

INTERIM REPORT
OF THE
GRAMEEN BANK COMMISSION

09 February 2013

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A. Introduction

Appointment of the Commission and its Terms of Reference:

1. A Commission of Inquiry has been constituted, under Section 3 of The Commissions of Inquiry Act 1956 (“**the Act**”), by a Notification of the Government of People’s Republic of Bangladesh made on the 15 May 2012 and published in the Bangladesh Gazette on May 27, 2012¹ (“**Notification**”). This Commission is referred to in this Interim Report as the “**Commission**”.
2. The Commission has been appointed to consider certain specified matters in the Terms of Reference (“**TOR**”) relating to Grameen Bank established under the Grameen Bank Ordinance 1983 (“**the Ordinance**”)² and “*the institutions, companies and enterprises established by the Grameen Bank*” (“**Associated Organisations**”). These include, inter alia, identifying “*the institutional strengths, weaknesses and constraints in the operation of Grameen Bank from its inception till 2010*”³; “*recommend measures for ensuring good governance in Grameen Bank*”⁴; “*comment on the ownership of the Grameen Bank and composition of its Board of Directors specifying qualification for such membership*”⁵ and also “*to review and recommend the regulatory institution and mechanism of Grameen Bank*”⁶.
3. The other part of the Commission’s task is to “*review the purpose, legal status and operations of the [Associated Organisations]*”⁷; “*recommend ... a scheme for defining the relationship of these institutions with Grameen Bank*”⁸ and to ensure adequate transparency and accountability so that benefits from operation of these institutions flow to Grameen Bank.⁹
4. The responsibility for providing the Commission with office space, transportations and secretarial facilities was placed on Grameen Bank.
5. The Commission was requested submit its findings in the form of a Report within three months.

¹ Ministry of Finance: Notification No.53.007.027.01.012.2010-217

² Grameen Bank Ordinance No. XLVI of 1983: dated 4th September 1983

³ TOR (i)

⁴ TOR(ii)

⁵ TOR(vi)

⁶ TOR(vii)

⁷ TOR (iii)

⁸ TOR(iv)

⁹ TOR(v)

Members of the Commission

6. The Commission was set up with the following members

Janab Mamun Ur Rashid	President (সভাপতি)
Barrister Ajmalul Hossain, QC	Member
Janab Moslehuddin Ahmed, FCA	Member
Dr. M.A. Kamal Director-General, Planning Development Academy	Member-Secretary

7. Janab Mamun ur Rashid, Barrister Ajmalul Hossain QC, Janab Moslehuddin Ahmed and Dr. M. A. Kamal took up their appointments soon after the setting up of the Commission.
8. Mr. Moslehuddin Ahmed has been unable to join in the work and deliberations of the Commission in person as he was, unfortunately diagnosed with a serious medical condition, for which he needed continuous medical attention in the U.K. However, he has been kept informed of the major developments involving the work of the Commission and he has provided his observations and comments on the issues from time to time. He has since joined the Commission in person and participated in its deliberations leading up to the Interim Report.
9. Dr. M. A. Kamal subsequently resigned from his position on the Commission on the 24 September 2012 with immediate effect on undisclosed personal grounds and proceeded to the USA. The vacancy that has arisen on the Commission as a result of Dr. Kamal's resignation has not been filled up.
10. Given the provisions of Section 8 of the Act, the work of the Commission has not been impaired by these unexpected changes and is presently continuing with Janab Mamun ur Rashid as its President with Barrister Ajmalul Hossain QC and Mr. Moslehuddin Ahmed as its Members.
11. Mr. Hossain QC has disclosed to the Commission that he was instructed by Bangladesh Bank to represent one of its officials in Civil Petitions for Leave to Appeal Nos. 640 and 641 of 2011¹⁰ ("CPLAs"). Mr. Hossain QC and the Commission have considered whether there is any actual or potential conflict of

¹⁰ Prof. Muhammad Yunus and others vs Bangladesh, represented by the Secretary, Bank and Financial Institutions Division, Ministry of Finance and others, (Supreme Court: Appellate Division)

interest in taking up his appointment on the Commission. The considered view of Mr. Hossain QC and the other members of the Commission, in the context of the TOR, is that there is no actual or potential conflict of interest as the issues in the CPLAs and the work to be undertaken by the Commission are different and distinct.

Modifications of the Notification

12. The Notification has been modified on four occasions:
13. By a notification dated 29 May 2012 published in the Bangladesh Gazette on the 30 May 2012¹¹ correcting the spelling of the name of the President.
14. By a notification dated 5 June 2012 published in the Bangladesh Gazette on the 11 June 2012¹² the Government issued an amendment to the Notification transferring the responsibility for providing the Commission with office space, transportation and secretarial facilities from Grameen Bank to Bangladesh Bank.
15. By a notification dated 29 August 2012 published in the Bangladesh Gazette on 3 September 2012¹³ the Government further amended the Notification. By this amendment the time limit for the Commission to submit its report was extended to the 30 November 2012, the powers of the Commission were extended under the Act by including the powers under Section 5 (2), (3),(4) (5) and (6) of the Act and the Commission was given the authority to publish an interim report.
16. Lastly, by a notification dated 28 November 2012 published in the Bangladesh Gazette on 23 December 2012¹⁴ the Government further amended the Order. The period for completing the Commission's task was extended until the 31 March 2013.

Authorization for Interim Report:

17. The Government's Notification dated 29 August 2012 specifically stated that the Commission may, if it deems so necessary, issue an interim report.

¹¹ MoF:No. 53.007.027.00.00.012.2010-244;

¹² MoF:No. 53.007.027.01.00.012.2010-272;

¹³ MoF:No. 53.007.027.02.00.012.2010-399;

¹⁴ MoF:No. 53.007.027.02.00.012.2010-621

B. Commissions of Inquiry Act:

Relevant Provisions:

18. Sections 3, 4, 5, 6 and 8 of the Act are relevant for the purposes of the tasks entrusted to the Commission.
19. Section 3 relates to the appointment of the Commission and the obligation upon it to make the inquiry for which it was appointed and to perform its functions¹⁵. Section 4 gives the Commission powers of a civil court while trying a suit under the Code of Civil Procedure 1908 in respect of certain specified matters.¹⁶ Section 5 sets out the additional powers under the Act that have been granted to the Commission.¹⁷ Section 6 deals with statements made to the Commission.¹⁸ Section 8 states that the

¹⁵ 3. Appointment of Commission:

- (1) The Government may, if it is of opinion that it is necessary so to do, by notification in the official Gazette, appoint a Commission of Inquiry for the purpose of making an inquiry into any definite matter of public importance and performing such functions and within such time as may be specified in the notification, and the Commission so appointed shall make the inquiry and perform the functions accordingly.
- (2) The Commission may consist of one or more members appointed by the Government, and where the Commission consists of more than one member, one of them may be appointed as the President thereof.

¹⁶ 4. Powers of Commission: The Commission shall have the powers of a civil court, while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:-

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of any documents;
- (c) receiving evidence on affidavits;
- (d) issuing commissions for the examination of witnesses or documents.

¹⁷ 5. Additional powers of Commission:

- (1) Where the Government is of opinion that, having regard to the nature of the inquiry to be made and other circumstances of the case, all or any of the provisions of sub-section (2) or sub-section (3) or sub-section (4) or sub-section (5) or sub-section (6) should be made applicable to a Commission, the Government may, by notification in the official Gazette, direct that all or such of the said provisions as may be specified in the notification shall apply to that Commission and on the issue of such a notification, the said provisions shall apply accordingly.
- (2) The Commission shall have power to require any person, subject to any privilege which may be claimed by that person under any law for the time being in force, to furnish information on such points or matters as, in the opinion of the Commission, may be useful for, or relevant to, the subject matter of the inquiry.
- (3) The President or any officer, not below the rank of a gazetted officer, specially authorised in this behalf by the President may enter any building or place where the Commission has reason to believe that any books of account or other documents relating to the subject matter of the inquiry may be found, and may seize any such books of account or documents or take extracts or copies therefrom, subject to the provisions of section 102 and section 103 of the Code of Criminal Procedure, 1898, in so far as they may be applicable.
- (4) The Commission shall be deemed to be a civil Court and when any offence as is described in section 175, section 178, section 179, section 180 or section 228 of the 4[* * *] Penal Code, is committed in the view or presence of the Commission, the Commission may, after recording the facts constituting the offence and the statement of the accused as provided for in the Code of Criminal Procedure, 1898, forward the case to a magistrate having jurisdiction to try the same and the magistrate to whom any such case is forwarded shall proceed to hear the complaint against the accused as if the case had been forwarded to him under section 482 of the Code of Criminal Procedure, 1898.
- (5) Any proceeding before the Commission shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the 5[* * *] Penal Code.
- (6) The Commission shall have the powers of a civil court, while trying a suit under the Code of Civil Procedure, 1908, in respect of requisitioning any public record or copy thereof from any court or office.

¹⁸ 6. Statements made by persons to the Commission: No statement made by a person in the course of giving evidence before the Commission shall subject him to, or be used against him in, any civil or criminal proceeding except a prosecution for giving false evidence by such statement: Provided that the statement-

Commission shall regulate its own procedure and that it may act notwithstanding the absence of any member or the existence of a vacancy among its members.¹⁹

Powers of the Commission:

20. The Commission has been given wide powers under the Act in order to perform its mandate. The Commission is empowered to summon and enforce the attendance of any person and examining him on oath and to require discovery and production of documents.²⁰
21. Further, the Commission has powers to require any person to furnish information on such points or matters as in its opinion may be useful for or relevant to the subject matter of the inquiry.²¹ It has the powers to enter any building or place where the Commission has reason to believe that any books or account or other documents relating to the subject matter of the inquiry may be found and seize any such books of account or documents or take extracts or copies there from.²² It can also requisition any public record or copy thereof from any court or office.²³

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- (a) is made in reply to a question which he is required by the Commission to answer; or
(b) is relevant to the subject matter of inquiry.

¹⁹ 8. Procedure to be followed by the Commission: The Commission shall subject to any rules that may be made in this behalf, have power to regulate its own procedure (including the fixing of places and times of its sittings and deciding whether to sit in public or in private) and may act notwithstanding the temporary absence of any member or the existence of a vacancy among its members.

²⁰ S.4: The Commission shall have the powers of a civil court, while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:-

- (a) summoning and enforcing the attendance of any person and examining him on oath;
(b) requiring the discovery and production of any document;
(c) receiving evidence on affidavits;
(d) issuing commissions for the examination of witnesses or documents.

²¹ 5(2) The Commission shall have power to require any person, subject to any privilege which may be claimed by that person under any law for the time being in force, to furnish information on such points or matters as, in the opinion of the Commission, may be useful for, or relevant to, the subject matter of the inquiry.

²² 5(3) The President or any officer, not below the rank of a gazetted officer, specially authorised in this behalf by the President may enter any building or place where the Commission has reason to believe that any books of account or other documents relating to the subject matter of the inquiry may be found, and may seize any such books of account or documents or take extracts or copies therefrom, subject to the provisions of section 102 and section 103 of the Code of Criminal Procedure, 1898, in so far as they may be applicable.

²³ 5(6) The Commission shall have the powers of a civil court, while trying a suit under the Code of Civil Procedure, 1908, in respect of requisitioning any public record or copy thereof from any court or office.

C. Terms of Reference:

Contents:

22. The TOR of the Commission is set out in the Notification²⁴ and is reproduced below:
- (i) To identify the institutional strengths, weaknesses and constraints, in the operation of Grameen Bank from its inception till 2010.
 - (ii) To recommend measures for ensuring good governance in the Grameen Bank specially focusing on accountability of management and transparency of operations.
 - (iii) To review the purposes, legal status and operations of the institutions, companies and enterprises established by the Grameen Bank. The review, inter alia, will look into the following:
 - (a) Why were they set up initially and do they fulfill the purpose for which they were set up?
 - (b) How are they related to Grameen Bank both legally and otherwise?
 - (c) What is their financial relationship with Grameen Bank?
 - (d) How do they contribute to Grameen Bank's objectives and targets?
 - (e) What are their organizational, management and financial structures?
 - (f) What are the succession rules for ownership and management of these institutions?
 - (iv) To recommend, on the basis of the above review, a scheme for defining the relationship of these institutions with the Grameen Bank.
 - (v) The scheme will include ensuring of benefits for Grameen Bank and its borrowers/owners from the operations of the entities. The scheme will further establish a regime for transparency and accountability of these entities and for succession of their management and ownership. Most important of all, the scheme will ensure good governance for the social investment projects.
 - (vi) To comment on the ownership of the Grameen Bank and composition of its Board of Directors specifying qualifications for such membership.

²⁴ MoF: No. 53.007.027.00.00.012.2010-244 – Bangladesh Gazette dated 30 May 2011;

- (vii) To review and recommend the regulatory institution and mechanism of Grameen Bank as to how to bring the Grameen Bank under the purview of state regulatory agencies.
23. The TOR indicates that the Governments’ intention in setting up the Commission is that the operation of Grameen Bank be given a thorough review. Three decades after Grameen Bank began its innovative approach in providing “*credit facilities and other services to landless persons in the rural areas....*”²⁵, a objective assessment of its work and systems should be taken to improve its functioning in terms of transparency and good governance.
24. During these three decades, Grameen Bank appears to have established a number of organisations including both for-profit and not-for-profit bodies. The Commission’s assignment is to review “*the purposes, legal status and operations*”²⁶ of these institutions and “*to recommend a scheme for defining their proper relationship with Grameen Bank*”²⁷.
25. Over this long period, it seems that Grameen Bank has ‘slipped out’ of the Republic’s principal regulatory regimes. Banks and financial institutions are supervised and regulated by Bangladesh Bank²⁸ and Micro Credit Regulatory Authority (“**MCRA**”)²⁹ regulates the entities dealing with micro credit other than those registered under the Co-operatives Act 2001. However, for many years neither Bangladesh Bank nor MCRA have been regulating many aspect of Grameen Bank’s activities because the former was not expressly asked to do so until 2003 and the latter found that the provisions of their Act did not grant them jurisdiction over Grameen Bank.
26. The Government clearly had a role to play through the designated Ministry, which under the applicable Rules of Business was and still is the Ministry of Finance. However, it appears to the Commission that it has not taken the interest that it should have in the business and affairs of Grameen Bank. The TOR requires the Commission to review the situation that exists and recommend an appropriate structure for supervision and regulation.

Approach taken by Commission to perform its tasks:

27. The Commission has concentrated initially on the issues identified in the TOR relating to Grameen Bank. The Commission feels that it should approach the inquiry into Grameen Bank in the following manner:

²⁵ Preamble of the Grameen Bank Ordinance No. XLVI of 1983: dated 4th September 1983

²⁶ TOR(ii)

²⁷ TOR(iv)

²⁸ The Bangladesh Bank Order 1972

²⁹ The Micro Credit Regulatory Authority Act 2006

1. Analyze and determine the intention of the Ordinance as to the working of Grameen Bank;
 2. Establish whether there has been any deviations in the way its business and affairs have been carried on since inception until 2010;
 3. If so, what measures can be taken to rectify the situation;
 4. What steps can be taken to ensure good governance within Grameen Bank and the Associated Organisations so that it can achieve its objective in poverty alleviation.
28. Grameen Bank's somewhat unique status and mode of operation has led the Commission to spend considerable time and effort in discovering the appropriate sources of information. It was therefore necessary to ensure that the sources of information regarding Grameen Bank's activities were correctly identified and relevant papers and data obtained quickly. The Commission has been in touch with Grameen Bank's management and, in spite of initial difficulties; requisite information has been slowly forthcoming.
29. Although the willingness to assist the Commission is professed by those who are presently in the management of Grameen Bank, it is worth recording that the information that has been supplied to the Commission from time to time has not always been entirely accurate. There have been many occasions where specific information has been sought by the Commission. However, the response from Grameen Bank has been incomplete and unreliable and only after further enquiry with several follow up letters, the facts are being established. Since this has been the pattern from the very outset, the Commission feels that there is a general unwillingness on the part of the Grameen Bank management to assist in the work of the Commission. The Commission invited the directors of Grameen Bank to discuss the various issues confronting the bank. Although the nominated directors came and spent time to exchange views on a number of issues, they also informed the Commission that the elected directors have decided not to take up the invitation. The reasons for this decision have not been communicated.
30. The Commission has examined the publications of Prof. Muhammad Yunus³⁰ (“**Prof. Yunus**”) and those published by the Yunus Center.³¹ The Grameen Bank website too has considerable information which has been referred to when appropriate.³²
31. The available official records of the Ministry of Finance relating to Grameen Bank have been obtained and examined. Regrettably, a large part of the records relating to

³⁰ ‘Banker to the Poor’: Dhaka-UPL 1998

³¹ Future of Grameen Bank: My Fears (Yunus Centre - May 2012)

³² www.grameen.com

the formation of Grameen Bank in 1983 have not been found.³³ Fortunately the officials who were most intimately associated with its formation and during the first few years thereafter have readily come forward and provided details of the discussions and issues that had been considered then. The other institution closely associated with Grameen Bank in its formative years is Bangladesh Bank but here too records are scarce.

32. The Commission feels that the stakeholders in Grameen Bank are entitled to know about its business and affairs and about its future. Included are the Government as its founder shareholder having made contributions to its capital and having the legal obligation and responsibility to oversee its operations; its depositors, borrowers and borrower-shareholders; its management and employees; those associated with it or having any interest in it: Prof. Yunus himself; the citizens of Bangladesh at home and abroad; a host of others who have assisted or contributed in setting it up and in carrying on its objectives; and, its well wishers globally.
33. One other aspect is that the Commission's report has to deal with the audience who will be interested in its findings. The Commission is aware of the various newsletters and pamphlets' issued by Yunus Center and the extensive news coverage devoted to Grameen Bank both in the country and abroad. Prof. Yunus has gone public stating "*.. the modus operandi and recommendations of this commission would be scrutinized thoroughly, and debated rigorously for many years to come at home and abroad.*"³⁴ There are a large number of Bangladeshis, both within the country and abroad, who are keenly interested to know about Grameen Bank and its future. For them the report would normally have been in Bengali. However, with Grameen Bank's high profile international 'brand' status, it is considered appropriate for the Commission's report to be both in English and in Bengali.

³³ Ministry of Finance:53.007.027.01.00.012.2010-362 dated 30 July 2012 & 53.009.022.00.00.010.2010-178 dated 22 Aug 2012

³⁴ Future of Grameen Bank: My Fears (Yunus Centre - May 2012)

D. Work of the Commission so far:

Initial meetings of the Commission and Secretariat:

34. The first few meetings of the Commission were held, in the absence of any officially designated office, at the residence of the President of the Commission. Since then it has taken the better part of four months for the Commission to get its necessary staff and administrative structure in place. Office accommodation was also a problem. In July a place was found by Bangladesh Bank and was, in due course, furnished by them. Support staff has been woefully inadequate but, in spite of constraints, the Commission's work has not faltered.
35. The need for staff with adequate knowledge and some technical expertise is urgently required if the Commission is to complete its work within the stipulated time.
36. The Commission has been working with the officials and staff deputed to it. It has also sought and used the services of several individuals on *ad hoc* basis.
37. The Commission has held over 200 meetings and has so far examined over 30,000 pages of documents submitted to it by various sources.
38. For the reasons set out below, the Commission is of the view that some of its initial findings and recommendations be made in an Interim Report.

Interviews with the relevant individuals:

39. The Commission has prepared this Interim Report after meeting a large number of persons, who were associated with the establishment of Grameen Bank and its development over these last thirty or so years. They have appeared before the Commission and between them have assisted the Commission by discussing a broad range of issues mentioned in the TOR.
40. The Commission, acting as a Civil Court, could require persons with relevant information to be questioned under oath. The Commission felt that it would, ordinarily, be sufficient to invite, meet and discuss the issues at hand with those who the Commission felt were either intimately associated with Grameen Bank, had knowledge of or could presumably be expected to have direct knowledge of the issues. In order to ensure accuracy, the Commission decided to record what transpired during these meeting. Each and every person who has so far met the Commission has done so willingly and has readily volunteered to apprise the Commission of how they viewed the issues. The Commission will, if necessary, meet them again before the Final Report is submitted. Happily, the Commission has so far not felt the need to

exercise its authority and powers under the Act to obtain the information that it felt was necessary for the purpose of its inquiry.

41. Among those who have met the Commission are the following:
1. Mr. A. M. A. Muhith: Finance Minister when Grameen Bank was established in 1983. Currently Finance Minister, Government of Bangladesh.
 2. Mr. M. Syeduzzaman: Finance Secretary when Grameen Bank was established in 1983. And subsequently Finance Minister (Adviser) when the Grameen Bank Ordinance was first amended in 1986.
 3. Professor Iqbal Mahmood: The first Chairman of the Board of Directors of Grameen Bank (1983-February 1988).
 4. Professor Muhammad Yunus: The first Managing Director of Grameen Bank (1983 – 2011)
 5. Mr. Khalid Shams: Deputy Managing Director Grameen Bank (1990-2004).
 6. Professor Muzammel Huq: Currently Chairman of the Board of Directors of Grameen Bank. Joined Grameen Bank Project in 1982 and retired as General Manager Grameen Bank in 2004.
 7. Professor Rehman Sobhan: Chairman, Board of Directors of Grameen Bank (1996-2002)
 8. Dr. A. M. Muazzam Husain: former Professor, Bangladesh Agricultural University.
 9. Dr. Mohammed Farashuddin: Joint Secretary Ministry of Finance in 1983 and later Governor Bangladesh Bank (Nov.1998 to Nov.2011).
 10. Dr. Saadat Hossain: Cabinet Secretary (May 2002 to Nov 2005) and Member of Grameen Bank's Board (Jun 1993 to Nov 1994)
 11. Mr. Shamsuzzaman Chowdhury: Secretary to the Government (Rtd); was Member of the Board Grameen Bank (Feb 1993 to Jul 1998)
 12. Mr. Abu Taleb: Secretary to the Government (Rtd); was Joint Secretary in the Ministry of Post, T & T (June 1996 to March 1998) when Grameenphone Consortium's digital mobile telecommunication licence was issued.
 13. Mr. M. Hafizuddin Khan: Comptroller & Auditor General of Bangladesh (Rtd) and Chairperson, Transparency International Bangladesh (2009-2011)

14. Dr. Salehuddin Ahmed: Governor Bangladesh Bank (May 2005 to April 2009)
 15. Mr. Ibrahim Khalid: Chairman Bangladesh Krishi (Agriculture) Bank & former Dy. Governor Bangladesh Bank
 16. Professor Abul Barkat: Chairman of the Board Janata Bank
 17. Barrister Akhtar Imam: Senior Advocate, Supreme Court of Bangladesh
 18. Mr. Tawfiq Nawaz: Senior Advocate, Supreme Court of Bangladesh
 19. Mr. A.H. Razee Hassan: Deputy Governor, Bangladesh Bank
 20. Mr. Manzurul Hannan: Director (Telecom) Ministry of Post, T & T when the Grameenphone Consortium digital mobile telecommunication licence was issued.
 21. Mr. Mahbubul Alam: Was Manager, Janata Bank Chittagong University Branch which provided funding for 'Jobra Tebhaga Khamar' in 1976. He retired as Managing Director Southeast Bank Ltd in 2012.
 22. Mr. Dipal C. Barua: Deputy Managing Director Grameen Bank till December 2009. Has been associated with Grameen Bank since its very beginning.
 23. Mr. M. Shahjehan: Acting Managing Director Grameen Bank (August 2011 to date). Has been with Grameen Bank since 1984.
 24. Chairman and Members of Board of Directors of Grameen Bank:
 25. Chairman and Members of the Grameen Bank Review Committee.
 26. Members of Bangladesh Bank Special Inspection Team-1999.
42. The Commission would have liked to have met, among others, Dr. Fakhruddin Ahmed, who, during his tenure as Governor Bangladesh Bank (Nov 2001 to April 2005), received the Special Inspection Report-1999³⁵. This Report listed objections and made observations about Grameen Bank's operations which were apparently not adequately followed up. This was also the first inspection made by the central bank of Grameen Bank. The Review Committee³⁶ has pointed out that although several irregularities were mentioned in the Report no effective action was taken to address the issues. The Commission is of the view that its findings and the rigorous implementation of its recommendations may have made significant positive contributions to Grameen Bank management system.

³⁵ 31 December 1999

³⁶ Monwaruddin Committee Report, Para.2.04, p.13

43. The Commission has met senior officials of the Bangladesh Bank. It has also received reports of inspections on Grameen Bank that have been carried out almost every year by Bangladesh Bank since 1999³⁷. The inspections have covered most of the areas that are normally covered during inspections of commercial banks. However, it is significant that the inspectors have failed to take into account all the statutory provisions relating to Grameen Bank in carrying out these inspections. It is noteworthy that the limitation on the business that could be carried on by Grameen Bank was mentioned in two of Bangladesh Bank's Reports for the years ending 1997 and 1999.³⁸ Why this matter was not acted upon immediately by Bangladesh Bank or the Ministry of Finance is not clear.
44. As a result, certain obvious deviations which came to light went unchecked. In particular, these included the making of loans to bodies, entities and companies who can by no means be called "*landless persons*" in "*rural areas*" of Bangladesh and the giving of corporate guarantees by Grameen Bank to finance the setting up and operations of Associated Organisations.
45. The Commission sought opinions from eight Senior Advocates of the Supreme Court of Bangladesh on some of the issues that it has to consider. It has received three opinions so far and two of the senior counsels have declined on the grounds of possible conflict of interest. The Commission is yet to hear from the other lawyers who have been approached for their views.

Documents reviewed:

46. The Commission has sought and obtained documents relevant for its functions. Inter alia, those significant for the purposes of this Interim Report are as follows:
1. Available records of the Ministry of Finance relating to the establishment and funding of Grameen Bank;³⁹
 2. Records of Bangladesh Telecommunication Regulatory Commission ("**BTRC**") relating to the issue of digital mobile telecommunication licence.⁴⁰
 3. A Summary prepared by Bangladesh Bank relating to the Grameen Bank Project and the setting up of Grameen Bank⁴¹

³⁷ See Para. 82 below

³⁸ Bangladesh Bank Memo No. DBI-3(b:ba:u)/grameen-01/2013-75, dated 28 Jan 2013

³⁹ MoF Memo No. 53.009.022.00.00.010.2010-21, dated 23 Jan 2013, & MoF Memo No. 53.009.022.00.00.010.2010-24, dated 27 Jan 2013

⁴⁰ BTRC Memo No. BTRC/LL/Licence Renewal/GP(1)/2011-1011, dated 26 Sep 2012 (2115 pages), & BTRC Memo No. BTRC/LL/Mobile/Licence Renewal/GP(1)/2011-1188, dated 10 Dec 2012 (618 pages)

⁴¹ Bangladesh Bank Memo No. ACFID (GBD)/537(P)/2012-221 dated 23 July 2012

4. The minutes of all the meetings of the Board of Directors of Grameen Bank since its establishment and up to 2010: 1st Meeting held on 09 November 1983 - 91st Meeting held on 30 March 2010.
5. The Annual Reports (Audited Financial Statements) from 1983 to date;
6. Grameen Bank:
 - i) Grameen Bank Basic Rules⁴²
 - ii) Grameen Bank Share Nitimala (Regulations) 1986⁴³
 - iii) Grameen Bank (Election of Directors) Rules 1987⁴⁴
 - iv) Grameen Bank Purchase Manual⁴⁵
 - v) Grameen Bank's Employment Service Rules⁴⁶
 - vi) Grameen Bank Managing Director (Recruitment) Regulation⁴⁷
 - vii) Grameen Bank Consolidated Statement of Accounts Rules⁴⁸
 - viii) Grameen Bank Loan Rules⁴⁹
7. Bangladesh Bank Special Inspection Report on Grameen Bank - (31 December 1999);
8. Grameen Bank Review Committee Report: 25 April 2011 (“**Monwaruddin Committee**”). Extracts of the Report have been translated with the approval of Prof. Monwaruddin and have been placed as an Annexure with this Interim Report. This includes portions of a supplementary report submitted by three Members which is noteworthy as it points out various ‘conflict of interest’ transactions of Prof. Yunus with Grameen Bank and its Associated Organisations which was seemingly ignored or approved by the Board of Grameen Bank.⁵⁰

⁴² 1978 & revised November 2008

⁴³ Gazette: 25 August 1987

⁴⁴ Gazette: 25 August 1987

⁴⁵ Board Meeting #28 dated 17 November 1991

⁴⁶ Gazette: 01 March 1993

⁴⁷ Gazette: 19 Nov. 2001

⁴⁸ November 2007

⁴⁹ 2004 & revised August 2009

⁵⁰ Annexure 1

47. As the Final Report will be both in Bengali and English, the Commission has translated relevant documents necessary for a proper understanding of the issues at hand, from Bengali to English and in certain cases from English to Bengali.

E. Controversy about Commission:

Prof. Yunus' fears

48. Prof. Yunus, who was Grameen Bank's first Managing Director, has personally expressed his fears and apprehensions in a publication of Grameen Trust⁵¹. In this document his principal concern seems to be the possibility that '*Government will take over Grameen Bank*'; that the newly '*empowered women borrower-owners of Grameen Bank*' will be denied a voice in the management of the Bank by changes in the structure of the Board of Directors and by instituting qualifications for Directorship; that the Government's vehicle for bringing about such a change is the Commission.
49. Prof Yunus has also expressed serious concern about the ability of the members of the Commission to deliberate on the issues listed in the TOR. He feels that "*there are a lot of experts on microcreditwhen there are so many researchers, so many administrators, so many experts, why responsibility has been assigned to persons who probably have no exposure in microcredit*". Further "*one begins to wonder whether the government wants someone to tell them that Grameen Bank is a poorly managed institution, needing overhauling*".
50. The Commission feels it suitable to point out that when the controversies about Grameen Bank first came to light, Prof. Yunus welcomed an investigation into all the issues. Government felt it appropriate to set up the Monwaruddin Committee⁵² to investigate the issues raised. Their Report has so far not been made public but apparently the inquiry was constrained by time and frustrated by their inability to gather all necessary information.⁵³ The Commission wishes to reiterate and emphasis that it was their recommendation for a more through inquiry into this vast 'conglomerate' that Grameen Bank has become that led to the formation of the present Commission with powers under the Act to collect and independently assess all controversies relating to Grameen Bank and its Associated Organisations.

Other Concerns:

51. The Commission is well aware that, for about a year now, there has been considerable controversy and debate, in changing circumstances, about the fate of Grameen Bank. This debate has not been restricted to those who reside in Bangladesh alone. Many

⁵¹ Grameen Dialogue: "Future of Grameen Bank: My Fears" - July 2012

⁵² Ministry of Finance: No.53.007.027.00.00.012.2010-15 Date 10.01-2011)

⁵³ Professor Monwaruddin and Members of his Review Committee met the Commission on a number of occasions and have provided a detailed statement on the limitations under which they had to complete their task and expressed their views on a variety of issues raised in their Report.

have formed groups purportedly to ‘save Grameen Bank’⁵⁴ because ‘the Government has taken steps to destroy the Grameen Bank in the name of controlling it’.⁵⁵

52. A number of non-resident Bangladeshi, foreign national of Bangladeshi origin and a large number of very high profile foreign nationals have ventured to express their misgivings about the status of Grameen Bank.
53. Amongst the last mentioned group are two distinguished persons who have held the position of Secretary of State in the USA and one, perhaps even more distinguished lady, who until last month occupied that position. The Commission is aware that she and her husband, the former President of the USA, have been a friend and well wisher both of Prof. Yunus and Grameen Bank for many years now and hope that they will continue to extend their goodwill and assistance for the development of Grameen Bank in the future too. They have had their views published in prominent newspapers⁵⁶ and the Secretary of State has even come to Dhaka in May 2012 to meet the Prime Minister of Bangladesh, in order to convey their qualms about the future of Grameen Bank.
54. The French Government too has expressed concern about the developments in Grameen Bank.⁵⁷ People of considerable influence in Europe and elsewhere have also voiced similar opinions. Notably Sir Richard Branson has gone on record stating that ‘government is close to gaining *de facto* control of an organization that is 97% owned by its customers ...nationalization of Grameen Bank. Soon it will not remain the same Bank that it has always been. The right of the shareholders to decide its future will be removed.’⁵⁸ He then goes on to mention allegations by the World Bank of corruption in Government and the need to provide ‘...a fair, transparent and safe environment for leaders such as Dr. Yunus...’. He has urged the British Government to join in Dr. Yunus’s efforts to preserve the rights of ‘...poor women of Bangladesh to own Grameen Bank.’ Sir Richard is apparently seeking to minimize the Governments’ role in the productive sectors of the Bangladesh economy. He has asked for the British government’s interference in support of Grameen Bank although it has always been under the control of the Government of Bangladesh.⁵⁹
55. The Commission takes note of and wishes to allay the fears that have been expressed. Besides these fears, the Commission has taken note of the discussions, observations and comments made in various international forums about the usefulness and impact of micro-credit programs and in particular ones which Prof. Yunus was associated

⁵⁴ Daily Manabjamin and Daily Inquilab: 28 Aug. 2012

⁵⁵ ‘Sixty Five Eminent Citizens’ concerns: Daily Star 28 Aug. 2012

⁵⁶ George Shultz and Madeleine Albright: WSJ Sept 2012

⁵⁷ Daily Manabjamin: 28 Aug 2012

⁵⁸ Times London 24 Aug 2012; reprinted Daily Star 29 Aug 2012

⁵⁹ Times London 24 Aug. 2012; reprinted Daily Star 29 Aug 2012

with. Microfinance is now estimated to be a USD 70 billion industry which some persons have waylaid for personal profit at the cost of the poor. Prof. Yunus has reportedly said '*I could not believe that the microfinance institutions have become the very same evil money lenders that we attempted to replace.*'⁶⁰ Others see Grameen Bank in a somewhat different light '*...Grameen Bank was a hybrid organisation. It was new and novel, but the mission was very much on the social side. ... but the order in which the two parts are mixed has been flipped. When it started, it was financial tools being used for social good. Now it has increasingly become a social mission used as a way to generate money.*'⁶¹ But in a world where it is reported that 'more than 2.7 billion people still have no access to formal financial services'⁶² institutions such as Grameen Bank which pioneered this sort of enterprise have a vital and important role to play. The Commission does not see its TOR as an intention to adversely affect Grameen Bank in any way. It recognizes and echoes the assertion of Prof. Yunus that poverty alleviation globally will achieve lasting peace. There is no question of destroying an institution which the Commission accepts as having made a significant impact on poverty alleviation in Bangladesh and which has been used as a model in other countries.

56. The Commission is taking a clinical approach to Grameen Bank and is checking whether its business and affairs have been carried on in consonance with the legal obligations in the Ordinance. If any deviations are found, the Commission will recommend remedial measures to bring it all within the statutory scheme. If the Commission feels that the statutory framework within which Grameen Bank is supposed to operate is not satisfactory to achieve its objectives, recommendations will be made to change the legal framework. The Commission will simply establish the facts as they exist and make recommendations to make Grameen Bank a better organization for the future. In his interview with the Commission on 24 November 2012, Prof. Yunus welcomed this approach.

