



The World Bank

May 11, 2007

PAUL WOLFOWITZ
President

Mr. Herman Wijffels
Chair, Ad Hoc Group of the Executive Directors
The World Bank Group
1818 H Street, NW
Washington, D.C. 20433-1818

Dear Herman,

Enclosed please find my response to the May 6, 2007 draft report of the Ad Hoc Group. I am enclosing 24 copies, as you have assured me my response would be shared with the entire Board. If you do not intend to do so, please let me know as soon as possible so that I can make arrangements to submit copies to the Board.

I note the draft report omits much significant evidence and witness statements that are critical to understanding the events under review. For example, the draft omits any significant discussion of the Group's interview of Shaha Riza, or the private memoranda Xavier Coll wrote for personal use at the time of the events in question, both of which are key to this matter. For that reason, and to assist the Group in its deliberations, I intend as soon as possible this weekend to provide the Group with a supplemental piece that consists of the draft report amended to include such omitted material. Please let me know where and to whom the supplemental materials should be provided.

I look forward to meeting with the Board on Tuesday, May 15, 2007 at 5 p.m. Please be advised that at that time, I will be accompanied by counsel, although they understand that they may not address the Board.

Sincerely,

Paul Wolfowitz

cc: Executive Directors
Mr. Paatii Ofosu-Amaah

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SUBMISSION OF PAUL WOLFOWITZ
IN RESPONSE TO MAY 6 DRAFT REPORT OF THE AD HOC GROUP

May 11, 2007

INTRODUCTION

I very much appreciate the opportunity to make this submission to the Ad Hoc Group and to the entire Board, which I have confidence will consider the record in this matter dispassionately and fairly. Such a review, I respectfully submit, should yield a finding that, in attempting to address the potential conflict of interest posed by my fully-disclosed relationship with Bank Staffer Shaha Riza, both the Ethics Committee and I acted in good faith in an effort to resolve an unprecedented situation. There was perhaps some confusion and miscommunication between the Ethics Committee and me, and this matter has also brought to light certain shortcomings in the corporate governance mechanisms of the Bank which need to be addressed. However, I respectfully submit that the findings reflected in the May 6 draft report of the Ad Hoc Group (the "draft report" or "report") are not warranted and are not supported by the evidence.

The draft report is unbalanced and flawed in several fundamental respects.

Most significantly, the report fails to credit the three central facts in this case:

- First, it fails to give any weight to the critical fact that, but for the explicit advice of the Ethics Committee, I would not have played any role whatsoever in the negotiations over the terms and conditions of Shaha Riza's external placement.
- Second, the report fails to recognize that the Ethics Committee's position that Ms. Riza had to be relocated for so long as I served as President necessarily took this case out of the ordinary rules and policies of the Bank from the outset, such that, in the words of Human Resources Vice President Xavier Coll, there was "no precedent [for] this kind of situation and no policy that would clearly apply to resolve it."
- This leads to the report's third major flaw, namely, that it judges the terms and conditions of the agreement with Ms. Riza according to the standard personnel

rules for normal promotion and typical external assignment, and fails to recognize the agreement's true nature as a settlement of Ms. Riza's grievances – grievances over the long-term damage done to her career that resulted from the Ethics Committee's decision and through no fault of her own.

The draft report, moreover, consistently omits witness statements and documents that support my position, and disregards certain evidence that undercuts its findings.

The instant Submission first presents an overview of the key, uncontested facts, and then addresses the draft report's findings of specific violations. This Submission is intended to supplement the submissions and letters I have already provided to the Ad Hoc Group. I understand these will be provided to the Board and I urge all members to read this Submission in conjunction with those materials.

OVERVIEW

The following facts are undisputed:

- When I was nominated for the Bank presidency, I disclosed to Bank officials at the start of contract negotiations that I had a long-standing, pre-existing relationship with Shaha Riza, a Senior Communications Officer in the MENA section of the Bank.
- The issue was not resolved in the course of those negotiations, and so was submitted to the Ethics Committee for resolution.
- I proposed to recuse – or remove – myself from all personnel decisions or actions regarding Ms. Riza. But the Ethics Committee told me that this would not be sufficient.
- During the course of our discussions about how to resolve the matter, Ethics Committee Chair Ad Melkert advised me that any approach to the conflict issue should address “the legitimate concern and interest of [Ms. Riza] that her career path would not be harmed as a consequence of any conclusion on the issue of the potential conflict of interest. . . . I am quite convinced that there are ways to ensure full recognition of her (considerable) professional qualifications and achievement in any option for reassignment.”¹

¹ June 22, 2005 Memo from A. Melkert to P. Wolfowitz.

