricultural chemicals. The loan document noted, as an acceptable risk, the fact that the institutional capacity of the Honduran Government was weak and it might have difficulty monitoring the implementation and effect of the measures that were mandated by the loan. The loan did not require the government to strengthen its capacity. Observation suggests that the new incentives initiated by the SECAL may have had some negative environmental consequences. South of San Pedro Sula, for instance, one can see fields of pineapples on hillsides that were reportedly planted in recent years. Some of this farmland is reportedly within the boundaries of a forest reserve and was cleared without official permission. It seems possible that, if such activity is visible so easily from the main highway between the two largest cities in the country, similar activity must be taking place less visibly elsewhere.

¹⁰²For example, the World Bank and IDB said, in the loan proposals for activities they financed in Honduras and El Salvador in the early 1990s, that the projects would (in the words of one loan for Honduras) "comply with all provisions of current legislation on environmental protection and the conservation of natural resources...." (IDB. Multisector Preinvestment Program Loan Proposal. August 3, 1993, p. 19.) Subsequently, the World Bank and IDB approved loans in 1995 to help these countries strengthen the agencies responsible for the implementation of their environmental policy, to develop improved environmental policies, and to strengthen their legal and regulatory framework for environmental affairs.

beforehand (or even afterwards) about the likely environmental effects of these loans.¹⁰³

U.S. officials might encourage the MDBs to require their borrowers to build systems for the public disclosure into the projects funded by MDB loans.¹⁰⁴ This would seem to be consistent with the goals of the Pelosi Amendment and the spirit of the banks' own information disclosure policies.

Consultation with the Public. A considerable amount of informal discussion apparently takes place between NGOs and U.S. officials through telephone, personal or electronic mail conversations on occasions other than formal NGO-government meetings. There is no indication, despite concerns raised by CIEL and others in 1992, that the executive branch has sought to limit public comment to particular contexts.

The 1992 Temporary Rule says the public may file written comments on prospective MDB projects with Treasury and that the public may examine the staff appraisal reports for these projects at the banks' public reading rooms or the Treasury

¹⁰³For example, in 1994 and 1995, the IDB made loans to El Salvador and Honduras to help finance through their Social Investment Funds (FIS) the construction of infrastructure facilities designed to meet pressing community-level educational, health, water, and sanitation needs. In 1993, the IDB made a loan to the Central Bank of El Salvador to finance a relending program for microenterprise. In 1995, it made another loan to the Central Bank for a relending program designed to stimulate growth in the private sector. The U.S. Executive Director at the IDB voted for all four loans. The IDB required, in the loan documents approved by the IDB executive board, that the Honduran and Salvadoran FIS and the Salvadoran Central Bank have firm procedures in effect to assess the environmental implications of all the subloans financed by these operations. Interviews showed that the IDB staff worked closely with the borrowers to see that the quality of their environmental review procedures was sustained. There were no provisions in these loans, however, for public access to information about the likely environmental impact of the subprojects. Top management officials in several of the borrower organizations told the author they would have been willing to have a public disclosure system if the IDB had required it and included its costs in the loan. Given the nature of the activities financed, it is likely that the IDB would have required an environmental review and public disclosure for many of the subprojects if they had been identified initially in the loan documents approved by the IDB executive board.

¹⁰⁴Prominent among the goals of the IDB's 1994 El Salvador environment loan and the associated technical assistance were steps to improve the government's systems for obtaining environmental information and doing environmental impact assessments. These were intended to "provide the basic tools needed to finish putting in place the environmental management system ...[as] an essential prerequisite for launching an environmental quality-control program and for setting a standard for sustainable development, as set forth in the country's environmental strategy." Ibid. (Loan document), para. 2.7, p. 6. There was no indication in the loan document or environmental brief that the agencies strengthened by the loan and grant were asked to institute procedures for informing the public about environmental conditions in the country or about the results of their environmental impact studies. When asked, the key officials of the relevant Salvadoran agencies expressed strong reservations about the public disclosure of this type of information. Spokesmen for Salvadoran NGOs said they thought the government would institute disclosure procedures only if it were required to do so by a donor organization.

Department library.¹⁰⁵ Two weeks is allowed for the submission of such comments after a public reader sees a document. This type of access was seen as a necessary option in 1992, when the MDBs were still sometimes unwilling to share information directly with the public.

Treasury officials say this process has fallen into abeyance with the establishment of public information centers at the multilateral banks. The 1992 Temporary Rule says that public comments on MDB projects shall remain on file and be open to public examination. Treasury officials say that few written communications are received. Notes on oral comments by NGOs may be kept by U.S. officials but they are not normally shared with third parties.