⁶⁰ 'Confessions of a Microfinance Heretic': Hugh Sinclair quoted Prof. Yunus in Knowledge@Wharton 18 July 2012.

⁶¹ Microfinance & Patriarchy: 'A Drift Away from Serving Women' - Professor Tyler Wry. Knowledge@Wharton 06 February 2013

⁶² "Microfinance Banana Skins 2011": Survey of more than 500 microfinance institutions from 86 countries. Knowledge@Wharton 07 December 2011

F. Interim Report:

Why Interim Report is required:

57. Having considered the relevant uncontroversial facts and documents, the Commission feels able to reach definite conclusions in an Interim Report which deals with the controversies relating to the legal status of Grameen Bank, its ownership and its governance. It is clear that there is urgency in dealing with these issues. Given that the relevant material is available to the Commission to deal with these matters, the Commission feels that it should not wait until the inquiry is completed on the remaining aspects of the TOR before dealing with them.
58. The Commission's recommendations about the future structure of Grameen Bank (if any changes to it are at all required) and its findings and recommendations on the other issues in the TOR are still being considered by the Commission and will be dealt with in the Final Report.

Issues Covered in the Interim Report:

59. The Commission will, in this Interim Report, pay particular attention to the repeated assertions that Grameen Bank is a 'private bank', owned by its 'borrower-shareholders' and on matters related to its management and governance.
60. The three areas dealt with in this Interim Report are:
 - (1) The legal status of Grameen Bank;
 - (2) The ownership of Grameen Bank; and
 - (3) The management of Grameen Bank.

G. Grameen Bank:

Its Genesis:

61. In 1976 Professor Yunus then working at the University of Chittagong initiated a research project in a village close to the University campus (Jobra Tebhaga Khamar) to, inter alia, “*examine the possibility of designing a credit delivery system to provide banking services targeted at the rural poor*”.⁶³
62. On 23 August 1978 the Special Secretary (Shanirver) in the Ministry of Agriculture Mr. Mahbub Alam Chashi wrote to Mr. A. K. Gangopadaya (Deputy. Governor, Bangladesh Bank) asking him to initiate a new project titled “Grameen Bank Project” on the basis of the draft proposal forwarded by him.⁶⁴ In this letter Mr. Mahbub Alam Chashi had mentioned that both Professor Muazzam Husain of Bangladesh Agricultural University and Prof. Yunus had been independently experimenting in the various fields of banking credit in different areas of Bangladesh and that “*both these experimentations owe their success to close supervision by trained bank workers and enforcement of rigid group discipline among the loanees*”.
63. Subsequently a meeting was held on 1 December 1978 under the Chairmanship of Mr. Gangopadaya where the decision to fund a project from Bangladesh Bank’s Special Agricultural Credit Program (SACP) funds amounting to Tk.100 crores as seed capital was taken. The project area included the district of Tangail and the Hathazari Thana of Chittagong. Necessary financial arrangements would be made through statutory commercial banks and the Bangladesh Agricultural Bank. A decision was also taken to appoint Prof. Yunus as Project Director provided he could be deputed by the University of Chittagong to the Project⁶⁵.
64. Four years later this Bangladesh Bank project was transformed into a state sponsored rural development bank titled “Grameen Bank”. Once again, recognizing his talent and expertise in this field, Prof. Yunus was appointed by the government to head its operations. The instrument for this new initiative was, as is common with all other state banks whether commercial or specialized development banks, the promulgation of the Ordinance⁶⁶ and the Bank was formally launched in October the same year. The Commission could find no evidence on record that it was the Government’s intention to transform this into a ‘private bank’ later or that Prof. Yunus had put his views and objections to it being created as a statutory bank. To the contrary, those who had helped launch this Bank recall Prof. Yunus’s readiness to get on with the Bank’s work

⁶³ www.grameen-info.org

⁶⁴ Ministry of Agriculture; Special Secretary (Shanirvar) D.O.No.Shaw-247/9 Dated 23 August 1978

⁶⁵ Bangladesh Bank’s Note: ACFID (GBD)/537(P)/2010-221dated 23 July 2012

⁶⁶ Ordinance No. XLVI of 1983 dated 4th September 1983

without delay as he was aware of the opposition that the Ministry had to face from other bankers who were unhappy with its creation.

65. The Ordinance and its amendment in 1986 were made during a period of Martial Law in the country. The Supreme Court has declared that Martial Law is incompatible with the Constitution of Bangladesh and the Martial Law regime was illegal⁶⁷. All laws made during the period between 24 March 1982 and 11 November 1986, including the Ordinance have been declared invalid. The Commission is aware that the Government has taken steps to deal with this void and the Ordinance has been made effective by an Ordinance issued on the 21 January 2013⁶⁸. Therefore, the legal framework within which the Commission must work has not changed.

Inception to 1986:

66. During the first four years of its operations the immediate oversight responsibility rested on a Board of Directors (six nominated by the government and four selected by the government from amongst the ‘borrower-shareholders’). Although the law required the government to maintain a somewhat direct regulatory role in the conduct of the Bank’s business and affairs, it rarely exercised it in any form. Thus, the government exercised control over Grameen Bank at two levels: first, it had a role to participate directly in the conduct of its business and affairs by nominating directors; secondly, it would regulate Grameen Bank through the Ministry and through the Bangladesh Bank by performing the functions allocated to each in the Ordinance.
67. The authorized capital was Tk. 10 Crores (Tk.100 million). Each share was to have a face value of Tk.100 therefore the number of shares that could be issued was 1 million. The initial issued paid-up share capital was fixed at Tk.3 Crores (Tk.30 million) of which 60% was subscribed to by the Government (including other statutory banks) and 40% by borrower-shareholders. The number of shares that could thus be issued initially was 300,000.
68. The Commission notes that by providing for shareholding in Grameen Bank, the Ordinance appears to allocate or divide a statutory corporation or a statutory public authority to be exact, to a specific part of the population, namely, the borrower-shareholders. The Commission feels that, if this were the intention, it would be inconsistent with the Constitution of Bangladesh as the resources of the Republic are available for the population as a whole and not for any part of it. The Commission will return to the basic structure of Grameen Bank later in this Interim Report and also in its Final Report.

⁶⁷ CA 48 of 2011, Siddiq v Bangladesh Supreme Court. App. Div.

⁶⁸ Ordinance 2 of 2013

69. The number of members grew from 58,320 in 1249 villages to 243,343 in 5170 villages during this period. Female membership increased from 46% to 74% and the number of branches needed to maintain its financial operations grew from 86 to 295. Their deposit base too grew from Tk.18.5 million to Tk.122.6 million.⁶⁹ The Commission has taken note of the fact that not all members of Grameen Bank were its borrower-shareholders and that Grameen Bank's authorities have indicated that it would be very difficult to identify the exact number of borrower-shareholders of this period.

1986 to 1990:

70. The first amendment to the Ordinance in 1986 limited the number of government nominated Directors to three and the number of elected borrower-shareholder Directors was increased to nine. The Grameen Bank (Election of Directors) Rules 1987 which outlined the procedure for the election of nine Directors to the Board was issued in August 1987⁷⁰. The first set of elected borrower-shareholders Directors joined the Board on 18 March 1989⁷¹ which is more than 12 months after the result of their election was conveyed to Board on 23 February 1988⁷². As such from October 1983 to March 1989 the Grameen Bank Board functioned with borrower-shareholders who were nominated by the Government.
71. The amended Ordinance also affected the capital structure. While the authorized capital remained at Tk. 10 crores (Tk.100 million) the paid-up share capital was raised from Tk.3 crores to Tk.7.2 crores (Tk.72 million). The proportion of paid-up share capital between the government and borrower-shareholder was fixed at 25:75. With this ratio the number of borrower-shareholders who could be issued shares was limited to 540,000. These statutory limitations have not so far been altered by appropriate amendments to the Ordinance. Over the years Grameen Bank has issued shares far in excess of both its paid-up share capital limits and even of its authorized capital ceiling. The Commission finds that this is a clear derogation from the statutory provisions then and presently applicable.
72. The number of members had by 1990 increased to 869,538 in 19,536 villages. Female membership increased to 91% of the total members and the number of branches needed to maintain its financial operations grew to 781. Their deposit base also expanded to Tk.851.43 million.⁷³ The Commission took note of the fact that not all members of Grameen Bank were its borrower-shareholders and that Grameen Bank's

⁶⁹ Grameen Bank: at a Glance: Muhammad Yunus, -Dec 2010

⁷⁰ Grameen Bank (Election of Directors) Rules 1987 (Gazette: 25 August 1987)

⁷¹ 18th Meeting

⁷² 17th Meeting

⁷³ Grameen Bank: at a Glance: Muhammad Yunus, -Dec 2010

authorities have indicated that it would be very difficult to identify the exact number of borrower-shareholders of this period.

1990 to 2008:

73. In 1990 there was another round of amendments to the Bank's Ordinance⁷⁴. Importantly the government's limited regulatory role was severely circumscribed. The Board of Grameen Bank effectively became its own regulator. Among other changes to the Ordinance was an addition to Section 19 whereby Grameen Bank could both '*undertake the management, control and supervision of any rural organization, enterprise or scheme for the benefit and advancement of landless persons*' and '*undertake income generating projects for landless persons*'.⁷⁵
74. Grameen Bank has forwarded to the Commission a letter from the Ministry of Finance (Banking Section) dated 2 March 1991 which states that their Authorised Capital was raised from Tk.10 crores to Tk.25 crores and the Paid-up capital has been increased from Tk.7.2 crores to Tk.15 crores. Grameen Bank was unable to provide a copy of the Gazette so the Commission had to obtain one from the Government Press.⁷⁶
75. The minutes of Grameen Bank's Board indicate a decision to request to Government for an increase of its paid-up capital from Tk.15 crores to Tk.40 crores.⁷⁷ At the same time the ratio of shares between the Government (and its statutory bodies) and Grameen's borrower-shareholders should be changed, at the behest of the Board, to 5:95 respectively. On 29 December 1994 the change that was apparently decided on is indicated in a Memo of the Ministry of Finance (Banking Policy Section). Grameen Bank's Authorised Capital could be raised from Tk.20 crores to Tk.50 crores and the Paid-up Capital increased from Tk.15 crores to Tk.40 crores. The order goes on to state that the ratio of this increased paid-up capital will remain as has been laid down by Grameen Bank's amended Ordinance but asks Grameen Bank to submit a new self-explanatory proposal⁷⁸ to give effect to this their proposed change. Grameen Bank has informed the Commission that they have not been able to trace any record of the self-explanatory proposal that the Government had asked them to sent.⁷⁹

⁷⁴ Ordinance No. 50 of 1990, Gazette 31 Jul 1990

⁷⁵ Section 19 (e) & (nn)

⁷⁶ Ministry of Finance: Aurtho/Aubo/Bk-3/61/84(Aunsho-1)/48-dated 02 March 1991

⁷⁷ 35th Board of Directors Meeting on (21 April 1994:); Chaired by Dr. Akbar Ali Khan. Request was that 5% be reserved for Government & other Statutory Bodies and the balance of 95% shares be given to Grameen Bank's borrower-shareholders.

⁷⁸ Finance Ministry Memo No. AaMa/ba:be:/Nitimala-5/Grameen Bank -29/93-930(2), dated 29 Dec 1994.

⁷⁹ 56th Board of Directors Meeting on 03 Oct. 2000: Chaired by Prof. Rehman Sobhan. The proposal was to raise the Authorised Capital to Tk.300 crs & Paid up Capital to Tk.250 crs

⁷⁹ Grameen Bank Memo No. GaBa/PaKa/Ka(1)2013-754, dated 24 Jan 2013

76. Six years later on the basis of some convoluted arguments placed before the Grameen Bank's Board it was decided to forward another proposal to get the Authorised Capital enhanced to Tk.300 crores and their Paid-up Capital raised to Tk.250 crores. Strangely once again what was approved was considerably more than what had been asked for - the Authorised Capital was raised to Tk.350 crores and the Paid-up capital to Tk.300 crores by the Government but the necessary amendment to the Grameen Bank Ordinance was not effected.⁸⁰
77. By the end of 2009 the number of members was 7,970,616 in 83,458 villages. Female membership constituted almost 97% of the total members and there were 2562 branches to service their needs. The deposit base had grown to Tk.82,953 million.⁸¹ The Commission was informed by Grameen Bank that they are able to identify the existing borrower-shareholders and have provided a CD containing a list of borrower-shareholders. It seems to record that there are 5,636,813 borrower-shareholders of Grameen Bank in all as of date.

Amendments to the Ordinance introduced in 2008:

78. Another round of amendments came into effect on 24 February 2008.⁸² This was done during the period of a Caretaker Government supported by the military⁸³. It

⁸⁰ Board of Directors Meeting #56 (03 Oct. 2000): Chaired by Prof. Rehman Sobhan. The proposal was to raise the Authorised Capital to Tk.300 crs & Paid up Capital to Tk.250 crs. Prof. Yunus wrote to the Government on 21 Dec 2008 and sought an increase in both Authorised and Paid-up Capital even though this was contrary to what the Board had resolved. There was no reference to Board decision in his letter. The Ministry of Finance apparently did not even call for the actual Board resolution and simply acceded to what Prof. Yunus had asked for. The person in-charge of the Ministry of Finance in the military-led caretaker government as Adviser was Mr.Mirza Azizul Islam.

⁸¹ MoF (Banking Division) Order No.M/AB/B:OA:Pra/Ne/Sha:1/1(18)/97/Aungsha-1/221 dated 31 December 2008 and Grameen Bank at a Glance: Muhammad Yunus, Dec 2010

⁸² Grameen Bank (Amendment) Ordinance, 1983, No. 04, 2008, dated 24 February 2008 published in the Bangladesh Gazette (Extra Ordinary), 24 February 2008. This change to the Ordinance was not confirmed by Parliament and therefore lapsed and is no longer a part of Grameen Bank's charter.

⁸³ Section 1(2) *"It extends to the whole of Bangladesh."*

Section 2(h) *"Landless person means any person who or whose family owns:-*

(i) *less than fifty decimals of cultivable land; or*

(ii) *property, both movable and immovable, the value of which does not exceed the value of one acre of cultivable land according to the prevailing market price in the union or paurashava in which the person normally resided; or*

(iii) *property, both movable and immovable, the value of which does not exceed taka five hundred thousand in an area comprised in or under Cantonment Board or City Corporation in which the person normally resides."*

Section 2(m) OMITTED *"rural area" means an area which is not included within a municipality or cantonment."*

Section 7 (1)(a) *"15%" by the Government or by any organisation or body set up, managed or controlled by the Government, as may be determined by it; and*

(b) *"85%" by borrowers of the Bank.*

Section 9 (1)(a) *"two" persons to be appointed by the Government*

Section 10(1) *"There shall be a Chairman of the Board who shall be appointed by the Board of Directors from the eminent persons of the country.*

(1A) *The Chairman appointed under sub-section (1) shall hold office for a term of two years and shall continue in office until his successor enters upon his office."*

Section 16 *"Resignation.—(1) The Chairman or the Managing Director may at any time, resign his office by writing under his hand addressed to the Board.*

(2) *An appointed Director may, at any time, resign his office by writing under his hand addressed to the Government.*

began with the Preamble by which the jurisdiction of Grameen Bank was expanded to cover the whole country by: “*in the whole of Bangladesh with priority to rural areas*”. These amendments were fairly extensive in nature and sought to change the very nature of Grameen Bank from an institution setup to focus its energies “*to providing credit and other services to landless persons in rural areas*” to encompassing urban areas and even the military cantonments. This radical shift in purpose cannot be masked by the statement that it will give ‘*priority to rural areas*’.

79. Although these amendments changed the nature of Grameen Bank from its original objectives and seemed to bring it into line with commercial banks, they were not approved by Parliament within 30 days of the commencement of its first meeting as required under the Constitution⁸⁴. As such, the amendments had a very short life and are not part of the legal framework for Grameen Bank presently. The Commission will consider these amendments in its Final Report when the issue of Grameen Bank’s future structure is discussed.

2008 to Presently:

80. The Ordinance remains largely as it was after the 1990 amendments. However, Section 14 of the Ordinance relating to appointment of the Managing Director was amended on 24 September 2012⁸⁵. The Chairman was authorised to form a selection committee for the post of Managing Director; the qualification for the Managing Director includes ‘*persons having knowledge and experience in rural economy and finance or in the field of micro-finance*’. The selection committee would form a panel of three whose names will have to be forwarded to Bangladesh Bank for clearance. The Board will appoint any one of the from among those which is cleared by Bangladesh Bank.⁸⁶
81. As of 31 December 2010 Grameen Bank had 2,565 branches, 22,000 employees and 8.3 million members. It mobilized a deposit of Tk 100 billion and its outstanding credit was Tk 68 billion.

(3) *An elected Director may, at any time, resign his office by writing under his hand addressed to the Chairman.*

(4) *No resignation under sub-section (1), (2) and (3) shall take effect until it has been accepted by, the Board, Government or Chairman, as the case may be.”*

Section 19(e) *Omitted the word “rural”*

19(g) *Omitted the words “in rural areas”*

Section 21(1) *“Securities and Exchange Commission” in place of “government”*

(2) *The Bank may also, with the prior approval of the Government, issue and sell bonds and debentures carrying interest at such rates as may be approved by the Government.*

(3) *The bonds and debentures of the Bank as referred to in sun-section (2) shall be guaranteed by the Government as to that payment of principal and payment of interest at such rates as may be fixed by the Government at the time the bonds and debentures are issued.*

⁸⁴ Art. 93(2)

⁸⁵ Grameen Bank (Amendment) Ordinance No. 42 of 2012, Gazette 24 Sep 2012

⁸⁶ Grameen Bank (Amendment) Ordinance No. 42 of 2012, Gazette 24 Sep 2012

82. Bangladesh Bank has reported that they have inspected/visited Grameen Bank twelve times since the first inspection on 22 November 1998. The officials of Bangladesh Bank have also informed the Commission that on two occasions they were discouraged from conducting any inspection of Grameen Bank's records by the Managing Director but apparently there is no record of this. The last such inspection was conducted on 22 April 2012.⁸⁷ The Commission has already noted the deficiencies in the inspections carried out by Bangladesh Bank and the fact that there appears to have been no follow up at all in respect of the business and affairs of Grameen Bank.
83. Bangladesh Bank have stated that Grameen Bank is not a scheduled bank, as such the provisions of Banking Companies Act 1991 were not applicable to Grameen Bank in terms of Grameen Bank Ordinance 1983.⁸⁸ It was only in October 1998 that the Government by an Order empowered Bangladesh Bank under the provisions of Section 44 of the Banking Companies Act 1991 to inspect Grameen Bank. Thereafter in November 1998 they conducted an inspection of Grameen Bank's accounts as on 1997. This First Inspection Report was submitted to the authorities but as Bangladesh Bank had no powers under the Banking Companies Act to ensure enforcement of their instructions, no corrective measures were taken by Grameen Bank.⁸⁹ In June 2003, the Government empowered Bangladesh Bank under Section 45 of the Banking Companies Act 1991 to ensure that their directives could be enforced.⁹⁰ Clearly, the statutory obligations upon Bangladesh Bank should now be followed strictly and appropriate measures be taken. The Commission has been told by a Governor that he is not concerned with such Inspection Reports and that they are handled by his staff alone. The Commission feels that this lack of interest by a Governor of the Central Bank is inappropriate and unbecoming of the high office held by him.

The Grameen Bank Ordinance:

84. Grameen Bank was established by and under the Ordinance. It should be noted that the Ordinance was made during a period of Martial Law which has been declared by the Appellate Division of the Supreme Court as being unconstitutional.⁹¹ The Ordinance was amended on four occasions. Although the history, nature and consequences of the changes in the Ordinance have been referred to within the previous section of this Interim Report, the Commission must consider the issues raised in the TOR in the light of the Ordinance as it stands presently.

⁸⁷ Annexure 2

⁸⁸ Grameen Bank Ordinance No. XLVI of 1983: dated 4th September 1983; Art. 4(3) and (4)

⁸⁹ Annexure 3

⁹⁰ Bangladesh Bank Memo No. DBI-3(b:ba:u)/grameen-01/2013-75, dated 28 Jan 2013

⁹¹ The 7th Amendment Case-CA48/2011 (see FN 59 above)

85. The preamble of the Ordinance seeks to “*establish a Grameen Bank to provide credit facilities and other services to landless persons in the rural areas and to provide for matters connected therewith or incidental thereto*”. The terms “*Landless person*” and “*rural areas*” have been defined respectively in the Ordinance by reference to a maximum limit on a person or his family’s land ownership and it excludes municipal areas and cantonments.⁹² The entire focus of the Ordinance is upon these two sets of words and its business and affairs should be conducted within these very important parameters. Everyone connected with the business and affairs of Grameen Bank, its management, its directors and its regulators should have kept their focus at all times on these critical words but appears to have failed to do so. The Ordinance contains a *non-obstante* clause giving it precedence over any other law then in force.⁹³
86. Section 4 establishes a bank called Grameen Bank “*for the purposes of this Ordinance*”. It makes Grameen Bank a body corporate, having perpetual succession with power to acquire, hold and dispose of property and to sue and be sued by that name. The Banking Companies Act 1962 and “*any other law for the time being in force relating to banking companies*”⁹⁴ were made inapplicable to Grameen Bank but the Government reserved a power to make its provisions applicable subsequently. The Banking Companies Act 1962 has been replaced by the Banking Companies Act 1991 and the supervisory powers of Bangladesh Bank with respect to Grameen Bank were denied when the latter was established in 1983 but since June 2003 the situation has changed and they have now been appropriately empowered.⁹⁵
87. Sections 6 and 7 specify the authorized capital and the paid up share capital of Grameen Bank.⁹⁶ The “*authorised capital*” of Grameen Bank was fixed at Taka Ten crore (Tk.100 million) divided into ten lakh (One million) ordinary shares of Taka one hundred each.⁹⁷ Grameen Bank was empowered to increase its authorised capital with prior approval of the Government. Legal opinion is divided on whether Government in the Ministry of Finance can give effect to this change by an executive order without

⁹² Section 2(h) and (m)

⁹³ Section 3

⁹⁴ The Banking Companies Ordinance, 1962 was replaced by the Banking Companies Act 1991

⁹⁵ See Para 83.

⁹⁶ Sections 6: *Authorised capital:*

(1) *The authorised capital of the Bank shall be taka ten crore.*

(2) *The authorised capital shall be divided into ten lakh ordinary shares of taka one hundred each.*

Section 7: *Paid-up share capital:*

(1) *The initial paid-up share capital of the Bank shall be taka seven crore and twenty lakh which shall be subscribed as follows:*

(a) *25% by the Government or by any organisation or body set up, managed or controlled by the Government, as may be determined by it; and*

(b) *75% by borrowers of the Bank. (2) The Government may increase the paid-up share capital of the Bank from time to time.*

(2) *Shares held by a borrower may be transferred to another borrower of his class.*

⁹⁷ 1 crore = 10 million; 10 lakh=1 million

a proper amendment to the Ordinance itself which would entail a more formal process involving other parts of the Government. This point is discussed further in this Interim Report.

88. The “*initial paid up share capital*” of the Grameen Bank is Taka Seven crore twenty lakh (Taka 72 million) subscribed as to 25% by the Government (and other statutory financial institutions) and as to 75% by the borrowers of Grameen Bank.⁹⁸ The paid-up share capital could be increased by the Government at its discretion.⁹⁹ Here too there is some controversy amongst lawyers regarding the proper procedure to give effect to any such decision. When the paid-up share capital was first increased in 1986 Grameen Bank’s Board had requested the government by a resolution to increase it from Tk.3 crores to Tk.6 crores. The management of Grameen Bank was in fact quite prepared to return to the depositors the funds they had already raised for this purpose in case Government’s approval was not forthcoming.¹⁰⁰ As things turned out, Government not only accepted their proposal but by an unsolicited decision decided to raise the paid-up capital to Tk.7.2 crores. More significantly Government gave this change legal force by amending Grameen Bank’s Ordinance. “Shares” were permitted to be transferred between borrowers of the same class.¹⁰¹
89. It is noteworthy that the statute does not define the words “*authorized capital*”, “*ordinary shares*”, “*share capital*”, “*paid up share capital*” or “*shares*”. These words are normally used in the case of companies incorporated under the Companies Act 1994 or its precursors. When these terms have been used in the charter of similar statutory organizations they have been reasonably well defined in the charter which often also contains a reference to the Companies Act and there is little ambiguity as to what is being referred to. Whether or not they have the same meaning as used in the case of companies, it is plain that the Ordinance has clearly stated who the shareholders would be. It also laid down specific limits on the authorised capital and the shareholding of the Government and of the borrowers. Importantly there appears to be only one financial corporate body set up by statute in Bangladesh, namely, Bangladesh Shilpa Bank (“**BSB**”) which envisages its capital being subscribed partly by ‘*Government and the remaining shares may be subscribed for by Bangladeshi nationals or by any other financial institution, Bangladeshi or foreign*’¹⁰² i.e. private persons. It should be noted that BSB was formed for a different purpose altogether and was more akin to a commercial organization than Grameen Bank.
90. Sections 8 to 18 deal with the management of Grameen Bank. The “*general direction and superintendence of the affairs and business of the Bank*” was entrusted to a Board

⁹⁸ Section 7(1)

⁹⁹ Section 7(2)

¹⁰⁰ Grameen Bank Board Meeting #10 dated 04 Feb 1986

¹⁰¹ Section 7(3)

¹⁰² Section 6 (1): Bangladesh Shilpa Bank Order 1972

of Directors and the Board was given a wide discretion to “*exercise all such powers and do all such acts and things as may be exercised or done by the Bank*”.¹⁰³ However, the Commission is conscious that this discretion is not unfettered. There are limits to the discretion of the Board of Directors and the limits are set out in the Ordinance itself. The constitution of the Board of Directors is set out (after the amendments to the Ordinance in 1986) with “*three persons to be appointed by the Government*” and “*nine persons to be elected by the borrower-shareholders in the manner prescribed by rules*”.¹⁰⁴ Rules for the election of directors by borrower-shareholders were drafted by Grameen Bank, placed before its Board and approved. The draft was sent to the Ministry of Finance who along with the Ministry of Law reviewed them and the Gazette was then issued validating the directives.¹⁰⁵ The “*Appointed Directors hold office during the pleasure of the Government*”.¹⁰⁶ Casual vacancies “*in the office of an elected Director is to be filled by election... for the unexpired period of his predecessor*”.¹⁰⁷ The Managing Director is made a Director *ex officio* without voting rights.¹⁰⁸

91. The Ordinance established the office of Managing Director to be appointed by the Board with the approval of the Bangladesh Bank.¹⁰⁹ Certain changes were introduced in September 2012 by amending the Ordinance.¹¹⁰ The selection of Managing Director would be made by a selection committee composed of three to five members¹¹¹ and certain criteria for selection are also stated.¹¹² This provision has now been amended as stated above. The Managing Director is to be the whole-time officer and the chief executive of the Bank.¹¹³
92. The Chairman of the Board and replacement if there is any casual vacancy in that position is to be appointed by the Government from amongst the appointed Directors.¹¹⁴ Significantly an elected or borrower-shareholder Director is however precluded from being appointed as Chairman.

¹⁰³ Section 8

¹⁰⁴ Section 9(1)

¹⁰⁵ The draft Rules were approved by Grameen Bank’s Board on 18 August 1987. It was cleared through a minimum of four stages in the Ministry of Finance and perhaps a similar four stages in the Ministry of Law; then sent to be published in the official Gazette which was accomplished on 25 August 1987. The remarkable speed by which this was achieved is commendable and attests to Governments’ support to Grameen Bank.

¹⁰⁶ Section 11(1)

¹⁰⁷ Section 12

¹⁰⁸ Section 9(2)

¹⁰⁹ Section 12(1)

¹¹⁰ Grameen Bank (Amendment) Ordinance No. 42 of 2012, Gazette 24 Sep 2012

¹¹¹ Section 12(2)

¹¹² Section 12(3)

¹¹³ Section 12(4)

¹¹⁴ Section 10

93. The Chairman, Managing Director and other directors are required to exercise powers, perform functions and discharge duties as prescribed by regulations or assigned to them by the Board.¹¹⁵ Thus each of the named functionaries who were given the role of directing policy and management within Grameen Bank had limits placed by the Ordinance.
94. The functions of Grameen Bank are set out in the Ordinance.¹¹⁶ It is stated expressly that Grameen Bank shall “*provide credit ... to landless persons for all types of economic activities including housing but excluding business in foreign exchange transactions...*” The section goes on to specify certain types of transactions, which can be undertaken by Grameen Bank. These are the precise functions of Grameen Bank and it is clear that the purpose of setting up the Bank was to carry out these functions. Nonetheless, the government itself agreed to amend the Ordinance so that Grameen Bank’s precisely specified functions were changed by the amendments to Section 19 in 1990.¹¹⁷ It appears to the Commission that the limit on Grameen Bank’s functions were not kept in focus by the management of Grameen Bank, the nominated or elected directors, successive governments of Bangladesh and by the Bangladesh Bank.
95. At the same time as stating the functions of Grameen Bank that were permitted, the Ordinance expressly prohibits Grameen Bank from undertaking or transacting “*any kind of business other than those authorised by or under this Ordinance*”.¹¹⁸ It is impossible for anyone to be unaware of this limitation. Nonetheless with the apparent consent of Grameen Bank’s Board other businesses, some of which are clearly unauthorized, have been pursued.¹¹⁹
96. The Ordinance states that the “*net annual profit of the Bank ... shall be utilised in such manner as the Board may determine*”.¹²⁰ Thus, the Ordinance contemplates that Grameen Bank would make profit from its business. However, there is nothing in the Ordinance which gives the shareholders any right to receive any part of the profits as dividend or otherwise. The Board may have discretion to divide profits or a part of it amongst its shareholders. The word “utilized” may suggest a different way of use or disposal of “profits” meaning that they should be used for generating more income rather than distributing the profits to shareholders. The Commission is of the view that it perhaps does not permit the payment of ‘dividends’ to shareholders as is expressly

¹¹⁵ Section 15

¹¹⁶ Section 19

¹¹⁷ Grameen Bank (Amendment) Ordinance No. 50 of 1990: Section 19(nn)

¹¹⁸ Section 20

¹¹⁹ Board Meeting# 34: Chaired by Dr. Akbar Ali Khan and attended by two other government nominated Directors. Annexure 8

¹²⁰ Section 26

permitted under other laws or statute. It also does not preclude payouts to lawful stakeholders of Grameen Bank.

97. The Ordinance provides for the recovery of Grameen Bank's dues "*as arrears of land revenue*".¹²¹ Certain provisions of the Public Demands Recovery Act 1913 were made applicable¹²² and "*an officer of the Bank*" was given the powers of "*a Certificate Officer under Public Demands Recovery Act 1913*".¹²³ It is significant that Grameen Bank was permitted by the Ordinance to use the machinery of the Republic to recover its dues. It is not known if similar authority has been granted to any private financial institution.
98. Power to make rules for the election of directors and regulations for the purpose of giving effect to the provisions of the Ordinance and efficient conduct of the affairs of the Bank are given to the Government and to the Board respectively.¹²⁴ These provisions were the result of the amendments of 1990 so that Government's ability to oversee the Rules framed by Grameen Bank was severely restricted to only those matters relating to the election of Directors from among the borrower-shareholders. The rules and regulations have to be published in the official Gazette to become effective. Various rules¹²⁵ including those for the election of directors have been made¹²⁶ and only those published in the Bangladesh Gazette can be said to be legally enforceable.¹²⁷

¹²¹ Section 28(1)

¹²² Section 28(2)

¹²³ Section 28(3)

¹²⁴ Sections 35 and 36

¹²⁵ Basic Rules (November 2008), Loan Rules (August 2009), Consolidated Statement of Accounts Rules (November 2007)

¹²⁶ Grameen Bank (Election of Directors) Rules 1987

¹²⁷ Appointment of Managing Director Regulations 2009

H. Legal Status of Grameen Bank

99. In order to consider the legal status of Grameen Bank, the applicable legal framework will have to be taken into account. The supreme law of Bangladesh is set out in its Constitution.¹²⁸ The Constitution defines “*statutory public authority*” as “*any authority, corporation or body the activities or the principal activities of which are authorized by any Act, ordinance, order or instrument having the force of law in Bangladesh*”.¹²⁹ Grameen Bank is a statutory public authority i.e., a corporation or a corporate body and all its activities are authorized as well as limited by the Ordinance.
100. Apart from the Constitution’s definition of a “*statutory public authority*” being applicable to Grameen Bank, the Ordinance itself lays down numerous distinct functions to be discharged by the Government. Under the applicable Rules of Business, the controlling Ministry is the Ministry of Finance. The Central Bank is entrusted with several regulatory functions including the audit of the books and accounts and the authority to approve the appointment of the Managing Director.
101. The share holding of the Government in Grameen Bank, i.e. its investment in its paid up share capital, allowing the Republic’s machinery to recover its debts, its right to appoint Directors of the Board and reserving the post of the Chairman of the Board to a Government appointed Director regardless of its ‘share’ in the capital of the Bank are clear indications that Grameen Bank is a statutory corporation and not a private bank as has been repeatedly asserted. The clear reference to “*public interest*” in the Ordinance¹³⁰ is also another indicator that it is not a private bank.
102. The legal status of Grameen Bank was also considered in the CPLAs. The Appellate Division of the Supreme Court of Bangladesh held as follows:

(1) “*There is no dispute that Grameen Bank has been established by a statute ...*”¹³¹;

(2) “*These provisions undoubtedly spell out that it is a statutory Bank and though the Board of Directors have been authorized to manage its affairs including the power to appoint the Managing Director, the Government and / or Bangladesh Bank is its ultimate controlling authority*”¹³²;

¹²⁸ Art. 7(2)

¹²⁹ Art. 152

¹³⁰ S.8(2)

¹³¹ Judgment, Page 19, lines 9-10

¹³² Ibid. Page 20, lines 13-18

(3) “...we find no substance in the submission of the learned counsel that ... *Grameen Bank is a private bank.*”¹³³ and

(4) “*We find fallacy in the submissions in view of the fact that the petitioner is not in the service of a private bank; he is in the service of a statutory Bank, established under an Ordinance, being controlled and regulated by the Government ...*”¹³⁴

103. Prof. Yunus explained to the Commission the reason for his assertion that Grameen Bank is a private bank. He relies on the fact that the Ordinance uses language that is used in the case of companies incorporated under the Companies Act; that it has authorized and paid up share capital, shares and shareholders; that it has a Board of Directors who, since the amendments to the Ordinance in 1990, exercise full and absolute control over the affairs and management of the Bank; a Chairman and Managing Director; that it does business for profit similar to a private bank: all indications, in his view, that it is a private bank. He also added that on a number of occasions he published documents and had made similar statements during Grameen Bank’s Board meeting which was chaired by very senior government officials and none of them contradicted his views. The Commission has no doubt that these assertions, in support of his views that Grameen Bank is a ‘private bank’, are erroneous and cannot be sustained.
104. Prof. Yunus was reminded that the records show that in 1983, before the Grameen Bank Ordinance was promulgated, the option of registering Grameen Bank under the Companies Act had been considered. He said he was aware of the difficulties the Bank would face if such a path had been laid out for the new proposed organization. He had participated in the decision making process when it was felt appropriate to take path to making Grameen Bank a statutory organization.¹³⁵ The records do not show that a private bank designed for this special purpose was ever envisaged and none of those persons associated with its creation have said that this was the objective when Grameen Bank was launched. Should that have been the objective then regulatory mechanisms to safeguard the rights and privileges of all classes of shareholders would have been incorporated and enforced as is done under the Companies Act 1994. Likewise, in the case of the other statutory financial bodies which calls for public-private partnership in its capital structure these matters are quite explicitly enumerated.¹³⁶
105. He has also confirmed that in all the countries that organisations similar to Grameen Bank have been formed, they have been established either as NGOs or as limited

¹³³ Ibid. Page 21, lines 12-15

¹³⁴ Ibid. Page 31, lines 3-10

¹³⁵ Prof. Yunus’s statements before the Commission: 24 November 2012

¹³⁶ Eg., in the Bangladesh Shilpa Bank Order - 1972

companies. In none of these cases has an organisation been set up by statute. Therefore, the Commission recognizes that it is dealing with a situation quite distinct from such organisations in other countries involved with micro credit operations.

