

**TOWARD A NEW FRAMEWORK FOR  
RAPID BANK RESPONSE TO CRISES AND EMERGENCIES**

**OPERATIONS POLICY AND COUNTRY SERVICES**

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## ABBREVIATIONS AND ACRONYMS

AfDB	African Development Bank
BP	Bank Procedure
CAS	Country Assistance Strategy
CD	Country Director
CODE	Committee on Development Effectiveness
DAC	Development Assistance Committee
DPL	Development Policy Lending
DPO	Development Policy Operation
ED	Executive Director
ERL	Emergency Recovery Loan
FM	Financial Management
IBRD	International Bank for Reconstruction and Development
IDA	International Development Association
IEG	Independent Evaluation Group
IMF	International Monetary Fund
LEG	Legal
LICUS	Low-Income Countries Under Stress
LOA	Loan Department
MDTF	Multi-Donor Trust Fund
MIC	Middle Income Country
NGO	Non-Governmental Organization
OECD	Organization for Economic Cooperation and Development
OP	Operational Policy
OPCS	Operations Policy and Country Services
PCNA	Post-Conflict Needs Assessment
PPF	Project Preparation Facility
PR	Procurement
PRGF	Poverty Reduction and Growth Facility
PRSP	Poverty Reduction Strategy Paper
SDN	Social Development Network
SIL	Specific Investment Loan
UN	United Nations
UNDP	United Nations Development Programme

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# TOWARD A NEW FRAMEWORK FOR RAPID BANK RESPONSE TO CRISES AND EMERGENCIES

## I. INTRODUCTION

1. Since the Executive Directors last discussed the Bank's<sup>1</sup> emergency policy in 1988,<sup>2</sup> the Bank has increasingly been called on to respond to emergency situations and to contribute to or lead international support for large reconstruction and recovery programs. Both donors and clients have valued the Bank's role in providing emergency assistance. However, the Bank's policies, processes, and organizational structure were developed to meet different circumstances, and they have proven to be inadequate to support the Bank's evolving role and objectives in emergency response or meet the increasing emergency needs of its clients. In individual cases the Bank has addressed some of these constraints through waivers and procedural and organizational adaptations, but it is time to address the issues more comprehensively.

2. *Purpose of the paper.* In light of the Bank's evolving role and the growing demands for it to respond rapidly and effectively to emergencies, this paper recommends changes in the Bank's emergency policy and procedures to improve the flexibility, speed, and effectiveness of the Bank's emergency response and adopt a strategic approach to disaster risk reduction and crisis prevention in high risk countries. It forms part of a broader package of initiatives designed to improve the Bank's rapid response capabilities, including an accompanying report, *Strengthening the World Bank's Rapid Response and Long-term Engagement in Fragile States* (SecM2007-0018), January 19, 2007.

3. *Structure of the paper.* Following this introduction, section II of the paper presents lessons from the Bank's experience with emergency operations and examines policy and procedural constraints that undermine the effectiveness of the Bank's emergency response. Section III describes the proposed changes to the policy to address these constraints, and section IV sets out the recommendations for which the Executive Directors' approval is sought. The Annex includes *Legal Opinion on Peace-building, Security and Relief Issues under the Bank's Policy Framework for Rapid Response to Crises and Emergencies* (the "Legal Opinion").

## II. BANK EMERGENCY RESPONSE: EXPERIENCE AND ISSUES

4. Over the past 20 years, the Bank has been asked to respond to an increasing number of emergency situations: assistance in natural disasters, such as the December 2005 Indian Ocean tsunami and the October 2005 Pakistan earthquake; post-conflict reconstruction; assistance to avert outbreaks of pandemics, such as avian flu; and response in the aftermath of such manmade disasters as oil spills. Increasingly Bank assistance combines IBRD and IDA resources with international funds channeled through multidonor trust funds (MDTFs) administered by the Bank; and it may comprise both lending and such nonlending support as disaster needs assessments, advisory assistance, and technical assistance, often delivered in partnership with others.

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<sup>1</sup> For the purposes of this paper, the term "Bank" includes IBRD and IDA, and the term "loans" includes credits, IDA grants and trust fund grants.

<sup>2</sup> See *Lending by the Bank for Emergencies* (IDA/R88-112), October 18, 1988.

5. **Scale of support.** From FY89 through FY06, the Bank approved 168 emergency recovery loans for about US\$11.4 billion. In addition, as noted by the Independent Evaluation Group (IEG) in its recent evaluation of the Bank's work in natural disasters (the "IEG Evaluation"),<sup>3</sup> since 1984 the Bank has reallocated over US\$3 billion under existing projects in response to natural disasters.<sup>4</sup>

#### A. Lessons of Experience

6. In most emergencies, it is impossible to overstate the urgency and speed required for an effective response. Delays result in missed opportunities and undermine effectiveness of recovery efforts; at times they can prolong suffering and even cost lives. The Bank's response often lacks the speed and effectiveness essential in an emergency context, during both the preparation and implementation stages. Emergency recovery loans (ERLs), the primary Bank instrument for emergency assistance, are processed more quickly than specific investment loans—but, over the past five fiscal years, on average they still took in excess of 9 months from concept to effectiveness.<sup>5</sup> Many are also subject to slow disbursement, which can jeopardize results. In addition, for over two-thirds of ERLs implementation delays necessitate extending the closing date. Delays are also common in the establishment and implementation phases of MDTFs to support emergency recovery and reconstruction. These delays undermine the effectiveness of the Bank's response; and they can be particularly problematic in certain groups of countries:

- *post-conflict countries* that do not have an active portfolio, where the Bank is unable to bridge a response gap by reallocating funds under existing operations;
- *countries with serious fiscal difficulties*, which cannot use their own resources to bridge a response gap; and
- *countries with weak capacity*, which may be unable to implement recovery activities even after Bank funding becomes available.

#### B. Policy Framework

7. The Bank's principal policy statements governing its work in emergency situations—Operational Policy (OP) and Bank Procedures (BP) 8.50, *Emergency Recovery Assistance*—are almost twenty years old.<sup>6</sup> OP 8.50 provides that "a country may request assistance from the Bank when it is struck by an emergency that seriously dislocates its economy and calls for a quick response from the government and the Bank."<sup>7</sup> It defines "emergency" as "an extraordinary event of limited duration, such as a war, civil disturbance, or natural disaster,"<sup>8</sup> and specifically excludes "serious economic dislocation caused by external economic shocks

<sup>3</sup> *Hazards of Nature, Risks to Development, An Evaluation of World Bank Assistance for Natural Disasters*, February 23, 2006, Washington, D.C.: Independent Evaluation Group.

<sup>4</sup> *IEG Evaluation*, para. 2.16.

<sup>5</sup> The figure of 9 months was derived by combining the average time of 5.9 months it takes to process emergency operations from concept to Board approval and an additional 3.3 months on average from Board approval to effectiveness.

<sup>6</sup> OP/BP 8.50, reissued in 1995, reflect the policy approved by the Executive Directors in 1988, see footnote 2 above.

<sup>7</sup> See OP 8.50, para. 1.

<sup>8</sup> See OP 8.50, footnote 2.

or other situations justifying development policy lending.”<sup>9</sup> It also draws a careful distinction between Bank activities, which are to “address restoration of assets and production,” and “relief,” such as “search/rescue, evacuation, food/water distribution, temporary sanitation and health care, temporary shelter, and restoration of access to transport.”<sup>10</sup> Experience with emergency operations over the past decade suggests that these narrow rules are out of date with the borrowers’ needs and the resulting evolution of the Bank’s role and engagement in responding to emergency and crisis situations.

8. ***Changing Bank role.*** In today’s emergencies, the Bank is being asked to step in earlier and under a wider variety of situations, often as part of integrated international support for a country’s emergency recovery plan. This means that the Bank’s first response—the needs assessments and technical assistance—is often carried out while relief activities are under way, and must be done in close coordination with other donors. It also means that the overall recovery program that the Bank will support may span several response stages and cover areas both within and outside of the Bank’s traditional core competencies. Increasingly, it also means that, in addition to physical reconstruction, the Bank is playing a key role in supporting transitional safety net activities aimed at preserving human, institutional and social capital, and reestablishing essential services. Although the clear goal of OP 8.50 is to enable the Bank to provide, in collaboration with other donors, a timely, appropriate, and effective response to emergency situations, the policy has several flaws that often hinder the Bank from fulfilling this role: (a) it does not facilitate a truly rapid response to emergency situations; (b) it does not provide for sufficient financial and implementation assistance to countries in the critical early stages of recovery; (c) it defines “emergency” too narrowly; (d) it neglects social aspects of emergency assistance through its almost exclusive emphasis on physical reconstruction; (e) it provides insufficient flexibility for the Bank to fully cooperate with other donors in supporting comprehensive recovery programs; and (f) it gives inadequate attention to prevention and mitigation of future disasters as part of the borrower’s development strategy.

#### ***1. Need for greater speed and different approach to risk in emergencies***

9. Many of the delays experienced during the implementation of emergency operations stem from the difficulties of operating in an emergency context. The extra burdens inherent in the urgency of the situation often overstretch the implementation capacity of many governments and weaken their ability to put in place arrangements needed for effective implementation and appropriate channeling of donor funds. A good measure of delays can also be attributed to the administrative and processing requirements on all sides, including the borrower and all donor agencies, including the Bank. On the Bank side, many of the delays in the Bank’s emergency response can be attributed to the failure of OP/BP 8.50 to expressly recognize and sanction (a) the need for greater speed throughout the emergency project cycle; (b) the missed opportunities and the risk of nondelivery associated with inaction or a delayed response; (c) the inherent risks in addressing emergency situations; and (d) the need for a different balance between *ex-ante* and *ex-post* risk mitigation measures in emergencies compared to regular operations. In addition, while the current policy and procedures attempt to provide incentives and tools to expedite processing of emergency

<sup>9</sup> See OP 8.50, footnote 3.

<sup>10</sup> See OP 8.50, paras. 2 and 4, and footnote 4.

operations up to Board approval, they do not address the delays associated with implementation of emergency assistance, including the frequent effectiveness and disbursement delays that severely undermine results on the ground. For example, BP 8.50 cuts off expedited procedures at the Board approval stage and does not include sufficient compression of reviews and clearances in terms of numbers and timelines. The procedures for setting up and activating trust funds do not expedite or streamline any of the regular steps when dealing with emergency situations; in addition, the Regions often add their own requirements and clearances when processing all operations, including emergency operations. Specific problem areas contributing to delays include:

- Fragmented and duplicative clearances at both Regional and corporate/service department levels often result in project processing delays without adding much value to facilitating results on the ground.
- Use of cumbersome disbursement requirements and arrangements, unsuited to client capacity and the realities on the ground. Disbursement issues may be exacerbated by failure to reset country financing parameters to reflect emergency needs and an insufficient use of the flexibility available under OP 6.00, *Bank Financing*, in emergency operations.
- Up-front assessments, especially in fiduciary areas, which could be streamlined to save time.
- Time-consuming procurement procedures that are unsuited for situations of constrained capacity and the need for greater-than-usual speed.<sup>11</sup>
- Delays in set-up, activation, and funding of trust funds; for example a requirement to provide detailed information when trying to initiate a trust fund to leverage donor assistance results in up-front delays and later implementation problems.
- Excessive authorization requirements which detract borrower attention from responding to urgent needs.
- Excessive reliance on *ex-ante* risk-prevention and mitigation measures coupled with inadequate use of post-review procedures in the design and implementation of emergency operations.

Most of these problems, which in themselves lead to significant delays in initiating and achieving results on the ground when responding to emergencies, have been exacerbated when staff inexperienced in emergency operations are asked to take lead roles in preparing, processing, and supervising such operations.

## **2. Challenges in early recovery**

10. Many governments in countries stricken by emergencies have severe cash flow constraints or face serious implementation capacity issues. As a result, recovery and reconstruction operations—however well designed they may be—are slow to start unless outside financial and implementation assistance is available. In such settings, a more

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<sup>11</sup> See *IEG Evaluation*, para. 6.36.



proactive involvement of international agencies in managing the start-up stages of recovery would help ensure that the needed assistance reaches the beneficiaries on time. This can be done through greater reliance on other agencies, including the UN, the regional institutions and other multilateral and bilateral donors, and local and international NGOs that have demonstrated capacity to execute start-up activities in a given country setting. There is also a need to revisit the Bank's inability to execute such start-up activities under Project Preparation Facility (PPF) advances or trust fund grants made available for this purpose in situations where such execution may be the only viable way to put in place arrangements necessary to permit implementation of the follow on recovery program.

11. **Financing constraints.** For some borrowers, especially the middle income countries (MICs) that have the capacity and short-term resources for emergency response, the most effective Bank assistance may involve a quickly processed emergency loan which provides timely access to funds through retroactive financing and quick disbursements against a positive list of critical goods. While the current policy has functioned relatively well in such countries, the effectiveness of Bank emergency assistance would be greatly enhanced by (a) improvements in the speed and efficiency with which the Bank processes emergency operations; (b) greater flexibility in the level of retroactive financing; (c) the ability to disburse quickly against critical imports as well as local goods needed for an effective emergency response; (d) the Bank's proactive support for a strategic approach to disaster management and prevention in high-risk countries; and (e) availability of innovative instruments and financing products to address recurrent emergencies, including availability of contingent emergency loans.

12. **Implementation constraints.** For borrowers that do not have adequate project management capacity or funds even to process contracts for services needed with implementation assistance (e.g., project management, financial management, or procurement services), the promise of retroactive financing if and when a Bank operation becomes effective, or the existence of the PPF, which they are required to implement, bring little assistance. Instead, what would really help the recovery process is assistance with contracting project management services and purchasing goods needed for start-up activities. When combined with a more proactive use of the PPF (which would have to be increased above its current size of US\$2 million and expanded beyond preparation to focus on start-up activities up until effectiveness of the follow on emergency operation), such assistance with start-up activities would help fill financing and capacity gaps between the onset of the emergency and the effectiveness of the follow-on operation. This would greatly facilitate subsequent government implementation of emergency operations and help address delays frequently encountered in such countries.