- Mr. Melkert also wrote me at the time that he appreciated my candor, that this matter raised “a most difficult question,” and that he considered it feasible to resolve it through a “pragmatic approach.”²
- Ultimately, the Ethics Committee advised that (1) Ms. Riza should be “relocated to a position beyond (potential) supervising influence by the President,” which could include external placement, and (2) prior to her relocation, she should receive an in situ promotion because she had just been short-listed for promotion to a job within the Bank.³
- Thus, Ms. Riza’s promotion and relocation to the State Department were sanctioned by the Ethics Committee.
- At the time, Mr. Melkert, made very clear to me that the Ethics Committee could not implement this advice itself, and that I, as President, was responsible for dealing directly with staff matters. As he later told the Ad Hoc Group, “it was [Mr. Wolfowitz’s] responsibility to deal with the advice and certainly his responsibility . . . to implement all relevant aspects of the staff member’s position.”⁴
- Mr. Melkert did not tell me that I should recuse myself entirely from this matter, as I wished to do. Rather, his oral and written advice to me was that I had to “instruct” the Vice President of Human Resources, Xavier Coll – “instruct” was his word, not “delegate” – and that Mr. Coll should report back to me. And Mr. Melkert wanted me to report back to him in a matter of days.⁵
- The Ad Hoc Group asked former Ethics Committee member Octaviano Canuto what this advice meant. He responded: “the basic meaning is the following: Get it out of the way. Do it!”⁶ That is exactly what I understood them to be telling me to do.
- At the time, I strongly objected to being put in this position. But the Committee said that it could not take responsibility for implementing its advice, and that as President, I had to take this responsibility.
- At the time, I understood the Committee was the final arbiter of ethics questions, so I followed its advice, even though I questioned it.

² *Id.*

³ July 27, 2007 Informal Draft of EC advice.

⁴ Melkert/Canuto Tr. at 41-42.

⁵ August 8, 2005 Memo from A. Melkert to P. Wolfowitz.

⁶ Melkert/Canuto Tr. at 39.

- No one on or associated with the Ethics Committee ever told me that I should delegate the matter completely to Mr. Coll, or that I should not provide Mr. Coll with instructions concerning the negotiations of an agreement with Ms. Riza.
- Mr. Coll's testimony corroborates that – based on conversations he had directly with Mr. Melkert and Bank General Counsel Roberto Danino at the time – Mr. Coll understood my role was to go beyond mere delegation. For example, Mr. Coll testified that “I [Xavier Coll]” was told by Messrs. Melkert and Danino to “implement an agreement that the Ethics Committee had asked *the President to implement* with me.”⁷ “[M]y understanding was that the President would be in touch with me through the phone, telling me what – how to proceed.”⁸ Mr. Coll also requested that I give him instructions in writing.⁹
- Mr. Coll also wrote Messrs. Melkert and Danino an email saying that he had spoken to me about how to proceed in the Riza matter and that “the President will decide how to proceed from there.”¹⁰ No one ever came to me at this time and said that I should not be in a position of deciding how to proceed.
- Everyone acknowledges that Ms. Riza was extremely angry and upset about being required to take an external placement to resolve a problem that was not of her making. She did not understand why the Ethics Committee advised that she should have to be out-placed when married couples at the Bank were not required to do so. In order to comply with the Committee's advice, moreover, her external placement would have to last as long as I remained President – which could be five to ten years. She felt very strongly that she had already earned the promotion she was being given. This was because she had for two years been performing the job into which she would be promoted, had already been short-listed for the promotion, and felt very strongly that she was entitled to compensation for the disruption to her long-term career prospects, including future pay raises and promotions that would result from long-term external placement.¹¹
- As Mr. Coll acknowledges in testimony and documents, the agreement with Ms. Riza was in effect a settlement of her grievances – a reality that the Ad Hoc Committee's draft report simply ignores.¹²

⁷ Coll Tr. of April 25, 2007 at 9 (emphasis added).

⁸ *Id.* at 11

⁹ *Id.* at 39.

¹⁰ August 10, 2005 email from X. Coll to A. Melkert and R. Danino.

¹¹ Riza Tr. at 10-16.

¹² August 22, 2005 email from X. Coll to himself.

- I will address the terms of Ms. Riza's agreement in detail below, but it is important to note that Ms. Riza did not get every term and condition that she wanted. In particular, the final agreement did not guarantee automatic promotions, as has been alleged by some.
- At the time, Mr. Coll stated that there were no policies that clearly applied to this situation.¹³ In fact, the agreement that he signed recites that "[t]here is no precedent of this kind and no personnel policy that clearly applies to resolve it."¹⁴ As he wrote at the time, "we were in a very difficult situation – with no precedents at the Bank – and that it had enormous potential to damage the bank's reputation. In balance, I thought the situation required more flexibility than in other past cases and that there was great risk to the Bank if we could not come to a workable agreement in a few days."¹⁵
- The terms were consistent with the goals that the Ethics Committee set out for treating Ms. Riza fairly. In fact, I believed at the time they were the only practical, mutually-acceptable resolution to an unprecedented and difficult situation.

With the benefit of hindsight, I have come to believe that the Ethics Committee told me to instruct Mr. Coll over my objections because its members did not want to deal directly with a very angry Ms. Riza, whose career was being damaged as a result of their decision. It would only be human nature for them to want to steer clear of her, and Mr. Melkert no doubt felt that, due to my personal relationship with Ms. Riza, I was in the best position to persuade her to take out-placement and thereby achieve the "pragmatic solution" the Committee desired. That way the Committee could avoid having to formally address the situation and also avoid becoming entangled in a sticky employment situation. The evidence obtained by the Ad Hoc Group supports these observations. Mr. Melkert told the Group that it "was in the interest of the institution that we try to find a way that it would not lead to confrontation." And, Mr. Melkert

¹³ Handwritten notes of X. Coll on draft agreement dated 8/26/05 (pm).

¹⁴ Sept. 1, 2005 Agreement signed by X. Coll and S. Riza.