106. The Commission notes that in an article¹³⁷ Prof. Yunus has stated: *“There can be academic discussion about whether Grameen Bank is a government bank or not. The main point is that it has been operating as a private bank till 2011.....If legal experts think that according to the existing law there is no way that Grameen Bank can operate as a private bank, and that this bank was being operated as a private bank till now was a mistake, then the law should be amended to make it a truly private bank. Grameen Bank cannot exist in any other way.....”* These statements seem to indicate that he is moving or has moved from his original stance and assertions that Grameen Bank is a private bank. It appears that he is in fact asking the government to convert it into a private bank. The Commission will seriously consider his views and will give it utmost importance in formulating its recommendations for the revised structure of Grameen Bank. Amongst other reasons, the Commission would like to ensure that women who have participated in the operations of this rural Bank have a means of expressing their empowerment.
107. In the light of the above analysis and the determination by the Supreme Court (Appellate Division), the Commission has no doubt that Grameen Bank is a statutory bank coming within the definition of a statutory public authority under the Constitution and is not a private bank.

¹³⁷ ‘Questions by critics on Grameen Bank and the facts’: Yunus Centre: 28 August 2012

I. Ownership of Grameen Bank

108. The issue of the legal status of Grameen Bank and ownership of Grameen Bank are closely intertwined. The former has been extensively explained in the context of the Ordinance and findings of the Supreme Court (Appellate Division) in the CPLAs: “*Grameen Bank is a statutory body wholly under the control of the Government regardless of the size of contribution to the share capital by other parties*”.
109. Nonetheless Prof. Yunus asserts that Grameen Bank is a ‘private bank’ and that its ‘owners’ are its ‘borrower-shareholders’. His views appear to be in direct conflict with the findings and judgment of the highest court of the country.
110. The Commission feels that this issue of ownership needs some explanation and elaboration in the context of the findings in the CPLAs and the legal framework within which Grameen Bank operates.
111. Prof. Yunus’ views that Grameen Bank’s ‘borrower-shareholders’ are its ‘owners’ stems from his assumption that their purchase, from their respective savings account alone, of Grameen Bank’s ‘ordinary shares’ gives them ownership of the Bank to the extent of their shares. Hence, when the ‘borrower-shareholders’ as a group had subscribed to 51% or more of the issued shares they, implicitly, became Grameen Bank’s owners (malik-মালিক or owner). He has, it should be mentioned, been consistent in this view for a long time now, indeed, as he says, from 1990.¹³⁸ The Commission has endeavored to find support for this assertion from the contemporaneous documents.
112. The Commission has reviewed some of the documents forwarded by Grameen Bank and has noticed that in the Preface to the Accounts Manual issued in 1994, Prof. Yunus has referred to Grameen Bank as a ‘private bank’. The contents of this document was brought to the notice of the Bank’s Board but elicited no comment, response or query from the government nominated Directors, at least none have been recorded in the Minutes.¹³⁹
113. In the Board minutes too it is recorded that Prof. Yunus had informed them that government has agreed to transfer the ‘malikana’ [মালিকানা] or ownership, to the landless who participate in Grameen Bank’s program.¹⁴⁰

¹³⁸ Prof. Yunus’s statements before the Commission on 24 November 2012 and ‘Questions by critics on Grameen Bank and the facts’: Yunus Centre 28 August 2012

¹³⁹ Grameen Bank Board Meeting # 22 (24 June 1990): Chaired by Prof. Kawser Hussain. Managing Director states that, unlike all private banks, Grameen Bank’s Managing Director is appointed by Government and that needs to be changed to make it a fully private bank.

¹⁴⁰ Grameen Bank Board Meeting #22 (24 June 1990): Chaired by Prof. Kawser Hossain

114. However, the Government's Gazette notification of 8 July 1986 makes no reference to the term 'malik' or to its redefinition of 'shares' as meaning 'malik' [মালিক] or owner. The amendment to the Ordinance merely indicates the appropriate correction to Sec.7(1) of the original Gazette in figures and words and therefore continues with the term 'share'.¹⁴¹
115. In examining the correspondence with the Ministry of Finance as well, it appears that Prof. Yunus has not, when discussing changes in the share structure and related matter of Grameen Bank, used the term 'shares' but the Bengali term 'malikana' [মালিকানা] (generally translated as ownership) particularly when referring to the additional shares being issued to the 'borrower-shareholders'. Examination of the available files of the Ministry of Finance shows that the Ministry of Finance has in its official notification never referred to these shares other than as 'shares'. No clarification about the usage of these terms seems to have been sought by anyone and the misunderstanding has persisted and has been misused to mean ownership of the Bank.
116. It would be appropriate, at this stage, to refer back to the Ordinance on this matter. The Ordinance has defined, in Article 2, as many as thirteen terms but has seemingly overlooked or ignored defining, amongst other important and relevant terms, the term 'share'. The Ordinance does not make any reference to any other legislation whereby this term 'share' may be suitably defined. Referring to the Bangladesh Shilpa Bank Order and the BSB, the one statutory body which admits private shares in its capital structure, we find fairly comprehensive definitions which allows for identifying 'ownership' of shares.¹⁴²
117. A reference, in particular, to 'The Companies Act 1913' (which has since been amended by the Act of 1994) in the Ordinance would have gone some way in explaining the term. Indeed the very next Section (S. 3) explicitly states that the provisions of the Ordinance (including thereby the 'Definitions' listed in Article 2 therein) shall '*override all other laws*'. Even in 1986, when the Ordinance was first amended and the matter in hand was the allocation of 'shares' between the constituent parties of Grameen Bank, there was no attempt to clearly state or define what this term meant. Similarly during the next round of amendment to the Ordinance in 1990 the opportunity, to define and clarify the term, was again sadly missed.
118. On one final occasion when this issue may have been placed before an institution whose interpretation of law and legal terms may be deemed as the last word – the

¹⁴¹ Grameen Bank Board Meeting # 10 (4th February 1986): Chaired by Ms. Tahirunessa Abdulla. Government Members present were M. A Hannan; M. Faizur Razaque; Ashraful Huq and Dr. A.M.M Shawket Ali and they apparently made no comment because none has been recorded in the minutes and the term 'share' is used not 'malik' in the minutes. Further it seems Grameen Bank collects funds against the proposed issue of shares even when it has not been authorised to do so by an amendment to their Ordinance. They have resolved that if the necessary approval for issue of additional shares is not forthcoming, then the funds so collected from the landless persons would be returned.

¹⁴² BSB Order 1972: Section 2(h)(i) & (III)

Appellate Division of the Supreme Court in the CPLAs. The learned counsel for petitioners in CPLA#641 of 2011 apparently made extensive submissions before their Lordships who have stated in their judgment “...*the petitioners who constitute the majority of the Board of Directors being borrowers and shareholders of Grameen Bank have their right to challenge the impugned orders,....*”

And then also “*the petitioners as Directors of the Bank filed the writ petition to protect their statutory right under Grameen Bank Ordinance, it being not a public institution, the majority share held by private citizens have the right to prevent usurpation of their statutory right with regard to the management and control of the Grameen Bank and to safe guard their organization.*”

119. Notably the learned counsel does not seem to have made an attempt to define the ‘borrower-shareholder’s share in Grameen Bank as an evidence of the ‘ownership’ claim largely in line with what Prof. Yunus had so long been stating (‘malik’ = মালিক) or owner in his correspondence with the Ministry of Finance. The learned counsel also submitted, ‘*petitioners who constituteborrowers and shareholder of Grameen Bank...*’ and has not termed them as ‘*borrower-shareholders*’, the only terms used in the Ordinance for the non-State subscribed shares of Grameen Bank. Was this again an oversight or an admission of sorts that, within the ambit of the Ordinance, such a claim is not tenable? The Commission cannot speculate but considers that this does not support the assertion of Prof. Yunus.
120. Whatever that may mean, the Appellate Division’s findings in the CPLAs with regard to this issue are plain. The judgment states: “*Upon hearing the parties and on consideration of the materials on record the following points have emerged for our consideration: (a) What is the status of Grameen Bank?*” It then goes on to find “*There is no dispute that Grameen Bank has been established by a statute with 60% paid-up share capital subscribed, managed or controlled by the Government and 40% by borrowers. The above ratio of share capital has been reduced to 25% and 75% respectively by an amendment by the Grameen Bank (Amendment) Ordinance 1986. Be that as it may, this reduction of holding share capital will not make any difference regarding its status and the Government’s power in the affairs of this statutory Bank the Government and/or Bangladesh Bank is its ultimate authority.*” (Emphasis added)
121. This last statement should effectively put an end to any controversy as to the authority of the ‘shareholders’ in the context of Grameen Bank regardless of the number of shares held by any class of shareholders.
122. And further on, the judgment continues: “*We would like to observe that the writ petition filed by 9 (nine) Directors is not maintainable.....these petitions merit no consideration which are dismissed with the above observations.*”

123. It has been stated by one of the learned Senior Advocates, whose considered opinion the Commission had sought, that these opinions recorded in the CPLA are merely an observation made in passing (*obiter dicta*) by the Appellate Division and does not related to the main dispute in the CPLAs. In the context of the matter before the Appellate Division it appears to the Commission to be the main issue under dispute. Therefore, we feel that it is only relevant, appropriate and important that this matter is dwelt upon by their Lordships in a very direct manner before they could come to their conclusion and judgment. Not to have done so would have left the judgment, in our view, both deficient and incomplete. It can hardly be considered as ‘*obiter dicta*’ and therefore is not inconsequential.
124. The Commission takes the view that, therefore, that these nine ‘borrower-shareholder’ Directors are not recognized as representing any ownership (মালিক= “malik” or owner) claim.
125. Shares, in the context of incorporated companies, come with various rights and claims depending on what the issuer of the share wishes to assign to them. These of course, then have to be confirmed by the appropriate regulator of the country before they are sold to the public. It is best to define them in advance so that the regulator can approve their sale and the buyer is clearly in the know of their benefits and liabilities. The Companies Act 1994 defines ‘share’ in Article 2(v) and a substantial portion of Part III elaborates the meaning, on a number of aspects, in relation to the organization issuing the instrument.
126. Significantly in the case of Grameen Bank, while there exists at least two classes of shares stated in the Ordinance: one belonging to the Government and the other to the ‘borrower-shareholder’. Their rights and liabilities as shareholders except for the borrower-shareholder right to elect Directors are not elaborated anywhere. We are therefore left to ascertaining from the events, decisions and transactions that have taken place since 1983 as to the nature of these ‘share’ in the context of the borrower-shareholder of the Bank.
127. In trying to determine the essential characteristics of the class of shares being issued to the ‘borrower-shareholders’ the Commission has only four sources of information: The Ordinance; directives of principal regulator i.e. the Ministry of Finance and/or Bangladesh Bank; the deliberations of the Board of Directors, and, finally any Rule or Regulation that may have been legally promulgated or issued under the Ordinance.
128. Sadly, the Commission has precious little to go on. The language of the Ordinance on this issue is ambiguous. This particular section may even be read to mean that classes of borrower-shareholders are envisaged.¹⁴³ Therefore, share of each class of borrower-shareholder may transfer shares among that particular class only and not with another

¹⁴³ Section 7(3): *Shares held by a borrower may be transferred to another borrower of his class.*

class of borrower-shareholder. Hence, the characteristics of such a share may be defined by the class of share held by the borrower-shareholder. The Commission is not certain whether this was the intent of those who drafted the Ordinance or it was merely sloppy legal work which has lent it to an alternate interpretation.

129. As has been already been stated the Ordinance does not elaborate on the nature of the shares of each class of shareholder in spite of three amendments to it over a period of twenty-five years. The Ministry of Finance and Bangladesh Bank too have had little to say on this issue as we have not found any orders or instructions which may guide us in establishing their characteristics. Indeed, both these institutions seem to be oblivious to the importance and need for clarification on this crucial matter.
130. We have therefore turned to the discussions of the Board of Directors of Grameen Bank as has been recorded in the Minutes to determine if this matter had ever been deliberated upon. In the very first meeting of the Board, it was resolved to ask the government to provide an interest-free loan to cover the shortfall in the equity that should have been have been forthcoming from the members (borrower-shareholder) of Grameen Bank.¹⁴⁴ There was no attempt by the Directors, all of whom are appointed by the Government (and in this meeting represent the Government only and not any of the borrower-shareholders) to define these shares. It was merely a matter of raising necessary capital to get the financial institution going that was mentioned. In the First Meeting, the Board adopted the Service Rules that had been used during Bangladesh Bank's Grameen Bank Project (they had even considered adopting Governments' Sonali Bank Rules) on an interim basis and in the next Board meeting the Managing Director, Prof. Yunus, was pursuant to Article 15 of the Ordinance requested to develop appropriate draft Rules and Regulations and to place them before the Board for approval.¹⁴⁵ Again, no discussions took place on the concept of shares or shareholders at this meeting or subsequently.
131. We now have on record that at no stage between Grameen Bank's establishment in 1983 to date was any Rules or Regulations relating to 'shares' placed before the Board for their consideration.¹⁴⁶ In reviewing the minutes of the Board, the Commission has found that none of the Members ever deemed it necessary or important enough to raise this subject and demand a report from the Managing Director as to how the matter of issue of shares, their characteristics and accounting was being handled. Apparently the Managing Director had been periodically circulating office orders on these matters and in 1986 issued a circular superseding all previous office orders.

¹⁴⁴ Annexure 4: Extracts of the 1st Meeting

¹⁴⁵ Annexure 5: Extracts of the 2nd Meeting

¹⁴⁶ Grameen Banks Letter No. GB/PK/K(1)/2013-41 dated 03 January 2013

132. The ‘Share Regulations-1986’ issued by the Managing Director states in its penultimate paragraph that all previous instructions issued by the Managing Director, with regard to issue and management of shares, were superseded by this particular Order.¹⁴⁷ Grameen Bank’s Acting Managing Director has since confirmed that:

- i. These “Grameen Bank Share Regulations (নীতিমালা) 1986” was never placed before the Board of Directors and therefore was never approved by them. Indeed the Board was apparently completely unaware of its existence.
- ii. That Government was also apparently unaware of any such Share Regulation and that no approval from the Government was therefore obtained and thus they were never published in the Gazette.¹⁴⁸

The Commission is of the view that the Regulations (নীতিমালা) are invalid and any action taken under its directives is improper and illegal.

133. In examining these Share Regulations our observations are:

Para #3 of this Regulation relates to the ownership of share where the word ‘malik’ [মালিক] or owner is used. The borrower-shareholder is explicitly made aware that the share is a personal asset/property. It is in relation to the individual’s ownership of the share only and not in relation to the share being an evidence of ownership of the bank. This is the only one of two sections in the entire regulation where the word ‘malik’ [মালিক] or owner is used. In all other sections in these Regulation the term ‘share’ is used.

Para #10.1 of this Regulation deals with the transfer of Grameen Bank’s shares. Grameen Bank members are not permitted to transfer it as long as he/she is a member of the Group.

Para #10.2: If any member dies, leaves the Group or is removed from the Group, then that member’s purchased share will be cancelled and the share will be treated as a Group asset but not assigned to any individual. This apparently deprives the owner of the share of a personal asset/property (as defined in para 3.2) without any due process. In that case, the face value of the share will be paid by the Group from their funds if available and in any case will remain with the Group until it is sold to a new member. Share transfer deed will then be given to the new member. Who get the sale proceeds of this sale is not very clear.

Para #10.3 of the Regulations state that when a shareholder is removed from the group or the member dies, the share’s face value will not be paid to the shareholder or

¹⁴⁷ Grameen Bank Order# Share/86-9345 on 30.12.1986

¹⁴⁸ Grameen Bank Memo No. GaBa/PaKa/Ka(1)/2013-41, dated 3 Jan 2013

shareholder's heirs until the dues of the member to the Bank are first adjusted. Thus, it appears that from its very commencement the share is 'mortgaged' to Grameen Bank and that Grameen Bank has a first 'lien' on this share. This suggests that the share has characteristics of a Fixed Deposit rather than a 'share' in the ordinary sense. Until the dues of the borrower-shareholder are adjusted the share will be treated as a Group asset and the Group will be required to pay the defaulting dues of the member (borrower-shareholder) to the Bank.

Para# 10.4 of the Regulations states that if any Group breaks up or is dissolved, then all the shares of the Group will escheat to the central deposit of the Bank and will be deemed as an asset of the Bank. The face value of these shares of the Group will be paid from the disaster fund of the Bank or from any other fund or sources by the Bank. When these shares are sold to the new Group or its members, the funds so raised will be paid into the disaster fund.

134. It appears that these 'shares' originate only from the savings account of the individual borrowers. They cannot be bought from funds outside of these savings accounts. Each borrower is limited to a single 'share' with a face value of Tk.100. They can only be transferred to another borrower who has to pay for the share from funds in his savings account. In effect the 'share' has more of the characteristic of a 'fixed deposit' with the right to participate in the process whereby a Director of the organization is elected. No other right is stated or even implied in the Ordinance.
135. Again, the Commission cannot speculate whether this was deliberate or came about by default. This is one aspect on which the Commission will make recommendations in its Final Report in the context of the appropriate structure of Grameen Bank.
136. But in the interim what does one make of these 'shares'. It needs to be reiterated that, as of now, there is no reason to doubt that there are over 8.4 million borrower and that 5.5 million or so of them has a single 'share' worth Tk.100 duly recorded in their 'pass-book' as 'apparently' no share certificates have been issued since 1990.¹⁴⁹ These 'shares' cannot be traded in the conventional way and their market value remains fixed at face value provided a transfer to another new 'borrower-shareholder' can be effected. Interestingly, at a later stage Grameen Bank's Board had agreed to allow a 'borrower-shareholder' to acquire more than one share but the Board's members had failed to consider or elaborate on how this would impact on the rights of the existing borrower-shareholder, current share structure and operating procedures of the Bank¹⁵⁰. It seems to be another decision taken without much consideration as to its practicality or impact on the legal structure of the organization and its management.

¹⁴⁹ 'Questions by critics on Grameen Bank and the facts'-Q# 4: Yunus Centre 28 August 2012

¹⁵⁰ Grameen Board Meeting #54: (21 Dec 1999): Chaired by Prof. Rehman Sobhan. The report presented by the Head of the Central Accounts Division justifying this proposal indicates that Grameen Bank is more concerned about increasing their

137. As stated above, these ‘shares’ do not have a legal claim on ‘dividends’ because the term ‘dividend’ does not feature in the section of the Ordinance dealing with the “Disposal of Profits’ or elsewhere. If this were intended, the Ordinance could easily have mentioned it. The Commission finds it interesting that among the very few instances when a borrower-shareholder Director has cared to make an intervention in the Board meeting, (and has the privilege of seeing it recorded in the minutes) is on a matter which relates to their getting a return on their investment in this ‘share’.¹⁵¹ Grameen Bank in claiming to have distributed ‘dividends’ and chartered accountant firms in certifying the annual accounts with these terms may have acted in violation of the terms of the Ordinance. Going back to BSB’s Order we find an explicit reference to dividends – their source and disposal.¹⁵²
138. We still have to deal with the problem of issuance of shares in excess of both the limitation set for issued and paid-up share capital’ and ‘authorised capital’. As of 2012, the number of shares alleged to have been issued to the borrower-shareholder alone is 5.5 million¹⁵³ which is far in excess of what it could have issued under the mandate of its Ordinance i.e. 720,000 shares. Indeed, Grameen Bank by claiming to have issued about 5.5 million shares to their borrower-shareholder has even exceeded the limits set by the Ordinance which permits an Authorised Capital share issue of 1 million shares only. Grameen Bank could agree to a ‘buy back’ these share effectively reversing the entries in its books or take some other measures so as to bring the transactions within the law. In the absence of an amendment to the Ordinance, the ratio of the distribution of shares between the government and borrower-shareholder remains at 25:75 and these shares issued beyond the statutory limit have to be dealt with in due course.
139. Grameen Bank is not a company in spite of what Prof. Yunus says in the July 2012 issue of Grameen Dialogue: “...*Grameen Bank, which is a ‘for-profit’ company*”. He claims that Grameen Bank has been operating as a ‘private bank since 1990’¹⁵⁴ although the judgment in the CPLAs says otherwise - that Grameen Bank is a statutory bank and that the government may control or regulate it as it deems most appropriate in the public interest. Prof. Yunus has reiterated on a number of occasion that it is only after 1990 (when the second round of amendments to Grameen Bank Ordinance took effect) that he has been managing Grameen Bank as a ‘private bank’. This implies that he recognizes that, for seven years prior to that date, it was a

deposit base and have not considered or mentioned what impact the issue of additional shares will have on some of the existing borrower-shareholders rights.

¹⁵¹ Grameen Board Meeting #3: (12 May 1984): Borrower-shareholders’ Director Msmt. Zahida Khatun query is on record. She wanted to know when she would get a return on her investment in the share. The reply was that this matter would be placed in the next meeting. No such matter was discussed or her query adequately replied to in any of the subsequent Board meetings.

¹⁵² BSB Order: Section 31(2)

¹⁵³ ‘Questions by critics on Grameen Bank and the facts’-Q#5: Yunus Centre 28 August 2012

¹⁵⁴ ‘Questions by critics on Grameen Bank and the facts’-Q#2: Yunus Centre 28 August 2012

statutory bank which was managed without any undue interference by the government. Contrary to his position, it seems from the records that the government went out of its way to provide various forms of assistance to Grameen Bank from its initial contribution to the initial paid-up share capital on behalf of the borrower-shareholder to tax waivers.

140. The Commission notes that the year 1990, it is suggested, was when Grameen Bank became 'private'. If the claim that ownership of shares determines the ownership and status of the bank, i.e., government or private, then it could be argued that Grameen Bank should be deemed to have been or become a 'private bank' ever since the first amendment to its Ordinance in 1986 when the issued share structure was changed from 40% to 75% in favor of the 'borrower-shareholder'. Significantly, at that time the government also changed the structure of the Board of Directors reducing its numbers on the Board and increasing those 'elected by the borrower-shareholders'. No one refers to the 1986-1990 period as one when Grameen Bank is said to be 'private', probably because the Board was not made up with the elected directors and they did not have absolute control over the affairs and business of the Bank.¹⁵⁵
141. The second amendment in 1990, which primarily devolved greater oversight or regulatory responsibility from the government on to the Board of Directors of Grameen Bank, made no change in the issued share structure or on the 'ownership' of the bank. The Monwaruddin Committee has some sharp observations about the changes to the Ordinance in 1990.¹⁵⁶ Even a 'private bank' registered under the Companies Act (1913 or 1994) cannot exercise any of the rights, benefits or even freedom to alter either their authorized share capital or issued share capital as registered with the RJSC¹⁵⁷ or their 'share holders' in the same way that appears to have been freely exercised by Grameen Bank since 1990. To claim '*sui generis*' exceptions for Grameen Bank from the rigors and discipline imposed on other organizations registered under the Companies Act or on other statutory body, in the opinion of the Commission, would be really stretching matters to the detriment of other organizations functioning in Bangladesh under law.
142. Therefore, it is the considered view of the Commission that shareholding in Grameen Bank is not synonymous with ownership and does not give any rights beyond those expressly stated in the Ordinance. It follows that there is no scope for any rights to accrue to the shareholders by implication and this view conforms with the ruling of the Appellate Division in the CPLAs.

¹⁵⁵ 'Questions by critics on Grameen Bank and the facts'-Q#2: Yunus Centre 28 August 2012

¹⁵⁶ Advocate Mohsen Rashid's additional observations in the Review Committee Report, 2011; See Annexure 1

¹⁵⁷ Registrar of Joint Stock Companies

J. Management of Grameen Bank

143. Section 8 of the Ordinance entrusts “*the general direction and superintendence of the affairs and business of the Bank*” to its Board of Directors¹⁵⁸ and expects that the Bank “*in discharging its functions shall act prudently with due regard to the public interest*”¹⁵⁹. (Emphasis added)
144. The Commission notes the unique nature of the latter directive. In other statutory organizations the directives are explicitly to ensure its functioning for the purposes the organization is established which was to promote commercial or industrial development ‘*and to the public interest generally.*’¹⁶⁰. In Grameen Bank’s case the ‘*prudently with due regard to the public interest*’ is particularly emphasized. An organization set up for private ends would not be expected to direct its management to discharge ‘*its functionswith due regard to public interest*’. Only a strictly statutory body i.e. a statutory public authority, can be mandated by law to operate in public interest. Private organizations set up by individuals or private groups act principally in the interest of its ‘shareholders’ (only very recently this term has been expanded to include so-called ‘stakeholder’ or promoter) or in the case of a non-profit organization towards the specific interests or objects stated in its charter which may or may not be purely in public interest. This requirement making reference to ‘*public interest*’ in the context of Grameen Bank would be entirely consistent with the Fundamental Principles of State Policy in the Bangladesh Constitution¹⁶¹.
145. Grameen Bank is expected to make a profit from its operations¹⁶². However that directive is constrained by the principal objective of providing ‘*credit facilities and other services to the landless persons in rural areas...*’. And because the term ‘dividend’¹⁶³ is not mentioned anywhere in the Ordinance it is obvious that payouts to ‘borrower-shareholders’ is not what was contemplated. As stated above, the section contemplates the profits to be “*utilised*” – probably, in furtherance of the main objective of the Ordinance to make loans to assist ‘*landless persons*’ in ‘*rural areas*’ of Bangladesh. A particular characteristic of a private company’s share is therefore missing from the mandated single share allotted to Grameen Bank’s ‘borrower-shareholder’. The principal objective was and should remain the drive to give collateral-free credit to the landless in rural areas so as to better bring them into the productive arena of the state. In this context, it appears that Prof. Yunus’ singular

¹⁵⁸ Section 8(1) of the Ordinance

¹⁵⁹ Section 8(2) of the Ordinance

¹⁶⁰ BSB Order 1972 Section 7(2); BSRS Order 1972 Section 7(2); BKB Order 1973 Section 6(2)

¹⁶¹ Part II, Arts. 10,13,14, 15 and 16.

¹⁶² Section 26

¹⁶³ Dividend is what an ordinary share receives from the net profits or retained earnings of a company

contribution is to have conclusively demonstrated that, under certain circumstances, the asset-less person, particularly women, are good and credible borrowers.

146. Indeed, in for-profit organizations, the principal directive to the management is invariably to act in the interest of the ‘shareholder’, which may not always be in public interest. It is for the state to ensure that in such circumstances, where the organisation’s actions are legal but not entirely in public interest, that its regulatory regimes mitigate the adverse effects of the operations. In Grameen Bank’s case this kind of a scenario was perhaps not contemplated when its charter was being prepared.
147. As the responsibility for the “*the general direction and superintendence of the affairs and business of the Bank*” vests on the Board it is only right that their composition and mode of operation of the Board be discussed in some detail. Until the amendments to the Ordinance in 1986 the government appointed eight of the twelve of the Directors of the Grameen Board. For the first four years of the Bank’s existence, the government was required to select four Directors from among the borrower-shareholders. Thereafter, the Board consisted of three nominated by the Government and nine elected from among the ‘borrower-shareholder’.
148. The *Grameen Bank (Election of Directors) Rules 1987*¹⁶⁴ (“**Election Rules**”) is supposed to provide for a process whereby ‘borrower-shareholders’ are to elect their representative to the Board every three years. The first election amongst these ‘borrower-shareholders’ was conducted, soon after the promulgation of the Election Rules, and by February 1988 the results had been announced in a Board Meeting.¹⁶⁵ Nevertheless, inexplicably it took Grameen Bank almost thirteen months before the next Board meeting was convened and these elected Board members were able to join in the deliberation.¹⁶⁶ Prof. Yunus was very candid in recording his apprehensions about those who were to join as Directors.¹⁶⁷
149. Thereafter these elections have been conducted every three years and the nine-elected ‘borrower-shareholders’ have taken their place in the Board as Directors. It was necessary to determine what exactly constituted the election process. The Rules envisage a tiered ‘Electoral College’ process. By no means, does the ‘borrower-shareholder’ participate in a direct election of their Directors – in fact, Prof. Yunus was at pains to emphasize that he deliberately wanted to avoid a direct electoral process.¹⁶⁸ The electoral process should begin at the very lowest level, which is each

¹⁶⁴ The draft Rules were approved by Grameen Bank’s Board on 18 August 1987. It was cleared through a minimum of four stages in the Ministry of Finance and perhaps a similar four stages in the Ministry of Law; then sent to be published in the official Gazette which was accomplished on 25 August 1987. The remarkable speed by which this was achieved is commendable and attests to Governments’ support to Grameen Bank.

¹⁶⁵ Grameen Bank Board Meeting # 17 (23 Feb 1988)

¹⁶⁶ Grameen Bank Board Meeting # 17 (23 Feb 1988) & Grameen Bank Board Meeting # 18 (18th March 1989)

¹⁶⁷ Grameen Bank Board Meeting # 18, (18 March 1989): Agenda 18.1 Managing Director’s report.

¹⁶⁸ Prof. Yunus’s views expressed when he appeared before the Commission: 24 November 2012

borrower-shareholder of Grameen Bank within the Group. In reality, it is through four tiers a ‘borrower-shareholder’ Director is elected.¹⁶⁹ Regrettably, the provisions of the Election Rules do not recognize the individual borrower-shareholder as the fundamental elector of Grameen Bank. The elector mentioned in the Election Rules is the ‘Center Leader’. The Election Rules state that the electoral roll for the election of the Director is to be formed by around 140,000 of these Center Leaders and not the individual borrower-shareholder. These Center Leaders work through three tiers to ‘elect’ a Director. The Commission has been told that over the years a system of ‘consensus building’ from the lowest tier to the last stage has been in operation whereby a ‘borrower-shareholder’ Director comes to office. No actual balloting has ever taken place in any of the tiers of the ‘electoral college’.

150. The Rules also do not mandate the submission of a detailed election result report by the person entrusted with carrying out this onerous task. Such a report would have made it clear what the election process is; how many voters were eligible and actually participated by casting their vote in each of the tiers.
151. The record in the minutes of the Board of Directors pertaining to the elections has also been perused. Prof. Yunus has commented on the importance of this ‘consensus’ building process in one of the Boards’ meeting.¹⁷⁰ The consensus building takes place under the close supervision of the respective Loan Officer or Grameen Bank official at each stage of the ‘electoral college’. A ‘workshop gathering’ of the ‘borrower-shareholder’ is funded and conducted under the aegis of the respective Loan Officer and/or the Area Officer of Grameen Bank. It is through a number of such arrangements all over the Grameen network that matters relating to the ‘election’ are sorted out. At the end of it all, nine ‘borrower-shareholder’ Directors have been ‘elected’ to the Board of Grameen Bank to represent the vast number of ‘illiterate’ borrower-shareholder. The ‘electoral’ process that has been in vogue is best explained by a lady who was ‘elected’ to the position of borrower-shareholder Director in 2006. She was asked by the Board to tell them how she came to be elected as Director. A translation of her statement, as recorded in the minutes of the Board, along with the question put to her by the Chairman of the Grameen Bank’s Board is placed below:

Q: How did you get elected to the Board?

A: The election process to becoming a Director began when the Branch Manager asked me to meet him in the Branch Office. There I found all the Head of the other Centers present. Because of my remarkable economic transformation from poverty,

¹⁶⁹ The Rules list three electoral colleges’ stages but that excludes the “Group” and the “Center” gatherings. The acting Managing Director and the Election Commissioner who conducted the latest election appeared before the Commission said that if these two stages are included then there would be five in all in the process of ‘electing’ the borrower-shareholder Director.

¹⁷⁰ Grameen Bank Board Mtg # 45 (06 April 1997): Chaired by Prof. Rehman Sobhan. Managing Director’s report on the consensus building process for electing a borrower-shareholder Director.

*dynamic leadership and adherence to the principles of the Center was better than others, I was nominated as the Branch representative. After that the Area Manager asked me to go to the Area Office and because of my merit I was nominated as Area Representative. I then moved to the Zone Office and there too as I was considered the most meritorious I was nominated as Zonal Representative. When I became Zonal Representative I had moved to the constituency level and was judged one of the best candidates to become a Director by senior officials of Grameen Bank.*¹⁷¹

152. The Commission has had the opportunity of discussing the details of this ‘electoral college’ process with some of the senior Grameen Bank officers who have conducted the elections over the years and to understand the ‘consensus building’ process. To what extent is this process free and fair is debatable – some of those who were responsible for conducting it have labeled it a ‘sham’. But the Commission strongly feels that a process of inclusion of all borrowers-shareholder of this organisation cannot be said to be bad and that this, even in an amended form, should be sustained and strengthened so as to give a genuine voice to the landless ‘borrower-shareholder’ - the vast majority of whom are women.
153. One other issue, which impacts on the election process of these borrower-shareholders Director of the Board, is the determination of the size of the electorate itself. Under the existing Ordinance (as amended) the size of the electorate cannot exceed 540,000 persons all of whom have a single share denominated to the value of Tk.100 and a single vote to go with it. But the Election Rules recognize only 140,000 (approx) electors in the Center Leaders. The Commission has been told that these Center Leaders represent the actual borrower-shareholder.¹⁷² But how did the Grameen Bank management come to this conclusion is not clear. Do they represent 540,000 or 5.5 million borrower-shareholders? They did say that process of election through selection of these Center Leaders included both borrowers and borrower-shareholders. They were also unaware that their stated ‘elective’ process and inclusion of those who were only borrowers mitigated against the rights of the borrower-shareholder. This in our view, seems to invalidate all elections and therefore the right of these borrower-shareholder Directors to participate in the deliberations of the Board.
154. The legality of these borrower-shareholder Directors to sit on the Board aside, the Commission feels that their role and participation in the discussions and decisions of the Board needs to be reviewed to determine their contribution to the management of the Bank. To this end, the Commission has perused the relevant portions of the Minutes of the Board of Directors. There were over ninety such meetings since 1983

¹⁷¹ Grameen Bank Board Meeting # 76 (22.03.2006): Chaired by Mr. Tabarak Hussain.