The Treasury Department reports that the USED offices at the banks receive a considerable amount of information directly (through faxes, calls, letters, etc.) from NGOs, companies, and other members of the public about projects the MDBs have under consideration. This information is reportedly given serious consideration. The concern by CIEL in 1992 that the formal requirements of the 1992 Temporary Rule would be used to constrain public comment has proven groundless.

There is no indication that direct written public comments received by USED offices are submitted to the Treasury Department. As mentioned, the 1992 rule says that all written public comments shall be available for public inspection at Treasury. Oral comments are supposed to be made in a public forum.¹⁰⁶ There is no indication in the rule how Treasury should treat oral comments received privately outside a public forum. No information is currently available as to what interests contact the USED offices most often. The patterns may be similar to those for public contact (see section D above) with the banks' public information centers.

Sources say that information developed by NGOs is a major way the U.S. Government becomes informed about potential MDB environmental problems or issues. In some ways, projects are deemed to have a "significant" environmental impact if they elicit sufficient NGO concern. Close collaboration with NGOs helps amplify the U.S. Government's ability to monitor the environmental implications of pending MDB loans. The process is rather ad hoc, however. Considerable attention is given to the relatively few projects that are perceived to be problems. Little attention is given to other projects that raise fewer immediate concerns. The process is heavily dependent on the capability of NGO staff who offer their services, assisting -- and pushing -- the U.S. Government and the MDBs to take action on problems they identify and document.

Reports by U.S. officials are likewise an important way the NGOs get additional information about projects or about changes that may have taken place as a result of their protestations or U.S. official inquiries. Discussions at Tuesday Group meetings may identify points of concern. U.S. officials may discuss these with MDB staff and

¹⁰⁵Text of 1002 Temporary Rule, paragraph 26.4(a)(1).

¹⁰⁶Ibid., paragraph 26.4(a)(2). Presumably, though the notes taken by the Treasury Department are not available for public examination, members of the public attending these meetings are aware of the comments made by other participants.

report their findings to the NGO participants. This may serve to alleviate concerns or it may lay the groundwork for a new round of analysis and inquiry.

The deliberations of the Tuesday Group and the public access to EIA studies and other MDB documents has been very valuable to the NGOs who track MDB activity in order to identify and work to remedy environmental problems. These provide documentation and data on the potential design and environmental implications of planned MDB projects. They also establish the need for mitigation options--often written into loan documents as conditions or requirements--that can be tracked during implementation.

It is less clear how useful this process is for local populations, who often are not aware of projects or information about projects until they are contacted by international NGOs. Networking between Washington or Western-based organizations and local people or groups may help shape the "grassroots" issues the international NGOs will subsequently emphasize in their discussions with the banks and the U.S. Government.

Coverage by USAID's Early Warning System has been uneven. It does not appear to be a sufficient means, in the absence of NGO input, for the accumulation of information about the likely environmental impact of planned MDB projects. Most U.S. missions abroad have neither the time nor the skills needed for an independent examination of proposed MDB operations. Most draw upon discussions with MDB resident missions, local or foreign NGO observers, or local government agencies for much of the information they develop.

The number of projects studied by the USAID Early Warning System is normally only a fraction of the total number of environmentally-sensitive projects under consideration by the banks. The March 1996 Early Warning System report focused on 21 MDB projects -- two in Africa, two in Asia, three in the Middle East, eight in Eastern Europe, and six in Latin America.¹⁰⁷ By comparison, in January 1997, the World Bank had 190 IBRD and IDA projects under consideration for sub-Saharan Africa alone.¹⁰⁸

Until the MDBs began implementing their public disclosure policies in 1992, the USAID Early Warning System was one of the few publicly available documents assessing the potential environmental impact of prospective MDB projects. Arguably, it helped identify projects whose environmental problems were most serious and most evident. NGO and U.S. officials say it is unusual today for the Early Warning System to identify problems in MDB projects that other observers have not already identified. Several instances were noted, though, where investigations by USAID staff following up leads from the Early Warning System

¹⁰⁷ U.S. Agency for International Development. Office of Environment. Bureau for Policy and Program Coordination. List of Upcoming Multilateral Development Bank (MDB) Projects with Possible Environmental Concerns. March 1996.

¹⁰⁸ International Bank for Reconstruction and Development; International Development Association. Monthly Operational Summary of Bank and IDA Proposed Projects (as of January 15, 1997). February 3, 1997. SecM97-62.

have identified problems previously unknown to most WGMA and Tuesday Group participants.