¹⁵ Aug. 22, 2005 email from X. Coll to himself.

said, he “consistently maintained that [he] didn’t want to know what exactly the terms and conditions would be because it was not [his] business to know that.”¹⁶

I also want to say as strongly as I possibly can that I never told anyone to hide the final agreement reached with Ms. Riza from the Ethics Committee or others with legitimate oversight responsibilities. I did take steps to ensure that the negotiations were confidential – as all personnel negotiations should be. I also took steps to try to stem leaks to the press of personnel compensation information about Ms. Riza, which leaks were a violation of Bank rules and a violation of the VPHR’s agreement with her. However, I fully expected – because Mr. Coll repeatedly told me – that the terms of Ms. Riza’s compensation package would be entered into the Bank’s personnel system and many people inside the Bank would have access to that information.

As explained in detail below, I had reasons for excluding Bank General Counsel Roberto Danino from the negotiations, because I believed his role as advisor to the Ethics Committee on the conflict-of-interest issue precluded him from involving himself in the negotiations at the same time.¹⁷ However, I did not foreclose appropriate institutional review of the agreement. I believed that Mr. Coll would eventually consult with experts in HR about the agreement, as in fact he did. I arranged for outside counsel to review the agreement. I also fully expected that the agreement would become an official contract of the Bank and I assumed that the Ethics Committee and Mr. Danino would review it to whatever extent they considered necessary, and I had reason to believe that the Committee had done so.

¹⁶ Melkert Tr. at 30, 37.

¹⁷ Aug. 8, 2005 Memo from A. Melkert to P. Wolfowitz.

I also want to state emphatically that I did not direct anyone to lie to the media about the role of the Board or the Ethics Committee in this matter, as has been alleged. At the time that this matter recently erupted in the media last month, I honestly believed that I had acted at the direction of the Ethics Committee, speaking in the name of the Board, and that the Committee had so informed the Board. Let me explain why I held that belief:

- First, I knew that it was the Committee itself that had advised that Ms. Riza should be promoted and relocated.
- Second, in 2005, many weeks after Ms. Riza had agreed to be detailed outside the Bank group, and after her agreement was signed, the Committee wrote me that it had determined that the “outcome” was “consistent with the Committee’s findings and advice.”¹⁸ There is also evidence that it advised the other EDs that the matter had been “dealt with appropriately.”¹⁹
- Third, in January of 2006, all of the EDs received an anonymous email detailing Ms. Riza’s promotion and her salary increase. It provided the salary numbers and the percent of increase, and called the raise “egregious.”²⁰ At that time, the Ethics Committee advised me that it had conducted “a careful review” and that the email “did not contain any new information warranting any further review by the Committee.”²¹ Anyone reading that statement would take from it, as I did, that the Committee looked into the allegation and knew the information in the email already.

Therefore, when this matter erupted again last month, and people were charging that I acted inappropriately and that I got Ms. Riza a job at the State Department and that I got her a promotion and so on, I advised an aide to tell the press that these arrangements had been made at the direction of the Ethics Committee and the Board. This is what I believed to be the case at the time those statements were made.

¹⁸ October 24, 2005 memo from A. Melkert to P. Wolfowitz.

¹⁹ October 25, 2005 annotated memo to file from A. Melkert.

²⁰ January 21, 2006 email from “J. Smith”.

²¹ February 28, 2006, memo from A. Melkert to P. Wolfowitz.

With that overview in mind, let me now respond to the specific findings of the draft report that I violated my contract and the ethics rules.

RESPONSE TO PROPOSED FINDINGS

The draft report takes issue with three aspects of my conduct. First, it examines whether my level of involvement in the negotiations of Ms. Riza's agreement was a conflict of interest in violation of my contract, the Code of Conduct and the Staff Rules; second, the report is critical of the failure to include then-General Counsel Roberto Danino or other Staff legal counsel in the negotiations that led to the Riza agreement; and third, the report finds that my efforts to defend myself publicly were inconsistent with the obligation to maintain the highest standards of integrity in professional conduct and to observe principles of good governance. None of these three findings is supported by a fair reading of the evidence, and I vehemently dispute each of them.

I. THE REPORT'S CONFLICT OF INTEREST FINDINGS ARE UNWARRANTED.

At paragraphs 73-91, the draft report states that I should have withdrawn from any decision-making in the Riza matter and that certain of the terms of the agreement with Ms. Riza were at variance with staff rules. These actions, the draft finds, were a conflict of interest.

Such a finding would be unjustified, and the report's analysis is flawed in two serious respects: first, the Ethics Committee told me on more than one occasion that I had to remain involved to instruct Mr. Coll.²² I objected to being thrust into that role, and if the Committee had not told me that I had to instruct Mr. Coll's activities, I would have been more than happy to be relieved of that duty. Second, the draft report fails to consider the fact that the agreement with

²² See, e.g., EC advice dated July 27, 2005, ¶4(c); August 8, 2005 memo from A. Melkert to P. Wolfowitz.

Ms. Riza was not simply an employment agreement but also was a settlement of her legitimate grievances for being forced out of her career at the Bank by the decision of the Ethics Committee.

A. I Would Not Have Been Involved in Ms. Riza's Negotiations At All But For the Advice of the Ethics Committee.

The Bank's Code of Conduct ("the Code") states that "Board Officials shall *endeavor* to avoid any situation involving an actual conflict, or the appearance of a conflict, between their personal interest and the performance of their official duties. . . ." (Code of Conduct, ¶ 4(b).) (emphasis added.) In fact, I "endeavored to avoid" any conflict by submitting the issue to the Ethics Committee, and by following the advice the Ethics Committee gave me for dealing with the potential conflict. This is wholly consistent with my contractual obligations and the Code, both of which state that conflict of interest questions are to be referred to the Committee. I should not be penalized for following what I understood to be the Committee's guidance.