¹⁷² Acting Managing Director Grameen Bank & the Election Commissioner for the 2012 (Election of Borrower-shareholder Director). Both officials met the Commission on 21 Jan 2013 and elaborated on the election process.

- and the Commission has noticed that, in terms of what has been recorded, in most meetings the active participation of the ‘elected’ directors was minimal.¹⁷³
155. Their role in the meetings of the Board has been inconsequential and ineffective. The Monwaruddin Committee has commented on this issue. The Commissions’ examination of the Minutes of the Board reveals that in not more than three of the ninety-one Board meetings, from 1983 to 2010, have the ‘borrower-shareholder’ Directors have had anything of substance to say and that most interventions were limited to lauding the work of the Managing Director and thanking him for the work done. This is the recurrent and distinguishing feature in almost all the Board minutes. Some of those who were present in these Board meeting have observed that there is remarkable unison whenever these elected Directors have had anything to say – almost as if they were carefully ‘coached’. The only other issue which prompted them to intervene was when they had to plead for some benefit (promotion, leave or special allowance) for their ‘Sir’ who happens to be their respective Loan Officer but these entreaties are not recorded in the minutes for obvious reasons.
156. It has been asserted that these elected Directors have actually participated in many important issues discussed during the Board meetings but that these have not been recorded in the minutes. If this is, even in part true, it is demeaning both to the elected Directors and the person who chaired these meetings that they did not feel the elected Directors’ views on the important issues were valuable enough to record them. The Monwaruddin Committee members have commented about the enormous expectation placed on the representatives of largely ‘illiterate’ borrower-shareholder Directors when participating in Board meetings.
157. In recent times, the elected Directors have become remarkably vocal in expressing their views while participating in the Boards’ deliberations and by filing Writ Petitions to defend what they see as infringement of their fundamental rights. This bodes well for the future of the Bank to see that the elected Directors are aware of the important issues confronting the management of the Bank and that they are willing to speak up and have their views recorded which they had not done in the past. Cynics see this new assertive nature of the elected Directors in a different light. They have stated that these nine borrower-shareholder Directors are just ‘puppets’ in the hand of Prof. Yunus. Hence, in none of the ninety or so Board Meetings is there any significant contribution by them. Their recent awakening is also prompted by Prof. Yunus who tells them what to say whether in the Board meetings or when filing cases in the court.
158. It is also significant that in recent times since changes have been made to the nominated members of the Board, the Chairman and the Managing Director, there has

¹⁷³ The Review Committee has pointed this out as a significant deficiency in the deliberations of the Board.

been deadlock in the Board on major issues relating to policy and management. This needs to be addressed immediately for Grameen Bank to function.

159. We need to refer back to the only other statutory financial organization we have found in which there are private shareholders. We find that their right to elect Directors to the Board from amongst themselves is restricted and graduated and because it is a statutory body the majority on the Board is reserved for the Government.¹⁷⁴ Further the term of the elected Director on the Board is fixed for three years but is controlled by ‘...on such terms and conditions as the Board may determine.’ Considering that the majority on the Board is, by statute, always with the Government the tenure of the private elected Director can be fairly constrained.
160. In the circumstances, both the Government and Grameen Bank have been placed in a difficult position. There is no legally binding Share Regulation thus the proper mode of share issue, sale, transfer and accounting has not been authorized. The Ministry of Finance has now confirmed that the shares have been issued to the Government and that on five occasion payments have been deposited against these shares from 2006 to 2010.¹⁷⁵ However, the fact remains that the number of shares issued to the borrower-shareholder is far in excess of the legal limits stated in the Ordinance (as amended).
161. The Commission feels it imperative that a careful audit of all the records throughout the Banks’ network has to be conducted to determine which of the 5.5 million borrowers fall within the legal limit of being owners of the 540,000 shares. The Commission is of the view that the increase in the authorized and issued share capital as gazetted in 1991 is of no consequence as it does not alter the limits set out in the Ordinance after its amendment in 1986. Therefore, once these shares and shareholders are identified within the existing statutory limits, these borrower-shareholders alone carry with them the right to vote for the position of borrower-shareholder Director.
162. It is notable that since 1983 over a period of twenty-seven years or more Grameen Bank Board has met on 91 occasions, an average of just over three times a year. In fact, there was a stretch of over 12 months when the Board was not convened at all and the reason for not convening it has not been fully recorded in the minutes. Even when specific decisions were taken that certain records and reports should be placed before the Board on a regular basis it seems that its implementation was never followed up.¹⁷⁶ The deliberation of the few Committees setup by the Board do not find space in the Minutes so that the extant and depth of their deliberations and decisions could be further assessed by the Board and appropriate guidelines laid down for a fair administrative process. Indeed quite the opposite seems to have been the attitude of the Board. Carte Blanche authority was handed over to the Managing

¹⁷⁴ BSB Order: 1972: Section 8(1)

¹⁷⁵ MoF Memo No. 53.009.022.00.00.010.2010-21, dated 23 Jan 2013

¹⁷⁶ Grameen Bank Board Meeting # 48 (16 Apr 1998): Chaired by Prof. Rehman Sobhan

Director. He did not feel it appropriate or necessary to place detailed reports on a regular basis and have those included in the Minutes. The basis of decisions taken by him has not been recorded in the Board minutes. Thus, when it was convened many issues before them had to be given *ex post facto* approval without scrutiny or meaningful discussion being recorded in the minutes.

163. It seems that none of the Board members ever objected to this ‘rubber stamp’ role assigned to them. Records show that rarely did anyone, elected or even government’s nominated members, raise substantive queries or follow them up in subsequent meeting matters, which were important for good governance. The nominated official Directors have apparently expressed meaningful views on the issues in not more than fifteen of the ninety-three meetings. Their comments have largely been of little consequence. Regrettably there has been no recording of any follow up action to these few comment in subsequent meetings of the Board hence their contribution has been both perfunctory and negligible. This Report has already indicated instances of many of the shortcomings of those who sat on the Board.
164. The Board had not formed an Audit Committee of the Board; the preparation of the Accounts Manual and changes to it were not cleared by the Board; they were not told about the Share Rules or its various changes; and they do not seem to be aware as to how the borrower-shareholder’s share were being issued or recorded as the Managing Director’s instructions on this matter was never deliberated on.
165. The Board minutes do not indicate that they were regularly apprised of all matters involving important administrative decisions either prior to their becoming effective. The Commission feels that Board meetings would have been more productive if the Directors had been more probing in their deliberations of the issue raised in the agenda. They should also have been more demanding of information on administrative issues and follow up actions by the management.¹⁷⁷
166. A very respectable and knowledgeable senior bureaucrat, who was closely associated with establishing Grameen Bank, did not hesitate to express his opinion to the Commission that the Boards’ impotence is reflected in its deliberations. The Directors, particularly the government nominated ones and the Chairmen are primarily responsible for the administrative disarray, as they had not asserted themselves on issues, which needed greater regulatory oversight.
167. Prof. Yunus emphatically conveyed his views to the Commission that with so many of Governments’ senior bureaucrats on the Board as Chairmen and Directors their deliberations and concurrence with his demands was in effect Government’s approval of his decisions and actions. The Commission feels that his observations about the

¹⁷⁷ Grameen Bank Board Meeting # 32 & # 33: Extracts at Annexure 6 and 7 respectively

- ambivalent role of the Chairman and Directors nominated by the government may have given the wrong impression that everything that was suggested and agreed by the Board was either consistent with the laws or being taken in the interests of Grameen Bank.
168. The Commission has been informed during discussions with, inter alia, the government nominated members that the attitude of the government to Prof. Yunus has to be kept in mind when assessing their role on the Board. It was stated that for years Prof. Yunus was regarded as ‘untouchable’; he was a favorite of the donor community and could directly influence the terms of funding to his programs and projects. In a donor dependent country, this gave him a special position even by the political sections and the bureaucracy was loath to ‘cross swords’ with him. He was an Adviser (Minister) in the Caretaker Government in 1996 which is an indication of the degree of authority he had started acquiring and that it was not unreasonable to assume that he had some, if not considerable influence, in the selection of Advisers (Ministers) in subsequent Caretaker Governments. This is borne out by the number of vocal supporters he has among them. Besides, he employed so many retired bureaucrats in his various organizations that he could effectively use them to overawe their successors in the important and influential positions they had vacated. Together with the wide spread fear among bureaucrats about suddenly becoming ‘irrelevant’ to family and society on attaining the age of superannuation, was the awareness of the diminished source of income for the ‘honest’ bureaucrat.¹⁷⁸
169. Prof. Yunus, it is alleged, exploited this situation to his advantage with the active assistance of a few senior bureaucrats. He got what he wanted in terms of minimum interference by the Ministry of Finance and Bangladesh Bank; ready acquiescence to his terms when funds were channeled by donors through the ERD of the Ministry of Finance with the explicit concurrence of the donors themselves; and even, it is alleged, that he could dictate who would be nominated to Grameen Bank’s Board and remove those who became too troublesome.¹⁷⁹
170. Members of the Monwaruddin Committee have pointed out that changes to the Grameen Bank’s Ordinance seem to have come about just when the existing government is political at its weakest or when it is about to relinquish power. However, it is no mere coincidence that when the Ordinance was amended in 2008 to bring it to a form closest to Prof. Yunus’s heart, the two persons who piloted the changes were also civil servants and his classmates. One of them was once Governor of Bangladesh Bank and who did very little to take action to address the lacunae in

¹⁷⁸ This was before the era of TV ‘Talk shows’ and ‘seminar participations’ which has given some retired bureaucrats a new source of income. But these have also massaged their ego so that they feel ‘relevant to society’ by the advice they can impart on issues of good governance which they were loath to tackle, when they were supposed to, while in service.

¹⁷⁹ The Minutes record that one Government nominated Director to the Board was very happy to state she was a student of Prof. Yunus. Would that acknowledgement have inhibited her from asserting herself on controversial issues?

Grameen Bank's operations as stated in the Inspection Report.¹⁸⁰ A fairly damning scenario in all.¹⁸¹ The Commission is still to determine to what extent this is a fair reflection of how the Grameen saga has developed.

171. The Ordinance provides for the absorption of all officers and staff who worked for Bangladesh Bank's Grameen Bank Project.¹⁸² Initially these officers and staff absorbed from the Project to the new Bank were to be governed by Bangladesh Banks' Project Rules as had been in force for the Grameen Bank Project. This was in terms of the decision taken in first Board Meeting of Grameen Bank on 9 November 1983. These Project Rules would be applicable until new Rules were drafted for which the Board requested the Managing Director to take appropriate action. The Managing Director was also directed to place the draft Rules and Regulations for approval by the Board. The Commission has noted that this directive was practically ignored in most cases. Subsequently the officers and staff have been recruited and governed by Grameen Bank's Employment Service Rules¹⁸³. The Directors were not insistent on finding out why their past decisions were not being acted on. In significant administrative matters, the Board of Directors has agreed to allow the Managing Director to be the sole determinant of, amongst many other matters, the fate of senior officers.¹⁸⁴ By allowing Prof. Yunus such extensive and exclusive authority over their career, the Board implicitly allowed Prof. Yunus similar control over the junior staff too. This decision effectively gave near absolute authority and control to Prof. Yunus over the entire Bank – a degree of omnipotence which perhaps has not been exercised in any other organisation by an employee.
172. The Monwaruddin Committee has detailed a number of cases where Grameen Bank's Board has authorized the Managing Director to issue of 'Guarantees' to cover borrowings or fiscal commitments by other organizations. They have opined, which opinion we share, that this was not permitted by the Ordinance. Bangladesh Bank too has pointed out that their inspection reports of Grameen Bank's accounts of 1997-1999 had highlighted these serious deviations from the mandate of the Ordinance. But neither they nor the Government paid heed to what was found to be clear deviations from the Ordinance.

¹⁸⁰ Dr. Fakhruddin Ahmed (a retired employee of the World Bank) and Dr. Mirza Azizul Islam (retired from UN ESCAP) were a part of the caretaker government in 2008. They validated the amendment to GB Ordinance hours before they were to demit office. At it turned out the new elected Parliament refused to endorse this amendment and it was therefore invalidated automatically.

¹⁸¹ The Commission was constrained to inquire whether this was a unique case. As it turns out that it is not so. The other non-government colossus in Bangladesh employs very much similar tactics to preserve and expand its turf. When a unusually independent Director General of the NGO Bureau made troublesome queries about this colossus's activities he was summarily removed from that post at the behest of the powerful head of the colossus! Fortunately, this extraordinarily competent officer has, post-retirement earned a prominent public service position.

¹⁸² Article 27

¹⁸³ Gazette: 01 March 1993. That is, it took the Managing Director ten years since he was asked by the Board to frame them.

¹⁸⁴ Grameen Bank Board Meeting # 37 dated 16 Nov 1994: Chaired by Dr. Akbar Ali Khan. The Managing Director alone will determine the merit and fitness of those who will be promoted from Deputy General Manager to General Manager without reference to their seniority, service record or any Committee or Board.

173. The first of these was authorized by the Board when the Chairman was Dr. Akbar Ali Khan who was, for many years during this period, in the Ministry of Finance. His opinion is now often sought on matters of governance by civil society activists. The Commission has written to him informing him of the issues. He states that he was just one of the members nominated by the Government to the Board and that there were other nominated members from the Ministry of Finance. His reply also indicates that he feels Grameen Bank was operating within the ambit of its Ordinance. He goes on to state that just as any other bank in Bangladesh is not explicitly authorized to issue such a 'guarantee' but because it does so in course of its normal function, he had consented to allow the Managing Director of Grameen Bank to issue such guarantees: thus create a liability for itself and for the state. In the context of the statutory provisions of Bangladesh Shilpa Bank, the Commission finds that there is an explicit authorization for the issue of guarantees in the normal course of their business activities, which is tempered by numerous conditions.¹⁸⁵ Whatever the merits of this view, its immediate impact was that it led to creation and funding of a number of organizations, which was expressly beyond the mandate of Grameen Bank. What is less understandable is the placement and approval of the work plans and budgets of many of these organizations by the Board particularly of Packages Corporation Ltd, which, as pointed out by the Monwaruddin Committee Report, is Prof. Yunus' privately owned family company. It is unclear whether the Government appointed Directors were aware or conscious of this 'delicate' and obvious conflict of interest situation they were validating.¹⁸⁶
174. In this context the Commission had to refer back to the observations of the Monwaruddin Committee regarding the creation of 'Associated Organisations' by Grameen Bank. Almost all of these were created after the change to the Ordinance in 1990. For more than twenty years there was no attempt to disassociate Grameen Banks' direct management of these either expressly or through other 'layered' organizations sponsored by Grameen Bank itself. In recent times, many have been at pains to insist that these 52 or more Associated Organizations – which include both for profit or non-for-profit bodies – have nothing to do with Grameen Bank and that they are legally independent although they are largely managed by Grameen Bank employees and operate from Grameen Bank's premises. Most of them also have in their Memoranda and Articles of Association indicated that Grameen Bank will nominate their Chairman & as many as 40% of the Board members.
175. The Commission's TOR includes examining these 'Associated Organisations' which it will do immediately after the submission of this Interim Report. Nonetheless, it is relevant to mention that Prof. Yunus informs the Grameen Bank Board that he had to sponsor/create (*Bengali* 'Shristi'- সৃষ্টি) them and spin them out of the immediate

¹⁸⁵ BSB Order 1972: Art 16(2)(ii) and (3)

¹⁸⁶ Grameen Bank Board Meeting # 34 dated 29 Dec 1993: Chaired by Dr. Akbar Ali Khan.- Annexure 8

control of Grameen Bank because he could not perform the activities the Associated Organization were to undertake from Grameen Bank itself.¹⁸⁷

176. The Board does not query whether the Ordinance provides Grameen Bank with the mandate to create such organization or whether it was legal to fund them with monies placed at their disposal. It has been claimed that this diversion of funds was done in terms of agreements with foreign donors which exactly reinforces the allegations that there was a close understanding between certain donors, the officers in the External Resources Division of the Ministry of Finance and Prof. Yunus. To turn a blind eye to the restrictions imposed on Grameen Banks' operations by the Ordinance is inexplicable and are hallmarks of bad management and absence of control by the Board and the management of Grameen Bank. All of this still does not explain why Prof. Yunus brings the activities of these organizations (their budgets and work plans) to the agenda of Grameen Banks' Board and have it recorded when, as he now vehemently asserts that they are not a part of Grameen Bank. Later when the Chairman of the Grameen Bank Board specifically demands that reports relating to the activities of these 'Associated Organisations' should be regularly placed before the Board, the Commission find that it is ignored by the management.¹⁸⁸ This is another example of the deadlock that plainly exists between the Board of Directors and the management of Grameen Bank.
177. Among the many Associated Organisations' created by Grameen Bank is Grameen Telecom as a subsidiary of Grameen Bank by which its foray into the telecommunication sector was initiated. For almost seventeen years, Grameen Telecom's activities were conducted under the direct sponsorship of Grameen Bank. Grameen Telecom was funded by another one of Grameen Bank's created/sponsored organisation i.e. Grameen Kalyan. Prof. Yunus has claimed that he got a loan from the Soros Economic Development Fund which was used to buy shares of Grameenphone Ltd but this Loan Agreement clearly mentions that it is subject to and valid only so long as Grameen Bank is in 'Control of the Company' i.e. this company is Grameen Telecom.¹⁸⁹ Its letterhead boldly mentions "*Grameen Telecom: A Enterprise of Grameen Bank*"; Prof. Yunus signing off on Grameen Telecom's activities and contracts including the significantly important mobile communication licence agreement (which now allegedly vests with Grameenphone Ltd) with the Government on 11 Nov. 1996 as "Managing Director Grameen Bank" yet its activities and receipt

¹⁸⁷ Grameen Bank Board Meeting # 34 dated 29 Dec 1993: Chaired by Dr. Akbar Ali Khan. The minutes of this meeting are significant in showing the ready acquiescence to all of Managing Director's proposals even when he states that he is doing something which the Ordinance does not permit him to do.

¹⁸⁸ Grameen Bank Board Meeting # 48 dated 16 Apr 1998: Chaired by Prof. Rehman Sobhan

¹⁸⁹ Loan Agreement among Grameen Telecom (Borrower), Grameen Kalyan (Guarantor) and Soros Economic Development Fund (Lender) dated 3 Feb 1999: Art VIII, Sec 8.1(l).

of fund and their use remains beyond the pale of Grameen Bank Board's immediate purview.¹⁹⁰

178. Another 'layer' has been deliberately created by forming a 'Trust' to which the vast sums received by Grameen Telcom are transferred. Who accounts for the vast sums that these two 'layered' organisations receive needs to be examined further. However, the very formation of Grameen Telcom raises many questions viz. why is it restricted to twelve members all of who were direct subordinates of Prof. Yunus and why does its charter restrict membership to only those who they chose (like a conclave of cardinals) when its funds and guarantee all originated from Grameen Bank? Further it is difficult to understand why the Board or the Government did not question Prof. Yunus' functioning in this and almost 50 other organizations simultaneously while he was employed 'full-time' in Grameen Bank as its Managing Director.
179. What is obvious to the Commission in this context is that there was a clear indication and an agreement between the relevant parties to transfer certain shares in Grameenphone Limited to Grameen Bank¹⁹¹. This has never happened and the Commission is presently investigating as to why this is so. The Monwaruddin Committee members have suggested that this was a part of the plan to 'layer' organisations so that accountability for use of funds becomes murky and diffused.
180. The Commission's preliminary findings about Grameen Bank, Grameen Telcom and their association with Grameenphone Consortium and Grameenphone Ltd has been forwarded to the Government for appropriate action and a summary of this has been placed in Annexure-9 to this Interim Report.¹⁹² At the moment, the Commission is considering these issues as part of the mismanagement that took place within Grameen Bank and the ineffectiveness of its management. The Commission is seeking to trace the large sums of money that have been given to Grameen Telecom from its holdings in Grameenphone Limited.¹⁹³

¹⁹⁰ In a bizarre letter to the Commission in November 2012 the Managing Director of Grameenphone Limited sought to explain that the contract signed by Prof. Yunus on behalf of Grameenphone Consortium and Grameen Telecom was done in his personal capacity and not on behalf of Grameen Bank. Although the Commission found that Grameenphone Consortium Agreement with the Government clearly states that Prof. Yunus is signing it as "Managing Director, Grameen Bank" on behalf of Grameenphone Consortium. This unsolicited explanation of Prof. Yunus's role in Grameenphone Limited needs closer examination because of the vast sums of money that have been transferred between these organizations and about which Grameen Bank has not been fully informed.

¹⁹¹ MOU (dated 05 Nov 1996) between Telenor (Norway), Grameen Telcom and Gonophone Dev Corp. (NY; USA) page 2: "It is Telenor's intention to reduce its shareholding to under 35% within 6 years of operation of Grameenphone. Grameen (Telcom) will have a right of first refusal, regarding any sale of shares from any of the parties within the first 6 years."

¹⁹² Annexure 9

¹⁹³ Questions by critics on Grameen Bank and the facts (Q19): Yunus Centre, 28 Aug 2012. The lengthy explanation provided in this document regarding the transfer of fund (alleged transferred from Grameen Telecom to Grameen Kalyan = Tk.8.8 Billion: USD 124.6 Million: 2012) and transfer of 80% of funds to Grameen Bank from the monies received by Grameen Telecom from Grameenphone amounting to Tk.2.9 Billion (USD 40.06 Million: 2010). The reluctance to provide complete details of all these financial transaction to the Commission was disturbing.

181. Of equal concern is that some of the most prominent and respected Chartered Accountant firms in Bangladesh who have been auditing Grameen Bank for years now do not seem to have ‘red flagged’ the myriad of issues of bad governance and lack of accountability. These include diversion of funds, issuing guarantees, creation of subsidiary organisations beyond the mandate of Grameen Bank that should have stared the auditors at their face demanding more thorough explanation before signing off on the accounts. The Commission has in the course of its inquiry found another instance of the very lax and indulgent manner in which Chartered Accountancy firms auditing Grameen Bank’s accounts have acted.
182. When Grameenphone Ltd went to the market to sell its shares, the “Prospectus” was seen by some of the most prominent organisations before being cleared by the Securities and Exchange Commission of Bangladesh. No one seems to have cared to actually look to document which formed the most valuable asset of this company i.e. its licence as issued on 28 November 1996. That licence clearly states that it was issued to one ‘Grameenphone Consortium’ and not to ‘Grameenphone Ltd’ though the Prospectus and its Issue Manager (Citigroup Global Markets Bangladesh Private Ltd) have certified that the digital cellular mobile telecommunication license was issued to Grameenphone Ltd on 11 November 1996. A further examination of the process by which this licence came to the hands of Grameenphone Ltd would have revealed that it was at the very least questionable and possibly, at its highest, illegal. Thus, the Prospectus should have flagged that there are apparently unresolved issues regarding Grameenphone Ltd’s digital mobile telecommunication licence which may be raised in the future and which may thus adversely impair its investors’ interests. It would be interesting to see what SEC has to say to all the individuals who have signed off on this Prospectus. These are all governance and supervisory issues, which need to be addressed.
183. All the issues that have been touched upon in the previous paragraphs are but instances of the errors that have taken place within the management of Grameen Bank and by government and non-government institutions associated with it. These have had serious and damaging consequential effect upon Grameen Bank itself and have adversely affected those who were intended to be helped by it under the Ordinance. True it is that many underprivileged people at the lowest end of Bangladeshi society have been empowered and successfully brought out of the poverty trap. However, but for this mismanagement within Grameen Bank, it is the Commission’s view that many more people could have been helped.

K. Analysis & Conclusions:

184. In the context of the Appellate Division's rulings in the CPLAs there can be no further debate that Grameen Bank is a statutory organization and therefore is not a private bank. The issue of legal status of Grameen Bank has thus been settled by the findings of the Appellate Division in the CPLAs and is clear from the applicable laws. It is a statutory public authority or a statutory organization or statutory bank. It is not a private bank. There can be no further debate on the legal status of Grameen Bank.
185. The ruling has also explicitly stated that the government is the ultimate controlling authority of the Bank and not its shareholders regardless of how many shares they may have purchased. Grameen Bank is controlled (in the sense that it is regulated) by the Government and in some respects by the Bangladesh Bank. The structure of the share holdings has little bearing on the control of the Government in the affairs of Grameen Bank. Government has substantial authority in the matters relating to Grameen Bank's management.
186. The 'share' in the context of the 'borrower-shareholder' is not an evidence of 'ownership' but more of an evidence of a 'certificate of deposit' or even a 'fixed deposit'; a contribution to the capital of the Bank without being an evidence of 'ownership'. The Commission finds it significant that Bangladesh Banks' Inspection Report (1999) states that they conducted a field survey of those who were purportedly issued with shares. This survey shows that 65% of the shareholders were not aware of their ownership of the share.¹⁹⁴ The concept of 'share' itself has to be defined more thoroughly in the context of the mandate of Grameen Bank.
187. The assertion that the purchase of shares of Grameen Bank indicates and provides some form of ownership rights of the organization is not tenable. The rights that are vested in these shares are undefined except that the purchaser of one has the legal right to vote for the position of Director of the Board. That right cannot be curtailed. However, this right too has been severely diluted because of the poorly drafted Election Rules regulating the election of Directors from Centre Leaders and not from amongst the borrower-shareholders who are not recognized in the Election Rules as being the primary elector. The ineffective attitude of the Board who were expected to safeguard the rights of the borrower-shareholder is all too obvious from the minutes of the Board meetings.
188. Grameen Bank has repeatedly reiterated that their Authorised share capital is Tk.350 crores. The Commission's examination of the available records and the

¹⁹⁴ Grameen Bank's reply to the detailed Bangladesh Bank Inspection Report (31 Dec 1999) : Para 26.

circumstances, which led to the changes in the capital structure, has led it to conclude that these changes were not made properly as required by law and therefore, ineffective. A poorly drafted Ordinance was taken advantage of in order to affect these changes, which deliberately created an impression that, the issue of 'shares' empowers the borrower-shareholder most of whom are poor, landless women. This was a powerful marketing tool, which resonates throughout the world. It has been used to cloak the hollowness of an elective procedure, which has placed as many as four electoral stages between the borrower-shareholder and the post of a Director of the Board. Worse, the description of this process by an 'elected' Director as recorded in the Bank's Board meeting exposes the exploitation of an emotive slogan.¹⁹⁵ There is need to make the participation of the borrower-shareholder more direct and meaningful so that the needs of the landless and poor women is more honestly addressed.

189. In the matter of the Authorised Capital and Paid-up Share capital there are two opinions. First, that any change in either will have to be effected and validated by a change to the Ordinance itself as was done in 1986. By not amending the Ordinance in subsequent years the changes made to the structure of share capital by a Government Order were not valid or legal. Thus the Authorised Capital remains fixed at Tk.10 crores and the Paid-up Share capital at Tk.7.2 crores. The ratio of Paid-up share capital between the Government (including other statutory organisations) and the borrower-shareholders as revised by the amendment to the Ordinance in 1986 continues to be 25:75 respectively.
190. Second view is that no amendment to the Ordinance is necessary and that the Government is empowered by the language of the Ordinance to increase both the Authorised and Paid-up Capital simply by an executive order. This means that the changes to both Authorised and Paid-up Capital effected in 1991, 1994 and 2008 are valid and now Grameen Bank's Authorised Capital stands at Tk.350 crores and Paid-up Share Capital is Tk.300 crores.
191. Upon full consideration the Commission feels that the first view is correct, namely, that any increase in the authorized and paid up capital must not only be approved by the government in substance but also must be formally implemented by appropriate changes to the Ordinance. The Commission notes that when the Ordinance expects a change in its provisions to be valid it clearly states that this can be effected 'by notification in the official Gazette,'¹⁹⁶ but in the sections dealing with the Banks Authorised Capital and Paid-up share capital this provision has not been stated or enacted.¹⁹⁷ When there were changes to the capital structure in 1986 it was

¹⁹⁵ See para 151.

¹⁹⁶ Grameen Bank Ordinance No. XLVI of 1983: dated 4th September 1983; Art 4(4)

¹⁹⁷ Grameen Bank Ordinance No. XLVI of 1983: dated 4th September 1983; Art 6(3) and Art 7(2)

- accomplished by a change to the provisions of the Ordinance itself. In the circumstances the Commission is of the opinion that as the changes were not made formally by an proper amendment to the Ordinance, as had been done in 1986, the Commission cannot but conclude that the position remains as stated in the amended Ordinance of 1986 and any action taken beyond the parameters set out are *ultra vires* of the Ordinance.
192. The issue of shares in excess of the ceilings set by the 1986 amendment creates a very bad precedent and a satisfactory solution will be difficult under the existing circumstances. The Commission will address this issue in the final report. Further, the value and quantum of the entire deposit made by the every shareholder from their savings must be guaranteed by the Government.
193. The Government through the Ministry of Finance should take steps to ensure that the financial investment of all those who were informed that they had bought a share is not affected and that their deposits are fully guaranteed. Further these investors should have similar entitlement to payments from any profits the Bank may make to the valid borrower-shareholder.
194. There is little doubt that the Ordinance gives the borrower-shareholder the right to vote and elect nine directors to the Board. The important issue under consideration is the electoral base. Each borrower-shareholder has been vested by the Ordinance with the right to elect a Director of the Board on the basis of having bought a single Tk.100 share from their respective savings account. As the status of paid-up share capital is limited to what has been stated in the amended Ordinance of 1986, the electoral base for the borrower-shareholders is 540,000. It follows that all elections to the positions of Directors held based on an electoral base of more (or less) than 540,000 are invalid. That right belongs to 540,000 of the borrowers only who have been legally been made shareholders. An audit should immediately be carried out to determine who these 540,000 borrower-shareholders are.
195. The Grameen Bank authorities also drew the Commissions' attention to the provisions of Grameen Bank Basic Rules (published first in 1978 and edited up to 2008).¹⁹⁸ The election process that allegedly begins at the Group level on the basis of the Basic Rules is not even stated in the Election Rules In fact there is no reference to it. This Basic Rules was published on the sole authority of the Managing Director and were apparently never placed before the Bank's Board for approval. Therefore, they were not approved by the Government or published in the Gazette as is required by the Ordinance. The legality of these Rules is highly questionable. At the very last paragraph of these Rules is a statement, which says "*If there is any confusion or short coming in the interpretation of these Rules the views of the Managing Director will be*

¹⁹⁸ Grameen Bank Basic Rules: First published 1978 reprint 2008 by Packages Corporation Ltd.

deemed as final. Any amendment or modification to these Rules can be made by the Managing Director.” There is no reference to a role for the Board or the Government in approving this most basic of rules dealing with the borrower-shareholder and the Group that they form. It is entirely the word and interpretation of the Managing Director. Remarkably, neither the Board nor the Government has ever thought it necessary to seek clarification on these matters.

196. The Commission is of the firm view that the electoral process enunciated in the Election Rules goes against the most fundamental and explicit directive of the Ordinance – that the borrower-shareholder should elect the Director of the Board. The Election Rules framed for this purpose should simply outline how this should be accomplished without, in any significant way, diluting the link between the borrower-shareholder and their elected representative in the position of Director of the Board. These Election Rules cannot create a separate electoral base (consisting of around 140,000 Center Leaders) divorced from the 540,000 basic borrower-shareholder (or approx 5.5 million if Grameen Bank’s statements are considered), place three to five tiers of electoral stages, allow those who are not borrower-shareholders to be associated in the electoral process and then state that the elector is one who has been so ‘recognised’ as such by the Bank’s authorities and that such ‘recognition’ is not based on a explicit elective process. The Election Rules are *ultra vires* of the Ordinance and therefore should amended at the earliest opportunity so as to properly address the issues mentioned.
197. These anomalies have to be considered within the context of the acknowledged ‘consensus’ process of conducting the elections by the officers of the Bank who have immediate fiduciary control over the borrower-shareholders. The Bank’s policy of conducting these elections under the direct supervision of the Loan Officer or officers who had immediate fiduciary control over the poor, largely illiterate, landless borrowers is disturbing and negates the concept of free and unfettered exercise of voting rights. Coupled with the admission that actual balloting has never taken place in any of the elections at any of the various stages of the electoral process amongst what has been claimed 5.5 million ‘shareholder’ voters (or 140,000 Centre Leaders for that purpose) raises suspicions of a large degree of management control over the poor, landless shareholder most of whom are illiterate women. The Commission finds it difficult to endorse this scheme of things although it wholly supports and wishes to encourage the principle of giving a voice to the poor, landless shareholder of Grameen Bank particularly because most of them are women.
198. The Commission wishes to make its intentions clear that it wants to ensure a revised electoral process which actually brings about the borrower-shareholder’s empowerment and one in which the shadow of the Banks’ management over the election process is minimised if not eliminated altogether. This new process should be completed as soon as is possible. The Commission will endeavor to ensure that the

landless and poor are provided a means of making their participation in the economic activities of the country meaningful and particularly target the women amongst them so that their voice is adequately heard at the policy deliberation level of Grameen Bank.

199. On matters relating to the activities undertaken by Grameen Bank beyond its specific and express mandate in the Ordinance, the Commission finds that the fault lies not merely on the members of the Grameen Bank Board and the senior management but the Ministry of Finance, Bangladesh Bank, the Auditors and the Registrar of Joint Stock Companies. Each one of those bodies should have been more observant to the unusually cavalier interpretation of the provisions of the Ordinance, which permitted the growth of the multi-faceted conglomerate at the cost of the immediate needs of the huge number of landless in Bangladesh. The Commission has noted the absence of any substantial regulatory role played by the government or by the Bangladesh Bank in the functioning of Grameen Bank since the changes to the Ordinance in 1990.
200. The Commission feels that it should mention the criteria that should influence and determine those who may be nominated by the government to the Board. The regulatory framework was weak to begin with and has become practically non-existent since the amendments of 1990. The extremely feeble and muted role of the government nominated Chairman and Directors on the Board indicates that their role has to be strengthened and the regulatory role most certainly has to be devolved on an external body.
201. The Directors on the Board of Grameen Bank, both elected and government nominated, and the Chairmen have been ineffective particularly since 1989. The Commission is of the view that it is imperative that the government's representatives - Chairman and Directors - have to be persons who have some experience and knowledge of policy and corporate management. More significant is the requirement that they have the desire and courage to articulate views, have their views recorded and acted on by the management.