Still, the Early Warning System is the main mechanism the U.S. Government has available to it, outside those controlled by NGOs, for obtaining information from foreign countries about possible problems with upcoming MDB projects. It is also a channel the U.S. Government can use for raising issues directly with foreign governments about MDB projects and for checking information provided to it by NGOs, MDB staff, or other sources.

As more USAID missions are closed overseas, Congress may want to monitor whether the effectiveness of the Early Warning System will atrophy without their input into the process. Congress may consider whether alternative means within the U.S. Government are needed -- e.g., perhaps separate funding for the System or transfer of its functions to a different agency -- for gathering and assessing relevant information. In the absence of a comparable mechanism, the U.S. government will need to rely on non-governmental organizations, MDBs, foreign governments, and private firms for information on the potential environmental effects of MDB projects.

Appendix A. Description of the Environmental Categories Used by the MDBs

THE WORLD BANK GROUP

The World Bank's environmental assessment directive, OD 4.01, requires an initial screening of every loan proposal that results in classifying it in one of three categories, described below; as noted in discussion of the International Finance Corporation, the IFC uses these categories, and adds a fourth, "FI" for financial intermediary loans, which is discussed in the main text of this report.

Category A

Projects (or project components) require a full environmental assessment if they are "likely to have significant adverse impacts that may be sensitive, irreversible, and diverse" and if the impacts are "likely to be comprehensive, broad, sector-wide, or precedent-setting." Negative impacts in a Category A project would be expected to affect the area as a whole, or an entire sector. Among the examples of projects that would likely be in Category A are dams and reservoirs; forestry and production projects; large-scale industrial plants; large-scale irrigation and flood control; mineral development, including oil and gas; port and harbor development; resettlement and all projects with potentially major impacts on people. A 1993 Update on Environmental Screening to the Environmental Assessment Sourcebook elaborates on attributes that would make potential environmental impacts "significant": "direct pollutant discharges that are large enough to cause degradation of air, water or soil; large-scale physical disturbance of the site and/or surroundings; extraction, consumption, or conversion of substantial amounts of forest and other natural resources....and involuntary displacement of people and other significant social disturbances."¹

The 1993 Sourcebook Update on environmental screening also elaborates on project location as a criterion for classification, adding "the 'significance' of potential impacts is partly a function of the natural and sociocultural surroundings." It adds, that the types of locations that "should cause the [task manager] to seriously consider an "A" classification," include those in or near sensitive and valuable ecosystems, such as wetlands, wildlands, coral reefs; in or near archeological and/or historical sites; in densely populated areas where pollution impacts might be significant or where resettlement might be required; where there are conflicts in natural resource use in areas already or potentially heavily developed; along watercourses or in areas from which potable water is withdrawn; or on land or waters containing valuable resources. The Update also suggests sources of information on such variables in the project's proposed location, and if such information is lacking, a reconnaissance mission should be considered by the TM.

¹Environmental Assessment Sourcebook Update. Environmental Screening. Number 2, April 1993. Environment Department, World Bank. P. 2.

Particularly sensitive issues are also suggested in the 1993 update, such as disturbance of tropical forests, conversion of wetlands, potential adverse effects on protected areas, and other such areas and issues. It states that "The best way to ensure proper treatment of such issues is to classify the project as Category A, so that the level of effort will be adequate in terms of analytical expertise, decision-making, interagency coordination, public involvement, and disclosure."²

The 1991 OD 4.01 and the 1993 Update on environmental screening further note the importance of considering cumulative and induced impacts, such as when an addition to an existing project would cause pollutant emissions to violate environmental standards, or when the project being considered is a small part of longer term plans for much greater development.

Category B

Projects in this category do not require a full EA, but require environmental analysis. They "may have adverse environmental impacts that are less significant than category A impacts. Few if any of these impacts are irreversible. The impacts are not as sensitive, numerous, major, or diverse..." The 1993 Update on Environmental Screening to the Environmental Assessment Sourcebook adds that "Category B projects often differ from A projects of the same type only in scale."³ The OD indicates that in this category, remedial measures are more easily designed, and a mitigation plan may suffice. The format for the environmental analysis is also different: "Few category B projects would have a separate environmental report; most may be discussed in a separate chapter of the project preparation or feasibility study." Examples of types of projects expected to be in Category B include small-scale agro-industries; electrical transmission; aquaculture and mariculture; small-scale irrigation and drainage; renewable energy; tourism; watershed projects.