### 3. *Narrow definition*

13. A literal interpretation of the OP 8.50's definition of "emergency" would have prevented the Bank from providing appropriate and timely responses to many types of emergencies or crisis-triggering events that have afflicted its members in the recent past. As illustrated below, the Bank has addressed crises and emergencies that fall outside the narrow scope of the current definition in a variety of ways, including a *de facto* expansion of the current definition on a case-by-case basis to cover such situations. In other situations, however, the Bank did not provide the urgently needed support, which has resulted in missed

opportunities. Often, when the Bank sought to respond to crises and emergencies that did not squarely fall within the current definition, its involvement was subject to extended internal churning and associated delays.

14. ***Natural and man-made emergencies.*** Many types of emergency situations, particularly man-made disasters and epidemics or pandemics, were not specifically envisaged in OP 8.50, which focused narrowly on natural disasters and post-conflict situations. As examples in Box 1 illustrate, the Bank overcame these limitations in some cases through a liberal interpretation of the current policy on a case-by-case basis.

**Box 1. Emergencies and crises which were not natural disasters or classic post-conflict situations**

**“Man-made” disasters**

*Russian Federation: Emergency Oil Spill Recovery and Mitigation Project (1995)*

Providing an emergency operation to address and contain the damage resulting from one of the world’s largest oil spills caused by leaks from a regional pipeline. The operation supported construction of urgently needed new structures and reinforcement of existing structures to contain the oil, which had to be completed prior to spring thaw in order to avoid devastating environmental and health impacts on downstream communities.

*Honduras: Morazán Dam Emergency Project (1993)*

Providing an emergency operation to assist with an emergency dam sealing program and improve monitoring of dam performance and emergency preparedness in the Morazán Dam. The program was needed to urgently address a sudden pressure buildup and resulting erosive flows which threatened to reduce the strength of the abutments, and cause a serious damage to the dam’s structure which could have led to the collapse of the dam.

**Epidemics**

*Uruguay: Foot and Mouth Disease Emergency Recovery Loan (2002)*

Providing an emergency operation to address a sudden outbreak of the Foot and Mouth Disease—a highly contagious animal disease that affects bovines, sheep and swine—which brought to a standstill the beef and dairy sectors of Uruguay. The project provided technical and financial support needed to help contain and mitigate the impact of the outbreak through vaccination, strengthening of the monitoring and surveillance capacity, and identification of alternative markets for Uruguayan beef. The project also helped defray the substantial and unexpected expenditures incurred in the implementation of the comprehensive containment and recovery plan.

*Global Avian Flu Preparedness Projects (2006–present)*

A horizontal adjustable program under OP 8.50 to provide emergency support to address avian flu in birds and contain its spread in countries where it has been detected or that are at risk of infection-spread based on migration patterns and proximity of infected birds.

15. ***Imminent crises or emergencies.*** The current OP 8.50 was designed primarily to address emergencies that had already happened, not envisioning its use to help reduce the risks and mitigate impacts of imminent emergencies or crises. However, requests from client governments in the last decade have encompassed imminent emergencies, where a rapid response is necessary to avert or mitigate a major social or economic impact. Such assistance may be needed in connection with imminent natural or man-made disasters or in situations of rising conflict risk. As examples in Box 2 illustrate, in some cases, the Bank has provided such assistance through a liberal interpretation of the existing policy; in other cases, opportunities were missed when the Bank has denied borrower requests for such assistance.

## Box 2. Responding to imminent emergencies and crises

### *Emergency operations in countries imminently affected by the 1998 El Niño*

In May 1997, the return of El Niño (a tropical Pacific Ocean weather pattern which results in an elevation of surface water temperatures and causes significant rainfall and floods in some areas and droughts in others) was detected, and was predicted to be intense. In response, the Bank provided emergency assistance to several countries in imminent danger from the floods and other damage associated with El Niño, including:

#### *Peru: El Niño Emergency Assistance (1998)*

This emergency project supported preventive actions to mitigate the possible loss of human life and damage to infrastructure from heavy rainfall in the northern coastal areas, while preparing for a sustained period of drought conditions in the Andean highlands. The government requested Bank presence in the emergency activities in agriculture because of its long-standing experience in the sector, and the government also expected the Bank to play a role in strengthening the institutional capacity within Peru to forecast the regional impact of future El Niño events, and put in place systems to enhance preparedness to deal with such events.

#### *Bolivia: El Niño Emergency Assistance (1998);*

This emergency project supported activities designed to reduce the loss of human life and deterioration of living standards expected to result from the floods and/or droughts caused by the 1997-98 El Niño event.

#### *Brazil: Emergency Fire Control and Prevention Project (1999)*

In response to an increased risk of “escaped” fires associated with the 1998 deficit in rainfall in Brazil, this emergency project assisted with measures designed to prevent and control large-scale wildfires and to generate lessons regarding forest fire prevention and suppression techniques. The emergency project also assisted both federal and state environmental agencies to implement an education and public awareness campaign, provide fire prevention and control training, and establish a rapid response task force to combat major fires.

#### *Honduras: Morazán Dam Emergency Project (1993)*

As discussed in Box 1 above, this project supported an emergency sealing program to prevent serious structural damage and imminent disaster associated with the potential collapse of the Morazán Dam.

#### *Central African Republic: A Case for Proactive Risk Prevention (2006)*

The Bank’s impact in the Central African Republic, a fragile state transitioning from prolonged crisis, would have been facilitated with Bank policy enabling more proactive support to prevent a risk of relapse. In autumn 2006, the country team was engaged in a race against time to prevent a reemergence of conflict as an armed rebellion originating from Darfur made significant territorial gain in the north east of the country, an area of difficult access to the country’s security forces.

This political crisis coincided with an intense cycle of multidonor harmonization effort and policy dialogue with the authorities to improve financial management systems, transparency in natural resource management and personnel management. The authorities’ commitment to reforms would eventually pave the way to a global arrears clearance operation supported by a Bank’s DPO, budget support from the AfDB, and an IMF PRGF.

Initial low fiduciary and administrative capacity and the population’s call for rapid and visible development results justified the accelerated preparation of a US\$6.8 million grant under the LICUS Trust Fund to upgrade country systems and help appease the social situation in the country through an extensive CDD program. This second LICUS grant would set the stage for the DPO, but excessive disbursement time and lack of familiarity with procedures created unnecessary tensions and distractions on the reengagement team.

The objectives of the second LICUS grant for CAR matched those of the proposed OP 8.00, particularly as per:(a) the preservation or restoration of essential services; and (b) the mitigation of potential effects of an imminent crisis. The rapid response policy would have enabled the Bank to deploy more easily staff having previously worked in crisis situations, enhance the team’s implementation capacity, which, in turn, would have helped the reengagement team focus on the arrears clearance operation and final negotiations of the policy program

#### *Timor-Leste: A Case for Rapid Response (2006)*

The 2006 political crisis resulted in government requesting renewed international peacekeeping assistance, the resignation of the Prime Minister, and the formation of an interim government. The Bank was requested to provide urgent assistance to help the government avoid a slide into a state failure. Yet Timor was by then almost six years into its post-conflict program, and well past the point of preparing assistance under OP 8.50 emergency procedures. As much of the risk was linked to the government’s difficulties in executing its budget, the Bank could have responded more effectively had it been able to review and realign current projects under emergency procedures, including a potential accelerated restructuring of the Public Finance Management Capacity Building Project to focus early actions on execution of the Government’s.

16. ***Contingent emergency financing to countries at high risk for recurring disasters.*** As discussed in the IEG Evaluation,<sup>12</sup> the Bank's experience with emergency situations identified the need for a more proactive approach to risk reduction and disaster prevention in countries vulnerable to recurring disasters. As illustrated in Box 3, even under the existing policy framework, the Bank has adopted this approach in several situations, including support for disaster preparedness operations that included a contingent financing feature to enable fast disbursements in the event of an emergency.

**Box 3. Contingent emergency support to countries at high risk of recurring disasters**

*Turkey: Marmara Earthquake Emergency Reconstruction Project (2000)*

Following the devastating 1999 earthquake in the Marmara region of Turkey, the Bank, in partnership with UNDP, the EU and other international financial institutions and donors, assisted the government in upgrading the existing emergency response system and establishing an earthquake insurance program to cover the housing sector and help finance reconstruction and other interventions aimed at containing damages in the case of a similar event in the future.

*Mexico: Natural Disaster Management Project (2001)*

This project was designed to provide contingent emergency support upon occurrence of an "eligible" emergency during the life of the loan. At the request of the borrower, the project was redesigned during implementation to improve the speed and effectiveness of the Bank's response through the use of expedited disbursements against a positive list of imports upon occurrence of an emergency. This design, which was later replicated in the Colombia operation described below, was not tested in this operation since the borrower decided to cancel the loan.

*Colombia: Disaster Vulnerability Reduction, First Phase APL (2005)*

To help Colombia prepare for, and mitigate damages related to, natural disasters such as periodic earthquakes, the Bank prepared an investment project designed to improve Colombia's natural disaster management and preparedness. A key project objective is to assist the government in quickly responding to disasters that may occur during project implementation. The project therefore includes a contingent line of credit which can be utilized upon occurrence of any such disaster.

#### ***4. Overemphasis on physical reconstruction***

17. The current policy emphasizes physical reconstruction in two different paragraphs and prohibits Bank financing of relief activities, which are not defined but explained through a list of illustrative examples prone to misinterpretation. It is silent on the Bank's role in facilitating peace building when providing emergency assistance to post-conflict (or conflict-affected) countries. As a result, OP 8.50 makes it difficult for the Bank to support the preservation of human, institutional, and social capital following an emergency—including the transitional safety net activities that are critical to any emergency recovery program. It also hinders the Bank's efforts in designing, properly characterizing, and evaluating activities in support of the peace-building objective.

18. ***Addressing social aspects of recovery within the relief-to-recovery continuum.*** Recent years have seen consensus among the international community that the relief-to-recovery transition represents a continuum rather than distinct points in time. While recognizing that the Bank does not provide relief, there are a number of activities which fall within this continuum and where the Bank does have a comparative expertise and has

<sup>12</sup> See IEG Evaluation, footnote 3 above.

received requests for assistance from governments and partners among the UN agencies. These relate particularly to activities in support of the reintegration of affected persons, including refugees, internally displaced persons, and ex-combatants; and support to semi-permanent settlements. The *IEG Evaluation*<sup>13</sup> found that assistance with such social aspects of recovery has been one of the most effective tools to reach poor and vulnerable people and to improve the effectiveness of the overall recovery effort.<sup>14</sup> Increasingly, following natural disasters and conflicts the Bank has been addressing issues relating to the human, social, and institutional aspects, such as the reinstatement of essential support and services to affected people; and this support has included cash transfers to affected people.<sup>15</sup> While in quite a few cases the Bank provided assistance for such productive activities that fell within the relief-to-recovery continuum under the existing policy, many of these required prior waivers or exceptions, resulting in delays and potential inconsistencies in the application of policy. In several cases, the constraints under the existing policy resulted in sub-optimal design and implementation of emergency operations that involved such activities. Examples of both situations are set out in Box 4. Although, as these examples illustrate, Management and the Board have consistently endorsed these kinds of activities,<sup>16</sup> the process of seeking case-by-case approvals, waivers, and exceptions has been time-consuming and has delayed the arrival of Bank assistance.

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<sup>13</sup> See *IEG Evaluation*, footnote 3 above.

<sup>14</sup> See *IEG Evaluation*, paras. 5.25, 5.34, and 5.35. Specifically, para. 5.1 states: "Recovering from a disaster, then, requires more than burying the dead, caring for the injured, and rebuilding structures. It must also ensure that social structures knit together." See also para. 5.3, which states: "The immediate response that ignores local power structures, social groups, and differences in vulnerability risks making recovery more difficult by undercutting the very factors that helped create social cohesion in the first place. Hence, when the pressures of the immediate response are allowed to carry over to the later stages of rebuilding and mitigation, too little may be done to ensure that the social and livelihoods needs of the affected populations are considered. It may also leave the poor and other vulnerable groups even more disadvantaged than they were before the disaster."

<sup>15</sup> As the *IEG Evaluation* indicates, since 1999, the Bank has funded almost US\$800 million in cash assistance (cash transfers, cash for work, and similar programs) in the context of natural disaster projects. A review of ERLs in post-conflict situations showed that since 1999 the Bank has also funded the equivalent of at least US\$200 million in cash assistance.

<sup>16</sup> In each case, when waivers were approved to permit financing of cash payments, grants and other modes of transitional safety net assistance, it was determined that while such activities fell within the "grey area" of the scope of OP 8.50 as activities within the continuum between relief and reconstruction, they were nevertheless eligible for Bank financing since they (a) satisfied the Articles requirements as activities for productive purposes, and (b) were necessary to achieve the objectives of the overall emergency recovery and reconstruction program supported by the Bank.

**Box 4. Addressing productive activities that fall within the relief-to-recovery continuum**

*Sri Lanka: Emergency Reconstruction Program for the North East (2002)*

As part of an integrated Relief, Recovery and Rehabilitation Program led by the Government of Sri Lanka, the Bank was requested to provide assistance with the reintegration of refugees. A waiver was approved to enable financing of livelihood support payments to returning internally displaced persons to help with reintegration and commencement of productive livelihood activities.

*India: Emergency Tsunami Reconstruction Project (2005)*

As part of an integrated return and reintegration program with participation from UN agencies, government requested financing of transit shelters and upgrading of services in temporary shelter sites, such as water supply, basic sanitation, solid waste management systems and storm drains. A waiver was approved.

*Pakistan: Second Poverty Alleviation Fund (2006)*

Waiver approved to permit financing of cash payments and transitional safety net support to persons in communities damaged by the devastating earthquake.

*Ethiopia: Emergency Demobilization and Reintegration Project (2001); and Rwanda: Emergency Demobilization and Reintegration Program (2002)*

In an attempt to avoid delays associated with seeking waivers to permit financing of cash payments or reintegration grants to ex-combatants, these emergency operations in post-conflict countries relied on the use of a "positive list of imports" as a primary tool to provide governments the funds needed to ultimately finance such programs. This has resulted in sub-optimum oversight arrangements of such programs, implementation delays and real confusion on the borrower side as to the requirements that applied to the use of such resources. With the revision of permissible objectives of emergency operations to include economic reintegration of vulnerable groups, the use of such alternative and sub-optimum designs will be unnecessary.