The report nonetheless suggests that my actions constituted a conflict because I went beyond what the Ad Hoc Group now "believe[s]" to have been the Ethics Committee's advice. (Draft Report, ¶ 76.) Tellingly, although the draft report finds that I exceeded this advice, the Group does not attempt even to characterize or summarize exactly what it was that Mr. Melkert advised me to do, but rather, concludes that the Committee's advice was unclear and that it was open to misinterpretation. *Id.*

It is undisputed that the Ethics Committee's memo to me stated that Mr. Coll was "to act upon [my] instruction," that I was to task Mr. Coll to meet with Ms. Riza, and that Mr. Coll was report back to me.²³ The memo did not say, and no one told me at the time, that I should

²³ Aug. 8, 2005 Memo from A. Melkert to P. Wolfowitz.

delegate the matter entirely to Mr. Coll and step out of it.²⁴ The Committee also told me that I was to report back to Mr. Melkert within a week.²⁵ Ocatviano Canuto, a member of the Committee at the time, acknowledged to the Group that he understood this to mean that I was to “Get it out of the way. Do it!”²⁶ That is what I took it to mean as well.

The draft report also fails to give any weight to the oral conversations I had with Mr. Melkert at the time. In Mr. Melkert’s own words, he told me that “it was [my] responsibility to deal with the advice [of the Committee] and it was certainly also [my] responsibility. . . *to implement all relevant aspects of the Staff member’s position.*”²⁷ Indeed, it was, and still is apparently, Mr. Melkert’s view that under the Articles of Agreement, “there is no way around that the President is responsible . . . for dealing with staff matters.”²⁸ This is what he repeatedly told me when I objected to being involved. He now attempts to distance himself from this by asserting that he was referring simply to the “formal position of the President in the Articles of Agreement for dealing with Staff.”²⁹ If in fact the Chair was simply referring to formalities and not to a substantive role, this is not what he communicated to me at the time. Moreover, if Mr. Melkert was in fact simply putting form over substance, I respectfully submit that this is not the standard of care the Bank should expect of its Ethics Committee Chair.

²⁴ *Id.*

²⁵ *Id.*

²⁶ Melkert/Canuto Tr. at 31.

²⁷ Melkert/Canuto Tr. at 41-42 (emphasis added).

²⁸ *Id.* at 36.

²⁹ *Id.* at 39.

Significantly, in crediting Mr. Melkert's post hoc explanation that he simply meant for me to delegate the matter to Mr. Coll and then to step out of it, the Committee ignores evidence that undercuts Mr. Melkert's assertion. This evidence, discussed in Part II below, suggests that he knew at the time that my role was larger than simply delegation, and did nothing to advise me then or subsequently that this was not what he intended.

The Ethics Committee's advice that I instruct Mr. Coll in and of itself put me in an awkward position from the outset.³⁰ I perceived this as well, and I protested being involved on this very basis. In the written instructions I wrote at Mr. Coll's request, I "reiterate[d] my deep unhappiness with the whole way of dealing with a situation that I still believe, and have been advised by experienced labor legal counsel, should have been resolved by my recusal."³¹

I also note that the Ethics Committee's insistence that I handle the matter (and not simply delegate it) is consistent with Mr. Danino's interpretation of Rule 3.01, 4.01, the conflict of interest rule at issue here. That rule, regarding "supervisory relationships," provides as follows:

A sexual relationship between a staff member and his/her direct report, or direct or indirect manager or supervisor is considered a de facto conflict of interest. ***The manager/supervisor shall be responsible for seeking a resolution of the conflict of interest***, if need be in consultation with management, who will take measures to resolve the conflict of interest. Failure to promptly resolve the conflict of interest may result in a finding of misconduct.

³⁰ Mr. Danino apparently concurs in this. See Danino Tr. at 38.

³¹ Memo from P. Wolfowitz to X. Coll dated 11 August 2005, at 2.

(Emphasis added.) Mr. Danino states that this rule “classifies this as a de facto conflict of interest that *needs to be resolved immediately by the more senior member of the conflict.*”³²

Thus, the former General Counsel of the Bank – who advised the Ethics Committee in this matter – believes that the Bank’s own conflict of interest rule requires the manager in the relationship (which in this case would be me) to be responsible for resolving the conflict of interest. Accordingly, my conduct was consistent with this rule, as interpreted by the Bank’s former General Counsel.

The draft report suggests that if I had any doubt about the meaning of the advice I received, I should have asked the Committee for clarification. This pre-supposes that the advice was not clear; but as noted above, it was not unclear to me. Second, I object to the rationale that the burden to clarify falls solely on the requestor of advice and not at all on the Committee itself. Mr. Melkert states that he did not discuss with me the way I would execute the advice I received from the Committee, and that, in fact, he did not want to know the details.³³ But he too had an obligation to make sure his advice was clear.

At the time, I had no reason to doubt that the Committee was the final arbiter of ethics matters. For one thing, during my contract negotiations, the Bank’s General Counsel advised my lawyer that the Ethics Committee was a “mechanism within the legal framework of the Bank” to provide a resolution of the conflict issue.³⁴ For another, the Code of Conduct itself, as well as my contract, required submission of conflict of interest issues to the Committee. Implicit in that

³² Danino Tr. at 45 (emphasis added).