The 1993 Update indicates that "Projects entailing rehabilitation, maintenance or upgrading rather than new construction will usually be in Category B. A project with any of these characteristics may have impacts, but they are less likely to be "significant" to the environment. However, each case must be judged on its own merits."⁴

Category C

Projects in this category do not normally require an EA or environmental analysis, "because the project is unlikely to have adverse impacts. Professional judgement finds the project to have negligible, insignificant, or minimal environmental impacts." Examples of projects that would be expected in this category include education; family planning; health; nutrition; institutional development; technical assistance; and most human resource projects.

²Ibid, 1993 Update, p. 3.

³Environmental Assessment Sourcebook Update. Environmental Screening. Number 2, April 1993. Environment Department, The World Bank. P. 2.

⁴Ibid., 1993 Update No. 2, p. 2.

The 1993 Sourcebook update No. 2 on environmental screening also notes "special issues" in screening intermediate credit operations and sector investment loans, when subloans or subprojects are not known/identified at the time of project identification. It states that the Task Manager's responsibilities include assuring that the loan includes a mechanism for conducting environmental screening of subloans and, when appropriate, environmental assessment or more limited environmental analysis. The Update states, "If it becomes evident that one or more subprojects will require full environmental assessment, the entire loan should be classified as Category A."

INTER-AMERICAN DEVELOPMENT BANK (IDB)

IDB projects and operations are classified on one of four categories, depending on the potential environmental impacts:

Category I

Those designed specifically to improve environmental quality. "In general, these operations do not require an EIA, however, they do require intensive participation of environmental specialists in the preparation, analysis and supervision of the execution phase." Examples include watershed management, air pollution reduction, land use planning and zoning, and protected area establishment.

Category II

Operations in this category "have no direct or indirect environmental impact and therefore do not require an EIA." Examples include education programs, science and technology, and dissemination of appropriate technology information.

Category III

In this category are placed operations with moderate impact on the environment and "those that have recognized and well defined solutions." These usually require "a semi-detailed EIA and in certain cases specific components may require a detailed." Examples include potable water, agricultural and forestry credit, sanitary engineering, rehabilitation of existing infrastructure, mini hydroelectric power, and small irrigation.

Category IV

Operations in this category are those "which may have significant negative impacts on the environment (including indigenous populations and other vulnerable groups in the area of influence of the project) and which require a detailed EIA." Examples include road construction in ecologically fragile areas, large hydroelectric developments, large irrigation projects, mining, and toxic waste disposal.

According to the IDB procedures, screening and classification of specific and global loans is done by the IDB Country Team, with participation of the Environment and Natural Resources Division (ENV). It is reviewed by ENV and the

relevant operations division. After initial scoping of the possible environmental impacts, an Environmental Brief (EB) is prepared. Approval by the CMA follows, and the classification and EB are then incorporated into the Profile II stage when it is approved. If changes are required in the classification, they must be made before the next stage in Profile III, and subjected to CMA review for final approval.

The procedures state "While changes in the classification should be avoided, if sufficient justification is presented the CMA will review a request for reclassification." In cases where information is insufficient, the procedures indicate that a mission or additional studies may be required to justify final classification and changes in classification.

ASIAN DEVELOPMENT BANK (ADB)

The Asian Development Bank uses three categories, similar to those used by the World Bank. These three categories are:

Category A

Projects with significant adverse environmental impact as predicted by an Initial Environmental Examination (IEE); an EIA is required for activities placed in this category. Projects in this category, according to the ADB procedures, "may include" environmentally sensitive areas, usually are large-scale, and/or affect large numbers of people. Impacts may be irreversible, and could lead to significant changes in land use and the social, physical and biological environment, or cause harmful emissions, or disrupt/displace large numbers of people. Examples given include large-scale forest industries, large scale irrigation, river basin development, large power plants and industries, new transportation projects, etc.

Category B

Projects with adverse environmental impact, but of lesser degree and/or significance than Category A impact; an EIA may not be required, but an IEE is required. The procedures note: "If the IEE confirms that there are no significant adverse environmental impacts requiring detailed environmental impact assessment, the IEE represents the complete environmental assessment report." The impacts, less than those of Category A, are characterized as those that "would cause some changes in land use or the social, physical and/or biological environment, but would not normally include large-scale nor environmentally sensitive areas." Examples provided include tourism projects, renewable energy, aquaculture, and small scale projects in areas such as agro-industries, industries without toxic emissions, and rehabilitation projects. The procedures indicate that an Environmental Specialist would be expected to assist in the formulation of the terms of reference for the IEE and in reviewing its adequacy.