19. ***Facilitating peace building.*** In an effort to be consistent with the narrow list of emergency response objectives identified in OP 8.50, Bank documents shied away from including facilitation of peace building as an express objective under emergency operations, even when the activities supported by the Bank were designed primarily to support this very objective. Examples of such situations include Bank support for labor-intensive public works and physical repair of infrastructure in physically insecure and volatile areas in countries such as Haiti and Liberia. The inability to include peace building among the operation's objectives has hindered the Bank's ability to define the *modus operandi* and locations for such interventions in ways that would aim to consolidate stability in insecure neighborhoods, in addition to the usual considerations of technical aspects, sustainability, poverty alleviation and development potential. This has led to mischaracterization of such activities to fit the physical reconstruction objective only, often resulting in sub-optimal design and monitoring and evaluation of their intended impact.

***5. Insufficient flexibility for cooperation***

20. The primary challenge when responding to emergencies is to identify correctly the priority activities and sequence them in such a way as to address the urgent needs of the most affected without undermining the success of the overall recovery and reconstruction program.

- In natural disasters, this means closely linking humanitarian planning, the emergency recovery and reconstruction plan, and the borrower's overall development program. When providing emergency assistance to borrowers that

are prone to recurrent natural disasters, this also means ensuring that both the emergency recovery and reconstruction plan and the overall development program include appropriate mitigation and prevention measures to decrease future vulnerabilities and improve the country's preparedness and recovery from such events.

- When responding to post-conflict situations, this means, in addition to addressing the relief-to-recovery continuum, supporting a program that appropriately integrates and addresses all elements essential to build and sustain stability and peace, including reducing poverty, addressing security concerns, building institutions and capacity, and facilitating peace building.

21. Given the challenges of designing and implementing such comprehensive programs, there is a need for the international community to act in an integrated and cooperative manner to provide the maximum support needed for borrower-led recovery and reconstruction. However, the current policy tends to hinder the Bank's participation in support of such comprehensive approaches by focusing Bank assistance on physical recovery and reconstruction only without recognition of the linkages between such activities and other aspects of recovery as well as the borrower's overall development program.

22. ***Fragmented view of the Bank's role.*** OP 8.50 underscores restoration of assets and production as the primary objectives of the Bank's assistance, expressly prohibits financing of relief and consumption, and directs the Bank to "focus on areas of its comparative advantage."<sup>17</sup> While there is little doubt that the Bank should focus its assistance on areas of its core competencies, it can no longer insist on segregating these areas from other important parts of the broader recovery program nor restrict its involvement in a manner that could potentially undermine the overall program.<sup>18</sup> While others are indeed better able to provide immediate relief, that does not mean that the Bank should ignore the continuum between relief and recovery and refuse to step in during the often precarious stage between cessation of immediate relief and onset of recovery activities. The language of the current policy and its at times restrictive interpretation has resulted in a range of counterproductive actions on the Bank's part:

- Precious time has been wasted in obtaining waivers when providing assistance for transitional safety net activities due to confusion as to whether or not they fell within the meaning of "relief" under OP 8.50.<sup>19</sup>
- The Bank has been restricted from extending activities *within its core competencies* that can contribute economic, development, and public finance expertise to all branches of government, including, for example, state institutions dealing with relief, peace, security, and law enforcement generally.

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<sup>17</sup> See OP 8.50, para. 2.

<sup>18</sup> For example, the Afghanistan and Timor-Leste recovery programs included security components which the Bank supported in partnership with other donors.

<sup>19</sup> See footnote 16.

- The Bank has had to carve out from the *borrower's* recovery program, which the Bank purports to support in cooperation with other donors, areas of security and political governance simply because the Bank is involved. Experience in post-conflict countries shows that excluding security, peace building, and related issues and the state institutions responsible for them from the overall reconstruction program undermines the program's effectiveness.<sup>20</sup>

23. Increasingly, the approach of strictly delimiting the areas covered by each donor is being replaced by a concerted effort by the international community to work together in emergencies and provide integrated assistance—that is, to support a single comprehensive program that provides the appropriate framework for each donor, including the Bank, to focus on the areas in which it is best placed to provide the most effective assistance, taking into account the needs and circumstances of each situation. It is high time for the Bank's emergency policy to recognize and facilitate such productive cooperation, in line with its frequent role of coordinating an integrated donor response.

#### **6. *Inadequate emphasis on strategic approach to emergency prevention***

24. The IEG Evaluation makes a strong case for approaching disasters more strategically, taking into account the differing vulnerabilities of borrowing countries and focusing more on disaster prevention and reduction in all operations. The current policy does not provide an adequate strategic or instrument basis for such an approach. Although OP 8.50 advocates prevention and mitigation, especially “in countries prone to specific types of emergencies” and discourages emergency assistance for “recurrent events,” it does not establish a basis for a more strategic engagement in such high-risk countries nor provide an appropriate quick-response instrument that such countries may need for mitigating future emergencies. In recent years, the Bank has overcome some of these shortcomings by *ad hoc* adaptation of the policy—for example, in (a) ERLs designed to prevent, mitigate, or avert imminent emergencies, as in countries on the path of El Niño,<sup>21</sup> or bordering countries experiencing a major epidemic; and (b) ERLs that provide contingent financing to countries that are subject to periodic emergencies like earthquakes and floods and that have appropriate systems and policies in place to deal with such emergencies—for example, Mexico, Colombia, and Turkey (see Box 3 above).

25. As recommended in the IEG Evaluation, in light of the increasing rates and devastating impact of disasters in many countries, especially those at high risk for recurrent emergencies, disaster prevention and response must become one of the core development issues addressed by the Bank. The Bank should take a leadership role in this area and present a menu of policy options and activities for the high-risk countries. These may include adoption of a multisectoral risk management framework at the national or sub-national level to identify and address disaster risks prior to the emergency and delineate the respective roles of the government, donors and the private sector in an emergency response. They may also

<sup>20</sup> See *Low Income Countries Under Stress Implementation Trust Fund: Request for Second Replenishment*, (R2006-0195, IDA/R2006-0205), November 6, 2006 (the “LICUS Second Replenishment Paper”); and *Low Income Countries Under Stress: Update*, (IDA/R2005-0251), December 22, 2005 (the “LICUS Update Paper.”)

<sup>21</sup> See Box 2 for examples of emergency operations to countries in the path of *El Niño*.



entail assistance with building institutional and legal frameworks for disaster prevention and emergency preparedness, robust public management systems for disaster management, and enhanced emergency procurement and financial management systems in high-risk borrowing countries.

26. A more strategic approach is also needed to address opportunities for economic and development interventions that contribute to stability and peace-building initiatives in situations of rising conflict risk. In such countries, Bank strategies and dialogue should (a) signal to national counterparts the risks of any actions that may escalate conflict risk as well as the economic benefits of commitment to peace building; (b) provide input on specific economic issues that are important to mediation efforts and may serve as a way to restart dialogue; and (c) use community-driven initiatives to contribute to local conflict prevention.<sup>22</sup>

### III. STRENGTHENING THE BANK'S EMERGENCY POLICY

27. In light of the growing emergency needs of the Bank's borrowers and the Bank's expanding role in emergency response, the Bank needs a flexible, principles-based umbrella policy and accelerated emergency procedures that will enable it to respond rapidly and effectively to all types of emergencies. The proposed new policy statement—to be renamed, *Rapid Bank Response to Crises and Emergencies* and renumbered as OP 8.00—would have the same objective as OP 8.50, but would include some innovative provisions—based on the lessons of experience—to facilitate a more effective and timely emergency response by the Bank. It would also include provisions for a more strategic approach to disaster risk reduction and crisis prevention in high-risk countries. The revised policy needs to clearly reflect the following:

- the new operational mode for rapid response;
- the Bank's role and the priority objectives it is called upon to support as part of an integrated international response to emergencies; and
- the need for a strategic approach to disaster risk reduction and crisis prevention in high-risk countries.

28. To ensure greater clarity and consistency of application of the new policy framework, which entails a shift from narrow rules to broader principles, it is proposed that the new policy rest on the following guiding principles that would be included in the body of the new policy statement:

- application of rapid response instrument to address major adverse economic and/or social impacts resulting from an actual or imminent natural or man-made crisis or disaster;
- continued focus of the Bank's direct assistance on its core development and economic competencies and always in line with its mandate, including in all

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<sup>22</sup> See *Fragile States: Good Practice in Country Assistance Strategies*, OPCS, December 2005 (the "Fragile States: Good Practice in CAS"), para. 46.

situations where the Bank supports peace-building objectives and relief to recovery transitions;

- close coordination and establishment of appropriate partnership arrangements with other donors and partners, including the UN, in line with the comparative advantage and core competencies of each such partner; and
- appropriate oversight arrangements, including corporate governance and fiduciary oversight, to ensure appropriate scope, design, speed, and monitoring and supervision of rapid response operations.

The inclusion of these principles would help clarify the boundaries and scope of the Bank's rapid response and address concerns regarding any potential expansion of the Bank's assistance into areas that push the boundaries of its mandate or lie outside its core development and economic competencies. They would also embed the establishment and maintenance of appropriate checks and balances, including governance and oversight arrangements, as key ingredients of the new policy, to address the risk of misapplication.

#### **A. New Operational Mode for Rapid Response**

29. To speed the delivery of the Bank's assistance and improve the overall effectiveness of its emergency response, the policy would be revised to (a) emphasize the need for greater speed throughout the emergency project cycle; (b) be more transparent on the issue of risk in emergency operations; (c) accelerate, consolidate, and simplify procedures for rapid response to crises and emergencies, and streamline *ex-ante* requirements in emergency operations; and (d) encourage the use of the most effective instruments available, including additional financing, when responding to emergencies and crises. The new policy would also address implementation and financing constraints during early recovery stages that often delay the overall recovery program by reflecting changes to the PPF, enabling greater reliance on the UN, regional institutions and other multilateral and bilateral partners, agencies and NGOs to implement recovery activities in low-capacity environments, and permitting Bank execution of start-up activities in exceptional circumstances.

##### ***1. Toward a rapid response***

30. The new policy would recognize that flexibility, timeliness, and simplicity are especially critical to an effective response in an emergency situation, and it would provide for accelerated processes and procedures at all stages of an emergency operation. Specifically, it would

- provide that emergency operations are subject to accelerated, consolidated, and simplified procedures and streamlined *ex-ante* requirements (particularly in fiduciary and safeguards areas); and
- permit greater delegation in the processing and initiation of emergency assistance operations than in standard Bank operations.

31. Since faster processing can expose an operation to potential additional risks, and recognizing that a rapid response to emergencies may require a different balance between speed and risk compared to regular operations, the procedures and guidance related to this policy would emphasize the need for close and careful supervision in the later, less urgent, stages of the operation.

32. ***Different approach to risk.*** The new policy would be more transparent on the issue of risk in emergency operations. Specifically, it would (a) acknowledge the inherent risks and high development benefits of providing a rapid response to emergencies; (b) recognize the risks of non-delivery and missed opportunities associated with inaction or a delayed Bank response, which underlie the adoption of the proposed accelerated emergency procedures and streamlined *ex-ante* requirements; and (c) provide for a different balance between *ex-ante* and *ex-post* controls and risk mitigation measures in emergency operations compared to regular operations, including on issues of fraud and corruption. In particular, the revised policy and accompanying guidelines would clarify that the risks associated with the need for much greater speed early in an emergency operation should be balanced by more careful and intensified supervision later in the operation, including additional post-reviews, audits and other measures, and application of appropriate remedies. In addition, when the situation has stabilized, it is appropriate to gradually transition toward regular Bank processes and safeguards, as needed, to mitigate and address risks.

33. ***Expenditure eligibility and disbursements.*** To ensure the Bank's ability to finance expenditures needed to meet the objectives of an emergency recovery program it supports, the revised policy would adopt the principles set out in OP 6.00, *Bank Financing*, for all emergency operations and retain the quick-disbursing feature available under the current policy. It would therefore:

- permit the Bank to finance up to 100 percent of the expenditures needed to meet the development objectives of emergency operations it supports in a given country, including recurrent expenditures, local costs, and taxes;<sup>23</sup>
- provide for a quick-disbursing component designed to finance (or re-finance) a positive list of goods that have been identified as necessary to a borrower's recovery plan or program supported by the Bank; and
- enable the Country Director to approve a temporary increase in the cost-sharing limits in all Bank-financed operations in such country if so requested by the borrower.

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<sup>23</sup> To ensure that the Bank maximizes the effectiveness and utility of its emergency response to all borrowers, it is proposed that the ability to finance up to 100 percent of the expenditures needed to meet the development objectives of an emergency operation apply to all countries receiving emergency assistance from the Bank, including countries with more restrictive country financing parameters as well as countries without approved country financing parameters. In such countries, the expanded application of the Bank's financing policy would cease once the Bank resumes its regular assistance program through regular investment operations processed under OP/BP 10.00, *Investment Lending: Identification to Board Approval*.

34. Combined with the modernized and streamlined disbursement arrangements set out in the proposed revised OP/BP 12.00, *Disbursement*, and corporate-wide shorter turnaround time standards to be adopted by all Bank units when working on emergency operations, these changes are expected to go a long way in addressing many of the disbursement delays experienced by emergency operations.

35. **Procurement.** The principles of greater delegation, speed, simplicity, and flexibility are also expected to address some of the issues associated with application of the Bank's procurement requirements in an emergency context, especially during the precarious stage of early recovery. Examples of procurement actions essential for facilitating the Bank's immediate and rapid response to emergencies and for which procurement specialists working on emergency projects would be delegated higher approval authority include:

- the use of rapid procurement methods (direct contracting or simple shopping) for the procurement of services of qualified UN agencies/programs and/or suppliers (for goods) and civil works contractors already mobilized and working in emergency areas (for works);
- single sourcing of consulting firms already working in the area and which have a proven track record for the provision of technical assistance;
- extension of contracts issued under existing projects for similar activities through increase in their corresponding contract amounts;
- where alternative arrangements are not available, the use of Force Account for delivery of services directly related to the emergency; and
- the use of NCB, accelerated bidding and streamlined procedures and application of provisions on elimination, as necessary, of bid securities.