L. Recommendations

202. This Interim Report addresses certain specific issues only. Having reviewed the issues dealt with in this Interim Report the Commission recommends that:
1. This Interim Report should be made public immediately and placed on the website of the Ministry of Finance.
 2. The Grameen Bank Election Rules 1987 is *ultra vires* of the fundamental mandate of the Ordinance and should be discarded forthwith as having been made without lawful authority.
 3. The persons currently ‘elected’ to the Board should no longer hold office with immediate effect.
 4. The Ordinance allows for the filling up of casual vacancies¹⁹⁹ and it is recommended that the causal vacancies arising should be filled up from amongst the 540,000 legitimate ‘borrower-shareholders’ as determined by the audit set out in paragraph 12 below.
 5. Steps should be taken to prepare new Rules which would explicitly recognise the basic right of the borrower-shareholder to directly participate in the voting process of the Director.
 6. If it is deemed appropriate that an “Electoral College” tier system be designed for this election process then such a system should not exceed more than a single tier between the borrower-shareholder and the office of the Director. It is suggested that all borrower-shareholders within what is currently a ‘Branch’ area will be brought together to form an Electoral College of approximately 7500 borrower-shareholders. The elected Branch Representative will directly elect the Board Director for their respective constituencies.
 7. As there are currently nine constituencies and the election is conducted once every three years. It is suggested that this be changed so that one third of the elected Directors retire every year and that an election is conducted in those three constituencies to elect a Director. These elections should preferably be conducted by persons who are not employed by Grameen Bank and definitely not by persons who have any sort of fiduciary association with the borrower-shareholder.
 8. Some qualifications for holding the position of Director should be introduced. Examples are that a loan defaulter cannot be eligible for the post of a Director. The Commission would like to add that the Director should have been a non-defaulting borrower-shareholder for the preceding five years. If the Director

¹⁹⁹ Section 12

becomes a defaulter during the tenure of Directorship then the person should be immediately disqualified. The Director should also have some educational qualification so that they can read and understand the proceedings of the Board. The Commission suggests that the Director should have a certificate from a Government recognised school or Madrassah indicated that the person has passed the equivalent of Class 7.

9. The Commission feels that specific criteria should influence and determine who may be nominated by the government to the Board of Grameen Bank. While the Commission will make further recommendation on this issue in its final report, it would urge the Government in the interim to (1) nominate officers who are not above the rank of Joint Secretary to these Boards and from different Ministries associated with the work of Grameen Bank (2) ensure that the minutes of the Board meeting are properly scrutinized in the Ministry of Finance (3) that such nominee have some academic qualification, knowledge and experience appropriate to the work of a Bank (4) it may nominate Directors from civil society but only those who have appropriate academic knowledge or work experience in rural development and must not be in any way in a 'conflict-of-interest' situation and importantly (5) definitely avoid nominating any person, who has been elected to a public office or may soon aspire to one, to the Grameen Bank Board.
10. In all instances the appointment letters should explicitly enumerate their responsibilities so that those who agree to accept this honour are aware that not performing their duties on the Board with due diligence or failing to act in the interest of the Grameen Bank would make them liable to legal consequences.
11. Since the Ordinance does not impose a quorum for Grameen Bank's Board meetings the new Rules relating to election of Directors should provide a quorum and that decisions on policy are to be taken at the Board level only.
12. An immediate audit should be conducted by independent persons to determine the identity of the valid 540,000 borrower-shareholders after which fresh elections should be held for all nine positions on the Board.
13. The Government must immediately issue a declaration that the financial investment of all those who bought a share Grameen Bank will not be adversely affected as a result of the failures to adhere to the Ordinance and that the savings of the borrowers are fully secure.
14. The Government should also convey to all depositors of Grameen Bank and those who have been mistakenly informed that they have been issued with 'shares' that they will be eligible to any payouts from the profits of Grameen Bank in the same manner made to the legitimate borrower-shareholders.

203. The Commission had considered recommending that the Government may, in the interim revert to the provisions of Ordinance as it existed before any of the amendments i.e. the Ordinance of 1983 while the appropriate structure for carrying out its basic mandate to cater to the needs of the poor, landless persons and women in particular, is under consideration. However if the recommendations stated herein in para 202 are accepted and implemented immediately, this will not be necessary. In its Final Report, the Commission will make recommendations as to the future legal and organizational structure of Grameen Bank considering the aims and objectives for which it was initially set up.
204. In its Final Report, the Commission will also address these issues further in so far as is necessary and also the remaining issues in the TOR.

Moslehuddin Ahmed FCA

Member

Ajmalul Hossain QC

Member

Mamun Ur Rashid

President/Chairman

Dated, the 09 day of February 2013

ANNEXURE 1

Extracts from Grameen Bank Review Committee

Dhaka, 25th April, 2011

Preface

1. The activities of Grameen Bank began in 1976 under a project to assess the feasibility of bringing the rural landless people within the ambit of credit distribution. In one phase (in 1979), the Central Bank offered help to the project. With this project, the idea of offering collateral-free loans and assuring their recovery was born. It created the opportunity to empower women in rural areas and increase the demand in the rural economy.Grameen Bank was founded by the Government by an Ordinance in 1983.
2. The activities of Grameen Bank were not seriously evaluated after it was set up. Government formed a high-powered Review Committee with five members to learn about the overall management and situation of the Grameen Bank through a Circular of the Bank and Financial Institutions Division on January 10, 2011 via Circular no. 53.007.027.00.00.012.2010-15 (Appendix: A) as follows:

Serial	Name and Designation	Position in the Review Committee
1	Professor A K Monaw-war Uddin Ahmed, Former Chairman, Economics Department and Dean, Social Science Faculty, Dhaka University	Chairman
2	Md. Nazrul Huda, Deputy Governor, Bangladesh Bank	Member
3	Mrs. Begum Rokeya Deen, former Deputy Comptroller and Auditor General	Member
4	Professor R M Debnath, Former Professor BIBM, and columnist	Member
5	Advocate Mr. Mohsen Rashid, Lawyer, Supreme Court	Member

3. The Terms of Reference of the Review Committee mentioned in the circular were as follows:
 - 1) To prepare a report after investigating and reviewing the statements of the Norwegian authorities in response to the Norwegian Television news regarding the transfer of funds from Grameen Bank to Grameen Kalyan, news in national media and international reaction, and in the light of relevant laws and regulations;
 - 2) To prepare a list of all organizations of the Grameen Family, identify the relation of Grameen Bank with them (such as Packages Corporation), after detailed examination of the other agencies with which Grameen Bank or its chief executive has personal relationships, to find out the real situation, and if any irregularities occurred, then to offer recommendations after thorough investigation;
 - 3) To prepare a report after analyzing the rate of interest on loans and deposits of Grameen Bank, the determination of the interest rate, the rules regarding the charging of interest and giving interest to the depositors; and to articulate recommendations to redress any irregularity or exceptions in Grameen Bank that might have occurred with respect to interest rates and other charges relative to the practices of other microcredit agencies licensed by the Microcredit Regulatory Authority;

- 4) In view of the Microcredit Regulatory Authority Act, 2006, to prepare recommendations after assessing the control, management, transparency, accountability, etcetera of Grameen Bank established as a microcredit organization under the authority of Grameen Bank Ordinance, 1983.
4. The circular mentioned the procedures to perform the tasks of the Review Committee as follows:
 - a. The Review Committee will review the documents of the concerned ministries, divisions, and agencies;
 - b. May gather opinions and testimonies of individuals concerned with microcredit (including members of civil society);
 - c. The Bangladesh Bank will provide all necessary secretarial and organizational support to the Review Committee on behalf of the government;
 - d. Bangladesh Bank will conduct a special audit of Grameen Bank to assist the Review Committee.
5. The circular mentions that the Review Committee would submit the report in 3 (three) months. However, the Ministry of Finance, by its memo no. 03.0073.027.00.00.012 .2010-136 dated April 17 has extended the time by one (1) month. (Appendix-B)
6. The Review Committee convened ten meetings to discuss and analyze the issues to perform its duty. The Committee reviewed the relevant documents of Grameen Bank in light of the laws and regulations. Opinions and testimonies of 10 distinguished individuals including members of the civil society connected to microcredit programs were obtained. An Inspection Team constituted with executives of Bangladesh Bank carried out a special inspection of Grameen Bank. (Appendix C).
7. This report has been prepared according to the government's guidelines and the Terms of Reference assigned to the Review Committee. The Review Committee has prepared this Report after reviewing
 - a. the documents relating to Grameen Bank;
 - b. the report of the Special Inspection of Grameen Bank carried out by Bangladesh Bank;
 - c. the opinions and views of different people and institutions connected to microcredit, including members of civil society; and
 - d. the information obtained from various sources that the Review Committee deemed credible and accurate.
8. The government assigned a vast scope of work to the Review Committee for making recommendations. The Committee consisting of part-time members prepared the report in a short time to. For this reason, the Committee shed light on priority issues mentioned in the circular.
9. The members of the committee are grateful to the government for giving them an opportunity to contribute to the review of national issues by being included in the Review Committee. The Honorable Minister of Finance has constantly encouraged the Committee to carry out its duties. Bangladesh Bank has efficiently and promptly assisted the Committee with the secretarial, inspectional, and all other supports. Distinguished individuals including members of civil society spontaneously offered their views. The Review Committee expresses sincerest gratitude and thanks to all of them.

Introduction

- 1.01 Grameen Bank was founded in 1983 under the authority of the Grameen Bank Ordinance 1983 to provide credit and other associated services to the rural landless. To expedite the credit delivery and to improve the welfare of the members and employees, Grameen Bank established two not-for-profit organizations named Grameen Fund and Grameen Kalyan. Later, Grameen Fund and Grameen Kalyan, individually or jointly created 34 other organizations by giving equity and credit support.
- 1.02To give timely, institutional, and sustainable corpus to the social organization of savings and credit, Bangladesh Government founded Grameen Bank through the Grameen Bank Ordinance in 1983. Grameen Bank's microcredit program was admired throughout the world.
- 1.03 Since its establishment, Grameen Bank has received grants and credit on easy terms from national and international donor agencies.With the grants and credits from the donors as well as from its own funds, Grameen Bank created two agencies named Grameen Fund and Grameen Kalyan. The Grameen Fund and Grameen Kalyan singly or jointly established 34 different agencies.

2.0 Organizational Structure: The Formation of Grameen Bank

.....the Ordinance was twice amended in 1986 and 1990. These amendments reduced the power of the government and bestowed greater power to the Board of Directors of Grameen Bank. It is remarkable that the power to formulate Regulations' (rules and procedures) was bestowed on the Board of Directors by annulling the requirement of obtaining government approval. This reduced the accountability of Grameen Bank to the government.

2.01 Share Capital of Grameen Bank

2.02 The Organization and Formation of the Board of Directors

The Board of Directors of Grameen Bank consists of 13 members including the Managing Director. Among them, 3 members including the chairman are selected by the government, 9 are elected from the shareholders of Grameen Bank, and the Managing Director (as a non-voting member) is included *ex officio*. All 9 of the directors elected by the shareholders have low level formal education. In the Board meetings, the annual reports, various important documents, and contracts with national and foreign institutions are presented. The shareholder-directors are not found to actively take part in the decision making of the Board with proper and adequate understanding of the significance of the complex issues by carrying out careful reviews and analysis. The review of the minutes of the meetings of the Board also does not reveal active participation of the government nominated members. After reviewing more than 30 of the minutes of the meetings of the board, no active participation of the 9 shareholder members and 2 of the 3 government appointed members were found.Though there is a mention of the procedure of electing shareholder members in 'the Grameen Bank (Election of Directors) by-laws 1987', there is no mention of fit and proper test criteria of qualifications and suitability of directorship.

2.03 Transfer of Funds

From Dividend Equalization Fund to Borrowers Investment Trust

Article 19 of the Grameen Bank Ordinance 1983 permits Grameen Bank to purchase ‘shares of any body corporate, the objective of which is to provide services to landless persons.’ In the 84th Meeting of the Board of Directors of Grameen Bank held on 16th September 2008, a decision was taken to create Borrowers Investment Trust to facilitate the participation of Grameen Bank members in the share market through purchasing shares of Grameen Phone. Grameen Bank gave taka 50,000 to the Trust as initial capital. Later, a total of taka 79.11 crore were transferred from the Dividend Equalization Fund as grants to the Borrowers Investment Trust in two tranches: taka 69 crore in the first tranche, and taka 10.11 crore in the second tranche, through Pre-IPO Placement.

The transfer of funds to purchase shares of public limited companies is not consistent with the aforesaid Article of the Grameen Bank Ordinance. Further, the Financial Report of the Grameen Bank did not provide any disclosure of this fund transfer as per Bangladesh Accounting Standards-24.

The original intent of the creation of the Dividend Equalization Fund is to equalize the dividends of different years, and the Fund is created by transferring part of the profits of the bank. Therefore the shareholders of Grameen Bank alone are to be the beneficiaries of this fund. But the Trust document mentions both the shareholders and borrowers of Grameen Bank as the beneficiaries.

3.01 Statutory Reserve Fund

According to Article 25 of the Grameen Bank Ordinance 1983, Grameen Bank is required to create an undistributable statutory reserve fund by accumulating a fraction of the profit (as determined by the Board of Directors). But this fund has not been created by Grameen Bank.

3.02 Rehabilitation Fund

The government offered tax exemption to Grameen bank from income tax, super tax, and profit tax on condition of creating a rehabilitation fund. After the creation of this fund, the amount of distribution in 5 years between 1999 and 2003 was 1.30 lakh taka. The disbursement from this fund even after the devastating flood of 1998 was very meager. The government’s objective was not fulfilled.

.....Overall, the rehabilitation fund was not properly and adequately utilized.

4.00 Transfer of Funds : From Grameen Bank to Grameen Kalyan

.....From 1986 through 1997, Grameen Bank received grants of 39.83 crore kroner or 219.60 crore taka from Norway’s donor agency the Norwegian Agency for Development Cooperation (NORAD). On November 30, 2010, Norwegian state television (NRK) broadcast a documentary film named ‘Caught in Micro Debt’ “(Fanget i Mikrogjeld)”. In this documentary, it was stated that Dr. Muhammad Yunus transferred 10 crore US dollars from the NORAD grants to an organization under the control of Dr Muhammad Yunus. The matter was prominently published in national and international news media.

4.02.1Grameen Bank received from NORAD the sum of 39.83 crore kroner or 219.60 crore taka (at the exchange rate at the time of receipt) as loans that were subsequently converted into grants.

- 4.02.2 Using the grants and loans at zero or low interest received from NORAD and other donor agencies, and by imputing 2-6% interest on the same, a fund called Social Advancement Fund (SAF) was created inside Grameen Bank for the purpose of promoting the welfare of the members and employees of Grameen Bank. By 1996, the funds transferred to SAF stood at taka 44.25 crore.
- 4.02.3 The balance of the SAF stood at taka 44.25 crore and that of the Revolving Fund (the grants from the donor agencies including 75.46 crore taka from NORAD) was 347.18 crore in 1996. On December 31, 1996, the funds were transferred in favor of Grameen Kalyan, which was a separate company registered under the Companies Act. The transfer was shown to have been conducted according to a contract between Grameen Kalyan and Grameen Bank concluded on May 7, 1997. In the balance sheet of Grameen Bank, the transfer of 347.18 crore taka out of donor grants was shown as a debit from the Revolving Fund and a credit to “Borrowing from Grameen Kalyan”. Grameen Kalyan on the other hand showed this in its accounts by crediting Endowment Fund and by debiting ‘Loan and Advance- Grameen Bank’.
- 4.02.4 On December 15, 1997, the Norwegian Embassy of Dhaka raised objections in a letter against the contract between Grameen Bank and Grameen Kalyan. It said that there was no scope to transfer the fund because the contract between the Government of Bangladesh and the Government of Norway stipulated that the grant money should be used for the purpose of housing through the Revolving Fund. The letter raised questions about the reduction of the equity of the bank in the financial statement of 1996. Further, objection was raised against not informing the Norwegian Embassy about the transfer of funds to Grameen Kalyan.
- 4.02.5 In response to the objections raised, Grameen Bank informed the Norwegian Embassy via a letter dated January 8, 1998, that steps had been taken to promote the welfare of the members and employees of Grameen Bank, to utilize the Revolving Fund, and to reduce the potential tax burden et etcetera. Later, a letter dated May 26, 1998 from the Norwegian Embassy said that no objections of the Norwegian authorities would remain if kroner 17 crore were returned from Grameen Kalyan, if the contract with Grameen Kalyan were amended, and if the fund for housing credit were reestablished in Grameen Bank.
- 4.02.6 By dint of a contract made between Grameen Kalyan and Grameen Bank on June 17, 1998 (effective retrospectively from December 31, 1997), Grameen Kalyan returned the funds that were given to it from the grants of NORAD (taka 75.46 crore), and Grameen Bank informed the Norwegian Embassy about this in a letter of June 18, 1998.
- 4.02.7 The remainder of the fund transferred to Grameen Kalyan (taka 271.99 crore) were returned on November 1, 2003. By these reimbursements, the 347.18 crore taka transferred in 1996 to Grameen Kalyan came back to Grameen Bank
- 4.01** A documentary film was broadcast by the Norwegian State Television (NRK) on November 30, 2010 under the title ‘Caught in Micro Debt’ (“Fanget i Mikrogjeld”). In one segment of this documentary, it was stated that Dr. Muhammad Yunus transferred 10 crore US dollars from the NORAD grants to an organization under the control of Dr. Muhammad Yunus. Under the headline “Yunus siphoned Tk 7bn aid for poor”, the web-based news portal bdnews24.com published a news report. Afterwards, nearly all major national newspapers including Prothom Alo, Kaler Kantha, Samakal, Jai Jai Din, The Daily Star, Jugantor carried news reports

prominently. The newspapers carried nearly identical news reports on December 1 and 2, 2010. The gist of these reports was follows:

‘An accusation has been raised against the transfer of 700 crore taka from Grameen Bank by Dr. Muhammad Yunus out of grants from Europe. The accusation was made by a Danish Newscaster Mr. Tom Heinemann in a documentary film titled “Caught in Micro Debt” aired by the Norwegian state television NRK. The world premier of this documentary aired on November 30, 2010. A number of European countries gave massive sums to Grameen Bank as grants and loans on easy terms. From the funds given by Norway, Sweden, the Netherlands, and Germany, more than 10 crore US dollars were diverted by Dr. Yunus from Grameen Bank to his own company named Grameen Kalyan. In the face of objections raised by the Norwegian Embassy and NORAD in Dhaka, some of the funds came back to Grameen Bank, but more than 7 crore USD still remained with Grameen Kalyan of Dr. Yunus. Thereafter, Grameen Bank borrowed this money back from Grameen Kalyan.

In one segment of the documentary, Mr. Heinemann displayed copies of letters exchanged between Grameen Bank with NORAD and Norwegian Embassy in Dhaka. Referring to a letter written by Dr. Muhammad Yunus on April 1, 1998 to NORAD, it was mentioned that he sought the help of NORAD so that the news of the difference of opinion between Grameen Bank and the donor agencies regarding the transfer of funds is not publicized. The documentary noted that NORAD, the Norwegian Embassy, and the concerned authorities of the Bangladesh Government remained silent in this matter.

Dr. Yunus also gave an explanation to NORAD regarding the accusation raised against him for the transfer of 10 crore USD. In a letter of January 8, 1998 to NORAD, he stated that if the grants of the donors stayed in the Revolving Fund under the management of Grameen Bank, then it would incur a massive tax burden owing to increasing tax rates. After spending money out of the Revolving Fund, it can reuse the funds obtained in its exchange for the same purpose. The fiscal year is not considered for this fund.’

Afterwards, newspapers continually carried reports about the transfer of donor funds by Dr. Muhammad Yunus..... In a press conference on December 12, 2010, Dr. Muhammad Yunus informed that Grameen Bank did not use the grant funds for any unethical or corrupt purposes. He mentioned that the Norwegian Government and NORAD cleared him of any accusations after due investigation following the release of news about the transfer of funds in the Norwegian television documentary. He further noted that the matter was resolved 12 years ago. On December 13, 2010, the statement of Dr. Yunus at the press conference was carried by nearly all national dailies.

4.02 International Reaction

International news media publicized numerous reports on the transfer of funds from Grameen Bank after the airing of the television documentary and subsequent release of news. The Wall Street Journal, The Economist, The New York Times, The Atlantic, the Guardian, the Times of India and other international newspapers and magazines published the news and views. The gist of those is as follows:

‘The image of the pioneer of microcredit, the 2006 winner of the Nobel Prize for Peace Dr. Muhammad Yunus has been questioned. He has siphoned off 700 crore taka from Grameen Bank to another organization in contravention of the rules. A

storm of criticism has been brewing in his own nation and in other nations on the basis of a documentary aired by the Norwegian state television regarding the transfer of funds given by NORAD. There is a conflict of interest in the contract concluded between Grameen Bank and Packages Corporation, which is a family property of Dr. Yunus.

After the broadcasting of the documentary, extensive discussions of Grameen Bank and Dr. Yunus took place in the donor countries. The matter was also raised in the Norwegian Parliament. Bangladesh and Norway are scrutinizing the transfer of funds given by the donors. An inquiry report of NORAD mentions that Grameen Bank did not use the funds for any unintended purpose, and that there was no corruption in Grameen Bank.'

4.03 The Statement of the Norwegian Authority

The Norwegian Embassy in Dhaka, in response to the communications following its objections raised in a letter of December 15, 1997, issued a letter on May 26, 1998 to say that no objections of the Norwegian authorities would remain if kroner 17 crore were reimbursed from Grameen Kalyan, if the contract with Grameen Kalyan were amended, and if the fund for housing credit were reestablished in Grameen Bank

After the broadcast of the documentary titled 'Caught in Micro Debt' "(Fanget i Mikrogjeld)" by the Norwegian state television (NRK), Norway's Minister of Environment and International Development Mr. Erik Solheim instructed NORAD to submit a report regarding the transfer of funds from Grameen Bank to another organization by Dr Muhammad Yunus. In view of the report submitted by NORAD on December 7, 2010, Mr. Solheim stated in a press release that the funds given by Norway to Grameen Bank were not used for unintended purpose, and that no evidence was found about Grameen Bank's involvement in corruption, or embezzlement of funds. He further stated that the matter was resolved in 1998 when Grameen Bank recovered the NORAD funds from Grameen Kalyan.

4.04 Analysis of Events

.....In the bank's balance sheet, Revolving Fund received from donor agencies was debited and 'Borrowing from Grameen Kalyan' was credited to reduce the bank's equity and to create liability. By this act, the ownership of the fund was transferred. Without imposing a liability on Grameen Kalyan or getting compensation, the fund transfer may be regarded as really a grant.

It was reasonable to repeatedly use the Revolving Fund. Further, there was no provision to transfer the fund to any other organization in the contract concluded between the Government of Bangladesh and NORAD. Hence this act of Grameen Bank was ultra vires (beyond the authority). Therefore the objection raised by the Norwegian Embassy on December 15 appears to have been reasonable.

In the letter of Grameen Bank sent to Norwegian Embassy on January 8, 1998, it was stated that the efficiency of the fund would improve if the Revolving Fund was transferred to another organization and then used by Grameen Bank as a credit borrowed from others and that the burden of tax would be reduced.

The letter of 8th January 1998 stated that the transfer of funds in favor of Grameen Kalyan and borrowing back the same at 2% interest had reduced the tax burden of Grameen Bank. The bank was exempted from income tax until 1996. But on May 22, 1996 the Ministry of Finance rejected the application for tax exemption for the period

from October 1, 1996 to December 31, 1996. However on January 14, 1997 exemption was allowed for the last three months of 1996 and on April 13, 2000, exemption was allowed for the years 1997 and 1998.

The fear that the transfer of funds to the SAF inside Grameen Bank would be subject to taxation if not spent led the action to make the fund really interest-bearing by transferring it to Grameen Kalyan and borrowing it back at 2% interest. It was beyond the authority of Grameen Bank to transfer the funds without prior approval of the donors on the plea of tax reduction. Further, it is unreasonable to transfer funds to another organization in order to repeatedly use the Revolving Fund.

In response to the objection raised in the letter of December 15, 1997 and the instruction to recover the 17 crore kroner from Grameen Kalyan as per the letter of May 26, 1998, Grameen Bank recouped the funds (taka 75.46 crore) from Grameen Kalyan on June 17, 1998. It appears that the complaint against the transfer of funds donated by NORAD to Grameen Kalyan was resolved by the recovery acts of Grameen Bank on June 18, 1998.

Later, Grameen Bank recovered the remaining taka 271.99 crore on November 2003 from Grameen Kalyan. By this, the same amount (347.18 crore) that was transferred from the Revolving Fund in 1996 was returned back to Grameen Bank. On the other hand, the same amount of liability of Grameen bank to Grameen Kalyan was reduced.

In reaction to the broadcast of the documentary by the Norwegian state television, Norway's Minister of Environment and International Development Mr. Erik Solheim instructed NORAD to submit a report on the matter. In the report submitted by NORAD, it was stated that the matter was satisfactorily resolved in view of the letter of Norwegian Embassy to Grameen Bank dated May 26, 1998. In his statement, the Minister said: *"According to the report, there is no indication that Norwegian funds have been used for unintended purposes, or that Grameen Bank has engaged in corrupt practices or embezzled funds. The matter was concluded when the agreement concerning reimbursement of the funds was entered into in May 1998 under the government in office at the time."*

It appears that the complaint of Norwegian authorities against the transfer/ utilization of the funds given by NORAD to Grameen Bank were resolved. However, the transfer of funds to another organization was ultra vires for Grameen Bank.

5.00 Affiliated Organizations of Grameen Bank

.....the objective of Grameen Bank is to offer credit facilities to the rural landless. After the establishment of Grameen Bank, it received grants and loans from donor agencies including IFAD, NORAD, SIDA, CIDA, USAID, and Ford Foundation. These grants had the objective of providing micro credit.....created a donor consortium to establish Social Venture Capital Fund (SVCF) out of the grants from the consortium. In 1994, Grameen Bank created Grameen Fund as a not-for-profit company limited by Guarantees with that transfer of taka 49.10 crore from the SVCF.

Further, in 1996, a company named Grameen Kalyan - registered under the companies act, and as limited by guarantee- was created as a not-for-profit company by Grameen Bank by transferring taka 44.25 crore from the Social Advancement Fund (SAF). This (SAF) fund was created with the funds received from donor agencies with low or no interest and by imputing interest on the same.

Later on, Grameen Fund and Grameen Kalyan individually and jointly established 34 organizations with equity and credit support. Furthermore, there are 11 organizations founded with the efforts of Dr. Muhammad Yunus with the concept of Grameen Bank nationally and internationally. And Dr. Muhammad Yunus and officers of Grameen Bank are involved in their management. All in all, there are 48 organizations in which officers of Grameen Bank including Dr. Muhammad Yunus are engaged as Director or Chairman.

5.01 Flow of Funds to Affiliated Organizations

Grameen Fund has financed 15 organizations. Grameen Kalyan has funded 15 organizations. Furthermore, Grameen Telecom financed by Grameen Kalyan has in turn financed 12 organizations. The next page portrays the flow of funds among the Grameen Family of Companies

5.02 The relation between Grameen Bank and its Affiliates: Grameen Fund

- The Studies, Innovation, Development and Experimentation (SIDE) project started in the year 1984 by the funding of donor institutions with a view to increasing income of the Grameen Bank members. This SIDE project enhanced socioeconomic development, by involving the members with experimental technology based on technical, institutional, and practical fields. Later this project was named Social Venture Capital Fund (SVCF). Upto 1993, the amount of money supplied to this project by NORAD, SIDA, CIDA, USAID and Ford Foundation was about 49.10 crore taka. In 1994, a limited company named Grameen Fund was created by Grameen Bank guarantee. This company was created to provide loans and equity capital to the poor public to use technology to increase their income. About 39.12 crore taka in investment and cash 9.98 crore taka (total 49.10 crore taka) was transferred from SVCF. At present Grameen Fund has investment of 14.93 crore taka as equity and 9.56 crore taka as loan in 15 institutions.
- Grameen Bank gave loan forgiveness of 9.30 crore taka to Grameen Fund in the year 1999, on condition that Grameen Fund had to give loan forgiveness of the same amount to Grameen Krihsi Foundation. But there was no discussion of the interest of the share holders of Grameen Bank.
- Among 9 members of the executive committee, 4 are members of Grameen Bank. Dr. Md. Yunus is the chairman of the Board of Directors of Grameen Fund.
- At present the following institutions are financed (by equity/loan) by the Grameen Fund:

- Grameen Bebsa Seba Limited
 - Grameen Bi Tech Limited
 - Grameen Cybernet Ltd.
 - Grameen Knitwear Ltd.
 - Grameen Capital Mgmt Ltd.
 - Grameen Solution Ltd.
 - Grameen IT Park Ltd.
 - Tulip Dairy & Food Prod
 - Gay- B Kids Digital Ltd.
 - Grameen Inf. Highway Ltd.
 - Grameen Star Education Ltd.
 - Rafiq Autovan Mfg Ind. Ltd
 - Grameen Udyog
 - Grameen Shiksha
 - Grameen Samagri.
- Grameen Fund was created by one of the funds of Grameen Bank called Social Venture Capital Fund (SVCF). According to the Grameen Bank ordinance, 1983, creation of Grameen Fund is beyond its authority.

5.02.1 Grameen Kalyan

In 1990 Grameen Bank formed a fund called Social Advancement Fund (SAF) inside the Bank for the welfare of the members and workers of Grameen Bank. This fund was created with the imputed interest at the rate 2-6% on the grants and loans given by the donors with low interest or without interest. In 1996, Grameen Kalyan was created as a company limited by guarantee, and taka 44 crores from SAF and taka 347.18 crore from the Revolving Fund were transferred to it. Later due to NORAD's objection, Grameen Bank took back to its Revolving Fund all of taka 347.18 crore in two installments from Grameen Kalyan. After 1996 additional 25 crore taka accrued as imputed interest of SAF was transferred to Grameen Kalyan. It means that the total amount given by Grameen Bank to Grameen Kalyan was 69 crore taka.

The main objective of establishing Grameen Kalyan is to adopt various action plans and administer them for the benefit of the members and workers of Grameen Bank, to offer financial help and investment to the other affiliated institutions of Grameen families to support their projects to alleviate poverty and create employment, to offer financial help for schooling and higher education to the children of members and workers of Grameen Bank, to administer medical and health related hospitality services etc.

Grameen Kalyan is offering educational scholarship, and interest-free education loan to the children of Grameen Bank members and workers, offering 12% interest subsidy to the interest-free loans taken by the struggling members of Grameen Bank.

From 2008 to 2010, Grameen Kalyan distributed a total of 64.38 crore taka for the welfare of Grameen Bank members and employees through subsidizing the interest of interest-free loans of Grameen Bank for educational, beggar, and medical credit, and giving scholarships to the children of members etc.

At present, 13 institutions of Grameen Kalyan has 82.04 crores taka investment as loan and equity.

Among 7 directors of the Board of Directors of Grameen Kalyan, 5 are officers of Grameen Bank. Dr. Muhammad Yunus is the Chairman of the Board of Directors of Grameen Kalyan.

Given below is the list of the institutions financed by Grameen Kalyan through equity and loan:

- Grameen Knitwear Ltd.
- Grameen Bebsa Vikas
- Grameen Capital Mgt Ltd
- Grameen IT park ltd.
- Grameen Solution ltd.
- Grameen Danone Foods ltd.
- Grameen Healthcare Services
- Grameen Star Education ltd.
- Grameen Telecom ltd.
- Grameen Shikhsha
- Grameen Distribution ltd.
- Grameen Fabrics and Fashions
- Grameen Krishi Foundation.

5.02.2 Packages Corporation

Packages Corporation is a family business of Dr. Muhammad Yunus, the Managing Director of Grameen Bank. From 1990 to 2005 Packages Corporation received 966.44 lakh taka in principal amount of loan and paid back 869.69 lakh taka in principal. During this time period, 189.79 lakh taka in interest was imposed on that loan and 141.91 lakh taka was paid off. As a result Packages Corporation owed to Grameen Bank 96.75 lakh and 47.88 lakh (total 144.63 lakh taka) as principal and interest respectively. This interest was computed by imposing 10% interest on principal loan given to Packages Corporation and 16% on circulating credit upto 1996 and 12% from 1997.

In the 76th Meeting of the Board of Directors of Grameen Bank the interest on the loans given to Packages Corporation was recomputed at 5% from the beginning (1990) to December 2005. In this respect, the Board set the remaining dues at 7.22 lakh taka, even though the true dues stood at 144.63 lakh taka (principal 96.75 lakh and interest 47.88 lakh taka). Therefore the total forgiveness stood at (144.63 lakh – 7.22 lakh) =137.41 lakh taka. But as the unpaid balance of interest of the debtor stood at 47.88 lakh taka, the excess over 7.22 lakh under the recalculation at 5% was regarded a payment of principal.

There is no scope to forgive interest already realized from the debtor. The Board forgave 137.41 lakh taka. The interest due from the debtor was 47.88 lakh taka. That means that the Board forgave (137.41-47.88) =89.53 lakh taka of principal. The forgiveness of the principal of the loan hurts the depositors and shareholders. The family business of Dr. Muhammad Yunus was given undue advantage of principal forgiveness in violation of rules.

From 1990 to 1997, Grameen Bank performed the duty of managing this business. All the printing and packaging works of Grameen Bank were done through Packages Corporation. It is noteworthy that Grameen Bank's own purchase rules require calling open tender for any purchase of printing and stationary above 2 lakh taka. Yet, the purchase of printing and stationary was done from Packages Corporation without calling open tender.

In the Final Evaluation Report of the donors on the Grameen Bank project, published in January 1994, objections were raised against the continuation of the Studies, Innovation, Development and Experimentation (SIDE) Project under the bank's management, the adoption of the responsibility of running the family business Packages Corporation of Dr. Muhammad Yunus, and giving loans to the business from the SIDE program. Despite these objections, the giving of loans from the SIDE fund was continued.

There is conflict of interest in the Managing Director's taking up the responsibility of running his family business, the purchase of goods and services from it without

competitive open tender bids, the financing of it, and the forgiveness of principal and interest.

It may be noted that in the financial report of Packages Corporation in 2010, no loan facility from Grameen Bank and its affiliates was observed

5.02.3 Grameen Telecom Limited

Grameen Telecom was formed to improve activities of ICT, alleviation of poverty of poor villagers, and improvement of their standards of life. Amount of its capital fund supplied by Grameen Kalyan 53.26 crore taka (100%).

Directors: Dr. Muhammad Yunus, Prof. H I Latifee, Ms. Nurjahan Begum, Mr. Sheikh Abdud Dayan, Mr. M Shahjahan, Mr. M Siddiqur Rahman, Mr. M Hossain Ali and Mr. M Ashraful Hassan. Among the 8 members of the Board of Directors, 5 are officers of Grameen Bank.

Dr. Muhammad Yunus is the Chairman of the Board of Directors of Grameen Telecom Limited

5.02.4 Grameen Phone

Grameen Phone was formed with an objective of expanding telecommunication service in the country. The amount of equity held by Grameen Telecom in this company is 461.77 crore taka. In 31st December, 2009, the amount of paid up capital of Grameen Phone was 1215 crore taka. Grameen Telecom holds 34.20% share of Grameen Phone.

Directors: Mr. Sigvay Breke, Ms. Nurjahan Begum, Mr. Hildey Toney, Mr. M. Shahjahan, Mr. Pierre Eric Hilland, Mr. M Ashraful Hassan, Mr. Knut Borgen, and Mr. Ray Comelusen.

Among 8 members of the Board of Directors, 2 are officers of Grameen Bank on behalf of Grameen Telecom.

5.02.5 Grameen Telecom Trust

To expand social business, Grameen Telecom Trust was formed in 2010. Grameen Telecom has provided a grant of 13.71 crore taka to this trust.