Category C

Projects unlikely to have adverse environmental impact; no EIA or IEE is normally required. The procedures state: "An environmental assessment is normally

not required for Category C because the project is unlikely to have adverse environmental impact. By the very nature of these projects, the social, physical and biological environment is not significantly affected." An Environmental Specialist's input may be minimal and may involve only in-house review. Examples given include: forestry research and extension, rural health services, marine sciences education, family planning, capital market development study, etc.

AFRICAN DEVELOPMENT BANK (AfDB)

The African Development Bank has established the categories described below into which projects are to be placed in the initial environmental examination during the project pre-selection or identification stage:⁵

Category I

Projects with the potential for significant environmental impacts requiring detailed field review and in most cases, an environmental impact assessment (EIA). The 1992 Environmental Assessment Guidelines offer a listing of some 18 types of projects that fall into this category, including airports, dams and hydropower, roads and railway construction, river basin development, mining, large-scale industrial plants, projects with serious accident risk, etc. They also list some 13 types of ecologically sensitive areas in which any project would be a category I, including coral reefs, tropical rainforests, areas with erosion-prone soils, areas of importance to threatened ethnic groups, etc.⁶

Category II

Projects with limited environmental impacts that can be routinely resolved through application of mitigation measures and design changes. The types of projects listed by the Environmental Assessment Guidelines for inclusion in this category include reforestation, small-scale irrigation and drainage, small-scale industry development, renewable energy development, road rehabilitation, etc., unless the project is located in or close to the sensitive ecological areas.

Category III

Projects not anticipated to result in adverse environmental impacts that would not require detailed environmental review. Examples of projects that would fall into this category include institutional development, health programs, education programs, environmental programs, unless physical interventions in the environment were involved, which would upgrade these to category II.

⁵Environmental Policy Paper, African Development Bank, African Development Fund, June 1990. P. 48-49.

⁶Environmental Assessment Guidelines, African Development Bank, African Development Fund, Côte d'Ivoire, May 1992, p. 11.

Category IV

For projects with potentially beneficial environmental impacts, the policy states: "This initial examination is considered as an important checkpoint in the project review process. No project will be allowed to continue until it has gone past this initial environmental examination, and every appraisal report will therefore contain an environmental statement based upon the above categorization." (policy paper, p. 49). The policy indicates that projects in both categories I and II require special missions to the country to identify environmental issues of major importance.

Appendix B. Text of the Pelosi Amendment

SEC. 1307. ASSESSMENT OF ENVIRONMENTAL IMPACT OF PROPOSED MULTILATERAL DEVELOPMENT BANK ACTIONS.⁷

(a) Assessment Required Before Favorable Vote on Action.--

(1) In general.--Beginning 2 years after the date of the enactment of this section, the Secretary of the Treasury shall instruct the United States Executive Director of each multilateral development bank not to vote in favor of any action proposed to be taken by the respective bank which would have a significant effect on the human environment, unless for at least 120 days before the date of the vote--

(A) an assessment analyzing the environmental impacts of the proposed action and of alternatives to the proposed action has been completed by the borrowing country or the institution, and been made available to the board of directors of the institution; and

(B) except as provided in paragraph (2), such assessment or a comprehensive summary of such assessment has been made available to the multilateral development bank, affected groups, and local nongovernmental organizations.

(2) Exceptions and reports.--

(A) Exceptions.--The requirement of paragraph (1)(B) shall not apply where the Secretary finds compelling reasons to believe that disclosure in any case described in paragraph (1) would jeopardize the confidential relationship between the borrower country and the respective bank.

(B) Reports by secretary.--The Secretary shall submit a quarterly report in writing to the Committees specified in subsection (f)(1) of the findings described in subparagraph (A).

(b) Access to Assessments in All Member Countries.--The Secretary of the Treasury shall seek the adoption of policies and procedures, through discussions and negotiations with the other member countries of the multilateral development banks and with the management of such banks, which result in access by governmental agencies and interested members of the public of such member countries, to environmental assessments or documentary information containing comprehensive summaries of such assessments which discuss the environmental impact of prospective projects and programs being considered by such banks. Such assessments or summaries should be made available to such governmental agencies and interested members of the public at least 120 days before scheduled board action, and public participation in review of the relevant environmental information should be encouraged.

(c) Consideration of Assessment.--The Secretary of the Treasury shall--

(1) ensure that an environmental impact assessment or comprehensive summary of such assessment described in subsection (a) accompanies loan proposals through the agency review process; and

⁷Sec. 521 of the International Development and Finance Act of 1989 [P.L. 101-240, enacted December 19, 1989] adding sec. 1307 to the International Financial Institutions Act of 1977 [P.L. 95-118 as amended].

(2) take into consideration recommendations from all other interested Federal agencies and interested members of the public.