36. In addition, Bank teams working on emergency operations would be encouraged to actively support counterpart agencies at various stages of the procurement process, including in the preparation of Terms of Reference, Requests for Proposals, bidding documents, and drafting of shortlists. Where assistance of a procurement agent is needed to facilitate project implementation, the Bank could also provide borrowers with a long list of prequalified international procurement agents. Finally, as in all other areas of project implementation, issuance of no-objection letters for emergency-related procurement actions would be subject to corporatewide shorter turnaround time standards. The proposals to facilitate the adoption of the simplified procurement methods in the early stages or emergency response and to provide more active assistance in this area to borrower counterparts are in conformity with the Bank's existing procurement policy. It is also expected that approval of such simplified procurement methods would be limited to the immediate aftermath of an emergency and until such time that it is possible to use regular procurement procedures without compromising on the timely delivery of assistance. To facilitate implementation of such simplified methods and procedures and more proactive and timely assistance to borrower counterparts, more detailed guidelines and good practice examples would be prepared and issued to staff.

37. **Safeguards.** The rapid response principles will also apply to application of the Bank's safeguards requirements in emergencies. Ensuring due diligence in managing potential risks while recognizing the emergency nature of the proposed emergency operations and the need for providing immediate assistance will remain the primary objective of the Bank's approach to managing environmental and social safeguards in emergencies. In line with this objective and in order to facilitate a rapid response, task teams would be expected to adopt a sequenced approach that allows low-risk components and activities to move ahead while necessary assessments are done on environmental and social safeguards issues that represent higher risks.

38. **Instrument choice.** IEG found greater speed and efficiency when the Bank was able to reallocate funds to meet emergency needs, although it noted that this approach often resulted in undermining the original project objectives and constrained the funds needed for an effective response.<sup>24</sup> It also noted that the design and scope of many emergency operations were driven by the current requirement to complete the operation within three years, which has led to some missed opportunities especially in the area of emergency preparedness and mitigation.<sup>25</sup> In response to these findings, the revised policy would (a) retain the current instrument options (including reallocation, restructuring, and ERLs) when responding to crises and emergencies; (b) place the decision regarding choice of instrument(s) with the country director and the task teams, always in close consultation with the borrowing country's authorities; (c) specifically provide that additional financing under OP/BP 13.20 is one of the instruments/options to be considered in emergency response; and (d) replace the three-year time limit on the expected duration of emergency operations with the principle that the duration of emergency operations should be realistically linked to the issues being addressed. This latter provision would help address the IEG findings regarding the duration-related shortcomings in the design of emergency operations. It should also reduce the high rate of closing date extensions for emergency operations.

## 2. *Implementation and financing constraints*

39. After a major disaster or prolonged conflict, some countries simply do not have the capacity and resources to implement the early recovery activities that follow the relief portion of the response and help prepare for follow-on recovery operations funded by the Bank and other donors. The revised policy would include several measures to fill such funding and capacity gaps.

40. **Retroactive financing and positive list of critical goods.** To maximize Bank assistance to borrowers able to mobilize short-term resources for an immediate emergency response, the revised policy would raise the retroactive financing limit under emergency operations to 40 percent, or twice the level currently available for regular operations. As with all operations, an increase to this limit would have to be approved on a case-by-case basis by a Regional vice president in consultation with Vice President, OPCS and specifically highlighted and explained in the project documents submitted for the approval of the

<sup>24</sup> See *IEG Evaluation*, paras. 2.18 and 7.24.

<sup>25</sup> See *IEG Evaluation*, paras. 4.19-4.24 and 7.23.

Executive Directors. OP 6.00, *Bank Financing*, also would be revised to reflect these changes.

41. To facilitate quick disbursements for critical goods needed for the borrower's emergency response, the new policy would also modify the current provisions relating to disbursements against a positive list of critical imports to include quick disbursements against a critical list of goods, whether imported or procured locally. Like the critical imports under the existing policy, to be eligible for Bank financing, such goods would have to be (a) included in an agreed positive list of critical goods required for the borrower's emergency recovery program; and (b) procured in accordance with rules that satisfy the requirements of economy and efficiency (normally the national emergency procurement procedures).

42. ***Project Preparation Facility.*** The new policy would raise the PPF ceiling to US\$5 million per emergency operation; extend PPF use to start-up activities (including contracting of project management support, which is often a precondition to effectiveness or disbursements under a follow-on operation); and permit the Bank to extend PPF advances at any point prior to the effectiveness of the follow-on operation. To reflect the debt sustainability framework adopted under IDA14, the new policy would also provide that in emergency situations, PPF advances to countries at high risk of debt distress which are eligible for IDA grants only would be provided on grant terms. In most situations, analogous to all other PPFs, the disbursed amounts of a PPF advance made on grant terms would be refinanced from IDA financing for a follow-on emergency operation. If a follow-on operation does not materialize within two years following the effectiveness of the PPF grant, the disbursed PPF amounts could be financed from any other IDA-financed operation to the country concerned. In the rare case when no IDA financing to such country materializes within the specified period, the relevant amounts will be deducted from the PPF pool. Although such situations are expected to be rare, over time the need may arise to seek the Executive Directors' approval to replenish the PPF, to reflect its usage for such grants. At the time of such replenishment request, it would be appropriate to evaluate the effectiveness and impact of this practice. OP 8.10, *Project Preparation Facility*, also would be revised to reflect these provisions.

43. ***Overcoming initial implementation constraints.*** As discussed in para. 10 above, the lessons of experience point to the need for a more proactive involvement of international agencies in helping weak-capacity borrowers manage the start-up phases of recovery. For a borrower with insufficient capacity to implement start-up activities, the new policy would permit the Bank, at the borrower's request, to agree to alternative implementation arrangements for such activities. These may include grants to any public or private entity operating in the affected territory as well as grants to UN agencies or programs, or other international or national agencies (including NGOs) active in the country. In all such situations, alternative implementation arrangements would be limited to early recovery and used in operations that include capacity-building measures to enable a transfer of the implementation responsibilities to the borrower as soon as agreed criteria are met.

44. The Bank's experience with finalizing legal agreements for such alternative implementation arrangements under country-specific MDTFs, such as Sudan's and the

LICUS Trust Fund, highlight the need for a more effective, cooperative, and pragmatic approach to dealing with partner agencies in such circumstances. To facilitate such an approach, the new policy would enable the Bank to (a) accept, at the borrower's request, alternative implementation arrangements for start-up activities in weak-capacity environments; and (b) adopt appropriate partnership arrangements with the relevant international agencies, including the UN, for implementation of such activities. Building on these principles, and in order to facilitate closer and more effective cooperation between the Bank and the UN in such situations, Management will continue discussions with UN counterparts on the fiduciary framework arrangements for the UN/Bank cooperation, targeting July 2007 for finalizing such arrangements. As these discussions progress further, Management will schedule a meeting with the Audit Committee to report on progress made and discuss the parameters and different models for Bank cooperation with the UN, reflecting different UN/Bank roles and functions in various situations. Consistent with the procedures that apply to the establishment and implementation of trust funds, if the proposed parameters would entail deviations from existing Bank policies, any such deviations would be discussed specifically with the Audit Committee and endorsed by the Executive Directors before conclusion of any agreements based on such parameters.

45. ***Bank execution of start-up activities.*** In exceptional circumstances, where no viable implementation alternatives exist, the Bank may execute start-up emergency activities at the request of a recipient country either under a PPF advanced on grant terms or a trust fund grant (including grants under the LICUS trust fund). Each proposal for Bank execution of start-up activities on behalf of the recipient would have to be authorized by the Managing Director responsible for the Region concerned. In all such cases, consistent with the framework for limited Bank execution adopted under the LICUS trust fund, categories of eligible operational expenditures would include technical assistance, including short-term consultant fees, extended-term consultant salaries and benefits, contractual services, travel expenses, media and workshop costs as well as small contracts for the start-up goods and works necessary to enable the recipient to undertake the execution of subsequent project activities.<sup>26</sup>

## **B. Alignment with the Bank's Role and Objectives**

46. To enable the Bank to better fulfill its role and effectively support successful emergency recovery efforts as part of an integrated international response, the policy needs to (a) define "emergency" more broadly; (b) provide a clear basis for Bank support for the preservation of human, institutional, and social capital, and facilitation of peace building; (c) facilitate the Bank's closer cooperation with multilateral and bilateral donors, including regional institutions, the UN, and local partners, in an integrated emergency response; and (d) establish an adequate basis for a more strategic and integrated approach to disaster risk reduction and crisis prevention, especially in high-risk countries.

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<sup>26</sup> See footnote 20 above, *LICUS Second Replenishment Paper*, Annex A, para. 7.2.

### ***1. Definition of “emergency”***

47. Management proposes that the focus of the definition of “emergency” should shift from *causes* to *impact* that requires an urgent response. This shift is consistent with the primary objective already embedded in OP 8.50: to provide assistance to a country that is struck by “an emergency that seriously dislocates its economy and calls for a quick response from the government and the Bank.” The proposed new definition reflects several years of requests from client governments to the Bank to provide a rapid response, within its core economic and development areas, to both natural and man-made crises and emergencies. It also reflects the evolving practice and understanding of the international community of when an emergency response is needed, and would include rapid assistance to help avert and mitigate imminent crises and disasters. As reflected in the examples set out in Boxes 1 and 2 above, the new definition would help the Bank address a range of natural and man-made disasters and imminent crises and emergencies which fall outside the narrow scope of the current policy.

48. Consistent with the first guiding principle underpinning the new policy, namely *the application of rapid response instrument to address major adverse economic and/or social impacts resulting from an actual or imminent natural or man-made crisis or disaster*, the new policy would continue to focus the Bank’s emergency assistance on rapid and short-term response to emergencies. Like the current policy, it is not intended to address adverse economic and social impacts associated with prolonged poor performance by the countries rather than a real emergency; nor is it intended to address events that trigger longer-term economic consequences that require a policy response from the government. Instead, consistent with the first principle, the Bank would use its rapid response instrument only in situations of major economic and/or social impacts which could not be appropriately addressed through either investment projects or development policy lending due to the rapidity and nature of the needed response.

49. ***Relationship with development policy lending.*** The new policy would also clarify the relationship between emergency assistance under OP 8.50 and development policy lending to countries in crisis or conflict. The decision on whether to provide an ERL or a development policy loan (DPL) in an emergency would hinge on the measures and impacts to be addressed, not the causes of the emergency. Consistent with OP 8.60,<sup>27</sup> a DPL would be the instrument of choice when addressing economic shocks that trigger longer-term economic consequences that require a policy response from the government. In contrast, under the new emergency policy, the Bank would support specific rapid and short-term measures that form part of a country’s emergency recovery efforts. As with all investment loans, emergency operations under the new policy would support specific emergency

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response actions agreed with the Bank as described in the legal agreements for each emergency operation rather than provide general budget support extended under DPLs.<sup>28</sup>

## ***2. Clarifying objectives of the Bank's rapid response***

50. Lessons of experience show that effective emergency assistance and successful recovery require more than the current policy's focus on physical reconstruction. In this regard, assistance with the social aspects of recovery is essential to improve the results of the overall recovery effort and is the most effective way to reach the people most affected by the disaster. Similarly, facilitating peace building when providing emergency assistance to countries at risk of conflict is often an essential element of successful recovery efforts in such countries. To recognize the Bank's pivotal role in these areas and reflect the approach that Management and the Board have already been supporting, it is proposed that the new policy include among the objectives of the Bank's emergency assistance, the human, institutional, and social aspects of recovery, as well as facilitation of peace building. Specifically, the new policy would provide that emergency assistance could support any of the following objectives:

- rebuilding and restoring physical assets;
- restoring the means of production and economic activities;
- preserving or restoring essential services;
- establishing and/or preserving human, institutional, and/or social capital, including economic reintegration of vulnerable groups;
- peace-building activities;
- the crucial initial stages of building capacity for longer-term reconstruction, disaster management, and risk reduction; and
- supporting preventive measures designed to mitigate or avert the effects of anticipated imminent or future emergencies.

### ***(a) Focus on the Bank's core competencies***

51. In supporting the above objectives, the Bank would adhere to the second principle underpinning the new policy, namely, *continued focus of the Bank's direct assistance on its core development and economic competencies and always in line with its mandate, including in all situations where the Bank supports peace-building objectives and relief to recovery transitions*. As such, the proposed new policy, including the clarified objectives it contains, is

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<sup>28</sup> See OP 8.60, *Development Policy Lending*, para. 1 which states in part: "Development policy lending is rapidly disbursing policy-based financing, which the Bank provides in the form of loans or grants to help a borrower address actual or anticipated development financing requirements that have domestic or external origins." See also OP. 8.60, paras. 32 and 33 which set out policies related to development policy lending to countries in crisis or conflict.

consistent with the existing parameters for the Bank's engagement in emergencies generally and post-conflict or conflict-affected countries in particular. (See the *Legal Opinion* included in the Annex for discussion of legal considerations relating to relief, peace building and security under the proposed new policy.)

***(i) Relief to recovery continuum***

52. As discussed in para. 18 above, recent years have seen consensus among the international community that the relief-to-recovery transition represents a continuum rather than distinct points in time. While recognizing that the Bank does not provide relief, there are a number of activities which fall within this continuum and where the Bank does have a comparative expertise and has received requests for assistance from Governments and partners among the UN agencies. These relate particularly to activities in support of the reintegration of affected persons including refugees, internally displaced persons and ex-combatants; and support to semi-permanent settlements. As examples set out in Box 4 above illustrate, in quite a few cases Management and the Board approved waivers and exceptions from the current policy to enable the Bank to provide assistance for such activities; in other cases, existing constraints resulted in sub-optimal design and implementation of emergency operations that involved such activities. To enable a more consistent and effective emergency assistance from the Bank, the new policy would reflect the established international view of a continuum between the relief and recovery stages of any emergency response, and would not attempt to establish a clear definition of what constitutes relief. Thus, instead of the current list of examples of relief activities,<sup>29</sup> which has caused much internal churning and confusion about what the Bank may support, the new policy would clarify that activities that form part of the government's transitional safety net programs (including but not limited to cash payments, housing and other grant or microcredit programs, and reintegration packages extended to vulnerable groups) would be eligible for Bank financing.

53. Building on the Bank's positive experience with emergency operations that financed transitional safety net activities, and consistent with the second guiding principle underpinning the new policy, the Bank would be able to finance such activities where adequate financing is unavailable from other sources and when it determines that such activities are (a) for productive purposes; (b) within the continuum between relief and reconstruction; and (c) necessary to achieve the objectives of the overall emergency recovery and reconstruction program supported by the Bank. As such, Bank financing of such activities would be consistent with the requirements of the Bank's Articles of Agreement. (See the *Legal Opinion* included in the Annex for a discussion of legal aspects of relief under the proposed new policy. A clarification to this effect would also be included in OP 2.30.)