- Directors: Dr. Muhammad Yunus, Prof. H I Latifee, Ms. Nurjahan Begum, Mr. Sheikh Abdud Dayan, Mr. M Shahjahan, Mr. M Siddiqur Rahman, Mr. Hossain Ali and Mr. Ashraful Hassan.
- Among the 8 members of the Board of Directors, 5 are officers of Grameen Bank.
- Dr. Muhammad Yunus is the Chairman of the Board of Directors of Grameen Telecom Trust.

5.02.6 Ganosasthya Grameen Textiles Mills Limited

- Ganosasthya Grameen Textiles Mills Limited was set up as a limited company to assist the production of yarn-based products and handicrafts
- The amount of equity held by Grameen Udyog is 9.52 crore taka (13.17%).

- Directors: Dr. Zafrullah Chowdhury, Mr. S M Shamim Anwar, Mr. M Shamsul Huda, Dr. Abul Kasem Chowdhury, Mr. M Zakaria, Mr. Tarun Charavarty, Ms. Rokeya Parvin Nilu, Ms. Dilruba Khatun, and Ms. Sandhya Roy.

5.02.7 Nobel Laureate Trust

- This Trust was formed with the objective of setting up Yunus Center and assist its activities with financial and other kinds of support and to rent floor space from Grameen Bank and give it for the use of Yunus Center.
- Grameen Bank is the settler and grantor of Nobel Laureate Trust. The Chairman of Grameen Bank is the ex officio Chairman of this Trust.
- Trustees: Dr. Muhammad Yunus, Mr. Tobarak Hussain, Mr. Kamrul Hassan, Mr. Dipal Chandra Barua, Ms. Nurjahan Begum, and Mr. M Shahjahan.
- This trust rented 11,000 square foot of floor space in the 16th floor of the Grameen Bank Bhavan for 1000 taka and re-rented it out to Yunus Center at the same rate. It has not shown any other activity.
- It must be noted that Yunus Center is basically a personal outfit of Dr. Muhammad Yunus.

Other associated organizations:

In addition to the above mentioned companies, Dr. Muhammad Yunus has personal connection with the following organizations:

5.02.8 Grameen Trust

- Grameen Trust was formed in 1989 with the view to spreading the Grameen Bank concept of poverty alleviation throughout the world.
- It began work with a initial loan of 26 thousand taka. At present, it is run by grants and loans.
- Among the 5 members in its Board of Directors, 4 are officers of Grameen Bank.
- Dr. Muhammad Yunus is the Chairman of the Board of Directors of Grameen Trust.
- Four officers of Grameen Bank offered guarantees in the formation of the Trust.

5.02.9 Grameen Shakti

- To produce, transmit and market environment-friendly and renewable energy at affordable cost, Grameen Shakti was established in 1996. It is a company limited by guarantee.
- It began its activities with grants from Rockefeller Brothers, Stitching Gillers, and Grameen Trust respectively of 31.21 lakh, 16.64 lakh, and 4.40 lakh taka and a loan of 6.66 lakh from Grameen Fund.
- Directors: Dr. Muhammad Yunus, Prof. H I Latifee, Ms. Nurjahan Begum, Mr. M Shahjahan, Mr. M Siddiqur Rahman, Mr. Absar Kamal, and Mr. Ashraful Hassan.

- Dr. Muhammad Yunus is the Chairman of the Board of Directors of Grameen Communications Limited.
- ...Grameen Bank issued guarantee of USD 7.5 lakh in foreign currency to International Finance Corporation without prior approval of Bangladesh Bank (though it later obtained permission). According to the Grameen Bank Ordinance of 1983, the issuance of a guarantee against the loan given by another organization was beyond the authority of Grameen Bank.

5.02.10 Yunus Center Trust

- This is a Trust founded by Dr. Muhammad Yunus. He gave 1 lakh taka as its grantor and settler. Its prominent objectives are to improve awareness of equal rights of women, the spreading of the concepts of microcredit and social business, to arrange formal education on the concept of microcredit and social business, and to organize seminars, symposium etcetera.
- Dr. Muhammad Yunus is the Chairman of the Board of Directors of Yunus Center Trust.
- The Nobel Laureate Trust settled by Grameen Bank obtained an allocation of 11,000 square feet of floor space in the Grameen Bank building in the 16th floor by one contract for 1000 taka and by another contract sublet it to Yunus Center Trust at the same rent. The bank's interest has been hurt by renting out 11,000 square feet of floor space at nominal price.

5.03 Review and Analysis

The Review Committee reviewed the details of the Minutes of the Meetings of the Board of Directors of Grameen Bank from the 30th to the 62nd meeting. In the 31st meeting, a decision was taken to create Grameen Matsya Foundation. In that meeting, a decision was taken to create a separate trust for the management of the Social Venture Capital Fund (SVCF). In the 32nd meeting, an executive committee was constituted with the government nominated members of the Board of Directors of Grameen Bank. In the 33rd Meeting, the program of creating a separate organization under the name of Grameen Fund was continued. In the 34th Meeting, in answer to a question of Member Dr. Saadat Hussain, the Managing Director told the meeting that it was not possible to run Grameen Fund, Grameen Udyog, and Grameen Matsya Foundation within the rules of Grameen Bank. Basically, the name of Grameen Bank will be used as the founder of those organizations.

In the 35th meeting, the situations of the following 12 projects were discussed:

- | | |
|-------------------------------|-----------------------------------|
| 1. Jaisagar Matsya Khamar; | 7. Daxminanchal Krishi Prokalpa; |
| 2. Dinajpur Matsya Khamar; | 8. Baufal Krishi project; |
| 3. Satkhira Chingri Khamar; | 9. Griha nirman upakaran project; |
| 4. Chakaria Chingri Khamar, | 10. Nivir Madhu Utpadan project; |
| 5. Matsya Vij Utpadan Khamar; | 11. Resham project; |
| 6. Service center; | 12. Packages corporation |

In the 37th meeting, the proposal to make Grameen Bank the guarantor of credits from another organization to an organization created by Grameen Bank was approved. The

decision was taken that Grameen Bank could offer guarantee to a maximum of taka 25 crore in respect of loans obtained by Grameen Udyog from another organization. The Managing Director was given the power to issue guarantee of a maximum of taka 25 crore in favor of Grameen Udyog. That meeting also gave responsibility to Grameen Trust to run Grameen Health Project. The Managing Director was given the power to determine the terms of credit and to approve credit to Grameen Trust to run the health project.

The 39th meeting approved the proposal to establish a separate organization named Grameen Samagri. The 41st Meeting heard the annual accounts of Grameen Udyog because Grameen Bank was its guarantor. It also approved a proposal to lend taka 30 crore out of the SAF to Grameen Telecom. The 42nd Meeting approved the proposal to establish a separate organization named Grameen Shakti. **In all the above meetings, Dr. Akbar Ali Khan presided.**

- 5.03.1 In the 47th meeting, the approved ceiling of guarantee given by Grameen Bank to Grameen Krishi Foundation for loans borrowed from other lenders was set at a maximum of taka 10 crore. The authority to offer the guarantee was given to the Managing Director. In the 48th meeting, the Directors were informed of the audited annual accounts of the companies created by Grameen Bank. The minutes of this meeting (April 16, 1998) are especially noteworthy. The meeting was presided over by the Chairman of the board Professor Rehman Sobhan. It was mentioned that there had been a resolution of the 35th meeting that the annual accounts (earnings and expenses accounts, and balance sheets) of the companies created by Grameen Bank- for whom Grameen Bank would stand guarantor for loans taken from other lenders- must be presented regularly to inform the board of directors. The Minutes of the Meeting are as follows:

“As per decision taken in the said meeting of the Board of Directors, the audited annual reports of the 4 companies Grameen Udyog, Grameen Telecom, Grameen Krishi Foundation, and Grameen Matsya Foundation were presented to inform the Board of Directors because Grameen Bank is the guarantor of them. During the discussion, Director Mr. Shamsuzzaman Chowdhury said that the reports did not mention what amount of guarantee was given for which company, and what benefit Grameen Bank was getting. The audit reports presented to inform the board members do not provide clear ideas about their activities. It appears from these audit reports that these organizations took loans from Grameen Bank at different times, but they are not explained in the audit reports. He suggested that in the future, those matters should be presented in more definite, informative, and constructive ways.

On the same issue, the chairman of the Board of Directors – Professor Rehman Sobhan opined that because these organizations were created with the approval of the Board of Directors of Grameen Bank, it is necessary that the Board be informed of the activities and progress of the organizations. In this connection, the Managing Director remembered that in one of the past meetings, a decision had been taken that the organization created by Grameen Bank would submit annual reports on their activities and progress for the information of the Board of Directors. In this regard, he instructed the Secretary of the Bank to examine the past decisions and to take necessary action.

After discussion of the above issues, the Board of Directors adopted the following resolutions in the meeting of 16-04-98:

- 1 Regarding Grameen Udyog, Grameen Telecom, Grameen Krishi Foundation, and Grameen Matsya Foundation for whom Grameen Bank stood Guarantor, the directors were informed of the following:

(In Crore taka)

Serial	Name of affiliate	Amount of Guarantee	Duration of Guarantee	Ceiling of Guarantee	Service Charge	Remarks
1	Grameen Udyog	24.0	1 year	25.0	0.50%	Guarantee expired
2	Grameen Telecom	20.00	6 years	30.00	0.50%	..
3	Grameen Krishi Foundation	10.00	1 year	10.00	0.50%	..
4	Grameen Matsya Foundation	0.50	8 years	5.00	0.50%	..
Total		54.50				..

- 2 The Board of Directors has been informed of the audited annual accounts (earnings, expenditures, balance sheets) of the four organizations mentioned above.
- 3 The Directors were further informed that since the guarantee given to Grameen Udyog has expired, for the remaining 3 organizations, the amount of guarantee has been shown in the bank's balance sheet as contingent liability.
- 4 In the future, at the time of presentation of the audited accounts of companies for which Grameen Bank will issue guarantee of loans taken of from other lenders, a summary of the audit report with important information about annual accounts must be presented to the Board of Directors.
- 5 **From now on, for the companies created with the approval of the Board of Directors of Grameen Bank, annual reports on their activities and progress must be submitted regularly each year for the information of the Board of Directors.**”
- 5.03.2 In the 56th Meeting, Grameen Bank was authorized to become the sponsor of Grameen Mutual Fund. In the 59th meeting a draft regulation regarding the appointment of Managing Director was approved. The meeting decided that there would be no age limit on the service of the Managing Director, and that the Grameen Bank Service Rules would not apply to him.
- 5.03.3 It is found from the analysis of the minutes of the meetings of the Board of Directors that decisions were taken about the affiliates after discussion in board meetings. Yet Dr. Muhammad Yunus told the Review Committee that there was no relation with Grameen Bank. It further appears from the minutes that the elected female members played no role in the meetings. It appears that the female members elected by the shareholders are merely present in the meetings. It is seen that the 3 members nominated by the government and the Managing Director are involved in all activities. An executive committee was created with the government nominated members. There is no

correspondence between the objectives and policies of Grameen Bank with the affiliates. This is observed from the record of discussions.

The Review Committee found that the following companies/organizations were created by guarantees of Grameen Bank and its directors:

Serial	Name of Company formed by Guarantee	Amount of Guarantee
1.	Grameen Trust	Tk. 6000 by Grameen Bank and Tk. 1000 each by all directors including chairman
2.	Grameen Bebsa Vikas	Tk. 6000 by Grameen Bank and Tk. 1000 each by all directors including chairman
3.	Grameen Kalyan	Tk. 6000 by Grameen Bank and Tk. 1000 each by all directors including chairman
4.	Grameen Krishi Foundation	Tk. 6000 by Grameen Bank and Tk. 1000 each by all directors including chairman
5.	Grameen Matsya o pashusampad	Tk. 6000 by Grameen Bank and Tk. 1000 each by all directors including chairman
6.	Grameen Shakti	Tk. 6000 by Grameen Bank and Tk. 1000 each by all directors including chairman
7.	Grameen Shiksha	Tk. 6000 by Grameen Bank and Tk. 1000 each by all directors including chairman
8.	Grameen Telecom	Tk. 6000 by Grameen Bank and Tk. 1000 each by all directors including chairman
9.	Grameen Fund	Tk. 6000 by Grameen Bank and Tk. 1000 each by all directors including chairman
10.	Grameen Udyog	Tk. 6000 by Grameen Bank and Tk. 1000 each by all directors including chairman
11.	Grameen Samagri	Tk. 6000 by Grameen Bank and Tk. 1000 each by all directors including chairman
12.	Grameen Communications	Tk. 6000 by Grameen Bank and Tk. 1000 each by all directors including chairman

It is matter of great regret that though there was no lawful authority to issue guarantee, it happened in the presence of government nominated directors.

5.03 Observations

5.04.1 It is sufficiently clear that Grameen Bank's own funds were used to create Grameen Kalyan and Grameen Fund. Later on, these two companies (Grameen Kalyan and Grameen Fund) created more companies by financing them with equity and loans. It is noteworthy that according to the Grameen Bank Ordinance of 1983, the creation and financing of these organizations are ultra vires (beyond lawful authority).

5.04.2 As per the Grameen Bank Ordinance 1983, Article 14(4), the Managing Director is a full time of Grameen Bank. **The Managing Director took responsibility of managing the organization of the Grameen family without the permission of the Board of Directors of Grameen Bank until 2003. On September 30, 2003, he was given post**

***facto* permission to serve as Chairman of 20 organizations.** Beside the Managing Director, other officers of Grameen Bank performed duties as directors of 30 organizations. There was no permission from the Board of Directors of Grameen Bank for these officers to serve in other organizations. Since the creation of the affiliated companies including Grameen Fund and Grameen Kalyan was without authority under the Grameen Bank Ordinance of 1983, the **Board of Directors of Grameen Bank had no authority to give permission to the Managing Director and other directors to serve as Chairman or Directors of those organizations. It therefore appears that the Board of Directors of Grameen Bank acted without lawful authority (ultra vires).**

- 5.04.3 Twelve of the companies among those affiliated with Grameen Bank were registered as companies limited by guarantee. Various officers including the Managing Director of Grameen Bank issued personal guarantees in favor of those organizations. Because they are full time regular officers of Grameen Bank, their issuance of guarantee in favor of new companies without the permission of the Board of Directors of Grameen Bank was beyond their authority.
- 5.04.4 The funds of Studies, Innovation, Development and Experimentation (SIDE) and Social Venture Capital Fund (SVCF), and Grameen Fund (created by transforming SVCF) of Grameen Bank were used to finance equity and loans to various companies (such as Packages Corporation, Mainamti Himagar, Grameen Samagri). According to the Grameen Bank Ordinance of 1983, loans can be given only to the rural landless and in support of financial services to their income-earning projects. Most of the SIDE and SVCF projects were large and they had no connection to the rural landless.
- 5.04.5 **Packages Corporation is a family enterprise of Dr. Muhammad Yunus.** This corporation was given 9.66 crore taka loans from 1990 through 2005. In 2006, Grameen Bank forgave 1.3741 crore taka of the loan. From 1990 through 1997, Grameen Bank performed the task of managing this company. There is conflict of interest in managing the company, purchasing goods and services from it without competitive bidding, financing it, and forgiving its loan.
- 5.04.6 Purchases from Packages Corporation and Grameen Samagri without open tender violated the bank's own procurement policy.
- 5.04.7 Grameen Bank incurred financial losses by renting 11000 square feet of office space at nominal price for the personal outfit of Dr. Muhammad Yunus (named Yunus Center).
- 5.04.8 Grameen Bebsa Vikas charges 1% Service Charge for guaranteeing loans given by Grameen Bank. Since this company was created with Grameen Bank finance and supervision, the payment of 1% service charge to Grameen Bebsa Vikas amounts to a transfer of funds.
- 5.04.9 The market price of a share of Grameen Phone stood at taka 170.40 on April 3, 2011 against its face value of taka 10 per share. The market value of the 46.18 crore shares of Grameen Phone held by Grameen Telecom was nearly 8000 crore taka. But Grameen Telecom is a company limited by guarantee and has no shareholders. There is no certainty about the proper management and utilization of the massive wealth of Grameen Telecom.

- 5.04.10 On behalf of Grameen Shakti, Grameen Bank issued a guarantee of USD 750,000 in foreign currency to International Finance Corporation (IFC). As per Grameen Bank Ordinance 1983, the issuance of guarantee for another company is beyond the authority of Grameen Bank.
- 5.04.11 Grameen Bank forgave the unpaid loan of 2.45 crore due from Grameen I T Park. This hurt the interest of Grameen Bank. The giving of loan to this company was beyond the jurisdiction of Grameen Bank. The Grameen Bank Ordinance authorized Grameen Bank to offer loans limited only to the rural landless.
- 5.04.12 The 52nd meeting of the Board of Directors of Grameen Bank considered an application of Grameen Krishi Foundation and a request of Grameen Fund. It gave permission to Grameen Bank to write off taka 9.30 crore from the loan given to Grameen Fund on condition that Grameen Fund would write off its outstanding loan to Grameen Krishi Foundation by the same amount. The interest of the shareholders of Grameen Bank was not considered.
- 5.04.13 Dr. Muhammad Yunus is a public servant as the fulltime Managing Director of Grameen Bank. But he showed his profession as business in the Memorandum of Association and Article of Association of Grameen Cybernet Limited and Grameen Bebsa Vikas. He declared his profession as professor in case of Grameen Trust, but as Managing Director of Grameen Bank in case of Grameen Udyog. He put his address as Medical College Road, Panchlaish, Chittagong (rather than his address in Grameen Bank Complex in Dhaka) in the Memorandum and Article of Association of Ganoshasthya Grameen Textile Mills Limited.
- 5.04.14 According to the Grameen Bank Ordinance of 1983, Grameen Bank can give loans only to the rural landless. It is not authorized to give loans to any organization such as Grameen Krishi Foundation, Grameen Matsya Foundation, Biggan Ganoshiksha Kendra or Packages Corporation.
- 5.04.15 It is observed that the affiliated companies created by Grameen Bank were created ultra vires (without lawful authority). Since most of those companies are not limited by shares, they have no ownership relations with Grameen Bank. They are not accountable to Grameen Bank or other agencies. The matter is of grave concern.

6.0 Views of Individuals and Institutions Concerned with Microcredit, including members of civil society

The gist of the views and observations of distinguished experts on microcredit are given below:

- 8.01 Grameen Bank is a specialized bank. It has graduated from the difficult first phase, and is now in its second generation. By ensuring a solid foundation and structure of operations, the bank must go forward. Without innovative character, Grameen Bank will be a failed organization.
- 8.02 There is a difference of opinion regarding the interest rate. Some have observed that the interest rate is too high. But some others have also opined that this rate is one of the lowest among the microcredit lenders. Many have opined that the determination of the interest rate should consider the cost of funds, the cost of operations, and the profits.

- 8.03 Several individuals raised questions how the borrowers of the bank came to be the largest shareholders. They have the view that if the same person is both an owner and a borrower, there is a conflict of interest.
- 8.04 Serious violation of law has occurred through the transfer of funds; these were obtained as grants from donors by using the goodwill of Grameen Bank, but given to the affiliated companies. It has severely damaged the interest of Grameen Bank. There is a need to balance the business profitability with the social advantages of financing affiliated companies. More transparency must be ensured in the accounting of the affiliates.
- 8.05 Borrowers of Grameen Bank are subjected to many hassles in the name of credit recovery. There are families that went destitute to repay the Grameen Bank loans; and some borrowers have even committed suicide.
- 8.06 Much doubt is expressed about the true extent of women's empowerment, despite the praise heaped on Grameen Bank's role in women's empowerment.
- 8.07 The Board of Directors of Grameen Bank takes decisions according to majority voting. While the views of the Chairman and the 3 government nominated directors may appear reasonable to the 9 directors elected by the members, those may not be acceptable to the majority (of the people concerned with micro credit).
- 8.08 In violation of the proportion mentioned in the Grameen Bank Ordinance, members have been given more shares than the government.
- 8.09 Financial irregularity has occurred in the act of transfer of funds to Grameen Kalyan. While the Norwegian government may be satisfied with the resolution of the matter upon reimbursement of the funds, the Bangladesh government cannot ignore the attempt to evade taxes.
- 8.10 One has questioned the review of Grameen Bank. He remarked that the same complaints may be raised against Janata Bank Limited and Agrani Bank Limited. He further remarked that Dr. Muhammad Yunus is not an ordinary man, but is a great social capital. He mentioned a liberal regulatory framework to maintain the independence and identity of Grameen Bank.
- 8.11 The success of Grameen Bank founded on the concept of microcredit has proved that it is possible to recover collateral-free loans in the rural areas. Grameen Bank has opened a new horizon in lending to the poor in the world of banking.
- 8.12 The affiliated companies created by Grameen Bank were created outside the ambit of law. The irregular creation of such companies has created serious problems of law. These must be immediately regularized.

9.00 Conclusions and Recommendations

- 9.01 According to Article 152 of the Constitution of Bangladesh, Grameen Bank is a statutory public authority on account of its having been created by the Grameen Bank Ordinance of 1983. It is not a non-government organization (NGO) or a private company, private bank, or bank-company, or a scheduled bank in the usual definitions. Though there is some similarity of its microcredit operations with the activities of some NGOs, there is 25% government ownership of it as per law. But the government ignored

its right and has allowed it to be taken to a marginal position (3.29% of ownership). The government must fix this.

- 9.02 An Inspection Report by Bangladesh Bank on Grameen Bank was submitted in 1999. It mentioned various irregularities including the continuation of service of the Managing Director past the age of retirement. But the government did not take any effective steps during the next decade. It goes without saying that had proper steps been taken at due time, the present situation would not have arisen. The issue of what social, political, or economic consideration kept the government silent and inactive deserves investigation.
- 9.03 Grameen Bank has become a large organization by expanding its activities throughout the country and in its extensive programs of action. But a clear tendency to violate laws and rules is observed in respect of administrative decisions, purchases, the participatory role of directors in the Board of Directors, the creation of various companies outside Grameen Bank, use of funds, inter-company fund transfer etcetera. In effect, the organization evolved as a person-dependent one instead of as a rule-dependent one. In these circumstances, it is necessary to draft a national policy regarding the scope of action of Grameen Bank to ensure the effectiveness of the efforts to provide collateral-free credit to the rural landless for poverty alleviation and to ensure successful recovery. In the formulation of this policy, the matters of microcredit, and the governance of Grameen Bank and its affiliated companies must be kept in mind. This policy should be followed up in the reform and amendment of the pertinent and requisite legal structure.
- 9.04 In the immediate future, by creating a Grameen Bank Reform Commission, new laws have to be enacted with the help of legal experts. This Committee is of the opinion that following steps deserve consideration:
- 9.04.1 It is necessary to have regulatory authority for any credit giving institution. It will ensure proper utilization of resources and good governance. Though Grameen Bank is a microcredit lender, it is not within the jurisdiction of the Micro Credit Regulatory Authority because it is not defined as a microcredit institution by the Micro Credit Regulatory Authority Act of 2006. The Micro Credit Regulatory Authority was established under the Micro Credit Regulatory Authority Act of 2006 with the purpose of supervising and controlling the activities of the microcredit institutions in the country. Since the original objective of Grameen Bank as per Grameen Bank Ordinance 1983 is to provide credit to the rural landless, by amending the Micro Credit Regulatory Authority Act of 2006, and the Grameen Bank Ordinance of 1983, Grameen Bank may be brought under the jurisdiction of the Micro Credit Regulatory Authority.
- 9.04.2 If the aforesaid recommendation is implemented, the gazette notification regarding the applicability of articles 44 and 45 of the Bank Company Act of 1991 may be repealed.
- 9.04.3 If Grameen Bank is brought under the regulatory authority of Micro Credit Regulatory Authority as per recommendation 9.04.1, by amending article 14(1) of Grameen Bank Ordinance 1983 concerning the appointment of the Managing Director, the condition may be imposed that the prior approval for the appointment must be obtained from the Micro Credit Regulatory Authority rather than Bangladesh Bank.
- 9.04.4 As per Article 36 of the Grameen Bank Ordinance of 1983, the Board of Directors is empowered to draft the regulations. By amending this article of the ordinance, the

requirement of obtaining prior approval of the Micro Credit Regulatory Authority may be imposed afresh.

9.04.5 In order to create an effective Board of Directors, the Grameen Bank Ordinance may be amended to reduce the number of member-directors to six (06) and to include the appointment of three (03) new independent directors (from among experts of micro credit, rural economics, banking, law etcetera). This will make the management of Grameen Bank more transparent and

Signed/
(Mohsen Rashid)
Member

Signed/
(R M Debnath)
Member

Signed/
(Begum Rokeya Deen)
Member

Signed/
(M Nazrul Huda)
Member

Signed/
(A K Monaw-war Uddin Ahmed)
Chairman

Advocate Mohsen Rashid

I am in general agreement with the foregoing report. However, I have some additional observations in respect of (i) about the scheme of the statute on which the structure of Grameen Bank has been built; (ii) the legality of increase in authorized and paid up capital of the Bank ; (iii) my disagreement with the recommendation of putting Grameen Bank under the Micro Credit Regulatory Authority, as in my opinion it should be regulated by Bangladesh Bank under Rules framed for the purpose and by exclusion of certain statutory requirements mandated by law for Scheduled Banks or Banking Companies for example Cash Reserve Requirement (CRR) and Statutory Liquidity Reserve (SLR) etc; (iv) it is also necessary that for a better understanding of the problems in Grameen Bank two memos dated 6 July 1997 and 1 January 2000 written by a General Manager of Grameen Bank to its Managing Director are of immense significance and expediency demands that the same be made part of the report verbatim, as such, I have decided to include the said memos herein .

It is also important to mention here that the committee had asked for documents related to Grameen Phone, in particular the agreement between Grameen Telecom and Grameen Phone but the **Managing Director of the Bank in a letter to the Committee declined to give the same on the plea that Grameen Telecom is an independent company and not related to Grameen Bank. We had also requested in writing the Ministry of Telecom for certain documents related to Grameen Phone but they did not even have the courtesy to acknowledge our request not to speak of cooperating with us. It appears that there is something in the entire process of tendering and agreement between Grameen Telecom and Grameen Phone that requires to be hidden for sinister or corrupt motives.**

My observations are as under:

I am of a very strong view that the Amending Act No. 50 1990 which was enacted at the behest and request of the Grameen Bank was done without proper application of mind and is completely devoid of public interest. While reviewing the activities of Grameen massive violations of laws and rules have been detected. **The Board of Grameen became redundant and subservient to the will, whims and caprices of its Managing director and all this happened post the Amending Act of 1990.**

Let us examine the legality of increase in authorized capital sans amendment of Section 6(2) of Grameen Bank Ordinance. However, before we do that we would like to examine as to how authorised capital is increased under the Companies Act, which Act could be treated as par materia to this Ordinance. The companies incorporated under the Companies Act, to increase the Authorised Capital have to first resolve the matter in the Board, once the Board passes necessary resolution proposing the increase in Authorised Capital, it further resolves that a special resolution be passed in an Extra-ordinary General Meeting to be held for the purpose and accordingly notifies all the shareholders of the special resolution that the company proposes to adopt in the general meeting. Thereafter a Special Resolution in an extra ordinary general meeting held for the purpose is adopted and being authorized by the shareholders in a General Meeting a return along with a copy of the Special Resolution is filed with the Registrar of Joint Stock Companies. The Registrar having received the return and special resolution authorising the increase in authorised capital makes note of this increase in authorised capital in the records of the Company which increase is then duly reflected in the Memorandum & Articles of Association of the said Company with a foot note showing the date of the adoption of the Special Resolution. In this instance case of Grameen Bank the increase is effected by the issuance of a memo or a Government Order, but this memo or Government sanctioning increase is neither been gazetted for public notice nor the ordinance has been amended to reflect the actual and current position of the authorised capital and its division into ordinary shares. This is just done administratively even without taking the shareholders into confidence. We have looked at all the Amending Acts of Grameen Bank but we have not found any provision or note in the statute charter of the Bank to show that the Authorised Capital has been increased. Therefore, the increase in authorised capital beyond Tk. 10 Crore to Tk. 350 Crores is certainly a gross illegality as Section 6(2) has not been amended.

The paid up share capital of the bank may be increased by the Government from time to time under the authority of Section 7 (2) of the Grameen Ordinance , 1983. This explicitly means that it is only the Government which in its discretion can increase paid up Capital. The power to increase the Paid up Capital vests singularly with the Government and none else. Meaning thereby that without government sanction or authorisation the paid up capital cannot be increased. This is in contrast to the provision of Section 6 (3) where the authorised capital may be increased by the bank with the approval of the government. But for the increase of paid up capital the power vests exclusively with the Government. In this particular case the paid up capital is being increased by the Bank on a daily basis having no regard for law. The Bank's board or its shareholders have no authority whatsoever under the Grameen Ordinance to increase paid up capital. We have not found or seen or come across any document to show or suggest that Government has increased or authorised the increase of paid up capital of the Bank. This provision which the statute reserves for the Government has been deliberately enacted with the implied intention of preserving the statutory holding of the government in the equity capital

of the Bank and protect the dilution of its equity which under law because of the Amending Act No. 50 of 1990 has been decreased to 25 % from the original 60 %.

We also find that the Bank started with 60 % equity capital of the Government. Subsequently, vide amending Ordinance No. 51 of 1886 the Government holding was decreased to 25 %. Thereafter, vide Ordinance No. 8 of 2008 the Government holding was further reduced to 15 %. However, Ordinance No. 8 of 2008 which was issued by the army backed caretaker government has not been approved by the elected parliament, as such it has no validity. As of now the Government has a statutory holding of 25 percent. This 25 percent share holding of the Government is a statutory provision, therefore, a legal requirement. It is touted by Grameen Bank that government having not subscribed to its statutory holding, the governments shareholding stands reduced to less than 3 %. This in our considered opinion is not a correct position in law, for two reasons, namely (a) there is no statutory sanction under section 7 (2) for increase of paid up share capital; (b) statutory share holding cannot be diluted, save and except by an amendment to the law.

We are not privy to any legally binding document which can show that the Government has taken a decision or authorised an increase Paid-up-Capital. Assuming but not conceding even if the Government had sanctioned or approved increase in Paid-up-Capital the same would not dilute the holding of the Government. Once again assuming but not conceding, even if the Government had sanctioned the increase in Paid up Capital under section 7(2) of the Ordinance and were not heeding to the call to pay up for their 25 percent shares, in that event too the shares had to be issued to the Government and the unpaid money on subscribed shares should have been reflected as RECEIVABLE from the Government. THE OTHER ALTERNATIVE WAS TO hold the subscription of borrower/members in a separate account as ‘advance against shares’ till such time that the Government pays its part of the equity. But under no circumstances statutory holding can be undermined and / or diluted.

Therefore, it is apparent from the forgoing that the Government, having not increased the paid up share capital, the account of Grameen Bank which reflects a diluted share capital of the Government is grossly ultra vires of the Grameen Bank Ordinance 1983 as amended upto date.

AMENDMENT OF STATUTE NECESSARY

It is expedient and necessary to point out that when Paid up Capital was increased from Tk. 3 crore to Tk. 7 crore and 20 lakhs, the same was done by Amending Ordinance. 51 of 1986. Therefore, if an amendment to Grameen Bank Ordinance, 1983, was necessary for increase of Paid up Capital then we can safely conclude that a precedence exists and hence can draw an analogy that for any increase in authorised Capital the statute is required to be amended.

VARIOUS BUSINESS COMPANIES

It is also necessary to moot the point of various business establishments operating under the umbrella of Grameen Bank. Section 20 of the Grameen Bank Ordinance specifically prohibits the Bank from undertaking or transacting any kind of business other than those authorised by or under the ordinance. We, however, find that the Bank has entered into various businesses, all after 1990, save and except one. All these are prohibited under the Ordinance. With this premise we have decided to look at the various business establishments under the Grameen Bank umbrella. In looking at the companies within the Grameen network we cannot loose sight of the

fact or that this statutory bank’s (Grameen Bank) prime objective is to deal exclusively with rural landless persons.

It is interesting that until the massive amendments were made to the Grameen Bank Ordinance vide amending Act no.50 of 1990 there were no companies under the Grameen Network. The amending Act no. 50 of 1990 was promoted and prompted by Grameen Bank with the malafide intent of ousting most of the provisions requiring approvals, sanctions, authorisation of the Government of Bangladesh. The expansion programme of creating a huge businesses conglomerate began after 1990 because from records made available to us it is seen that prior to the amending Act 50 of 1990 there were no business enterprises under the Grameen umbrella save and except Grameen Trust which was formed in 1989.

In a booklet titled ‘GRAMEEN BANK AT A GLANCE’ published in December 2010 on page 9 in paragraphs 21.0 Titled Grameen Network it is stated— **Quote: “Grameen Bank does not own any share of the following companies in the Grameen Network. Nor has it given any loan or received any loan from any of these companies. They are all independent companies, registered under Companies Act of Bangladesh, with obligation to pay all taxes and duties, just like any other company in the country.**

1.Grameen Phone Ltd.	2.Grameen Telecom
3.Grameen Communications	4. Grameen Cybernet Ltd.
5.Grameen Solutions Ltd.	6. Grameen Information Highways Ltd.
7. Grameen Bitek Ltd.	8.Grameen Uddog (Enterprise)
9.Grameen Shamogree (Products)	10. Grameen Knitwear Ltd.
11. Grameen Shikkha (Education)	12. Grameen Capital Management
13.GrameenB.Bikash(Business Promotion)	14. Grameen Trust
15. Grameen Health Care Trust	16. Grameen Health Care Service Ltd.
17. Grameen Danone Food Ltd.	18. Grameen Veolia Water Ltd.
19. Grameen Shakti	20. Grameen IT Park Ltd.
21. Grameen Star Education Ltd.	22. Grameen Employment Services Ltd.
23.Grameen Fabrics and Fashion Ltd.	24. Grameen Distribution Ltd.
25. Grameen Shamogree Purbanchal Ltd.	26. Grameen Shamogree Uttaranchal Ltd.
27. BASF Grameen Ltd.”	

It is true that Grameen Bank as an institution does not feature in these companies but from Grameen Bank’s own admission the aforementioned **companies are under the Grameen Network** as majority of the promoters of all these companies are employees of the Grameen Bank and they have signed mentioning their respective official designations and in some cases they have not mentioned their official position in the Bank but have used, the Bank’s address and almost all the companies use the name Grameen. Therefore admittedly they are Grameen Bank companies.

Now let us examine in the same book at page 10 paragraph 22 which relates to Grameen Bank created companies and we QUOTE: “The following companies in the Grameen network were created by Grameen Bank, as separate legal entities, to spin off some projects within Grameen Bank funded by donors. Donor funds transferred to Grameen Fund were given as a loan from Grameen Bank. These companies have the following loan liability to Grameen Bank:

Grameen Fund: Tk. 373.2 million (US \$ 6.38 million)

Grameen Krishi Foundation: Tk. 19 Million (US \$ 0.33 million)
 Grameen Motsho (Fisheries) Fnd Tk. 15 million (US \$ 0.26)

Grameen Kalyan (Well-being) is a spin-off company created by Grameen Bank. Grameen Bank created an internal fund called Social Advancement Fund (SAF) by imputing interest on all the grant money it received from various donors. SAF has been converted into a separate company to carry out its mandate to undertake social advance activities among the Grameen borrowers, such as, education, health, technology, etc.”