³³ Melkert Tr. at 31, 37.

³⁴ May 30, 2005 email from R. Danino to R. Barnett.

requirement is that directors and officers who submit ethics questions to the Ethics Committee should follow the advice of that Committee once it is given. For all these reasons, I believed I had no option but to follow the steps laid out by the Committee, and I should be entitled to rely on the advice I received.

In this regard, much has been made of the fact that the Ethics Committee characterized its guidance to me as “advice” or “informal advice.” It is simply not accurate to describe the Committee’s refusal to deal directly with Ms. Riza in resolving this matter – or its repeated statements over my protests that I should be the one to instruct Mr. Coll – as mere “advice.” However characterized, I reasonably understood that I had been told that I had to take charge of this matter, and I reasonably understood that I had to follow the Ethics Committee’s advice on any conflict of interest question, let alone this one in particular.

In short, I was put in the position of overseeing the negotiations as a result of the advice I received from the Ethics Committee. I attempted in good faith to follow that advice, even though I objected to it. No one told me at the time that instructing Mr. Coll should not include instructing him with regard to the terms of the agreement. No one told me – or even suggested – that I should delegate this matter to Mr. Coll entirely. I notified the Committee that Ms. Riza had agreed to be relocated. The details of the agreement with Ms. Riza were available to the Committee had it desired to review them. Seven weeks later I was advised by the Committee that the outcome was consistent with their findings and advice.³⁵ It is highly unfair and unwarranted to now find that I engaged in a conflict of interest because I relied on the advice of the Ethics Committee as best I understood it.

³⁵ October 24, 2005 Memo from A. Melkert to P. Wolfowitz.

B. Ms. Riza's Agreement Was a Good Faith Effort to Resolve an Unprecedented Situation.

The draft report finds that certain of the terms of Ms. Riza's agreement were inconsistent with or not provided for in Bank personnel policies governing promotional pay raises, annual salary increases and promotions. (Draft Report ¶¶ 78-83.) The report further observes that these specific terms and conditions were not addressed by any advice or instructions from the Ethics Committee.

The draft report fails to acknowledge, however, that from the moment the Ethics Committee advised that Ms. Riza would have to be relocated for the entire length of my tenure as President (a period that could extend five to ten years), the Committee's advice set this matter on a path that was outside the standard personnel practices at the Bank. The draft report likewise fails to acknowledge that the agreement was not simply a normal personnel matter governing a typical external placement, but rather, functioned as a settlement of Ms. Riza's significant grievances. Accordingly, it is more appropriately compared to the Bank's practices with respect to other Bank agreements settling employment disputes. The Ad Hoc Group apparently did not examine those cases before passing judgment on this matter. Nor has it, despite my request that it do so, expressed a view as to whether the compensation package afforded Ms. Riza was reasonable in light of the grievances she presented.

At the time the Ethics Committee proposed relocating Ms. Riza, Mr. Melkert recognized that Ms. Riza was being required, against her wishes, to abandon her long-term career at the Bank and to not only forego the promotion for which she was short-listed, but any promotions, recognition or performance-based pay raises she might have obtained in the future had she been permitted to continue her career trajectory. Ms. Riza was being "banished from the Bank" to

“employment limbo” – as she put it in her interview – for a period of five or ten years, which would adversely affect the rest of her career, removing her from the “normal World Bank structure.” Therefore she “would not have the ability to make lateral moves or seek other assignments to take [her] to the next grade.”³⁶ As Mr. Melkert stated in a memo to me at the time, there was a “legitimate concern . . . that her career path would not be harmed as a consequence of any conclusion on the issue of a potential conflict of interest.”³⁷ He also wrote me that any outcome reached should “duly recognize the record and career perspectives” of Ms. Riza.³⁸

Ms. Riza correctly understood, moreover, that there was “no Bank regulation or Staff Rule that required [her] to leave the Bank in order to resolve the situation.”³⁹ She also knew that she was receiving disparate treatment compared to the spouses of two very senior managers at the Bank – the wives of Managing Director Zengman Zhang and former Managing Director Caio Koch-Weser – who were permitted to remain at the Bank notwithstanding their husband’s broad supervisory responsibilities.⁴⁰ She told the Ad Hoc Group: “I was ready to pursue legal remedies. I would have preferred to fight the unfair situation.”⁴¹

In his recent interview, Mr. Danino acknowledged that “this is certainly a unique case,” because the President was involved in a conflict and “[b]ecause, through no fault of her own, Ms.

³⁶ Riza Tr. at 14.

³⁷ June 22, 2005 Memo from A. Melkert to P. Wolfowitz at 2, ¶ 7.

³⁸ August 8, 2005 Memo from A. Melkert to P. Wolfowitz.

³⁹ Riza Tr. at 4.

⁴⁰ *Id.* at 10-11.

⁴¹ *Id.* at 14.