***(ii) Facilitating peace building***

54. By including facilitation of peace building among clarified emergency objectives, the proposed new policy would eliminate the perceived need for mischaracterizing Bank support

<sup>29</sup> OP 8.50, footnote 4, provides the following examples of relief activities: "search/rescue, evacuation, food/water distribution, temporary sanitation and health care, temporary shelter, and restoration of access to transport."

in this area. As such, it would permit the Bank to better design, monitor and evaluate activities, such as labor intensive public works, often included to primarily support peace-building objectives. This should enable a more precise and meaningful evaluation of operations that support this objective, which should enhance rather than hinder the IEG evaluation of such operations. An example of how core Bank economic and development competences can support peace-building goal is set out in Box 5.

**Box 5. Facilitating peace building through assistance within the Bank’s core competencies**

*Haiti (2007)*

In *Haiti*, Bank country team is collaborating with government and the UN peacekeeping mission on the design of an intervention to improve road access and refuse collection in some of the most physically insecure urban slums in the capital. The activities—labor-intensive public works, physical repair of infrastructure—are not unusual for the Bank, but the inclusion of peace building as one of the primary objectives of the proposed operation would not be possible in the absence of the new OP 8.00. The inclusion of peace building among the operation’s objectives would permit the team to define the *modus operandi* and locations for interventions in ways that would aim to consolidate stability in insecure neighborhoods, in addition to the usual considerations of technical aspects, sustainability, poverty alleviation and development potential.

55. **Relation to OP 2.30.** As stated in the *Legal Opinion* included in the Annex, the inclusion of a peace-building objective in the proposed new OP 8.00 is consistent with the principles set out in OP 2.30, *Development Cooperation and Conflict*, and with subsequent Board discussions relating to Bank assistance to fragile states. Like its predecessor, OP 8.50, the new OP 8.00 would simply serve as an instrument for providing rapid response to crises and emergencies in such countries to help address major adverse economic and/or social impacts associated with such crises. In this regard, the inclusion of facilitation of peace building as one of the objectives to be supported under rapid response operations to countries at risk of conflict is consistent with, and supportive of, the Bank’s role in providing “development assistance that minimizes the risk of conflict” in countries vulnerable to conflict, which is one of the main activities identified and enabled under OP 2.30.

56. **Relation to previous Board discussions on fragile states.** The renewed emphasis on peace building as an objective, while fully consistent with OP 2.30, also reflects the language used in the *Fragile States: Good Practice in CAS*,<sup>30</sup> discussed with the Board in January 2006. As such, it updates the Bank’s approach in two important respects. First, it recognizes that the international community has harmonized around the term “peace building” to describe a range of support, including economic and social programs that minimize the risk of conflict. Second, it recognizes the substantial body of literature that now exists on the risks of a reversion to conflict in the first decade following a post-conflict settlement, and the subsequent international consensus that aid in these circumstances should be sensitive to peace-building goals.

**3. Coordination in integrated or “whole of government” programs and division of labor with development partners**

57. The Bank’s important role in mobilizing, coordinating, and often administering international support for emergency recovery means that it must act as a catalyst for an

<sup>30</sup> See footnote 22 above.

integrated response that links shorter-term recovery with the longer-term objectives of reconstruction, institutional development for improved disaster management, and, in post-conflict countries, stability and peace. The restrictive view that the Bank cannot support recovery programs that include activities (e.g., relief, security, and specialized peace building) that are outside its traditional core competencies, or cannot extend activities within such competencies beyond its traditional counterparts in the country, undermines the Bank's ability to participate fully in a coordinated and integrated international response.

58. When participating in partnership with other donors in integrated international support efforts for programs that include important linkages to areas outside the Bank's core competencies, the Bank would follow the third guiding principle underpinning the proposed new policy, namely, *close coordination and establishment of appropriate partnership arrangements with other donors and partners, including the UN, in line with the comparative advantage and core competencies of each such partner*. This third guiding principle is intended to safeguard against any potential expansion of the Bank's assistance into areas that lie outside its mandate or its core development and economic competencies. Specifically, in line with this principle, when requested by the borrower to broadly support an integrated recovery program that includes important linkages to activities outside the Bank's traditional areas, such as relief, security and specialized peace building, the Bank would do so only in close partnership with other donors. This would mean that in such situations, each donor or development partner, including the UN, would take the lead role and responsibility for preparation, appraisal and supervision of activities in the areas of, and in line with, its respective core competencies and mandate.

59. ***Recognition of UN lead in relief, peace making, and peace keeping.*** Under the new policy, and consistent with the principles set out in OP 2.30, the Bank would not finance relief, peace making, or peace keeping. Other organizations, in particular the United Nations, would lead the international community's support in these areas. Under the new policy, where appropriate, the Bank would be able to—as it has done on a number of occasions—provide assistance within its economic and development competencies to all borrower agencies and institutions involved in the emergency recovery effort. Moreover, in response to member country requests, the Bank would be able to support, in partnership with other donors, integrated recovery programs that include activities outside the Bank's traditional core competencies, such as relief, security, and specialized peace-building activities. Such support, where deemed appropriate, would enhance, rather than detract, from the lead role of other partners, including the UN, in these areas, by emphasizing the important linkages between all parts of a program and helping borrowers achieve a more comprehensive and effective recovery.

60. ***Integrated strategies and programs for peace building.*** Over the past several years, client governments and the international community have moved towards developing integrated programs to support peace building. As noted in the *Fragile States: Good Practice in CAS*,<sup>31</sup> many of the areas which fall squarely within the Bank's core economic competences (in particular assistance in planning, budgeting and setting up public finance systems for emergency recovery) are also by their nature integrative. As the paper notes,

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<sup>31</sup> See footnote 22 above.

“precluding peace and security issues and institutions from consideration, or placing them on a separate track, creates the real risk of diminishing their importance, missing opportunities for synergy or ignoring factors which may undermine longer-term development outcomes.”<sup>32</sup>

61. These principles of Bank engagement in post-conflict countries also have been discussed and endorsed by the Executive Directors during recent discussions of the LICUS Update Paper.<sup>33</sup> They include:

- recognition that programs in fragile states need to be strongly rooted in an understanding of the political dynamics of reform and reflect the links between development, security, and peace-building goals;
- the move within the international community to support an increased harmonization and policy coherence between diplomatic, peace-keeping, state-building, and economic reconstruction initiatives;
- recognition that exclusion of peace-building issues and the state institutions dealing with peace and security from emergency recovery programs undermines the effectiveness of such programs and the resulting need for stronger integration of security and peace-building goals and activities in cross-cutting processes which the Bank supports,<sup>34</sup> including in the context of emergency recovery programs in such countries; and
- in providing its support for areas of peace building and security at the request of client governments, the Bank would continue to focus on its core economic and development competencies and would provide such support in cooperation with, and drawing on the comparative advantage of, its development partners.

62. To reflect these principles, the new policy would clarify that *while the Bank will continue to focus its interventions on its core development and economic competencies*, in response to a borrower request, the Bank may:

- extend such assistance to all borrower agencies and institutions involved in the emergency recovery effort; and
- support, in partnership with others, an integrated emergency recovery program that includes activities in areas outside its traditional core competencies, such as relief, security, and specialized peace building.

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<sup>32</sup> See footnote 22 above, *Fragile States: Good Practice in CAS*, para 23.

<sup>33</sup> See footnote 20 above, the *LICUS Update Paper*; see also footnote 22 above, *Fragile States: Good Practice in CAS*.

<sup>34</sup> As explained in *Fragile States: Good Practice in CAS*, para. 23, such processes include, inter alia, post-conflict needs assessments, recovery plans and results frameworks, PRSPs, public expenditure and governance assessments, multidonor budget support operations, multidonor/multisector trust funds and donor coordination processes.

The Bank recognizes the lead of other international institutions, in particular the UN, in such activities, and will form appropriate partnership arrangements with other donors for the preparation, appraisal, and supervision of activities outside its core competencies in line with comparative advantage and core competencies of each such donor. In line with the principles for effective engagement in Fragile States, the new rapid response policy would therefore enable the Bank to contribute to such integrated programs only in areas of its comparative advantage (such as public finance, community reintegration, basic infrastructure rehabilitation) and in partnership with other donors who lead in these areas. Box 6 provides some examples of such integrated approaches.

**Box 6. Integrated strategies and programs for peace building**

*Post-Conflict Needs Assessments (PCNAs), Sudan, Liberia, Haiti.*

The PCNAs, which the Bank co-coordinates with the United Nations, aim to assist national counterparts to put in place integrated recovery programs across the political, security, economic, and social spheres. These programs often involve training of counterparts and technical assistance in budgeting and basic principles of public finance management and transparency, including counterparts in defense, police, or political commissions.

*Democratic Republic of Congo: Security Sector Reform and Public Finance Capacity Building*

In the *Democratic Republic of Congo*, where the post-conflict DDR program is moving into its final operations, government and partners are focused on assembling a multi-faceted strategy for security sector institutional reform, to complement the ongoing operational security interventions being led by the United Nations and the European Union. Under a revised policy framework, the Bank could extend assistance within its core economic and development competencies to all borrower agencies and institutions involved in the emergency recovery effort. For example, the Bank could consider usefully extending its expertise in public finance and budgeting to security sector institutions. The Bank could also deploy its expertise within an overall effort led by other development partners to improve professionalism and strengthen civilian oversight of these institutions.

63. ***Closer cooperation with partners.*** To reflect the international support model for emergencies and improve coordination and implementation of donor assistance, the new policy needs to go much further than the existing policy in encouraging partnership arrangements and close coordination during all stages of emergency assistance. Thus, it would (a) clarify that the principles and accelerated procedures set out in the Bank's new emergency policy apply to all trust fund grants that support emergency activities; (b) emphasize the importance of harmonization, collaboration, and cooperation with other development partners, including participation in joint strategy discussions; and (c) specifically provide for the possibility of joint preparation, appraisal, and supervision of activities being supported by participating donors. An effective international response to emergencies also requires better planning to identify an appropriate division of labor between international agencies at the beginning of emergency recovery programs. Management is committed to improving the quality of emergency planning, which the Bank generally coordinates with the UN, to identify clear results, accountability and division of labor among national and international partners. This approach is also reflected in the Bank's ongoing work with the UN on post-conflict needs assessments, transitional results frameworks, and disaster needs assessments.

64. The new policy would also acknowledge the vital role of trust funds in supporting emergency recovery programs. It would provide important flexibility to apply a different policy and procedural regime to a given trust fund if so requested by the donor(s) where the

Bank determines that such regime would permit greater implementation efficiency, while meeting the due diligence requirements and development goals underlying the Bank's relevant policies and procedures. As explained in paras. 43 and 44 above, to facilitate a more proactive assistance to weak-capacity borrowers in managing the start-up phases of recovery, the new policy would also enable the Bank to (a) accept, at the borrower's request, alternative implementation arrangements for such start-up activities; and (b) adopt appropriate partnership arrangements with the relevant international agencies, including the UN, for their implementation.

#### ***4. Strategic approach to disaster and crisis prevention***

65. In line with the recommendation of the IEG Evaluation with respect to disasters and experience with fragile states, the new policy would emphasize the importance of a more strategic approach to disaster management and crisis prevention, taking into account the differing vulnerabilities of borrowing countries. To this end, it would:

- note the importance of paying *ex ante* attention to risk reduction in high risk countries as part of core development dialogue, including mainstreaming the diagnosis of natural disaster risk and the inclusion of appropriate measures in Country Assistance Strategies and Poverty Reduction Strategy Papers;
- provide for a more strategic approach to address opportunities for economic and development interventions in fragile states that contribute to stability and peace-building initiatives in-situations of rising conflict risk;
- include among the objectives of emergency operations preventive measures to mitigate or avert the effects of imminent emergencies; and
- set an appropriate framework for a fast-disbursing instrument (such as contingent loan) to respond to future emergencies in high risk countries that have or are building adequate emergency prevention and management systems.

These policy provisions would be complemented by guidance to staff on a strategic approach in disaster risk reduction and recovery for sustainable poverty reduction.

66. ***Contingent emergency support.*** As part of the strategic approach to risk reduction and disaster prevention in countries vulnerable to recurring disasters, the new policy would include a framework for a fast-disbursing emergency response instrument (such as a contingent loan) for use in such countries. As illustrated in Box 3 above, the Bank already has some experience with such projects. The new policy would mainstream the use of the contingent instrument by clarifying the design features, processing steps and implementation regime for such operations. Specifically, since such projects would form part of the government's emergency preparedness and response plan, they are expected to be prepared well in advance of the emergency under standard procedures governing regular investment operations (see OP/BP 10.00, *Investment Lending: Identification to Board Presentation.*) However, to ensure that they provide an effective and rapid response once triggered by the occurrence of an emergency, such projects (a) could incorporate special features available to

all emergency operations, including fast disbursements against a positive list of goods; and (b) would be implemented using rapid response mechanisms and turnaround times for disbursement, procurement and staffing support that would apply to rapid response operations under the new policy.

### C. Measures to Support Implementation of the Proposed New Policy

67. While setting the right policy framework in place is important, policy revisions alone will not achieve the operational and behavioral changes needed to make a substantive difference in the Bank's rapid response capability and function. Therefore, the proposed policy revisions would be supported by several important measures:

- inclusion of the fourth principle in the policy statement, namely, the establishment and maintenance of *appropriate oversight arrangements, including corporate governance and fiduciary oversight, to ensure appropriate scope, design, speed, and monitoring and supervision of rapid response operations*;
- changes to emergency procedures, to be reflected in BP 8.00;
- an initiative to strengthen organizational response to emergencies;
- issuance of comprehensive guidance, toolkits, and a best practice manual to staff on consistent and appropriate implementation of the new policy and procedural requirements,
- continued efforts to enhance cooperation with other partners; and
- monitoring and reporting on implementation of the new policy.