(d) Development of Procedures for Systematic Environmental Assessment.--The Secretary of the Treasury, in consultation with other Federal agencies, including the Environmental Protection Agency, the Department of State, and the Council on Environmental Quality, shall--

(1) instruct the United States Executive Director of each multilateral development bank to initiate discussions with the other executive directors of the respective bank and to propose that the respective bank develop and make available to member governments of, and borrowers from, the respective bank, within 18 months after the date of the enactment of this section, a procedure for the systematic environmental assessment of development projects for which the respective bank provides financial assistance, taking into consideration the Guidelines and Principles for Environmental Impact Assessment promulgated by the United Nations Environmental Programme and other bilateral or multilateral assessment procedures; and

(2) in determining the position of the United States on any action proposed to be taken by a multilateral development bank, develop and prescribe procedures for the consideration of, among other things--

(A) the environmental impact assessment of the action described in subsection (a);

(B) interagency and public review of such assessment; and

(C) other environmental review and consultation of such action that is required by other law.

(e) Use of United States Personnel.--The Secretary of the Treasury, in consultation with the Secretary of State, the Secretary of the Interior, the Administrator of the Environmental Protection Agency, the Chairman of the Council on Environmental Quality, the Administrator of the Agency for International Development, and the Administrator of the National Oceanic and Atmospheric Administration, shall--

(1) make available to the multilateral development banks, without charge, appropriate United States Government personnel to assist in--

(A) training bank staff in environmental impact assessment procedures;

(B) providing advice on environmental issues;

(C) preparing environmental studies for projects with potentially significant environmental impacts; and

(D) preparing documents for public release, and developing procedures to provide for the inclusion of interested nongovernmental organizations in the environmental review process; and

(2) encourage other member countries of such banks to provide similar assistance.

(f) Reports.--

(1) In general.--The Secretary of the Treasury shall submit to the Committees on Foreign Relations and Environment and Public Works of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives--

(A) not later than the end of the 1-year period beginning on the date of the enactment of this section, a progress report on the efficacy of efforts by the United States to encourage consistent and timely environmental

impact assessment of actions proposed to be taken by the multilateral development banks and on the progress made by the multilateral development banks in developing and instituting environmental assessment policies and procedures; and

(B) not later than January 1, 1993, a detailed report on the matters described in subparagraph (A).

(2) Availability of reports.--The reports required by paragraph (1) shall be made available to the member governments of, and the borrowers from, the multilateral development banks, and to the public.

Appendix C. Text of Treasury's 1992 Temporary Rule

DEPARTMENT OF THE TREASURY⁸

United States Government Procedures for the Consideration of Environmental Impact Assessments for Multilateral Development Bank Projects.

AGENCY: Departmental Offices, Treasury

ACTION: Temporary Rule; Request for Public Comment

SUMMARY: This document establishes temporary procedures governing the availability of environmental information on projects of multilateral development banks, comments on such projects, and the consideration of the U.S. Government of such information and comments.

DATES: This temporary rule is effective [insert date of publication in the FEDERAL REGISTER]. Written comments must be received by June 30, 1992.

ADDRESSES: Send copies (preferably 3 copies) to: Office of Multilateral Development Banks, Room 5400, Department of the Treasury, 1500 Pennsylvania Ave, N.W., Washington, D.C. 20220, Attn: Priscilla S. Coburn.

FOR FURTHER INFORMATION CONTACT: Priscilla S. Coburn, Office of Multilateral Development Banks, Department of the Treasury, 1500 Pennsylvania Avenue, N.W., Washington, D.C. 20220 (202-566-2394, not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background.

Section 1307 of the International Financial Institutions Act (22 U.S.C 262,-7), as added by section 521 of Public Law 101-240 (December 19, 1989), imposes certain requirements concerning the review by the U.S. Government of certain actions proposed to be take by multilateral development banks (MDBs), when those actions will have a significant effect on the human environment.

Section 1307(d) requires the Secretary of the Treasury, in determining the position of the U.S. Government on any action which is proposed to be taken by a MDB and which would have a significant effect on the environment, to develop and prescribe procedures for the consideration of an environmental impact assessment (EIA), interagency and public review of the EIA, and other environmental review of such action otherwise required by law. Section 1307(c) provides that either an EIA or a comprehensive summary thereof (prepared pursuant to section 1307(a)) serve as the basis for interagency review. Together, subsections (c) and (d) provide that

⁸Treasury Department Request for Comment and Text of 1992 Rule, as Issued by Treasury in 1992. (Photocopy obtained from U.S. Treasury Department.) The text of the rule is printed, as indicated later in the text, in 31 Code of Federal Regulations (CFR) Part 26.

the requirement for U.S. Government and public review is satisfied by circulating a comprehensive summary of an EIA and making the full EIA available upon request.