Riza's career was going to be disrupted by applying the general [conflict of interest] standard of the Bank."⁴² As Mr. Danino recognized, in this situation, "it was indicated that Ms. Riza would end up suing the Bank and that we should try to avert – that it was in the interest of the Bank to avoid that type of situation. I fully agree. . . . I thought that also it was a good idea to avoid that possibility just for the efficient use of the resources of the Bank."⁴³

In this regard, on July 22, 2005, the Committee itself received advice that, and I quote:

"Staff Rule 6.01, "Compensation," provides for two types of salary increase that could be relevant here. One is the overall pay increase, which is about to be entered in the Bankwide system and effective. The other is a promotion increase, which is normally 3 to 12 percent of the market reference point of the new grade. The Bank can *also* decide, *as part of settlement of claims, to offer an ad hoc salary increase.*"⁴⁴

The same Committee memo observes that when a separation is mutually agreed to, the rules provide for a specified severance payment. If Ms. Riza's were a mutually-agreed separation, this would have ranged from \$60,000 to \$66,000. However, "[o]utside a mutually agreed separation agreement", the memo advised, "*a larger payment could be made at managerial discretion.*"⁴⁵

The agreement with Ms. Riza, who was being forced to relocate against her will, was not a mutually-agreed separation. It was in effect a settlement of her potential claims. In such

⁴² Danino Tr. at 28-29.

⁴³ *Id.* at 39-40.

⁴⁴ "Ethics Committee Discussion" d. July 22, 2005, at 3.

⁴⁵ *Id.* at 3 (emphasis added).

circumstance the rules provide for “an ad hoc salary increase” or a “larger [lump sum] payment” “at managerial discretion,” as the Committee’s own memo demonstrates.⁴⁶

Significantly, at the time of the events in question, Mr. Coll also recognized that the features of the agreement were designed as compensation for the injuries caused to Ms. Riza’s future career and well-being as a result of the Ethics Committee’s advice that she must be relocated. At the time, he consulted with David Rivero, Chief Counsel, Corporate Administration, and upon Mr. Rivero’s advice wrote a private memo to himself reflecting his contemporaneous thoughts concerning the negotiations with Ms. Riza and his discussions with Mr. Wolfowitz. That private memo reflects Mr. Coll’s understanding that Ms. Riza had legitimate grievances and that certain features of the agreement were intended to compensate her for those injuries. Mr. Coll wrote:

[Ms. Riza’s] grievances included: (a) being asked to leave the Bank (with negative implications on her career); (b) not having been promoted earlier to level H; and (c) the effect of the situation (the “relation” with the President as discussed in the Press and by Bank staff) on her health and family.⁴⁷

As reflected in this same memo, Mr. Coll told me his preferred plan was to implement the relocation and promotion recommended by the Ethics Committee, and to consider separately a

⁴⁶ It should be noted that if Ms. Riza had been forced out against her will without some kind of an agreement, she would have had recourse to pursue claims against the Bank in the World Bank Administrative Tribunal (“the Tribunal”). That Tribunal exists “to settle employment disputes with legally binding judgments[,]... provid[ing] the staff working in [the] organization[] with an independent, fair and impartial judicial mechanism for resolving these disputes where they would otherwise have no legal recourse.” World Bank Administrative Tribunal, “Colloquium on International Administrative Tribunals and the Rule of Law, March 27, 2007, Washington, DC,” available at <http://wbln0018.worldbank.org/crm/wbt/wbtwebsite.nsf> (last visited May 2, 2007). Consistent with this purpose, the Tribunal is authorized to “hear and pass judgment upon any application by which a member of the staff of the Bank Group alleges non-observance of the contract of employment or terms of appointment of such staff member.” Statute of the Tribunal, Article II.

⁴⁷ August 22, 2005 email from X. Coll to himself.

grievance procedure or lump sum financial statement with Ms. Riza to address and mitigate the grievances she had raised, which he noted “would be more consistent with past practice.”⁴⁸ As he also noted, I agreed that he should raise this alternative with her. He added: “*I felt comfortable that I had raised points of concern with the President and that he had taken these seriously and given due consideration.*”⁴⁹ Mr. Coll continued in his private memo: “I also felt that we were in a very difficult situation – *with no precedent at the Bank* – and that it had enormous potential to damage the Bank’s reputation. In balance, *I thought that the situation required more flexibility than in other past cases* and that there was great risk to the Bank if we could not come to a workable agreement in a few days.”⁵⁰

Notwithstanding that I authorized him to pursue his preferred approach in negotiations with Ms. Riza, Mr. Coll was not able to obtain her agreement to it. She rejected in principle the concept of receiving her grievance compensation as a lump sum and wanted it reflected in salary increases over time. She regarded future pay raises and the opportunity to be considered for promotion during the five to ten years she would be on external placement as the “minimum” compensation she should receiving for being forced to leave the Bank.⁵¹ Given her intractable position, unless Mr. Coll acceded to her on this point it would have been impossible to achieve

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ *Id.* (emphasis added). Mr. Coll’s private memo also states (i) that he understood that compensation arrangements to redress Ms. Riza’s grievances had not been addressed in the advice he received from the Ethics Committee, as he understood it, and (ii) that Mr. Wolfowitz advised him that he did not want Mr. Coll to involve Mr. Danino in the negotiations “at this stage.” *Id.* These matters are addressed elsewhere in this submission.

⁵¹ Riza Tr. at 31.

the prompt resolution of this matter which all parties, including Mr. Melkert, recognized was in the interest of the Bank.