68. ***Corporate governance and oversight.*** To help ensure appropriate application and implementation of the new policy, the fourth guiding principle would specifically provide for the need to establish and maintain appropriate oversight arrangements, including corporate governance and fiduciary oversight, that would apply to all rapid response operations. Such arrangements, reflected in the proposed BP 8.00, would include oversight by the Managing Director, who would be informed of all emergency situations and have the authority to declare and oversee corporate emergencies. They would also include the involvement of the new Rapid Response Committee, composed of senior and experienced staff, and tasked with guiding and supporting the team during all stages of a rapid response operation. Corporate support and guidance to task teams preparing and implementing operations under OP 8.00 also would be provided by the anchor units in OPCS and SDN through specific support with corporate emergencies, membership on the rapid response committees, a rapid response help-desk, training, and other means.

69. ***New emergency procedures.*** The new BP 8.00 would establish the necessary mechanisms for ensuring an adequate level of institutional response to emergency situations, including through the establishment of rapid response committees that can advise on the Bank's strategic response and authorize the deployment on emergency task teams of



experienced and specialized staff. The BP would accelerate and streamline the processing of emergency operations by consolidating internal reviews into one single decision review meeting which authorizes negotiations based on a complete draft negotiations package, eliminating the need for multiple and sequential clearances. To reduce the lag between Board approval and effectiveness, the BP also would provide for the use of negotiations as a one-stop shop for seeking all legal documentation from the Borrower to facilitate timely signature of loans and rapid advance of funds into designated accounts. Rapid delivery of emergency assistance, particularly in the immediate aftermath of an emergency, would be facilitated through BP provisions that empower fiduciary and field-based staff to approve simplified and accelerated procurement methods and, as necessary, to directly contract procurement and project management agents in situations where counterpart capacity is very weak. The BP would also introduce reduced turnaround times for internal Bank actions covering the full project cycle, thereby accelerating the total time it takes to bring projects to effectiveness, but also ensuring efficient delivery of assistance throughout project implementation.

70. ***Strengthening organizational response to crises and emergencies.*** As reflected in the companion paper, *Strengthening the World Bank's Rapid Response and Long-Term Engagement in Fragile States*, the new policy would also be complemented by important organizational and staffing changes that would apply to all rapid response operations. These changes are designed to ensure that rapid response operations are handled by experienced Bank staff in the Regions and all other departments involved in rapid response, and would benefit from proactive support from the anchor units in OPCS and SDN.

71. ***Guidance to staff.*** To support implementation of the new policy, detailed guidelines, good practice manuals, and training materials are under preparation to ensure a proactive roll-out of the new policy and procedures to all staff at headquarters and in country offices. These include the procedural guidelines and the processing steps matrix, that outline to Bank task teams streamlined procedures and steps applicable to emergency operations covering the full project cycle. The procedures would be organized under the following sections: (a) initiation and planning; (b) processing and approval; (c) disbursement, implementation, and supervision; (d) safeguards; (e) establishment and activation of trust funds; and (f) HR policies and procedures. The guidelines would refer task teams to the applicable policies and procedures and, where those are different from standard procedures, streamlined procedures would be detailed. The processing steps and the corresponding target turnaround times for internal Bank reviews/transactions would be attached to the guidelines.

72. In addition to the detailed procedural guidelines and processing steps matrix, guidelines to staff are under preparation to address the following areas:

- complementarity and coordination of Bank activities with other development partners, including specific examples of activities within and outside the Bank's core competencies and comparative advantage;
- fiduciary, safeguards, and design aspects of rapid response operations, with particular attention to:

- specific guidance and best practice examples on addressing different types of emergencies;
- conditions for gradual return to more regular procedures, especially in the areas of procurement and safeguards, without compromising the timely delivery of assistance;
- adoption of simpler and more flexible project design features which focus on immediate needs and activities, taking into account the ability to scale up the Bank's assistance as appropriate in later stages through the use of additional financing; and
- specific examples of successful cash transfer programs, including guidance on oversight, eligibility, and fiduciary arrangements, required for such programs.

Specific guidance also would be issued on the expected intensified supervision of rapid response operations to address and mitigate the increased risks associated with such operations. In line with the current trends showing that, even under the existing policy, more resources are spent on supervision of emergency operations than on supervision of regular investment operations, the projected rapidity and efficiency of preparation of rapid response operations is expected to free up additional resources to be spent on an intensified and proactive supervision of such operations. This would be reflected in guidelines to staff and monitored by OPCS.

73. ***Enhancing cooperation with other partners.*** To enhance Bank cooperation with other partners involved in emergency response, and particularly the UN, in the course of FY 08, Management will work with other development partners to (a) provide continued support to the work of the UN Peace Building commission on integrated peace-building strategies; (b) with the UN, refine the post-conflict needs assessments, damage needs assessments, and transitional recovery frameworks, with the aim of developing clearer upstream agreement on the division of labor, accountability and results between national authorities, the UN, the World Bank, and other development partners; and (c) discuss these approaches to integrated planning with bilateral and multilateral partners at the OECD-DAC, and other appropriate fora. Management will also continue its work with the UN on a fiduciary framework arrangement for the UN/Bank cooperation in emergencies and schedule a discussion with the Audit Committee on the proposed parameters for such arrangements.

74. ***Monitoring and reporting.*** To help monitor consistent application of the new policy across all Regions, it is also proposed that after the new policy has been in effect for two years, Management will prepare for discussion with the Executive Directors a review of the implementation experience under the new policy and suggestions on appropriate modifications, if needed.

#### **D. Complementary Initiatives**

75. There are a number of ongoing initiatives to improve the Bank's rapid response to emergencies as well as to support a more strategic Bank approach to *ex-ante* risk reduction. These include:

- ***Strengthening the World Bank's rapid response and long-term engagement in fragile states:*** an important initiative which is being presented together with this policy reform proposal.
- ***Framework for UN/Bank cooperation in emergencies:*** efforts are underway to reach agreement on a framework for UN/Bank cooperation in an emergency context. Such framework will address fiduciary and related issues for such cooperation and will, *inter alia*, set forth criteria for when the Bank can rely on fiduciary requirements of UN agencies and programs when retained by the borrower or the Bank for implementing recovery activities financed by the Bank or Bank-administered funds.
- ***Quick reaction team for natural disasters:*** the Hazard Risk Management Team, located in the Urban Anchor, is developing a Quick Reaction Team, with a register of staff experienced and trained in developing and managing emergency recovery operations. These teams will continue to provide to Bank staff and clients technical support and training related to disaster risk reduction and emergency response and recovery.
- ***Global facility for disaster reduction and recovery:*** supported by a multidonor trust fund and the Development Grant Facility, this financing mechanism provides support to the UN International Strategy for Disaster Reduction, Bank administered trust funds for country-level technical assistance for risk management, and a proposed grant facility for disaster recovery in IDA countries.
- ***ProVention consortium:*** this Bank partnership launched in 2000 is now hosted by the International Federation of Red Cross and Red Crescent societies and has developed a large number of tools and guidance notes for disaster risk management.
- ***Risk financing working group:*** a Bankwide working group is coordinating the development of a number of *ex ante* risk financing instruments currently being developed by the Bank, which include the Caribbean Catastrophe Risk Insurance Facility, the Global Catastrophe Insurance Facility (a reinsurance mechanism), and an enhanced deferred drawdown option for catastrophe risk, among others.
- ***OECD/DAC high-level meeting in April 2007*** will consider a new commitment on joint cooperation in fragile states including in situations involving post-conflict and deteriorating governance.

#### IV. RECOMMENDATION

76. To improve the effectiveness and impact of the Bank's response to emergencies in line with its increased role in integrated international response, it is recommended that the Executive Directors approve the policy revisions discussed in paras. 27-67 of this paper and summarized below:

- (a) The new policy on rapid response to crises and emergencies would rest on four guiding principles:
  - i. application of rapid response instrument to address major adverse economic and/or social impacts resulting from an actual or imminent natural or man-made crisis or disaster;
  - ii. continued focus of the Bank's direct assistance on its core development and economic competencies and always in line with its mandate, including in all situations where the Bank supports peace-building objectives and relief-to-recovery transitions;
  - iii. close coordination and establishment of appropriate partnership arrangements with other development partners, including the UN, in line with the comparative advantage and core competencies of each such partner; and
  - iv. appropriate oversight arrangements, including corporate governance and fiduciary oversight, to ensure appropriate scope, design, speed, and monitoring and supervision of rapid response operations.
- (b) The Bank would provide a rapid response to a borrower's request for urgent assistance in respect of an event that has caused, or is likely to imminently cause, a major adverse economic and/or social impact associated with natural or man-made crises or disasters.
- (c) Such assistance may include one or more of the following: (i) immediate support in assessing the emergency's impact and developing a recovery strategy; (ii) an emergency recovery loan; (iii) restructuring operations within the Bank's existing investment portfolio for the country to support recovery activities including provision of additional financing under OP/BP 13.20 for such activities; (iv) redesigning investment projects not yet approved to include recovery activities; and (v) a contingent emergency loan to countries at high risk of natural disasters.
- (d) In all cases, the Bank's rapid response to a request for urgent assistance should be adapted in form and scope to the emergency's particular circumstances. It should also take into account the Bank's assistance strategy for the country. The country lending program may be adjusted to accommodate emergency operations, normally within the country's general lending allocation, taking credit risk and IDA lending policies into account.

- (e) The Bank may provide rapid response in support of one or more of the following objectives: (i) rebuilding and restoring physical assets; (ii) restoring the means of production and economic activities; (iii) preserving or restoring essential services; (iv) establishing and/or preserving human, institutional and/or social capital, including economic reintegration of vulnerable groups; (v) facilitating peace building; (vi) assistance with crucial initial stages of capacity building for longer-term reconstruction, disaster management and risk reduction; and (vii) supporting measures to mitigate or avert the potential effects of imminent emergencies or future emergencies or crises in countries at high risk.
- (f) While focusing direct assistance on areas of its core development and economic competencies, in response to a borrower's request the Bank may (i) extend such assistance to all borrower agencies and institutions involved in the emergency recovery effort; and/or (ii) support, in partnership with other donors, an integrated emergency recovery program that includes activities outside the Bank's traditional areas, such as relief, security and specialized peace-building activities. The Bank recognizes the lead of other international institutions, in particular the UN, in such activities, and will form appropriate partnership arrangements with other donors for the preparation, appraisal, and supervision of activities outside its core competencies in line with the comparative advantage and core competencies of each such donor.
- (g) Emergency operations would not address long-term economic issues, including those triggered by economic shocks and that require a policy response from the government normally supported by the Bank through development policy operations. They should also not include any conditions other than those directly related to the emergency recovery activities and, if appropriate, to preparedness and mitigation.
- (h) The duration of emergency operations would be realistically linked to the issues being addressed.
- (i) The Bank would recognize both the inherent risks involved in working in emergency situations, including the risks and lost opportunities associated with a delayed response, and the critical importance of speed, flexibility, and simplicity to an effective rapid response. As a result, emergency operations:
  - i. would be processed under accelerated, consolidated, and simplified procedures, and would be subject to streamlined *ex-ante* requirements (including in fiduciary and safeguards areas);
  - ii. would involve a different balance between *ex-ante* and *ex-post* controls and risk-mitigation measures, compared to regular operations, including on issues of fraud and corruption, and would require intensified supervision support to address such risks;

- iii. may include Bank financing of up to 100 percent of the expenditures needed to meet the development objectives of such operations, including recurrent expenditures, local costs, and taxes;
  - iv. may include retroactive financing of up to 40 percent of the loan amount for payments made by the borrower not more than 12 months prior to the expected date of signing the legal documents;
  - v. may include a quick-disbursing component designed to finance a positive list of goods that are
    - required for the borrower's emergency recovery program; and
    - procured following procedures that satisfy the requirements of economy and efficiency (normally the national emergency procurement procedures of the borrower); and
  - vi. may benefit from a PPF advance of up to US\$5 million to cover start-up emergency response activities; to reflect the debt sustainability framework adopted under IDA14, PPF advances provided in emergency situations to countries at high risk of debt distress which are eligible for IDA grants only would be provided on grant terms.
- (j) To maximize Bank assistance in an emergency context, at the borrower's request, the country director may approve a temporary increase in the cost-sharing limits in all Bank-financed operations in a country.
- (k) In exceptional circumstances, where the borrower's capacity to implement the needed emergency response activities is insufficient, the Bank may, at the request of the borrower, agree to alternative implementation arrangements for such activities. These may include grants to (i) public or private entities operating in the affected territory; (ii) UN agencies or programs; or (iii) other international or national agencies (including NGOs) active in the country. In all such situations, alternative implementation arrangements would be limited to early recovery and used in operations that include capacity-building measures to enable a timely transfer of the implementation responsibilities to the borrower.
- (l) To facilitate the timeliness and effectiveness of alternative implementation arrangements, the Bank may (i) accept, at the borrower's request, alternative implementation arrangements for start-up activities in weak-capacity environments, and (ii) adopt appropriate partnership arrangements with the relevant international agencies, including the UN, for implementation of such activities.
- (m) In exceptional circumstances, where no viable implementation alternatives exist, the Bank may execute start-up emergency activities at the request of a recipient country either under a PPF advanced on grant terms or a trust fund grant. Each proposal for Bank execution of start-up activities on behalf of the recipient would

have to be (i) authorized by the Managing Director responsible for the Region concerned; and (ii) limited to technical assistance and small contracts for start-up goods and works necessary to enable the recipient to undertake the execution of subsequent project activities.

- (n) Harmonization, collaboration, and cooperation with other development partners—including participation in joint strategy discussions and conducting activities in concert with them—would be recognized as key to mobilization of needed resources and to a successful response to an emergency. In this respect, trust funds can play a vital role. To ensure maximum coordination, harmonization, and flexibility when administering trust funds in the context of an emergency, the Bank would be able to agree to administer such trust funds in accordance with specific policies and procedures agreed with the trust fund's respective donor(s) and to joint preparation, appraisal, and supervision of activities supported under trust funds.
- (o) Recognizing the importance of integrating risk reduction and crisis prevention in development strategies of countries at high risk for disasters or rising conflict, policies and procedures intended to reduce the impact of future disasters or crises, including prevention and mitigation measures, should be an integral part of the Country Assistance Strategies, Interim Strategy Notes, and Poverty Reduction Strategy Papers of such countries.
- (p) Within the framework of these strategies, the Bank would be able to provide technical assistance and finance investments to build a country's capacity for emergency preparedness and management through regular investment operations. Such investment operations could also include a contingent emergency support component that would enable the borrower to withdraw loan funds during a defined drawdown period upon occurrence of a pre-specified emergency.
- (q) The Bank could also provide stand-alone contingent emergency loans to high-risk countries determined by the Bank to have appropriate institutional and implementation capacity to respond to emergencies. Projects that provide contingent emergency support (i) would be processed as investment operations under OP/BP 10.00; (ii) may disburse against a positive list of goods required under the borrower's emergency recovery plan; and (iii) once triggered, would be subject to the policy and procedures set out in the proposed OP and BP 8.00 (Annex D).