Therefore, it is evident even from the Grameen Bank publication that the aforesaid companies are essentially Grameen Bank companies EVEN FROM ITS OWN ADMISSION. We also find that Grameen Bank created Grameen Fund and Grameen Kalyan where Grameen Bank money and Grameen Bank itself is involved.

All the Grameen Network companies either directly or indirectly flow out of Grameen Fund and Grameen Kalyan.

Grameen Fund is licensed under Section 26 of the Companies Act 1913 and is an association limited by guarantee not having a share capital. This company has been promoted by six Grameen Bank employees and four others. In the objects clause of the Memorandum of Association it is stated “**before undertaking the objects stated at iii (1), iii (2), iii (3), iii (7) and iii (9) the fund will obtain license from the Bangladesh Bank under the Financial Institutions Ordinance of 1993**” this committee did not find any license having been obtained as required by the Charter of the Fund.

Grameen Bank gave Tk. 49.10 Crores to **Grameen Fund** as part of social venture capital fund.

Grameen Fund in turn has funded the following:

i.) Packages Corporation	ii.) Grameen Bepsha Sheba Ltd.
iii.) Globkids Digital Ltd.	iv.) Grameen Bitek Ltd.
v.) Grameen Udyog	vi.) Grameen Solutions Ltd.
vii.) Grameen Cybernet Ltd	viii.) Grameen IT Park Ltd
ix.) Grameen Shikha	x.) Grameen Information Highway
xi.) Grameen Shamogree	xii.) Rafiq Autovan Manu. Industries Ltd.
xiii.) Tulip Dairy&Food Products Ltd.	xiv.) Grameen Capital Management Ltd.
xv.) Grameen Star Education Ltd	

Grameen Kalyan was incorporated on 6th November 1996 and was licensed under Section 28 of the Companies Act 1994. It is a company limited by guarantee having no share capital. In its objects clause it categorically provides at least in two places, if not more, that it will obtain license from Bangladesh Bank under Financial Institutions Ordinance 1993. But we do not find any trace of any such license having been obtained from Bangladesh Bank. **Grameen Kalyan** has been promoted by eight persons who are all officials of Grameen Bank and have done so in their official capacity while one promoter is the Managing Director of Grameen Shamogree which has obtained funding from Grameen Fund. Grameen Kalyan in turn has obtained funding from Grameen Bank under its Social Advancement Fund (SAF) scheme. Grameen Kalyan in turn funded the following companies of the GRAMEEN NETWORK:

i.) Grameen Solutions Ltd.	ii.) Grameen IT Park Ltd.
iii.) Grameen Danone Foods Ltd.	iv.) Grameen Shikha
v.) Grameen Distribution Ltd.	vi.) Grameen Fabrics and Fashion Ltd
vii.) Grameen Krishi Foundation	viii.) Grameen Knitwear
ix.) Grameen Star Education Ltd.	x.) Grameen Telecom
xi.) Grameen Capital Management Ltd.	

Of the Grameen Kalyan funded companies, Grameen Telecom is the biggest venture. In turn Grameen Telecom funds have also flowed into the following companies:

i.) Grameen Udyog	ii.) Grameen Solutions
iii.) Grameen IT Park Ltd.	iv.) Grameen Danone Foods Ltd.
v.) Grameen Health Care Services Ltd	vi.) Grameen Distribution Ltd.
vii.) Grameen Fabrics and Fashion Ltd.	viii.) Grameen Health Care Trust
ix.) Grameen Phone	x.) Grameen Telecom Trust
xi.) Grameen Krishi Foundation	xii.) Grameen Shikha

Grameen Telecom Trust which was funded by Grameen Telecom has in turn funded Grameen Krishi Foundation and Grameen Matsho O Poshu Sampad Foundation. Grameen Krishi Foundation which obtained funding from Grameen Telecom Trust, Grameen Telecom and Grameen Kalyan has funded Grameen Yukiguni MaitakeLtd.

The foregoing evidences the route Grameen Bank, directly and indirectly, took in PROMOTING AND FUNDING the companies UNDER THE Grameen umbrella or Grameen Network. Besides the aforementioned companies within the Grameen Family there is another company by the name of Grameen Shakti. This is a company limited by guarantee. In this company's memorandum of association we find that for objects clauses **iii (1) and iii (2)** permission of Bangladesh Bank under the provisions of the Financial Institution Ordinance 1993 is required. However, this committee has not found any evidence of such permission being obtained. Out of ten promoters of this company six are officials of Grameen Bank. Thus, it is clearly a Grameen Bank company.

We also find that there are many in the Grameen family which are companies for profit: Grameen Securities Management Ltd, Grameen Danone Foods Ltd, Grameen Shakti Shamagik Bybosa Ltd, Grameen Bybosa Sheba Private Ltd, Grameen Cyber Net Ltd etcetera which too are linked either directly or indirectly to the Grameen Bank.

The following two memos dated 6 July 1997 and 1 January 2000 addressed to the then Managing Director of Grameen Bank Dr. M.Yunus by a K. Muzammel Huq, General Manager of the Bank

“Subject: Some Issue Regarding the Future of Grameen Bank and its Sister Organisations

I look forward to receiving a response from you and discussing these issues in more detail”

are of great significance in understanding the seriousness of problems afflicting the Bank. I deem it necessary that the said memos be quoted verbatim without comments as the same are self explanatory.

Recommendations:

- i. That Grameen Bank along with all the Grameen Family companies, institutions and enterprises has become a huge conglomerate which is required to be properly restructured and redefined.
- ii. That a separate statutory body for promotion of Grameen's Social business enterprises be formed to manage and operate the Grameen Network institutions, companies and enterprises.
- iii. To amend the charters (M&A) of the Companies to bring it in line with the holy intention of the Grameen Bank's Ordinance to promote the interest of landless rural persons which is the polestar of Grameen Bank. This polestar should not be lost sight of.
- iv. I find that Grameen Bank and Grameen Network and related companies institutions and enterprises have been managed and operated in gross violation of laws, rules and regulations, so much so that vital provisions in respect of Authorised and Paid up capital have been violated, undoubtedly with the unauthorised intent to dilute the holding of the Government.
- v. I find that the Board of Grameen Bank suffers from serious structural deficiencies as the nine elected members on the Board lack a proper understanding of the high financial practices and the intricacies of managing a statutory institution as big and complicated as the Grameen Bank with a huge network of Companies all inter twined together. We recommend that the statute should provide for proper qualifications of directors and the Constitution of the Board should be as it was in the unamended Ordinance of 1983.
- vi. That this Committee's terms of reference being specific and limited in nature with time constraints it is unable to review the entire working of Grameen Bank and its huge conglomerate. Therefore, this Committee recommends that consultants be appointed for undertaking a complete and thorough study of Grameen Bank and Companies, institutions and enterprises under its network and related to it for identifying structural, legal, regulatory, management and financial deficiencies and propose appropriate restructuring and strengthening of its monitoring including removal of deficiencies.
- vii. That in opposition to my colleagues in the Committee I am of the opinion that the Grameen Bank should be regulated by Bangladesh Bank with necessary amendments in law and rules, by excluding Grameen Bank from certain statutory mandates as applicable to Schedule Banks , for example, CRR and SLR.

ANNEXURE 2

List of Bangladesh Bank's Inspections

Sl.	Details of Inspection	Date of Balance	Starting Date of the Inspection	Name of the Governors	Name of Deputy Governors
1.	1 st Inspection	31/12/1997	22/11/1998	Dr. Mohammed Farashuddin	Mr. Mohammad Sohrab Uddin Mr. Khondokar Ibrahim khalid
2.	2 nd Inspection	31/12/1999	25/06/2000	Dr. Mohammed Farashuddin	Mr. Mohammad Sohrab Uddin Mr. Khondokar Ibrahim khalid Mr. Md.Ruhul Amin
3.	3 rd Inspection	31/12/2001	21/09/2002	Dr. Fakhruddin Ahmed	Mr. Md.Ruhul Amin Mr. Mohammed Abdul Mazid khan Mr. Md. Allah Malik Kazemi Mr. Muhammad A(Rumi) Ali Mr. Md.Nazrul Huda
4.	4 th Inspection	31/12/2/2002	14/12/2003	Dr. Fakhruddin Ahmed	Mr. Md.Ruhul Amin Mr. Md. Allah Malik Kazemi Mr. Muhammad A(Rumi) Ali Mr. Md.Nazrul Huda
5.	5 th Inspection	30/06/2004	20/10/2004	Dr. Fakhruddin Ahmed	Mr. Md. Allah Malik Kazemi Mr. Muhammad A(Rumi) Ali Mr. Md.Nazrul Huda
6.	6 th Inspection	30/06/2005	11/12/2005	Dr. Salehuddin Ahmed	Mr. Md. Allah Malik Kazemi Mr. Muhammad A(Rumi) Ali Mr. Md.Nazrul Huda
7.	7 th Inspection	30/06/2006	26/12/2006	Dr. Salehuddin Ahmed	Mr. Md. Allah Malik Kazemi Mr. Muhammad A(Rumi) Ali Mr. Md.Nazrul Huda Mr. Ziaul Hassan Siddiqui
8.	8 th Inspection	30/06/2007	27/01/2008	Dr.Salehuddin Ahmed	Mr. Md.Nazrul Huda Mr. Ziaul Hassan Siddiqui Mr. Md. Murshid kuli Khan
9.	9 th Inspection	30/06/2008	18/01/2009	Dr. Salehuddin Ahmed	Mr. Md.Nazrul Huda Mr. Ziaul Hassan Siddiqui Mr. Md. Murshid kuli Khan
10	10 th Inspection	30/06/2009	13/01/2010	Dr. Atiur Rahman	Mr. Md.Nazrul Huda Mr. Ziaul Hassan Siddiqui Mr.Md. Murshid kuli Khan
11	11 th Inspection	30/06/2010	09/01/2011	Dr. Atiur Rahman	Mr. Md.Nazrul Huda Mr. Ziaul Hassan Siddiqui Mr. Md. Murshid kuli Khan
12	12 th Inspection	31/12/2011	22/04/2012	Dr. Atiur Rahman	Mr. Md. Abul Quasem Mr. Abu Hena Mohd-Razee Hassan Mr. Shitangshu Kumar Sur Chowdhury Mrs. Nazneen Sultana

ANNEXURE 3

Grameen Bank's reply to the detailed Inspection Report (31.12.1999) of Bangladesh Bank

Para No.	Objection Raised in the Inspection Report of Bangladesh Bank	Reply From Grameen Bank	Divisional Remark
4	<p>The profit and loss account did not reflect the true situation owing to showing expenditures of excess funds. It appears from the prevailing situation that the policy being pursued is one of showing excess expenditure and creating funds from the interest on it to facilitate fast expansion of the overall size of the bank and for quick development of its institutional infrastructure.</p> <p>It may be mentioned in this connection that the lion's share of the capital of the bank came from the hard-earned money of the landless. Though the bank pays interest and service charges to its suppliers of funds, it has not paid any dividend during the 17 years from the inception till the date of the inspection to its suppliers of capital. Therefore, those who have already passed away or have withdrawn membership have been deprived of their fair dues.</p>	<p>As per the decision of the Board of Directors of Grameen Bank in its 42 Meeting, a transfer of funds to Grameen Kalyan was shown on the same day that the money was taken back as credit. In real terms, no money was transferred to Grameen kalyan. The copy of the decision of the Board regarding the terms of credit is attached (in Flag ka).</p>	<p>The objection may be resolved.</p>
5.4 (ka)	<p>It is not reasonable to transfer the grant funds from Swedish SIDA to Grameen Kalyan because the terms and conditions of the said grants are like the ones for the NORAD grants for general and joint credit And housing credit.</p>	<p>The grant funds obtained from SIDA were utilized properly as per the contract with SIDA and SIDA's representative observed its utilization. SIDA has not raised any objection that there was any violation of the contract. Furthermore, the funds have been transferred as per the decision of the</p>	<p>The objection may be resolved.</p>

Grameen Bank's reply to the detailed Inspection Report (31.12.1999) of Bangladesh Bank

Para No.	Objection Raised in the Inspection Report of Bangladesh Bank	Reply From Grameen Bank	Divisional Remark
		board of directors of Grameen Bank.	
5.4 (kha)	The members, who left Grameen Bank voluntarily or were expelled before 01/10/95, have not received the money they put in the Group Fund.	Grameen Bank expresses its satisfaction that the meeting has decided that the issue raised by Para 5.4 (kha) of the Inspection Report has been resolved.	The objection may be resolved.
5.4 (ga)	By virtue of a contract between Grameen Bank and Grameen Matsya Foundation concluded on 15/5/1994, 14 fisheries projects were transferred to Grameen Matsya Foundation. These fishery projects were given to Grameen Bank by the government's Ministry of Fisheries and Livestock through lease deeds of varying maturities. But upon request to furnish information on whether the government approval was obtained prior to the transfer or informed afterwards, Grameen Bank failed to furnish the same.	Copies of automatically renewable contracts and samples of direct communication between the government and the Grameen Matsya Foundation are attached. (Flag Kha)	The objection may be resolved.
5.4 (uma)	As per the terms and conditions of credits and grants given by foreign donor agencies, there is an obligation to maintain records of purchase orders, invoices, and letters of payment etcetera. Grameen Bank failed to provide the expenditure-related documents to the inspection team.	Sample copies of purchase orders, invoices, letters of payment, etcetera related to the expenditures on the construction of buildings with the credits and grants of foreign donors are attached. (Flag Ga).	The objection may be resolved.
5.5 (1)	As per condition 2.0 of the agreement between Grameen Bank and Grameen Fund, Grameen Bank lent 9.98 crore taka for cash fund to finance 41 projects of Grameen Fund.	Grameen Bank has expressed satisfaction that the meeting has decided that the issue in paragraph	The objection may be resolved.

Grameen Bank's reply to the detailed Inspection Report (31.12.1999) of Bangladesh Bank

Para No.	Objection Raised in the Inspection Report of Bangladesh Bank	Reply From Grameen Bank	Divisional Remark																								
	<p>Out of this, 5.15 crore taka was interest-free. But Grameen Fund provided equity of 8.05 crore taka to the following projects:</p> <table border="1" data-bbox="283 505 1035 998"> <thead> <tr> <th>Name of Project</th> <th>Equity (in Crore taka)</th> </tr> </thead> <tbody> <tr> <td>Chakaria Matsya Khamar</td> <td>3.50</td> </tr> <tr> <td>Grameen Cybernet</td> <td>0.51</td> </tr> <tr> <td>Grameen Bitek</td> <td>0.20</td> </tr> <tr> <td>Grameen Bebsa Seba</td> <td>0.10</td> </tr> <tr> <td>Ganashasthya Grameen Textile Mills Ltd</td> <td>1.48</td> </tr> <tr> <td>Grameen Knitwear</td> <td>1.10</td> </tr> <tr> <td>Grameen Securities</td> <td>1.50</td> </tr> <tr> <td>Tulip Dairy</td> <td>0.50</td> </tr> <tr> <td>Grameen Software</td> <td>0.16</td> </tr> <tr> <td>Total</td> <td>8.05</td> </tr> <tr> <td>Surplus Fund</td> <td>1.93</td> </tr> </tbody> </table> <p>From the noting of the concerned office, it is seen that Grameen Fund is promise-bound to provide the remainder of the fund received from Grameen Bank (taka 1.93 crore) to various projects. Therefore Grameen Fund has invested the nearly interest free cash funds given by Grameen Bank for purposes contrary to the purpose. Grameen Bank has remained silent over the issue even after being informed. IT is noteworthy that the Managing Director of Grameen Bank, Dr. Muhammad Yunus is the Chairman of Grameen Fund and 6 of the 10 members of the board of directors re</p>	Name of Project	Equity (in Crore taka)	Chakaria Matsya Khamar	3.50	Grameen Cybernet	0.51	Grameen Bitek	0.20	Grameen Bebsa Seba	0.10	Ganashasthya Grameen Textile Mills Ltd	1.48	Grameen Knitwear	1.10	Grameen Securities	1.50	Tulip Dairy	0.50	Grameen Software	0.16	Total	8.05	Surplus Fund	1.93	<p>5.5(1) of the Inspection Report has been resolved.</p>	
Name of Project	Equity (in Crore taka)																										
Chakaria Matsya Khamar	3.50																										
Grameen Cybernet	0.51																										
Grameen Bitek	0.20																										
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Grameen Bank's reply to the detailed Inspection Report (31.12.1999) of Bangladesh Bank

Para No.	Objection Raised in the Inspection Report of Bangladesh Bank	Reply From Grameen Bank	Divisional Remark
	officers of Grameen Bank.		
5.5 (4)	Grameen Bank is following a double standard in the matter of interest computation. For example, while interest was charged at compound interest rates for the transfer of funds to build SAF, interest is being charged at simple rate for Grameen Fund.	Grameen Bank has expressed satisfaction that the meeting has decided that the issue in paragraph 5.5(4) of the Inspection Report has been resolved.	The objection may be resolved.
5.5 (5)	Irregularity has been observed in case of interest determination. As per condition no. 6 of the Agreement, if idle funds of Grameen Fund remain with Grameen Bank, then Grameen Bank will pay interest to Grameen Fund. As per agreement, Grameen Bank was paying 10% and later 8% interest at the year-end. The argument in favor of setting the interest rate at 10% was that the idle funds do not stay in Grameen Bank for any specified period of time and they can withdraw it as needed, so that by synchronization with the 12.75% interest on fixed deposits, a somewhat lower interest is laid on the deposit. But this policy was not followed when the rate was adjusted to 8%. When the highest interest rate on fixed deposits was lowered to 6%, the interest on the idle funds of Grameen Fund ought to have been lower than 6%. But Grameen Bank has financially hurt the Bank by setting the interest rate at 8%. The noting on the determination of the interest rate said that "Grameen Fund cannot at present get any interest higher than 6% if it keeps its idle funds with other commercial banks or if they invest with other	8.50% interest has been paid on Grameen Bank Saving Deposit. But Grameen Bank paid 8% on the accumulated Grameen Fund taka, which is less compared to interest paid on Saving Deposit. This interest rate is determined with the view that a sizeable amount of taka will remain in long term deposit. The interest rates are determined for long term benefit and proper management of the Fund.	The objection may be resolved.

Grameen Bank's reply to the detailed Inspection Report (31.12.1999) of Bangladesh Bank

Para No.	Objection Raised in the Inspection Report of Bangladesh Bank	Reply From Grameen Bank	Divisional Remark
	institutions rather than keeping them at Grameen Bank". It appears clearly that Grameen Bank officers have consciously set a high interest on the deposit. In this case, the interest of Grameen Fund has been given priority.		
08	The amount of money invested as fixed deposit by various commercial banks is 23% of the total; assets. Against this, the interest earned is 9.5% to 10.5% Had this been invested as loans and advances, it would have brought better success for the members and the income of the bank would have been increased. IN this connection, it is noteworthy that the Bank has taken 100.00 crore taka of credit from Bangladesh Bank., at an interest rate equal to the bank rate. Furthermore, the balance of credits taken against the sale of bonds to other commercial banks and financial institutions on the date of this inspection is taka 462.00 crore and the interest on those was 2% to 6%. From this, it appears the credits taken from Bangladesh Bank and other commercial banks was not taken to run the ordinary affairs of the bank; rather its goal was to increase the Bank's income by investing in risk less avenues without effort. The Bank is advised to invest the funds obtained as credit at subsidized rates for the welfare of the members through investing in loans and advances.	Grameen Bank has always maintained liquid funds to repay the loans and to meet crisis and to prepare for immediate return of the deposits when savers so require. By adopting this policy, Grameen Bank has been able to pay off about 107 crore taka at once on last December 12. 2001. Further, it has made arrangements to pay 200 crore taka of bonds with interest in next May 2002. All these have been made possible owing to the proper management of funds by Grameen Bank	The objection may be resolved.
10	The immovable properties of the Bank include its head office building and the buildings of a few branch offices. The above 3 buildings have a total floor space of 3.21 lakh	Grameen Bank has expressed satisfaction that the meeting has decided that the issue in paragraph 10	The objection may be resolved.

Grameen Bank's reply to the detailed Inspection Report (31.12.1999) of Bangladesh Bank

Para No.	Objection Raised in the Inspection Report of Bangladesh Bank	Reply From Grameen Bank	Divisional Remark
	square feet. IT is using 42.68% of the floor space itself and renting out the rest to its various affiliates, which appears not to be in accordance with Articles 19 and 20 of the Grameen Bank Ordinance of 1983. The income in 1999 from the renting of office space and garage was taka 59.62 lakh. Monthly rent per square foot is taka 10.	of the Inspection Report has been resolved.	
16	The balance of the deposits in the Bank at the present inspection date is taka 557.36 crore, which is 57.57 crore or 12% larger than the balance of 499.79 crore on the last inspection date. The lion's share of this is from various types of deposits from the members. Deposits have been taken also from the general public, who has not gained membership. But the bank's head office could not provide information on the amount of such deposits (from non-members).	In our next report, we mentioned that separate monitoring was not undertaken because deposits were taken from a small number of non-members. After receiving the advice of Bangladesh Bank, and with the launching of new program to gather deposits from non-members, separate monitoring has been organized for non-member deposits.	The objection may be resolved.
18	Grameen Kalyan is a separate organization registered by the Registrar of Joint stock Companies on 6/11/96. Its activities are being run by its own officers and employees. The Bank applied a charge of 2% interest on the interest-free grants; and accumulated the interest income in a fund called Social Advancement Fund between 1990 and 1992. Later, as per the decision of the Board of Directors of the Bank in its 35 th Meeting, interest income earned by imposing an interest of 2% to 6% on the interest-free grants from donors and on loans bearing interest less than	A copy of the Decision of the Board of Directors regarding the creation of Grameen Kalyan has been placed in Flag Ka.	The objection may be resolved.

Grameen Bank's reply to the detailed Inspection Report (31.12.1999) of Bangladesh Bank

Para No.	Objection Raised in the Inspection Report of Bangladesh Bank	Reply From Grameen Bank	Divisional Remark
	<p>6%, the entire interest earned on interest-free grants and the excess interest earned over the interest payable to the creditors was accumulated in an account named the Social Advancement Fund. In 1995, the balance of the said fund stood at 44.25 crore taka. In the 42nd Meeting of the Board of Directors, a decision was taken to transfer this balance plus the balance of the revolving fund 347.19 crore taka as created with the grants from donors, totaling 391.44 crore taka to Grameen Kalyan as per an agreement between Grameen Bank and Grameen Kalyan concluded on 7/5/1997, with retrospective effect from 31/12/1996. This was transferred as an Endowment Fund of Grameen Kalyan; and as per terms and conditions of the same agreement, on the same day the entire fund was shown as a loan to Grameen Bank. Later on, Norwegian donor agency NORAD raised objections against this transfer. In response to the letter of the Norwegian Embassy in Dhaka on 26/5/1998 and as per understanding with NORAD, 170 million Norwegian Kronor equivalent to 75.46 crore taka was taken back to Grameen Bank from Grameen Kalyan. Hence the funds transferred to Grameen Kalyan and then shown as borrowed back by Grameen Bank stood at 315.98 crore taka. Out of this, 185.15 crore taka bears interest. The rate of interest on this loan has not been definitely fixed. According to the agreement, the rate of interest is negotiable at the year-end with mutual consent of both agencies. However, the agreement stipulates that it cannot be any lower than 2%. Accordingly, the bank has</p>		

Grameen Bank's reply to the detailed Inspection Report (31.12.1999) of Bangladesh Bank

Para No.	Objection Raised in the Inspection Report of Bangladesh Bank	Reply From Grameen Bank	Divisional Remark
	been paying interest at 2% against this loan since 1996. The total interest paid from 1996 through 1999 was 14.17 crore taka. On the date of the present inspection, the balance of this loan is 275.91 crore taka. From the circumstances described above, it appears that the bank has transferred a sizeable part of its funds to a separate organization and has shown the same as a loan from the day of transfer. The transfer of the assets of the bank to another organization does not seem consistent with the provisions of the Grameen Bank Ordinance 1983.		
21.1	The Grameen Bank Ordinance 1993 regarding the activities of Grameen Bank required that the credit activities of the Bank must abide by the rules mentioned in Article 19. But no such rules have been issued as per Article 36(@) of the Ordinance.	After detailed discussion of the matter in Paragraph 21.1 of the Inspection Report, Grameen Bank will reexamine the issue of whether there is a need to publish a gazette notification of the Rules regarding giving credits as per Article 36(2) of Grameen Bank Ordinance 1993.	The objection may be resolved.
21.2	The Managing Director of Grameen Bank is regarded as a regular officer of the Bank as per letter no. GB/PK/102(BP)/90-4098 dated 29/8/1990 issued by the Bank to the Managing Director. As per Article 50.00 of the service rules of the Grameen Bank, the age of retirement of the officers/ employees is 60 years. In the 52 nd meeting of the Board of Directors of Grameen Bank held on 23/7/99, upon being informed of the passing of the	A copy of the gazette notification regarding the inapplicability of the service rules in the case of the Managing Director has been attached. (Flag Gha).	The objection may be resolved.

Grameen Bank's reply to the detailed Inspection Report (31.12.1999) of Bangladesh Bank

Para No.	Objection Raised in the Inspection Report of Bangladesh Bank	Reply From Grameen Bank	Divisional Remark										
	age of retirement of the chief executive, the board took a decision that ' 52.91 the board of directors did not fix a retirement age in the appointment letter of the Managing Director. IT was decided that Professor Muhammad Yunus will remain in his position as Managing Director until the board takes a decision otherwise.' In this case, no approval was obtained from Bangladesh Bank as required by Article 14(1) of the Grameen Bank Ordinance, 1983.												
21.3	<p>As per Article 24(2) of the Grameen Bank Ordinance, 1983, there is an obligation to submit an audited report of accounts to the government within three months of the end of each financial year. The dates of the submission of the accounts to the government by the Grameen Bank were as follows:</p> <table border="1"> <thead> <tr> <th>Financial Year</th> <th>Date of submission of accounts</th> </tr> </thead> <tbody> <tr> <td>1996</td> <td>12/5/98</td> </tr> <tr> <td>1997</td> <td>10/1/99</td> </tr> <tr> <td>1998</td> <td>13/4/2000</td> </tr> <tr> <td>1999</td> <td>Not submitted till inspection date</td> </tr> </tbody> </table> <p>It is seen than Grameen Bank submits its accounting reports much later than the time specified by law.</p>	Financial Year	Date of submission of accounts	1996	12/5/98	1997	10/1/99	1998	13/4/2000	1999	Not submitted till inspection date	Grameen Bank expresses satisfaction that the meeting has decided that the issue in paragraph 21.3 of the Inspection Report has been resolved.	The objection may be resolved.
Financial Year	Date of submission of accounts												
1996	12/5/98												
1997	10/1/99												
1998	13/4/2000												
1999	Not submitted till inspection date												
26	<p>In the 10 branches inspected, 49 members were interviewed regarding their share ownership, and he results are as follows:</p> <table border="1"> <thead> <tr> <th>Serial</th> <th>Particulars</th> <th>Number</th> <th>%</th> </tr> </thead> <tbody> </tbody> </table>	Serial	Particulars	Number	%	Grameen Bank expresses satisfaction that the meeting has decided that the issue in paragraph 26 of the Inspection Report has been resolved.	The objection may be resolved.						
Serial	Particulars	Number	%										

Grameen Bank's reply to the detailed Inspection Report (31.12.1999) of Bangladesh Bank

Para No.	Objection Raised in the Inspection Report of Bangladesh Bank				Reply From Grameen Bank	Divisional Remark
	01	Aware of share ownership	17	35		
	02	Not aware of share ownership	32	65		
	Total		49	100		
	The awareness of share ownership among the membership is not satisfactory. The awareness has not developed because they were not given the share scripts and they were not properly counseled in this matter. The upper management of the Bank has been advised to take necessary actions in this matter.					
27.5	Grameen Bank has transferred a total of taka 391.44 crore, including taka 347.19 crore of the revolving fund created with the grants from Donors, to a separate organization created under the Bank Company Act as an Endowment Fund on 31/12/96 and borrowed the entire sum the same day from that company. The transfer of the assets of Grameen Bank to a separate organization is not consistent with the provisions of the Grameen Bank Ordinance of 1983.				Grameen Bank expresses satisfaction that the meeting has decided that the issue in paragraph 27.5 of the Inspection Report has been resolved.	In this matter, as per the decision of the meeting, Grameen Bank may be advised to supply an opinion of Barrister Fida Kamal or another legal expert to the effect that 'there is no legal barrier'
27.7	According to the service rules of Grameen Bank, the age of retirement is 60 years; this has already been crossed by both the present Managing Director and the Deputy Managing Director. They are still retained in their current positions as per the decision of the board of directors. In this case, no approval was obtained from Bangladesh Bank as required by Article 14(1) of the Grameen Bank				Grameen Bank expresses satisfaction that the meeting has decided that the issue in paragraph 27.7 of the Inspection Report has been resolved.	The objection may be resolved.

Grameen Bank's reply to the detailed Inspection Report (31.12.1999) of Bangladesh Bank

Para No.	Objection Raised in the Inspection Report of Bangladesh Bank	Reply From Grameen Bank	Divisional Remark
	Ordinance of 1983. It is necessary to obtain approval of Bangladesh Bank for the appointment of the Managing Director for an indefinite period.		
27.8	The Bank does not submit its audited accounting reports on time as pr requirement of Article 24(2) of the Grameen Bank Ordinance of 1983. The Bank is advised to take due preparations for proper compliance.	Grameen Bank expresses satisfaction that the meeting has decided that the issue in paragraph 27.8 of the Inspection Report has been resolved.	The objection may be resolved.
27.10	The Field Workers of Grameen Bank sometimes have to collect loan repayments from distant places; hence there is a risk that the money may be hijacked on the way, and such events have already occurred. It is necessary to take appropriate actions for their security within the prevailing rules.	Grameen Bank expresses satisfaction that the meeting has decided that the issue in paragraph 27.10 of the Inspection Report has been resolved.	The objection may be resolved.

ANNEXURE 4

Extracts from Grameen Bank Board Meeting No. 1

Grameen Bank
Head office
2G Shaymoli, Dhaka-7

The minutes of 1st Meeting of the Board of Directors of Grameen Bank.

The 1st meeting of the Board of Directors of Grameen Bank was held at 10.00 AM on November 09, 1983, Wednesday. Chairperson of the Board of Directors Prof. Iqbal Mahmud presided over the meeting. The following directors were present in the meeting:-

- | | | |
|-----------------------------|---|-------------------|
| 1. Prof. Iqbal Mahmud | - | Chairperson |
| 2. Prof. Muhammad Yunus | - | Managing Director |
| 3. Mr. Nazrul Islam | - | Director |
| 4. Dr. A.M.A Rahim | - | Director |
| 5. Mr. L.R.Sarkar | - | Director |
| 6. Ms. Taherunnesa Abdullah | - | Director |

Honorable Minister for Finance and Planning, Mr. A. M. A. Muhit was present as a Special Guest.

1.15: The Policy of accumulating Tk. One crore twenty lac i.e. 40 percent of the paid up capital from the borrowers:

- A) Every member shall buy one share mandatorily. They will be made shareholders deducting certain amount of money from the group fund with the permission of the members.
- B) Every member of the group must buy individual share before the amount of personal savings reaches up to Tk. One thousand in the group fund.
- C) As the full amount of capital which is to be accumulated from the borrowers cannot be collected right now so, Tk. Seventy-five lac, should be borrowed without interest for the period of 3/5 years from the Government to make up for the deficit.
- D) After collecting the paid up capital (Tk. Two crore twenty lac) which is earmarked for the borrowers, an application will be submitted to the Government with a view to increase the amount of paid up capital to sell shares to new members.

Signed:

(Prof Iqbal Mahmud)
Chairman

ANNEXURE 5

Extracts from Grameen Bank Board Meeting No. 2

Grameen Bank
Head office
2G Shaymoli, Dhaka-7

The minutes of 2nd Meeting of the Board of Directors of Grameen Bank.

The 2nd meeting of the Board of Directors of Grameen Bank was held at 1.00 PM on Sunday 04 December, 1983. The meeting was presided over by the Chairperson of the Board of Directors Prof. Iqbal Mahmud. The following directors were present in the meeting:-

- | | | |
|-------------------------------|---|-------------------|
| 1. Prof. Iqbal Mahmud | - | Chairperson |
| 2. Prof. Muhammad Yunus | - | Managing Director |
| 3. Mr. Nazrul Islam | - | Director |
| 4. Mr. Muhammad Faizur Razzak | - | Director |
| 5. Ms. Taherunnesa Abdullah | - | Director |
| 6. Mr. L.R. Sarkar | - | Director |
| 7. Dr. A.M.A Rahim | - | Director |

2.2: Vesting Powers to the Managing Director as per section 15 of the Grameen Bank Ordinance.

Decision:

Responsibility of formulation and execution of all policies of the Bank is assigned to the Managing Director, the Chief Executive of the Bank. But all these policies and directives must first be approved by the Board of Directors of the Bank.

2.3: Executive Committee's powers and operating procedures.

Decision: The Executive Committee (EC) will exercise all the powers of the Board but in special cases certain matters may be kept outside the purview of the Executive Committee. Other than the day the Board is convened the EC may be called to order by the Chairman of the EC and this may be done either verbally or in writing. The Chairman of EC can convene, postpone or conclude the meetings. The decisions of the EC will have to be unanimous if there is any difference then the matter has to be referred to the Board. The EC quorum requires only the Chairman and one other member. The minutes of the EC can be approved either verbally or in writing without even having to convene the EC.

Signed:

(Prof Iqbal Mahmud)
Chairman

ANNEXURE 6

Extracts from Grameen Bank Board Meeting No. 32, (p. 57, FN 177)

Minutes of the 32nd Meeting of the Board of Directors of Grameen Bank

The thirty-second meeting of the board of Directors of Grameen Bank was held on Tuesday, February 23, 1993, at 10: 00 AM at the Grameen Bank Head Office (Mirpur 2, Dhaka – 1216). The Chairman of the Board of Directors, Dr. Akbar Alai Khan presided over the meeting. The following members of the Board of Directors were present in the meeting:

- | | |
|-----------------------------------|-------------------|
| 1. Professor Muhammad Yunus | Managing Director |
| 2. Mr. Shamsuz Zaman Chowdhury | Director |
| 3. Ms. Photo Rani Dey | Director |
| 4. Ms. Jaitun Nahar | Director |
| 5. Ms. Lal Bhanu | Director |
| 6. Ms. Musammat Amena Begum | Director |
| 7. Ms. Musammat Firoza begum | Director |
| 8. Ms. Mania Khatun | Director |
| 9. Ms. Musammat Aklima Begum | Director |
| 10. Ms. Srimati Pushpa Lata Nandi | Director |
| 11. Ms. Monowara Begum | Director |

After the members of the Board of Directors took to their seats, and before the formal commencement of the meeting, the Chairman of the Board of Directors, Dr. Akbar Ali Khan introduced the newly appointed Director Mr. Shamsuz Zaman Chowdhury to the members present. At this time, in a brief message, he congratulated Mr. Shamsuz Zaman Khan on behalf of the members of the board of directors. He expressed delight at the inclusion of Mr. Shamsuz Zaman Chowdhury in the Board of Directors of the Bank. He said that the inclusion of Mr. Shamsuz Zaman Chowdhury in the board would strengthen the board, and his long experience and wisdom would be of particular help to the decision making of the Board. After the statement of the chairman of the board Dr. Akbar Ali Khan, the managing director Professor Muhammad Yunus welcomed Mr. Shamsuz Zaman Chowdhury. He said that the inclusion of Mr. Shamsuz Zaman Chowdhury has further invigorated the board of directors. The bank will be especially benefited by having him on board.