Likewise – although he now states that he told me that the compensation terms were outside the rules – at the time, Mr. Coll told me the situation was unique and there were no rules that applied. Mr. Coll stated this in various documents he drafted at the time. For example, in handwritten edits he wrote on a draft of the Riza agreement, Mr. Coll writes, “There is no precedent to his kind of situation and *no policy that would clearly apply to resolve it.*”⁵² The final agreement with Ms. Riza, which was signed by Mr. Coll, similarly states: “There is no precedent of this kind and *no personnel policy* that clearly applies to resolve it.”⁵³ And in a note he wrote to himself contemporaneously with the events at issue, Mr. Coll stated, “I felt that we were in a very difficult situation – *with no precedent at the Bank* – and that it had enormous potential to damage the Bank’s reputation. In balance *I thought the situation required more flexibility than in other past cases* and there was great risk to the Bank if we could not come to a workable agreement in a few days.”⁵⁴ Also, during his negotiations with Ms. Riza, she says “neither [Mr. Coll] nor anyone else ever suggested to me that my compensation package might violate Bank policy in any way.”⁵⁵

It is important to note that Ms. Riza’s agreement does NOT stipulate that she will receive automatic promotions in the future, as the draft report suggests. Because she was being out-

⁵² Handwritten annotations of X. Coll on draft agreement dated 08/26/05 (pm) (emphasis added). The draft report erroneously identifies this handwriting as that of Mr. Wolfowitz. It is not.

⁵³ September 1, 2005 Letter Agreement signed by X. Coll and S. Riza (emphasis added).

⁵⁴ August 22, 2005 email from X. Coll to himself (emphasis added).

⁵⁵ Riza Tr. at 16.

placed as a result of the Ethics Committee's advice, it was necessary for the agreement to address how she would be considered for any promotions during her exile from the Bank. However, her demand for automatic promotions was rejected. Instead, the final agreement states that she may be *considered* for a promotion *in five years*, but that she can obtain the promotion only if she is given evaluations supportive of a promotion by her supervisor and by a panel of Bank staffers independent of the President's office. If she received a promotion at the five-year mark, she may be *considered* for another promotion again five years thereafter, subject to the same conditions.⁵⁶ While unusual, these provisions were designed to address an unusual situation. They were not improper. Indeed, Mr. Coll told me that she would have been eligible to be considered for a promotion in four to six years if she remained at the Bank.

It is also significant that, although Mr. Melkert states that the Committee did not at the time review or approve of the pay increases and the opportunity for potential promotion that were included in the agreement, he does state that "attention [to] Ms. Riza's career interruption was justified."⁵⁷ I believe that under the circumstances, the terms that were included to address her career interruption were the only practical, mutually acceptable solution to a difficult situation, that could be achieved, and the Ethics Committee, Mr. Coll and I all felt the need to resolve the situation promptly.

II. THE BANK'S GENERAL COUNSEL WAS NOT INVOLVED IN THE NEGOTIATIONS BECAUSE, AMONG OTHER REASONS, HE WAS SERVING AS LEGAL COUNSEL TO THE ETHICS COMMITTEE.

The draft report finds that I chose not to consult General Counsel Roberto Danino or other Bank legal staff about the legal issues and potential liabilities arising from the external

⁵⁶ September 1, 2005 Agreement, signed by X. Coll and S. Riza, at 2.

⁵⁷ Melkert Tr. at 7.

assignment of Ms. Riza, and that this “manifest[s] . . . a disregard for the interests of the institution.” (Draft Report ¶¶ 92-95.) I respectfully submit that my actions in this regard were taken in good faith to preserve the confidentiality of sensitive personnel negotiations and were not intended to deprive the Bank of legal safeguards. I never intended, and did not convey to Mr. Coll, that the matter should be kept from Mr. Danino beyond the few days of the negotiations, but only during the negotiations themselves. The record bears this out. Also, I believed that the Ethics Committee would have access to the agreement and would review it to the extent they deemed necessary when the negotiations were concluded, and that he would have the opportunity to review it in his role as legal advisor to that Committee. Moreover, there is evidence that Mr. Coll did consult with legal counsel and further, that Mr. Coll told Mr. Danino and Mr. Melkert that I had asked him to keep the process confidential from both of them, and neither raised a concern about this with me.

The complete record with respect to this matter is as follows:

Sometime during the week of August 8, 2005, I met with Mr. Coll on several occasions to discuss how to proceed with Ms. Riza. Shortly thereafter, Mr. Coll wrote a memo for his eyes only which records his recollections of what occurred at his meetings with me. He states that he expressed to me his preference to involve Mr. Danino in conversations about the negotiations, but that I told him I did not want Mr. Danino involved “*at this stage.*”⁵⁸ As reflected in Mr. Coll’s note to himself, I also said that he was not to discuss the matter with anyone without my approval.⁵⁹

⁵⁸ August 22, 2005 email from X. Coll to himself (emphasis added).

⁵⁹ *Id.*

My reasons for seeking to keep the negotiations confidential were several:

First, Mr. Danino had been advising the Ethics Committee in this matter and I understood from Mr. Melkert that the Ethics Committee could not “interact with staff member situations.”⁶⁰ Therefore, instead of Mr. Danino, I consulted a respected outside labor law counsel from the firm of Gibson, Dunn & Crutcher. They reviewed the proposed contract with Ms. Riza before it was signed, and said it was a reasonable resolution to a conflict of interest issue which, among other things, avoided the potential of protracted legal proceedings.⁶¹

Second, I assumed that Mr. Danino, as legal advisor to the Committee, would in any event participate in the Committee’s review of the matter once the agreement was reached. I did not take any steps to preclude the Committee or Mr. Danino or anyone else who appropriately needed to see the agreement from reviewing it in due course. I did not have it locked up or placed in a secret drawer; it was a contract of the Bank. The details of the contract were in writing and clearly and explicitly expressed, and also my written instructions to Mr. Coll were in writing and preserved for anyone who sought to review them. The terms of the agreement, including the compensation she was to receive, were entered into the appropriate HR computer systems. I also understood that the contract would be available for review by lawyers in the Bank’s Human Resources department.