77. **Implementation steps.** If the Executive Directors approve this recommendation, Management will issue a new OP/BP 8.00, *Rapid Response to Crises and Emergencies* (see Annex D) and guidance to staff (see Annexes F and G) to facilitate implementation of the new policy and procedures. The new policy would apply to emergency operations submitted for the approval of the Executive Directors on or after March 1, 2007. However, to permit an orderly transition, emergency operations under preparation in response to borrower requests for emergency assistance received by the Bank before March 1, 2007, may be processed under OP/BP 8.50.





LEGAL OPINION ON PEACE-BUILDING, SECURITY, AND RELIEF ISSUES UNDER THE  
BANK'S POLICY FRAMEWORK FOR RAPID RESPONSE TO CRISES AND EMERGENCIES

Senior Vice President and Group General Counsel

March 22, 2007

Introduction

1. This opinion<sup>1</sup> discusses the legal considerations relating to peace-building, security, and relief issues under the Bank's new policy framework for rapid response to crises and emergencies.<sup>2</sup> The new policy framework, which is reflected in Operational Policy ("OP") 8.00, *Rapid Response to Crises and Emergencies*,<sup>3</sup> is designed to improve flexibility, speed, and effectiveness of emergency responses, and it replaced the Bank's previous policy framework on emergency recovery loans.<sup>4</sup>

2. The new policy provides that, at the request of a member country, the Bank may support an integrated emergency recovery program that facilitates peace-building objectives and includes activities in the areas of peace-building, security, and relief.<sup>5</sup> The Bank may also extend its assistance to member-country agencies and institutions involved in emergency recovery efforts. However, the policy emphasizes that, when engaging in peace-building, security, and relief matters, the Bank will focus on its core economic and development competencies and develop appropriate partnership arrangements with other donors for the appraisal and supervision of peace-building, security, and relief activities in line with the comparative advantage and core competencies of each donor.<sup>6</sup>

3. Any activities financed or carried out by the Bank under OP 8.00, including those involving peace-building objectives or those with linkages to integrated recovery

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<sup>1</sup> This opinion is based on a legal note prepared at the request of the Committee on Development Effectiveness during a discussion of the Bank's new policy framework for rapid response to crises and emergencies on January 31, 2007. The new policy framework was approved on February 27, 2007.

<sup>2</sup> In this opinion, unless expressly indicated to the contrary or the context requires otherwise, references to "the Bank" or the "World Bank" include both the International Bank for Reconstruction and Development ("IBRD") and the International Development Association ("IDA") in their respective institutional capacities and as administrators of trust funds; the "Board" denotes the Executive Directors of IDA and of IBRD; "borrower" includes a borrower of an IBRD loan and a recipient of an IDA credit or grant or of a grant from a Bank-administered trust fund; "Articles" means both IDA's and IBRD's Articles of Agreement; "lending" includes making an IBRD loan, an IDA credit, an IDA grant, and a grant from a Bank-administered trust fund; "loans" include IBRD loans, IDA credits and grants, and grants from Bank-administered trust funds; and "loan agreement" includes an agreement between the Bank and the borrower providing for an IBRD loan, an agreement between the Bank and a recipient of IDA financing (through a credit or a grant), and an agreement between the Bank, as administrator of a trust fund, and a recipient of a grant from that trust fund.

<sup>3</sup> OP 8.00 (March 2007) is accompanied by Bank Procedures ("BP") 8.00 (March 2007).

<sup>4</sup> The previous policy and procedures relating to emergency recovery loans were set out in OP/BP 8.50, *Emergency Recovery Assistance* (August 1995).

<sup>5</sup> See OP 8.00 at paragraph 5.

<sup>6</sup> Ibid.

programs that include peace-building, security, and relief activities, must be consistent with the legal parameters set out in the Articles and as interpreted by the Board. This opinion discusses those parameters as well as certain operational considerations for the Bank's engagement in peace-building, security and relief activities. These operational considerations could be suitably incorporated into guidelines to provide detailed operational guidance for Bank staff.

### Relevant Legal and Policy Considerations

4. **Bank's Purposes and Mandate.** All of the Bank's decisions must be guided by its purposes.<sup>7</sup> According to Article I of IBRD's Articles, those purposes include, among other things:

[to] assist in the reconstruction and development of territories of members by facilitating the investment of capital for productive purposes, including the restoration of economies destroyed or disrupted by war, the reconversion of productive facilities to peacetime needs and the encouragement of the development of productive facilities and resources in less developed countries.<sup>8</sup>

5. Similarly, Article I of IDA's Articles declares that the Association's purposes are to promote economic development, increase productivity, and raise standards of living in less developed areas within the Association's membership.<sup>9</sup> These purposes determine the nature, scope, and limitations of the Bank's development mandate and the activities undertaken in furtherance of that mandate.

6. The Bank's Articles, including its purposes, must be interpreted in a dynamic, reasonable, and responsible way that takes into account the changing nature of development and the interests of the Bank's membership.<sup>10</sup> This interpretative approach has been consistently applied over the years to enable the Bank to respond to a variety of new demands for international development assistance and expertise. It has also allowed the Bank to make new interventions through policy changes in response to the evolving needs of its member countries and the broader development agenda, while acting within its mandate as defined by the purposes in the Articles.<sup>11</sup>

<sup>7</sup> See IBRD Articles of Agreement, Article I and Memorandum from the Vice President and General Counsel, *Authorized Purposes of Loans Made or Guaranteed by the Bank*, SecM-88-517 (May 10, 1988).

<sup>8</sup> See IBRD Articles of Agreement, Article I.

<sup>9</sup> See IDA Articles of Agreement, Article I.

<sup>10</sup> See Senior Vice President and General Counsel, *Legal Note on Development Policy Lending* (July 26, 2004) and *Authorized Purposes of Loans Made or Guaranteed by the Bank*, *supra* note 7.

<sup>11</sup> See, e.g., *Legal Note on Development Policy Lending*, *supra* note 10 (the "special circumstances" provision in the Articles can be applied to assist borrowers in addressing their actual or anticipated development financing requirements that have either domestic or external origins); and Vice President and General Counsel, *Police-Related Activities under the Afghanistan Reconstruction Trust Fund* (March 26, 2002) (the Bank may act as a fiscal agent for a multi-donor trust fund that will finance police expenditures).

7. **Productive Purposes Requirement.** Within the context of the Bank's purposes, the concept of "productive purposes"<sup>12</sup> figured prominently in the *travaux préparatoires* of the Articles. This concept has consistently been reiterated in the Bank's policy and practice over the last 60 years.<sup>13</sup> It applies to both investment and policy-based lending as well as to other activities, including financing through Bank-administered trust funds.

8. **Political Prohibition.** All decisions and activities undertaken in furtherance of the Bank's purposes and its development mandate must be consistent with the other provisions in the Articles. Prominent among these provisions is the "political prohibition." The prohibition encompasses two separate, but inter-related, requirements. The first is that the Bank and its officers must not interfere in the "political affairs" of a member country, nor may they be influenced in their decisions by the "political character" of a member country.<sup>14</sup> The second requirement enjoins the Bank to ensure that only economic considerations are relevant to its decisions, and that these considerations are weighed impartially in order to achieve the Bank's purposes. The political prohibition is a key factor in determining how the Bank should respond to each situation.<sup>15</sup>

9. **Economy and Efficiency Requirements.** Another relevant provision is the requirement that the Bank make arrangements to ensure that loan proceeds are used only for their intended purposes and "with due attention" to economy and efficiency and without regard to political or other non-economic influences or considerations.<sup>16</sup> This requirement is also the legal basis for the Bank's fiduciary and operational policies on disbursement, appraisal, supervision, financial management, and procurement, which govern the manner in which the Bank administers its portfolio.

10. **Key Guiding Principles.** In addition to the Articles provisions discussed above, any direct or indirect Bank interventions with peace-building objectives or involving linkages with integrated programs involving issues of peace-building, security, and relief must be consistent with the "guiding principles" for Bank engagement in conflict-

<sup>12</sup> See IBRD Articles of Agreement, Article I (ii).

<sup>13</sup> See *Authorized Purposes of Loans Made or Guaranteed by the Bank*, *supra* note 7. The productive-purposes requirement was introduced by the framers of the Articles, who wanted to avoid the negative experience of past international lending when various ingenious schemes had been devised to exploit creditors, customers, and competitors in international trade. As the Bank's practice reveals, productive purposes can be served, among other things, by specific, direct, and visible development activities in such areas as agriculture and industry; through financing infrastructure and technical assistance; by providing facilities and materials for social sectors, such as education and health; as well as in the form of support for general imports. See *ibid*.

<sup>14</sup> See IBRD, Articles of Agreement, Article IV, Section 10 and IDA Articles of Agreement, Article V, Section 6.

<sup>15</sup> In this context, it should be noted that, the Bank's General Counsel, at the request of the Board, opined that the Bank should refrain from advising its members on any determination of the appropriate level of military expenditures, since this determination is based on strategic and political considerations, and thus falls outside its legally authorized powers. See Vice President and General Counsel, *Statement on Whether Public Expenditure and Military Expenditure in Particular Fall within the Bank's Mandate* (December 13, 1991).

<sup>16</sup> See IBRD Articles of Agreement, Article V, Section 5 (b) and IDA Articles of Agreement, Article V, Section 1(g).

affected areas, which are codified in OP 2.30, *Development Cooperation and Conflict* (January 2001). Those principles, some of which are derived from the Articles themselves, may be summarized as follows:

- (i) the Bank has a development mandate and is not a world government;
- (ii) the Bank may not engage in peacemaking or peacekeeping, as they are UN functions;
- (iii) financing may not be provided for disarming combatants or humanitarian relief;
- (iv) the Bank may not operate in a territory without member country's approval;<sup>17</sup>
- (v) Bank assistance for a conflict-affected area may be initiated by requests from international community as properly represented; and
- (vi) the Bank's resources and facilities may be used only for the members' benefit; however, the Bank may assist non-members if this assistance would benefit its membership as a whole.<sup>18</sup>

11. The following discussion elaborates on how the above-mentioned parameters apply to the particular issues of peace-building, security, and relief.

#### **Peace-Building and Security**

12. **What is Peace-Building?** The term "peace-building," which was first endorsed by the United Nations, is generally understood to encompass all activities that are needed to help a country move from war to peace.<sup>19</sup> According to the United Nations, peace-building includes the broad spectrum of reconstruction and institution-building efforts necessary for a country to recover from conflict and that support the development of integrated strategies in order to lay the foundation for sustainable development.<sup>20</sup> The principal goal of peace-building is to help states and societies manage the difficult transition from war to peace.<sup>21</sup> A similar objective is found in IBRD's Articles, which specifically recognize the institution's role in reconstruction and restoration following

<sup>17</sup> Where there is a de-facto government in power, the Bank follows its policy on de-facto government set out in OP 7.30, *Dealings with De Facto Governments* (July 2001) and in accompanying bank procedures outlined in BP 7.30.

<sup>18</sup> See OP 2.30 at paragraph 3.

<sup>19</sup> See Boutros Boutros-Ghali, *An Agenda for Peace*, UN Doc. A/47/277 – S/24111 (June 17, 1992) at paragraph 21 ("Preventive diplomacy seeks to resolve disputes before violence breaks out; peacemaking and peace-keeping are required to halt conflicts and preserve peace once it is attained. If successful, they strengthen the opportunity for post-conflict peace-building, which can prevent the recurrence of violence among nations and peoples") and High-level Panel on Threats, Challenges, and Change, *A More Secure World: Our Shared Responsibility*, UN Doc. A/59/265 (December 2, 2004).

<sup>20</sup> See United Nations Security Council Resolution No. 1645 and United Nations General Assembly Resolution No. 60/180 (December 20, 2005) (establishing the Peace-Building Commission).

<sup>21</sup> See Secretary General of the United Nations, *Remarks on the General Assembly's Endorsement of the Peace-Building Commission*, SG/SM/10277 GA/10440 (December 20, 2005).

war.<sup>22</sup> It is also affirmed by the Bank's approach toward development cooperation and conflict outlined in OP 2.30.

13. According to OP 2.30, the Bank recognizes that conflict within or between countries adversely affects the Bank's core mission of poverty reduction. Therefore, the Bank's objectives and work in relation to conflict vary depending on the actual situation on the ground. In countries that are vulnerable to conflict, the Bank uses its usual instruments (such as the country assistance strategy) to promote economic growth and poverty reduction through development assistance that minimizes potential causes of conflict.<sup>23</sup> In countries in conflict, the Bank's objectives are to: (i) continue efforts at poverty reduction and maintenance of socio-economic assets where possible; (ii) provide, where requested by its partners, information on the socio-economic impact of emergency assistance; (iii) analyze the impact of conflict on economic and social development; and (iv) prepare to render assistance as opportunities arise. Finally, in countries in transition from conflict, the Bank's aim is to support economic and social recovery and sustainable development through investment and development policy advice with particular attention to the needs of war-affected groups, which are vulnerable due to gender, age, or disability.<sup>24</sup>

14. A wide variety of activities could conceivably be undertaken in pursuit of the broad goal of "peace building."<sup>25</sup> Some of these activities may fall within the Bank's development mandate, such as capacity building for governmental agencies, financial support and technical assistance for economic reconstruction, rebuilding legal and judicial systems, and financing labour-intensive employment initiatives.<sup>26</sup> However, other activities, such as peace-keeping, disarmament of combatants, negotiation of peace accords, or other political reconciliation processes, and organizing and holding elections, would clearly be outside the Bank's legal authority.<sup>27</sup>

15. **Peace-Building and Security under the New Policy Framework.** Under the guiding principles outlined in OP 8.00, the Bank would continue to focus its interventions on its core development and economic competencies.<sup>28</sup> However, in response to a

<sup>22</sup> See IBRD Articles of Agreement, Article I and Article III, Section 1 (b) (IBRD may lighten the financial burden where appropriate to facilitate "the restoration and reconstruction of the economy of members whose metropolitan territories have suffered great devastation from enemy occupation or hostilities").