The primary purpose of the environmental assessment and comment process is to encourage a borrowing country to conduct a wide-ranging and detailed environmental assessment, including consultation and full sharing of information with local non-governmental organizations and affected parties. The U.S. Government is working toward this goal by strongly encouraging each MDB to ensure that such public disclosure occur before the MDB Executive Directors vote on a particular project. The U.S. Government also is working to ensure that the public will have direct access to EIAs and summaries thereof at the MDBs and in the borrowing countries, without the U.S. Government's acting as intermediary.

Request for Comments.

Before the final adoption of these procedures, consideration will be given to any written comments submitted by June 30, 1992 to the address specified above. All comments will be available for public inspection and copying in their entirety.

Special Analyses

Because this document concerns a foreign affairs function of the United States, neither a notice of proposed rulemaking nor a delayed effective date is required pursuant to 5 U.S.C. 553(a)(1), and the provisions of Executive Order 12291 do not apply. Moreover, the Department of the Treasury has determined that delaying the establishment of procedures governing the environmental review of and comment on MDB projects would be contrary to the public interest. Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

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List of subjects in 31 CFR Part 26:

Part 26 is added to read as follows:

PART 26--ENVIRONMENTAL REVIEW OF ACTIONS BY
MULTILATERAL DEVELOPMENT BANDS (MDBs)
(31 CFR Part 26)

- Sec. 26.1 Purpose
- 26.2 Availability of project listings.
- 26.3 Availability of Environmental Impact Assessment Summaries (EIA Summaries) and Environmental Impact Assessments (EIAs).
- 26.4 Comments on MDB projects.
- 26.5 Upgrades and additional environmental information.

AUTHORITY: 22 U.S.C. 262m-7, 31 U.S.C. 321.

SOURCE: 57 FR 24545, June 10, 1992.

26.1 Purpose

This part prescribes procedures for the environmental review of, and comment by Federal agencies and the public on, proposed projects of multilateral development banks (MDBs).

26.2 Availability of project listings.

(a) The Office of Multilateral Development Banks of the Department of the Treasury (hereinafter "MDB Office") will ensure that the Environmental Protection Agency (EPA), the Council of Environmental Quality (CEQ), the Department of State, the Agency for International Development (AID), the National Oceanic and Atmospheric Administration (NOAA), and the Bank Information Center (BIC) (which is a private, nongovernmental organization located in Washington, DC) receive copies from each multilateral development bank (MDB) of project listings describing future MDB projects and assigning environmental categories based on the environmental impact of each project. If an MDB has not provided a project listing to one of these entities, these entities may obtain the project listing by contacting the MDB Office, 1500 Pennsylvania Avenue, N.W., Washington, DC 20220, (202) 622-0765.

(b)(1) Members of the public may obtain copies of project listings from the BIC, 2025 Eye Street, N.W., suite 522, Washington, DC 20006 ((202) 466-8191, not a toll-free call).

(2) If a copy is not available from the BIC, members of the public may arrange to review and/or copy a project listing by contacting the MDB Office which will make a copy available at the Department of the Treasury Library, 1500 Pennsylvania Avenue., N.W., Washington, DC ((202) 622-0990, not a toll-free call). Members of the public are advised that they must make an appointment with the Treasury Library before they visit and that a charge (currently 15 cents per page) is imposed for the use of the library photocopier.

26.3 Availability of Environmental Impact Assessment Summaries (EIA Summaries) and Environmental Impact Assessments (EIAs).

(a) EIA summaries.

(1) The MDB Office will provide for the distribution of EIA Summaries to the entities identified in section 26.2 (a).

(2)(i) Members of the public may obtain copies of EIA Summaries from the BIC, 2025 Eye Street, N.W., suite 522, Washington, DC 20006.

(ii) If a copy of an EIA Summary is not available from the BIC, members of the public may arrange to review and/or copy an EIA Summary by contacting the MDB Office (202) 622-0765 (not a toll-free call), which will make a copy available at the

Department of the Treasury Library, 1500 Pennsylvania Avenue, N.W., Washington, DC. Members of the public are advised that they must make an appointment with the Treasury Library (202) 622-0990) before they visit, and that a charge (currently 15 cents per page) is imposed for the use of the library photocopier. To the extent possible, EIA Summaries will be available for review and copying at least 120 days before scheduled consideration of a project by the MDB Executive Directors.