The evidence recently made available to me by the Ad Hoc Group shows that Mr. Coll made Messrs. Danino and Melkert aware of my level of involvement in resolving the matter and also that I had advised him to keep the negotiations confidential, and therefore he could not

⁶⁰ August 8, 2005 memo from A. Melkert to P. Wolfowitz.

⁶¹ Letter from Douglas Cox dated August 31, 2005.

discuss the matter further with them. According to his statement to the Ad Hoc Group, Mr. Coll conversed and corresponded on several occasions with Messrs. Danino and Melkert about his role in the process, and even cleared with them talking points that he had prepared for his meeting with Ms. Riza.⁶² On August 10, 2005, Mr. Coll emailed "Ad and Roberto" to let them know "That I met with the President. As I discussed earlier with Ad, the follow-up will remain confidential between he and I. The President will decide how to proceed from there."⁶³

This is confirmed by Mr. Danino, who told the Ad Hoc Group that (1) he had been informed by Mr. Coll that I had instructed Mr. Coll not to involve the General Counsel in the negotiations, and (2) Mr. Danino discussed this with Mr. Melkert and others in the Legal Department.⁶⁴ Even though Messrs. Melkert and Danino apparently knew that I had asked Mr. Coll to keep the matter confidential for the time being and that I was involved in deciding "how to proceed," neither of them came to me at the time – or anytime thereafter – to advise that they thought this was inappropriate. I also note that, notwithstanding my statement to him to maintain the negotiations in confidentiality, Mr. Coll states he did in fact consult with David Rivero, Chief Counsel for Corporate Administration.⁶⁵

At the time, I was concerned that these personnel matters be kept confidential and that the matter be resolved in a matter of days, as the Committee wanted it to be and as Mr. Coll himself felt was necessary. I also was confident that Mr. Coll was more than competent to advise me on whether the terms under negotiation were appropriate in these unique circumstances, and

⁶² Coll Tr. at 9, 18. The Ad Hoc Group did not ask Mr. Coll any follow up questions about these conversations.

⁶³ August 10, 2005 email from X. Coll.

⁶⁴ Danino Tr. at 23-25.

⁶⁵ Coll Tr. at 61.

whether they comported with other settlements of personnel grievances entered into by the Bank. I also took steps to protect the Bank's legal interests by arranging for outside counsel to review the agreement.⁶⁶ Finally, I fully expected that the agreement would become an official contract of the Bank and I assumed that the Ethics Committee and Mr. Danino would review it to the extent they deemed necessary to come to closure in this matter.

When, seven weeks after the agreement was signed, I received a notice from the Committee stating that the "outcome" reached was "consistent with the Committee's findings and advice,"⁶⁷ I believed that the Committee had reviewed the agreement to the extent necessary. This belief was reinforced when – after receiving an email containing specific details about certain terms of Ms. Riza's agreement and alleging that these terms were "egregious" – the Committee informed me in February 2006 that they had carefully reviewed the email and that it "did not contain new information warranting any further review."⁶⁸

III. THE PRESIDENT OF THE BANK HAS A RIGHT TO DEFEND HIMSELF PUBLICLY WHEN, AS A RESULT OF IMPROPER AND INACCURATE LEAKS, HIS INTEGRITY IS IMPUGNED.

The draft report is highly critical of me because I and my representatives made public statements about the current proceedings in response to an unending current of inaccurate leaks of confidential Bank information. The hypocrisy of this harshly-worded finding is manifest. I respectfully submit that if the Ad Hoc Group, the Ethics Committee and others in management had been more vigilant in enforcing the Bank's confidentiality rules against all parties, both

⁶⁶ The draft report erroneously suggests that this outside counsel billed time to reviewing the agreement several months after it was closed. This is based on a misreading of the billing statement.

⁶⁷ Memo dated October 24, 2005 from A. Melkert to P. Wolfowitz.

⁶⁸ Letter dated February 28, 2006 from A. Melkert to P. Wolfowitz.

currently and in the past, much of the embarrassment to the Bank that the Group now complains about could have been averted.

With respect to the allegations in Paragraph 98 of the Report concerning the Statement of Kevin Kellems, as I explained at the outset of this submission, I did not knowingly tell Mr. Kellems or anyone else to make inaccurate statements to the media about this matter. At the time, I had reason to believe that it was accurate to say that the arrangements had been made at the direction of the Ethics Committee, acting on behalf of the Board, and that the Committee had made the other Executive Directors aware of the arrangements with Ms. Riza. These reasons are discussed above at pp. 6-7. The Ad Hoc Group should consider that at the time, the main thrust of the press reports to which I was responding was that I had gotten Ms. Riza a promotion and her external placement, and I knew for a certainty that the Board members on the Ethics Committee were aware of those steps and had advised me that those steps were appropriate. I have since come to understand that not all members of the Board were aware of the details of the agreement.

CONCLUSION

There are no doubt many lessons to be learned from these events. As we move ahead, I look forward to identifying and addressing these issues of human resources policy, ethical practices, and effective Bank governance generally. As has been emphasized recently – and as I firmly believe – the World Bank must be a moral example to all those it serves. I am optimistic that by working together to candidly confront our weaknesses and reinforce our strengths, we can continue to provide the leadership to achieve that ideal.