<sup>23</sup> See OP 2.30 at paragraph 2.

<sup>24</sup> Ibid.

<sup>25</sup> See United Nations Peace-Building Commission, *Draft Concept Note on the Design of Integrated Peace-building Strategies* (February 1, 2007) (an integrated peace-building strategy would include all aspects critical to sustain a country's transition from conflict to sustainable peace and help reduce its risk of relapse into conflict; elements of such a strategy would cover security and public order, justice and reconciliation, governance and participation, and socio-economic recovery and reconstruction issues).

<sup>26</sup> See, e.g., *Low Income Countries Under Stress Implementation Trust Fund: Request for Second Replenishment*, R2006-0195, IDA/R2006-0205 (November 6, 2006) at paragraph 21, footnote 9.

<sup>27</sup> It should be noted, however, that the Bank may provide, and has provided, technical assistance and support for economic reconstruction and planning in the context of peace accords.

<sup>28</sup> See OP 8.00 at paragraph 1.

member country's request, the Bank may support, in partnership with others, an integrated emergency recovery program that includes activities in areas outside its traditional core competencies, such as peace-building, security, and relief.<sup>29</sup> The Bank may extend its assistance within the areas of its core competencies (e.g., support for infrastructure, public financial management, and capacity building) to "all borrower agencies and institutions" involved in the emergency recovery effort.<sup>30</sup> Finally, in the course of supporting programs with such linkages and focusing on its core economic and development competencies, OP 8.00 enables the Bank to develop appropriate partnership arrangements with other donors for the preparation, appraisal, and supervision of relief, security, and peace-building activities in line with the comparative advantage and core competencies of each donor.<sup>31</sup>

16. The policy framework in OP 8.00 regarding the Bank's approach to peace-building and security matters in response to crises and emergencies is broadly consistent with the Bank's mandate as set out in the Articles and the legal considerations discussed above. However, any activities financed, or carried out, by the Bank under the OP 8.00 must be designed and implemented in accordance with the legal considerations, discussed above, as well as by observing applicable operational considerations, discussed below.

#### **Operational Considerations for Bank Engagement in Peace-Building and Security Matters**

17. **Preliminary Considerations.** It is difficult to formulate a one-size-fits-all approach to the Bank's involvement in peace-building and security matters. As a threshold matter, in every situation where the Bank is involved with peace-building and security issues, its proposed activities must be consistent with the legal principles discussed earlier. The Bank must also engage in a serious and carefully structured analysis of the potential reputational and operational risks that it could face from its involvement in peace-building and security matters. To ensure adherence to the above-mentioned legal and policy framework, the Bank's engagement in peace-building, security and relief activities should also take into account the operational considerations discussed below.

18. **Focus on Core Competences.** The Bank's approach to handling any peace-building and security issues should be primarily based on its core economic and development competences (such as generic development planning or public finance capacity-building). While the economic and development matters that squarely fall within the Bank's competences cannot be addressed in isolation from the wider peace and security sphere,<sup>32</sup> certain activities, in particular those activities envisaged under OP 8.00

<sup>29</sup> See OP 8.00 at paragraph 5.

<sup>30</sup> Ibid.

<sup>31</sup> Ibid.

<sup>32</sup> See Operations Policy and Country Services ("OPCS"), *Fragile States: Good Practice in Country Assistance Strategies* (December 19, 2005).

that involve peace-building, security, and relief matters should be led by other donors and institutions with the mandate and expertise to handle these matters.<sup>33</sup>

19. **Harmonization of Efforts.** When the Bank is asked to support broad or integrated recovery programs with linkages to such activities as peace-building, security, and relief, the Bank would do so only in close partnership with other donors. The Bank's support for broad recovery programs and its participation in donor partnerships must be based on a careful analysis of relevant legal considerations and reputational implications.<sup>34</sup> When supporting broad and integrated programs and participating in donor partnerships, the Bank must exercise care to ensure that it does not endorse, nor is seen as endorsing, controversial program components or activities, those that pose a reputational risk, or those that are inconsistent with the political prohibition. Moreover, the Bank should clearly specify that its focus is on those areas that are within its legal authority to address.<sup>35</sup> Care should also be taken by Bank staff to avoid the perception that it is encouraging other donors to take particular positions on matters that are outside the Bank's mandate.

20. **Request from Member States and International Community.** In addition to the other legal and policy considerations discussed here, any involvement by the Bank, within the boundaries of its mandate, in peace-building and security matters must be based on clear country ownership of the proposed activities, as evidenced by a specific request from the member country. If there is no proper government in place in a state or territory, the Bank's engagement may be based on the request of the international community as properly represented.<sup>36</sup> If the United Nations is closely involved in peace-building and security arrangements, the Bank's intervention may have to be tailored in accordance with applicable provisions of the Bank's relationship agreement with the United Nations.<sup>37</sup>

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<sup>33</sup> Ibid. at paragraph 46.

<sup>34</sup> One example of the Bank's partnership with other donors in response to an emergency or post-conflict situation involved the creation of the Afghanistan Reconstruction Trust Fund ("ARTF"). This trust fund was established in 2002 as a multi-donor mechanism to finance reconstruction efforts in Afghanistan. At the express request of the donors, a portion of ARTF's finances were to be used to finance certain police-related expenses. These expenses were considered necessary given the extraordinary linkage between development and security in Afghanistan. Given the Bank's mandate limitations, it was agreed that UNDP would be responsible for the administration and management (including appraisal, implementation, disbursement, and supervision) relating to these expenditures. The Bank's role would be confined only to that of a fiscal agent. Moreover, the ARTF would not fund expenditures related to the military, paramilitary, intelligence services, anti-narcotics campaigns, and weapons of all kinds, because of the nature of such expenditures.

<sup>35</sup> At an operational level, the limitation of the Bank's support to areas within its mandate can be clarified through the legal agreements for the specific operation or in a memorandum of understanding among the Bank, other donors, and the member country borrower or recipient. See OPCS, *Development Policy Operations and Program Conditionality in Fragile States* (June 2005) at Box 8.

<sup>36</sup> See OP 2.30 at paragraph 3 (b).

<sup>37</sup> See Agreement between the United Nations and the International Bank for Reconstruction and Development, approved by IBRD's Board of Governors on September 16, 1947. IDA has entered into a similar relationship with the United Nations.

21. **Consistency with Other Policies.** The Bank's approach to peace-building and security matters under OP 8.00 must be consistent with the requirements of other applicable and relevant operational policies, such as OP 2.30 (in cases involving conflict-affected areas or post-conflict situations); OP 4.01, *Environmental Assessment* (January 1999) and related safeguard policies (to handle any environmental and social impacts from carrying out activities); OP 7.30, *Dealings with De Facto Governments* (July 2001) (in cases involving de-facto governments); and OP 14.40, *Trust Funds* (February 1997) (where trust funds have been established to respond to a specific need).

22. **Assessment of Legal and Reputational Considerations.** As stated earlier, there is not always a bright-line test to determine those peace-building and security-type activities in which the Bank may legitimately engage. Each proposal must be carefully evaluated based on various operational and legal considerations. The Bank's work with conflict-affected areas and fragile states contains some noteworthy examples of support for programs that include peace-building and security dimensions. Those examples include reintegration of disarmed ex-combatants, de-mining operations, and capacity building for the overall public sector including parliament and security-sector institutions in matters such as fiscal and financial management. In each of these cases, a careful assessment is made of the various legal and reputational aspects before the Bank lends its support.<sup>38</sup>

#### Treatment of Relief

23. **Relief under the New Policy Framework.** The Bank has refrained from financing humanitarian relief in the aftermath of a humanitarian disaster. OP 8.50 contained an illustrative list of relief activities that the Bank may not finance as part of an emergency recovery operation.<sup>39</sup> OP 8.00 does not include a similar illustrative list of relief activities. Instead, the new policy framework reflects the increasingly accepted position that there exists a continuum between relief and recovery stages in emergency responses and clarifies that activities that are part of a government's transitional safety net programs, including cash payments, grant or micro-credit programs, and reintegration packages extended to vulnerable groups, would be eligible for financing.

24. In practice, the policy change reflected in OP 8.00 does not represent a significant departure from the Bank's rules for involvement in cases of complex emergencies. Rather, the effect is to facilitate and speed up the Bank's ability to respond to the specific demands of each situation. The illustrative list of relief activities, which could not be financed under OP 8.50, included search and rescue, evacuation, food and water distribution, temporary sanitation and health care, and temporary shelter. The new policy framework would allow the Bank to finance those activities in certain emergency cases if

<sup>38</sup> In the ARTF example mentioned earlier, the legal and reputational issues raised by the fiscal-agency arrangement were carefully debated by management and discussed by the Board. They were also the subject of a legal note issued by the General Counsel. See *Police-Related Activities under the Afghanistan Reconstruction Trust Fund*, *supra* note 11.

<sup>39</sup> See OP 8.50 at footnote 4.



they can be shown to meet the general legal considerations, discussed above, including the productive purposes requirement, and other specific requirements, discussed below.

**25. Role of Other International Organizations.** The Bank's emergency responses, and the activities that it finances, must remain consistent with the prevailing division of labor among international organizations and their efforts to have a coordinated response to complex emergencies.<sup>40</sup> For instance, activities involving food and water distribution, temporary sanitation and health care and temporary shelter are currently handled by such UN entities, as the World Food Program, the World Health Organization, the United Nations Children's Fund ("UNICEF"). Relief activities directed more specifically at refugees and internally displaced persons, such as the setting up and management of refugee camps and the evacuation or resettlement of displaced persons, are handled by organizations such as the Office of the U.N. High Commissioner for Refugees and, in cases of conflict, the International Committee of the Red Cross. These are all activities which presumptively would remain ineligible for Bank financing.

**26. Financing of Ancillary Activities.** A program of reconstruction activities to be financed by the Bank might include certain ancillary activities which, on their own, might be characterized as relief activities, but are essential to the success of the overall Bank-financed program. The Bank may be able to finance these ancillary activities if they can be shown to: (i) be integrally linked and a necessary part of the overall program; (ii) satisfy the legal requirements discussed earlier; and (iii) avoid overlaps with the activities of other agencies.<sup>41</sup> In such cases, the key determinant of whether an activity would be eligible for financing would not be the type of activity *per se*, but whether a sufficient link can be made between a component and the larger context and outcome of the program. This determination would have to be made on a case-by-case basis in light of a careful analysis of these considerations.

**27. Practices of Other Multilateral Development Banks.** Other multilateral development banks have taken a similar approach in the context of emergency recovery operations. The Inter-American Development Bank's policy on emergency responses

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<sup>40</sup> As a legal matter, the Articles recognize the Bank's ability to cooperate with other international organizations. See IBRD Articles of Agreement, Article V, Section 8 (IBRD may cooperate with any general international organization and may consider another organization's views when making decisions on applications for loans or guarantees relating to matters directly within the competence of that organization); and IDA Articles of Agreement, Article VI, Section 7 (IDA may enter into cooperation arrangements with other international organizations).

<sup>41</sup> This was the case, for instance, in India, where an exception to the limitations imposed by OP 8.50 was granted by the Managing Director for the Emergency Tsunami Reconstruction Project (P094513) to finance construction of transit shelters and upgrading services in temporary shelter sites, such as water supply, basic sanitation, solid waste management systems, storm drains and other community facilities. While these activities all fell under the list of relief activities excluded from Bank financing under footnote 4 to OP 8.50, they were deemed necessary to enable families to undertake their own housing reconstruction. The temporary shelter was only provided to those families who oversaw and undertook the reconstruction of their housing *in situ* – with temporary shelters being constructed in close proximity to the construction sites. The activities, although technically classified as relief, were deeply intertwined with the main objective and activity of the project, which was the permanent reconstruction of the damaged housing and communities.

recognizes that certain types of relief activities may be financed on the basis that they constitute productive purposes.<sup>42</sup> That policy appears to proceed from the recognition that there is no clear distinction between the various phases of emergency assistance, especially during and after the emergency.<sup>43</sup>

28. The African Development Bank allows financing of humanitarian relief in exceptional situations if three requirements are met: (i) the emergency situation must be of a scale that is clearly beyond the capacity of the country and its own agencies; (ii) emergency humanitarian relief assistance should be limited to cases where it is established that the proposed activities can be carried out expeditiously and effectively within the required time frame; and (iii) humanitarian relief should aim at restoring a degree of normalcy as quickly as possible.<sup>44</sup> While the Asian Development Bank's recovery policies focus on rebuilding infrastructure, they recognize the need to complement relief activities and collaborate with relief agencies. The Asian Development Bank also permits economic support for displaced persons.<sup>45</sup>

29. **Need for Staff Guidelines.** As emergency operations increasingly include cash or other transitional-safety-net payment schemes, specific guidelines should be developed based on the Bank's experience in implementing such payment schemes. Staff guidelines on such schemes, in addition to staff guidance regarding OP 8.00, could help ensure that the schemes are properly overseen and implemented in order to comply with the Articles requirement that Bank funds are used for productive purposes, for their intended uses, and with due regard to considerations of economy and efficiency. Moreover, it should be noted that, with the adoption of these changes, consequential clarifications will have to be made to OP 2.30, which also contains a prohibition on the Bank's financing of relief activities.<sup>46</sup>



Ana Palacio  
Senior Vice President and Group General Counsel

<sup>42</sup> See Inter-American Development Bank, Sectoral Operational Policy 704, *Natural and Unexpected Disasters* (updated December 1998).

<sup>43</sup> The Inter-American Development Bank's policy reads in relevant part as follows: "It should be acknowledged that under this policy statement no clear dividing line can be drawn between the rehabilitation and the reconstruction phase, since the latter often overlaps the former. Bank staff in consultation with the country's government and the Country Office should determine this boundary on a case-by-case basis." Inter-American Development Bank, Sectoral Operational Policy 704, *Natural and Unexpected Disasters* (updated December, 1998).

<sup>44</sup> See African Development Bank, *Emergency Assistance Policy Guidelines* (April 1998).

<sup>45</sup> See Asian Development Bank, *Disaster and Emergency Assistance Policy*, Doc. R71-04 (2004).

<sup>46</sup> See OP 2.30 at paragraph 3 (a) (stating that the Bank does not provide humanitarian relief, which is a function assumed by other donors).