(b) EIAs

(1) The African Development Bank, the European Bank for Reconstruction and Development, and the Asian Development Bank. Arrangements to review an EIA may be made by contacting the MDB Office ((202) 622-0765 (not a toll-free call)), which will obtain a copy of the EIA through the Office of the United States Executive Director of the appropriate MDB and make it available for review and copying in the Department of the Treasury Library. Members of the public are advised that they must make an appointment with the Treasury Library, ((202) 622-0900 (not a toll-free call), before they visit, and that a charge (currently 15 cents per page) is imposed for the use of the Library photocopier.

(2) the International Bank for Reconstruction and Development, the International Development Association, and the Inter-American Development Bank.

(i) Members of the public may review EIAs at the public reading room of the concerned MDB.

(ii) If a particular MDB does not have a public reading room, members of the public may arrange to review and/or copy an EIA by contacting the MDB Office ((202) 622-0765 (not a toll-free call)), which will obtain a copy through the Office of the United States Executive Director of the concerned MDB and make it available in the Department of the Treasury Library, 1500 Pennsylvania Avenue, N.W., Washington, DC. Members of the public are advised that they must make an appointment with the Treasury Library ((202) 622-0990 not a toll-free call) before they visit, and that a charge (currently 15 cents per page) is imposed for the use of the library photocopier.

26.4 Comments on MDB projects.

(a) Public comments--(1) Written comments

(i) A member of the public wishing to provide written comments on a MDB project must provide 2 copies of the comments to the Office of the Multilateral Development Banks, U.S. Department of the Treasury, 1500 Pennsylvania Avenue, N.W., room 5400, Washington, DC 20220. Written comments should be submitted not later than two weeks after the member of the public has access to the particular document on which it wishes to offer comments--either the project listing, the EIA Summary, or the EIA for a particular project. Written public comments will be provided by the MDB Office to the U.S. Government agencies participating in meetings of the Working Group for Multilateral Assistance (WGMA), which meetings are described in 26.4(c). The WGMA is an intergovernmental subcommittee of the Development Coordination Committee whose functions are set forth in the Presidential announcement of May 19, 1978, Vol. 14, No. 20, p. 932 of the

Weekly Compilation of Presidential Documents. The WGMA meets to discuss the U.S. position on upcoming MDB projects.

(ii) All written comments will be available for inspection and copying in their entirety in the Department of the Treasury Library, 1500 Pennsylvania Avenue, NW., Washington, DC ((202-622-0990). Members of the public are advised that they must make an appointment with the Treasury Library before they visit, and that a charge (currently 15 cents per page) is imposed for the use of the library photocopier.

(2) Oral comments. Oral comments from a member of the public may be made in periodic meetings convened by the BIC. Information concerning these meetings may be obtained by contacting the BIC or the MDB Office. The MDB Office will summarize the present such comments in the WGMA meetings described in 26.4(c).

(b) U.S. agency comments. Comments from U.S. agencies shall be provided through the WGMA.

(c) Consideration of comments. The WGMA will consider all comments made by the public and U.S. agencies. The WGMA may review a project up to three times. The first review will consider whether the project has been assigned the appropriate environmental category by the MDB. This review will take place as far in advance as possible of Board consideration for the project. The second review will consider the EIA Summary or the EIA (or information discussed in 26.5(b)(1)), and comments received from the public on such documentation. The third WGMA review, which will take place shortly before Board consideration of the project, will consider the position of the U.S. Government on the project.

26.5 Upgrades and additional environmental information.

(a) Environmental category upgrades. If the WGMA and the Department of the Treasury determine that a project would have a significant impact on the human environment analysis planned by the MDB is insufficient, the Department of the Treasury will instruct the United States Executive Director of the concerned MDB to request that the MDB upgrade the project to an environmental category requiring additional environmental analysis. Members of the public may call the MDB Office to inquire about upgrade requests for specific projects.

(b) Additional environmental information-- (1) If the WGMA and the Department of the Treasury determine on the basis of the first WGMA review that:

(i) A MDB project would have a significant impact on the human environment, and

(ii) The MDB appears to have made an appropriate decision that such project merits environmental analysis, but less than a full-fledged environmental impact assessment as defined by the MDB's own procedures, the Department of the Treasury will obtain, through the United States Executive Director of the concerned, MDB, such environmental information from the MDB (e.g., environmental chapters from project feasibility studies or environmental data sheets) which contains this environmental analysis. The MDB Office will provide this environmental

information to the entities described in Department of the Treasury will instruct the United States Executive Director of the concerned MDB not to vote in favor of the project.