In reply to the welcome address of the Chairman to the Board of Directors Dr. Akbar Ali Khan and Managing Director Professor Muhammad Yunus, Mr. Shamsuz Zaman Chowdhury conveyed his thanks. He noted that he was glad that the government decided to nominate him as a member of the board of directors of Grameen Bank. He said that he was proud to get the opportunity to work with the likes of Dr. Akbar Ali Khan and Dr. M M Shoukat Ali with long experience in government administration, and the internationally reestablished eminent personality like Professor Muhammad Yunus and the members with practical experience of the Bank. He gave assurance of every assistance from him towards taking the bank's activities forward with success by upholding the vision and mission of the bank.

After that, the meeting commenced formally as per procedure. The board discussed the following issues and took decisions as follows:

32.1 Approval of the Minutes of the Thirty-First Meeting of the Board of Directors

As there was no objection, observation, comment or opinion on the minutes of the thirty-first meeting of the board of directors held on October 7, 1992, the board of directors adopted a resolution to approve the minutes of the meeting.

Resolution:

32.1 It is hereby resolved that the minutes of the 31st meeting of the Board of Directors as held on October 7, 1992 is approved.

32.2 Report of the Managing Director on the Progress of the Bank:

Professor Muhammad Yunus, the Managing Director of the bank welcomed the members of the board of directors and made a presentation of the report on the progress of Grameen Bank. In a brief statement regarding this matter, he said that the year 1992 passed quite well for the bank. This year, there were no losses owing to floods or droughts for the members. As there was no visitation of natural disasters this year, the country's situation was normal. The food grain production has seen bumper crops. All in all, the bank members have been able to pass the year peacefully. The unruly behavior of the registered employee union caused administrative difficulties for the bank in 1991; however, it was possible to overcome the troubles in the year 1992. The government is investigating into the matter in pursuance of a petition filed by the bank; and the Grameen Bank Employees Union has already been abolished.

For various reasons, 1992 has been a year of achievements and successes for Grameen Bank. This year, the bank has opened its thousandth branch. Disbursements of credit of 600 crore taka have been accomplished just in 1992, and the total credit given by the bank so far has been 1700 crore taka. While there has been an economic downturn in the country and investment has been stagnant, and the country's Minister of Finance expressed pessimism about investment, the large amount of credit distributed by Grameen Bank may be taken as a very good sign.

In this connection, he said that in 1992, Grameen Bank and its Managing Director were awarded a number of prizes from around the world. A three-member team led by the Managing Director of Grameen Bank will go to collect King Baudouin International Prize 1992 given by Belgium. An outstanding member of this team is the Director of the Bank Ms. Musammat Manjira Khatun.

He said that it will remain a uniquely memorable event in the world that this was the first time that a representative of the poorest community in the poorest country of the world was accepting a prize from a king.

In the presentation on the details of the progress report, he further noted that by 31 December 1992, the Grameen Bank has extended its activities in 30600 villages in 60 districts of the country through 12 zonal offices. The number of area offices has now been increased to 108

By December 31, 1992, 1015 branches of the bank have been opened under the 12 zones. Through these branches so far 1543.40 crore taka of general and joint credits and 165.97 crore taka of house building credit have been disbursed. During the same time, an amount of 1226.54 crore taka has been recovered against the general and joint loans and 44.17

core taka have been recovered against the house building loans. At present, the number of landless members of the bank has reached 14. 25 lakh.

With reference to the progress of the construction programme of Grameen Bank, the Managing Director reported that through December 1992, buildings have been constructed for 273 branch offices and 17 area offices. At present, the number of offices under construction is 19. The expenditure incurred on account of the construction of the branch offices and area offices has been nearly 29.00 crore taka.

Referring to the enthusiasm among people from home and abroad regarding the Grameen Bank, Professor Muhammad Yunus said that so far 1965 trainees from foreign countries have received training. In various news papers, journals and magazines, there are frequent writings on Grameen Bank. In this connection, he drew attention of the Board members to a letter written to American Congress by the present American President (President-elect at the time of writing) Mr. Bill Clinton. In this letter, the experience and advice of Grameen Bank has been mentioned in relation to the formulation of American foreign policy regarding Foreign Aid.

Referring to the interest in Grameen Bank at home and abroad, the managing director further mentioned that Professor Gibbons and his wife, coming from Malaysia's Penang University of Science has been conducting research on Grameen Bank for the last year. The subject of their research was the concerns the change of the conditions of the credit recipients of the older branches of the bank. A preliminary finding of their research is that nearly of 50% of the members of the bank who took loans a long time ago has been able to rise above the poverty line. The details of their research findings will probably be available after some time. He noted that a research of this kind has not been done before.

After the presentation of the progress report was concluded by the Managing Director, the Chairman of the Board of Directors Dr. Akbar Ali Khan mentioned the important role of the agricultural sector in the economic development of the nation. He observed that the investment by Grameen Bank in this sector has been very limited. In reply to his statement, the Managing Director referred to the interest of the bank in the agricultural sector and said that Grameen Krishi Foundation has already been established by the efforts of the bank. Though its activities are at present limited to the greater Rangpur-Dinajpur districts, pretty soon its activities will be extended to the Tangail district. In addition, the bank has taken initiatives to for the last one year to introduce seasonal credit programs. The entire sum of money out of this credit is invested in agriculture by the members.

In reply to a question about the conditions of the Rangpur Zone from the Chairman of the Board of Directors Dr. Akbar Ali Khan, the managing director informed that the situation of the Rangpur zone is being observed keenly with seriousness. Though the recovery of credit is low here, the members are resuming compliance with the rules and regulations of the bank. No new defaults of loan installments are occurring. I will take time to recover the old loans that have fallen into arrear.

On behalf of the Board of Directors, the Chairman of the Board of Directors Dr. Akbar Ali Khan thanked the managing director for his report and statements. He expressed satisfaction at the bank's achievements and current rate of progress.

32.3 Congratulations to Grameen Bank and Grameen Bank's Managing Director for winning prizes:

In recognition of the many prestigious prizes at home and abroad, won by the Grameen Bank for its unique contributions and by its Managing Director Professor Muhammad Yunus for having introduced a new banking culture for the unprivileged masses outside the prevailing banking systems and for his extraordinary contributions, a vote of congratulations has been offered to the employees of the bank and the Bank's Managing Director on behalf of the Board of Directors. The meeting took the following resolutions in this regard:

32.3.1 We are pleased and proud of the King Baudouin International Prize 1992 and Kazi Mahbub Ullah Prize 1992 as awarded to Grameen Bank. These prizes have further consolidated the national and international recognition of Grameen Bank. The Board of Directors expresses warm congratulations to all the workers of Grameen Bank.

32.3.2 At the same time, the Board of Directors congratulates the Managing Director of Grameen Bank Professor Muhammad Yunus for winning the international aid and development agency CARE's Humanitarian Award 1993, the Honorary Doctor of Humanities degree awarded by Oberlin College of the United States, and the Alumni Award given by the Institute of Business Administration of the University of Dhaka. The Board is very pleased for his winning of these national and international honors and awards.

32.4 Approval of an increase in the lunch allowance for the officers/ employees of Grameen Bank:

The following resolutions have been adopted by the Board of Directors in regard to increasing the lunch allowance for the officers and employees of Grameen Bank:

Resolutions:

32.4.1 It is decided that each individual officer and employee working at the bank for a full day will get a lunch allowance of taka 13 (thirteen) per day.

32.4.2 This decision to provide increased lunch allowance shall come into effect from First January, 1993. (01- 01- 93).

32.4.3 Only those officers and employees who get salaries in the regular scale will be eligible to get this lunch allowance.

32.4.4 The Managing Director shall take the necessary next steps to implement this decision to provide lunch allowance at the increased rate.

32.5 Approval of the proposal to raise the relevant pay scale (higher time scale) for the officers and employees of Grameen Bank:

The Board of Directors adopted the following resolutions to approve the proposal to offer a higher time scale of pay under the prevailing regulations:

Resolutions:

32.5.1 The eligibility of the Grameen Bank officers and employees for the Grameen Bank Pay Scale of 1991 has been approved.

- 32.5.2 It is resolved that within the scope of the Grameen Bank Pay Scale of 1991, the employees within the scale range Taka 900- 1530 to taka 1475- 3151 shall be given respectively the first, second and third higher time scale after completion of 8 years, 12 years and 15 years of service and with satisfactory record of service. However, these employees will not be entitled to get any more than 3 (three) higher time scale in one service designation in the service life.
- 32.5.3 The employees covered in the salary range of taka 1725- 3725 to taka 2300- 4480 of the Grameen Bank Pay Scale of 1991 will get the next higher time scale after one year of reaching the highest limit of the pay scale for the given designation and on the basis of record of satisfactory service. However, without promotion, these employees will not be eligible for more than two time scale in the same designation for the entire service life.
- 32.5.4 The employees covered in the salary range of taka 2850- 5155 to taka 7100- 8100 of the Grameen Bank Pay Scale of 1991 will be eligible to get the next higher scale after one year of reaching their respective scale's highest limit. Subject to the record of satisfactory service. Without promotion, these employees will not be entitled to more than 1 (one) higher time scale in their entire length of service life.

For the aforesaid, the conditionality is that the officers covered in the salary range of taka 2850- 5155 to taka 3200- 5440 of the Grameen Bank Pay Scale of 1991 will be eligible to get the time scale of taka 4800- 7250 after 1 (one) year of reaching the highest limit of their respective scales of pay. Those officers who are eligible for promotion to the scale of taka 3200- 5440 but did not get the promotion, will be entitled to the scale of taka 4800- 7250 after 1 (one) year on the day they would have reached the highest limit of the scale of pay of taka 2850- 5155 or taka 3200- 5440, whichever comes earlier.

- 32.5.5 In the matter of determining the time scale in the same post after completion of 8, 12, and 15 years of service, the salary will be determined one day after the completion of the service years, namely, on the first day of the 9th, 13th, and 16th year of service.
- 32.5.6 In case of the determination of the salary of the employees at a higher time scale, if it falls in a salary trance, then it will be that trance; and if it does not match the trance, the next higher trance will be given, with an extra additional increment added to it.
- 32.5.7 The above decisions regarding the implementation of the time scale for the employees will be deemed to be a part of the policy regarding the pay scale as was approved by the Board of Directors in its 28th meeting held on 10- 7- 91.
- 32.5.8 The responsibility to undertake the necessary action and the authority to implement the above decisions have been entrusted to the managing director of the bank.

32.6 The Formation of the Executive Committee and Approval of its Powers and Rules of Business:

In order to carry out the functions of the bank in a timely and appropriate manner, at various times of emergency to take immediate decisions, the Grameen Bank Ordinance of 1983, in its Article 18 provided for the creation of an executive committee of the Board of Directors. In pursuance of the said article, the Board has taken the following decision for the formation of an executive committee as was proposed:

Resolution:

32.6.1 The Executive Committee is hereby reconstituted with the following members of the Board of Directors.

- | | |
|--------------------------------|----------|
| 1. Dr. Akbar Ali Khan | Chairman |
| 2. Professor Muhammad Yunus | Member |
| 3. Dr. A M M Shawkat Ali | Member |
| 4. Mr. Shamsuz Zaman Chowdhury | Member |

32.6.2 This executive committee will have the powers and the rules of business for the committee will be those that were provided by the resolutions taken in the First Meeting of the Board of Directors.

32.7 Decisions taken for conducting election of directors from the borrower-members and the appointment of an Election Commissioner:

In the meeting held on 23-02- 93 by the Board of Directors, the following decisions were taken for the purpose of conduction election of the directors from among the loan taking members:

Resolutions:

32.7.1 General Manager of the Bank, Mr. Khandker Muzammel Haque, is hereby appointed as the Election Commissioner according to the conditions of the Grameen Bank (Election of Directors) Regulations 1987.

32.7.2 He will take necessary actions to organize and administer the election according to the conditions of the Grameen Bank (Election of Directors) Regulations 1987.

32.7.3 This election must be conducted before the expiry of the term of the present directors representing the loan taking members.

32.8 Approval of the proposal to appoint Auditors to audit the accounts of Grameen Bank:

In the meeting of the Board of Directors, the following decisions were adopted with respect to the appointment of auditors to audit the accounts of Grameen Bank.

Resolutions:

32.8.1 Messrs J R Chowdhury & Co and Messrs Huda Vasi & Co are appointed to conduct the audit of the annual accounts of Grameen Bank for the year 1992. It has been decided that the fees for the auditing of the accounts for the year 1992 will be the same as was fixed for the previous year.

32.8.2 For the future conduct of audit of annual accounts of Grameen Bank, the following five chartered accounting firms have been enlisted.

1. Messrs. Huda Vasi Chowdhury & Co, Chartered Accountant, Ispahani Building (2nd Floor), 14-15 Motijheel C / A, Dhaka.
2. Messrs. Howladar Yunus & Co, Chartered Accountant, 67 Dilkusha C / A, Dhaka.
3. Messrs. Rahman Rahman Haque, Chartered Accountant, 52 Matijheel C / A, Dhaka.
4. Messrs. M, J, Abedin & Co, Chartered Accountant, Karim Chamber (5th Floor), 99 Motijheel C / A, Dhaka.
5. Messrs. S, F, Ahmed & Co, Chartered Accountant, 128 New Eskaton Road, Dhaka.

- 32.8.3 In the future, an auditor will be appointed from among the enlisted audit firms. One firm may be appointed or a maximum of two years. In the third year, a firm that has already served two years will be dropped and the firm next in the list will have to be appointed.
- 32.8.4 If any firm from the afore mentioned chartered accountant firms express incapacity to carry out the audit of the e accounts of the bank, the chartered accountant firm next in the list will be appointed.
- 32.8.5 The Managing Director is hereby empowered to take the next necessary actions with respect to the appointment of auditors.

32.9 Permission of Grameen Bank Employees to go to other organizations on deputation:

In the meeting of the Board of Directors as held on 23.02.93, the following decision was taken by approving the proposal to replace the subsection 52. 2. 1 of the Grameen Bank Service Rules concerning the deputation of Grameen Bank employees to other organizations.

Resolutions:

32.9.1 The Sub section 52.2.1 of the Chapter 12 of the Grameen Bank Service Rules is hereby amended and replaced as follows:

52.2.1 Ordinarily, the duration of deputation in one term shall not exceed the maximum of two years. No employee will be considered for employment under deputation for more than four years. **However, this time limit shall not be applicable to those employees of Grameen Bank who will be deputed to other organizations created by Grameen Bank such as Grameen Krishi Foundation etcetera. For them, the time limit will remain open;** and the calculation of the total time spent in deputation will not include the time spent in such organizations.”

32.9.2 The Managing Director of the bank is hereby empowered to take the next necessary actions in this matter.

32.10 Approval of the Proposal to Write off Bad Loans:

In the meeting of the Board of Directors, the following decisions were adopted with respect to the write off of the bad loans, after the consideration of the overall situation of default:

Resolutions:

32.10.1 To facilitate the completion of the annual accounts of Grameen Bank for the year 1992, for the defaulted loans accumulated until 1988, provisional permission is given to write off 4535 loans, with unrecovered balance of taka 91,09,881.00 (principal taka 38,86,986.00 + interest taka 52,22,895.00) subject to the following conditions:

- a. Certificates must be issued to the effect that there is no instance of embezzlement in the unrecovered loans. If there is any negligence in the recovery effort, administrative actions must be taken against the concerned executives.
- b. Even as the unrecovered loan is written off, effort to collect the same must be continued and intensified.
- c. After the auditor’s report is obtained for the audit of the 1992 annual accounts, final approval will be given for the writing off of the unrecovered loans as bad loans.

32.11 Informing the Board about the recently opened branches:

The Board of Directors has been informed that 51 new branches (appendix 32.1) of the bank have been opened since August 1, 1992, through December 31, 1992.

32.12 Informing the Board about the translocation and name change of branches.

The members of the Board of Directors were informed of the change of location and name of the following 13 branches along with the reasons for the changes.

Name of Branch	Changed Name
Banagram Morelganj	Hoglapasha Morelganj
Khajanchi Biswanath	Mollargaon Sylhet
Dighirpar Tangibari	Jashlang Tangibari
Shankarpur Dinajpur	Uthrail Dinajpur
Tumulia Rupganj	Tumulia Kaliganj
Noarai Chhatak	Chhatak
Namja Bagura	Namuja Bagura
Baura Gulshan	Dakkhin Khan Uttara
Gullai (South) Chandina	Gallai (South) Chandina
Thakurkona Netrakona	Thakurakona Netrakona
Rajakhali Chakaria	Pekua Chakaria
Biaghat Gurudaspur	Khujipur Gurudaspur
Badoir Kasba	Kharera Kasba

32.13 Informing the Board about the published news on Grameen Bank in news media at home and abroad

The members of the Board of Directors were informed of the recent publication of news regarding Grameen Bank in the newspapers at home and abroad. The Chairman of the Board of Directors Dr. Akbar Ali Khan expressed his joy for the recent achievements of the Bank and thanked all his colleagues at the bank including the Managing Director.

Lastly, after thanking the members present in today's meeting (23 02- 93), he declared that the meeting was concluded.

Signed/
(Dr. Akbar Ali Khan)
Chairman
Board of Directors of Grameen Bank

ANNEXURE 7

Extracts from Grameen Bank Board Meeting No. 33

Minutes of the 33rd Meeting of the Board of Directors of Grameen Bank

The thirty-third meeting of the Board of Directors of Grameen Bank was held on Monday, June 28, 1993, at 10:00 AM at the Grameen Bank Head Office (Mirpur 2, Dhaka – 1216). The Chairman of the Board of Directors, Dr. Akbar Ali Khan presided over the meeting. The following members of the Board of Directors were present in the meeting:

1. Professor Muhammad Yunus	Managing Director
2. Dr. Saadat Hussain	Director
3. Mr. Shamsuz Zaman Chowdhury	Director
4. Ms. Photo Rani Dey	Director
5. Ms. Jaitun Nahar	Director
6. Ms. Lal Bhanu	Director
7. Ms. Musammat Amena Begum	Director
8. Ms. Musammat Firoza begum	Director
9. Ms. Manjira Khatun	Director
10. Ms. Musammat Aklima Begum	Director
11. Ms. Srimati Pushpa Lata Nandi	Director
12. Ms. Monowara Begum	Director

Owing to a change in the scheduled timing, the meeting began 2: 00 PM instead of 3: 00 PM. In today's (33rd) meeting, the following issues were discussed and decisions were made.

33.1 Approval of the Minutes of the 32nd Meeting of the Board of Directors:

The minutes of the thirty-first meeting of the board of directors held on February 23, 1993, the Board of Directors adopted the following resolution to approve the minutes of the meeting.

Resolution:

33. 1 It is hereby resolved that the minutes of the 32nd meeting of the board of directors as held on February 23, 1993 is approved.

33.2 Presentation of the Report of the Managing Director on the Progress of the Bank:

At the outset, the Managing Director extended a warm welcome to the new Director of the Board D. Saadat Hussain. He expressed the hope that his long experience in the field of rural development will be helpful to the further strengthening of the activities of the Grameen Bank. By remembering the valuable contributions of the departing Director of the Board Dr. A M M Shawkat Ali, he expressed his gratitude to him. He played an important part for a long period as a member of the Board of Directors of Grameen Bank.

In a brief report on the recent achievements of Grameen Bank, the Managing Director Professor Muhammad Yunus said that by May 31, 1993, a cumulative total loan of taka 1935. 80 crore has been distributed. During the same period, the recovery of loans reached taka 1491. 24 crore. In addition to this, under the house building finance program, taka 218. 02 crore has been disbursed to about two lakh members. At present, through 1029 branches, the bank's activities have been extended to 32,300 villages of the

country. The number of members of the bank has now reached 15. 87 lakh. Already, 2261 foreign trainees have received training on the action programs of Grameen Bank.

Concerning the progress of the program of construction of bank premises, he mentioned that by May 31, 1993, the construction work of 273 branches have been completed. The number of area offices constructed up until now stands at seventeen. Currently, there are 35 branch offices under construction. The expenditure for this program until now has reached taka 29. 85 crore.

Referring to the other programs of the bank, the Managing Director said that Jaisagar Matsya Khamar (Fish Farm) has created an extraordinary example by producing 800 tons of fish this year. They began the project just this year with a target of 800 tons. He informed that the farm has chosen a production target of 12000 tons of fish in the next year. Regarding the Chakaria Chingri Khamar (Shrimp Farm), the Managing Director said that just this year shrimp has been cultured by this farm by applying the semi intensive process for the first time. The production is quite well this year. Already about Taka one crore of shrimp has been sold by this farm. He is hoping that another Tk. One crore of shrimp will be sold in this year.

In further reference to the fisheries development projects of Grameen Bank, he noted that following the decisions taken after obtaining the approval of the Board to create a separate Matsya Foundation (Fishery Foundation), the matter was brought to the attention of the donor agencies. **Recently, the concerned donor agencies have sent letters regarding their views. As a result, the process of the creation of the proposed Matsya Foundation has become easier. Besides this, efforts are continuing to create “Grameen Fund” out of the SVCF (Social Venture Capital Fund) as an entity separate from the Bank in view of the approval of the Board.**

Concerning the future prospects of Grameen Check founded by the efforts of Grameen Bank, the Managing Director said that the adoption of the government’s decision to provide financial assistance to the export of fabric manufactured in the country at the rate of 15%, he is optimistic about the future of Grameen Check. Regarding the Grameen Krishi Foundation, the Managing Director informed the Board that this foundation has produced three thousand tons of corn and 150 tons of soy beans in the current season.

33. 3 Narrative of the Experience of The Belgium Trip of Ms. Musammat Manjira Khatun, Member of The Board Of Directors on The Occasion of The Acceptance of King Baudouin Prize:

After the presentation of the report on the progress of the bank by the Managing Director, member of the Board of Directors Ms. Musammat Manjira Khatun narrated her experience of visiting Belgium on the occasion of receiving the King Baudouin Prize. In a brief statement regarding her visit, she discussed the issues brought up in her conversations with various people. She remembered with gratitude the honors shown to her during her Belgium tour. Ms. Manjira talked about her feelings regarding her Belgium tour, her stay there, her encounters with King Baudouin and Queen Fabiola and other highly placed personalities. She expressed her gratitude for including her in the team of representatives for the acceptance of the prize.

33.4 Approval of Write Off Policy:

In the meeting of the Board of Directors, the following decisions were adopted, by amending certain provisions deemed necessary to facilitate timely completion of all accounts of the bank.

Resolutions:

33.4.1 The following write off policy is hereby approved for Grameen Bank.

- 1 || The Board of Directors will write off unrecovered loans.
- 2 || If the cash money of the bank is stolen, robbed, or hijacked, or is lost or damaged by accident, the bank will first take the necessary legal measures. If there is no possibility of recovering the money in the near future, then the Managing Director is given the authority to write off taka one lakh in a single case with a maximum of taka five lakh per year. If the amount of money is larger than this, the matter must be put up before the Board of Directors for approval. If any money is recovered by the bank out of the written off money, it will be included in the accounts of the bank as income.
- 3 || The Managing Director is hereby given the authority to write off a maximum of taka fifty thousand for a single case and a total of maximum taka five lakh per year for bank properties namely machineries, equipment, vehicles, office equipment, electrical equipment, furniture et cetera as the items included in the accounting code 1500 in the event of theft, robbery, hijack, or loss of working capacity for wear and tear or other reasons. IF the Managing Director so desires, he may delegate the power to write off a maximum of taka twenty five thousand to the Zonal Manager.
- 4 || The Managing Director is hereby given the necessary authority to write off the value of printing materials and stationery articles in the event of theft, robbery, hijacking, loss in the process of distribution, or damages occurring for other reasons, and if changed circumstances require cancellation of use of the same. However, the amount of write off for this category of materials shall not exceed 2% of the value of the total annual purchase of these items for the corresponding year.
- 5 || The socio-economic project of the bank is primarily funded by donor aid. If there is a need to write off the value of any property or material of this project, the necessary powers are hereby vested to the Managing Director of the bank to appoint a committee, and undertake the necessary write offs on the basis of its recommendations in order to adjust the accounts.
- 6 || The experimental projects and programs of the bank or primarily funded by grants from donors. It is a regular arrangement of the bank to undertake such project in the effort to improve the socio-economic condition of the members of the bank. The Managing Director is given all powers necessary to write off the losses and damages of such projects undertaken with the bank's initiative. However, a report on the failures and losses and damages incurred by such experimental projects must be presented before the Board of Directors for its information.
- 7 || The Managing Director is hereby given the powers to write off outstanding dues owed to the bank by an employee, if an employee of the bank leaves the job and if the employee

owes something to the bank, after taking the necessary legal actions. However, the efforts to recover the dues from the employee must be continued.

- 8 || Necessary legal actions must be undertaken against the concerned individuals in case of any kind of financial and property losses, in connection with the writing off for any of the aforementioned reasons. A clear narrative of what actions have been taken against the individual concerned with any loss connected with the write off must be put on record in writing.

33.5 Approval of Grameen Bank Employees Welfare Fund Regulations

In the meeting of the Board of Directors, the need to establish a welfare fund for the officers and employees of Grameen Bank was considered with importance and sympathy. In the meeting, the proposed regulations of the welfare fund were considered and certain provision was amended. The following decisions were taken.

Resolutions:

33.5.1 The draft regulations proposed for the purpose of providing for the collection of funds, management, and the benefits given from the fund were considered and approved subject to the following amendments:

- a || In the regulations, the terms officers/employees will be replaced by ‘worker’s. However, to denote them separately, where necessary, the terms of officer and employees may be used.
- b || The Section 1.2 of the Regulations mentions two different rates of monthly contributions, namely taka 10.00 for employees and taka 12.00 for officers. In the meeting of the Board of Directors, a decision has been made in favor of 3 rates in place of two, namely taka 5.00, taka 10.00, and taka 15.000. The Managing Director will determine which level of employees will make what rate of contribution.
- c || In Section 3.5 of the Regulation, provision has been made for one or more sub-committees.
- d || By amending the proposed Regulation mentioned in Section 4.1 of the draft, the decision is approved to provide a one time benefit of taka 25,000 (twenty five thousand) regardless of the length of service upon the death of an employee.
- e || In Section 4.6 of the draft Regulations, the provision has been made to add scholarships in addition to prizes.
- f || The Section 4.7 of the draft Regulations is repealed.

33.5.2 After finalizing the Regulations of the Employee Welfare Fund according to the aforementioned amendments, the Managing Director is hereby given full powers to manage the Fund by constituting a management committee.

33.5.3 The Managing Director of the bank will take necessary steps for future expansion of the Employee Welfare Fund

33.6 Approval of Increased Expenditure to Construct the Multistoried Building of Grameen Bank:

The Board of Directors was informed in detail the reasons for the increase cost of the first phase of construction of the multi storied building of Grameen Bank. The Board reviewed the recommendations of the Implementation Committee (Construction of Head Office) dated 23 06 03. The Meeting of the Board of Directors took the following decision:

Resolutions:

33.6.1 For the first phase of the construction of the multi storied building for Grameen Bank, the cost of construction has been increased from taka 5.80 crore by another taka 77, 22, 223 and determined at taka 6, 57, 22, 223 (six crore fifty seven lakh twenty two thousand two hundred twenty three).

33.7 Proposal for the Increase of the Capital of Grameen Bank:

The Chairman of the Board of Directors Dr. Akbar Ali Khan talked about the need for define and clear articulation of policies and procedures regarding the proposed increase in the capital of Grameen Bank. In view of this, the Board of Directors took the following decision to drop the issue from the agenda of the meeting.

Resolution:

33.7.1 The proposal to increase the capital of Grameen Bank has been dropped form the agenda of today's (28 -6- 93) meeting.

33.8 Adoption of Decision In Regard To the Inclusion of a New Member in the Implementation Committee (Construction of Head Office)

The Implementation Committee (Construction of Head Office) was created for the purpose of evaluation of progress and intensive monitoring the work for the construction of the multi storied building of Grameen Bank head Office. Proposal was presented to include a member of the Board of Directors in the Implementation Committee (Construction of Head Office). The Board of Directors accepted the proposal and adopted the following decision:

Resolution:

33.8.1 From the two members of the Board of Directors as nominated by the government, the one who has been in service of the Board for longer will b e included in Implementation Committee (Construction of Head Office) in place Mr. Akmal Hussain. In the future, the same rule will be continued for the inclusion of a member of the Board of Directors in the Implementation Committee (Construction of Head Office)

33.0 The Proposal to Amend Certain Sections of the Grameen Bank Purchase Manual:

The Grameen Bank Purchase Manual was previously approved by the Board of Directors. IN the absence of the mention of the rationale and need for the proposed amendments of certain sections of the Manual, and in view of a proposal from Managing Director Professor Muhammad Yunus, the Board of Directors decided to withdraw the issue form the agenda of he meeting, and took the following decision:

Resolution:

33.9.1 The matter of amendment of various sections of the Grameen Bank Purchase Manual has been withdrawn from the agenda of the 33rd meeting of the Board of Directors.

33.10 Approval of the 1992 Audit Report (Annual Accounts) of Grameen Bank:

External auditors Messrs. Huda Vasi & Co, and Messrs. J. R. Chowdhury & Co. chartered accountants, submitted the 1992 Audit Report (Annual Accounts) of Grameen Bank. Having been informed of the various items of the account, the Board of Directors approved the audited accounts for the year 1992 and took the following decisions:

Resolutions:

33.10.1 The audited annual accounts of Grameen Bank, as audited by Messrs. Huda Vasi & Co, and Messrs. J. R. Chowdhury & Co. chartered accountants, for the year 1002 (from January 1, 1992, to December 31, 1992) has been approved.

33.10.2 In future, necessary arrangements have to be made to ensure the attendance of external auditors in the Meeting of the Board of Directors.

33.10.3 Although the Board had to approve the annual accounts of the bank at a loss, the Board has been informed by the Managing Director that in 1993, the bank may make a profit of taka two crore.

33.11 Final Approval for Writing Off the Bad Loans:

After being informed of the steps taken in pursuance of the resolution of the Meeting of the Board of Directors held on 23 02- 93, the meeting of the Board of Directors gave final approval to the proposal for writing off the bad loans. The following decisions were adopted:

Resolutions:

33.11.1 Final approval is hereby given to declare 4535 (four thousand five hundred thirty five) ordinary and joint loans distributed by the branches as bad loans through the end of 1988, amounting to taka 91, 09,881.00 (ninety one lakh nine thousand eight hundred eighty eight).

33.11.2 Let the accounts of the bank for the year 1992 be adjusted by writing off the said amount of taka 91, 09,881.00.

33.12 Approval of Provision for Bad and Doubtful Debts and Provision for Bad and Doubtful interest:

The members of the Board of Directors were informed of the details of the regulations and procedures regarding the Provision for Bad and Doubtful Debts and Provision for Bad and Doubtful interest: The meeting of the Board of Directors adopted the following resolutions in response to the proposal to make provisions.

Resolutions:

33.12.1 Post facto approval is hereby given to the determination of Provision for Bad and Doubtful Debts at taka 6, 02, 44, 546.00 in the annual accounts of 1992, including newly added Provision for Bad and Doubtful Debts amounting to taka 3, 87, 36, 518.00

33.12.2 Post facto approval is hereby given to the determination of Provision for Bad and Doubtful Interest at taka 2, 47, 12, 632 .00 in the annual accounts of 1992, including newly added Provision for Bad and Doubtful Debts amounting to taka 1, 69, 87, 316.00

33.13 Approval of the Proposal to Distribute Profits:

The Board was informed of the source of income of the previous year as mentioned in the 1992 annual accounts, and took the decision to approve the proposal to distribute the balance of profits and loss accounts amounting to taka 1, 33, 88, 270.00. The following decisions were taken:

Resolutions:

33.13.1 Post facto approval is hereby given to the decision for the following distribution of the balance of profit and loss accounts for the year 1992.

1	General Reserve	1,20,00,000.00
2.	Provision for Unforeseen Losses	7,00,000.00
3.	<u>Employee Welfare Fund</u>	<u>6,88,270.00</u>
	Total:	1,33,88,270.00

33.13.2 In the next meeting of the Board of Directors, a concept paper shall be presented to explain the need and rationale of the two funds mentioned above as General Reserve and Provision for Unforeseen Losses, with the information of the current balance of these two funds and regarding the utilization of funds deposited in them.

33.14 Approval of the Proposal to Increase Audit Fee:

In support of the proposal to increase the audit fee for the external auditors, the meeting of the Board of Directors adopted the following decisions:

Resolutions:

33.14.1 It is hereby resolved that each firm will be given taka 40, 00.00 (forty thousand) for auditing the annual accounts of the bank.

33.14.2 In addition, to audit each zonal office and branch office separately, taka 5, 500.00 (five thousand five hundred) will be given as audit fee.

33.14.3 The decision to give audit fee at the increased shall be effective for the auditors appointed to audit the accounts of 1993.

33.15 Informing the Board about the Conditions of Funds of the Bank:

The Board of Directors was informed about the fund situation of Grameen Bank and about the steps taken in respect of them.

33.16 Miscellaneous:

33.16.1 The proposal to create a separate trust to hold and invest the provident fund and pension and gratuity of the employees of Grameen Bank.

During the discussion on the Grameen Bank Employee Welfare Fund, the Board of Directors proposed the creation of a separate trust to hold and invest the provident fund and pension and gratuity of the employees of Grameen Bank. The following decision was taken:

Resolution:

33.16.1.1 It is proposed to create a separate trust to hold and invest the provident fund and pension and gratuity of the employees of Grameen Bank.

33.16.2 Informing the Board of Directors about the list of recently opened branches of the bank:

The Board of Directors was informed that 10 new branches of the bank were opened during January 1, 1993 to April 30, 1993. (Appendix 33. 2)

33.16.3 Informing the Board about the changes of names of branches:

The Board of Directors was informed of the circumstances and reasons for the change of the Raghaver Kalsapar Nalitabari branch of the bank.

Name of branch -----	Changed Name -----
Raghaver Kalsapar Nalitabari	Raghaver Nalitabari

33.16.4 Informing the Board of Directors about Recently Published News about Grameen Bank in News Media at Home and Abroad:

The members of the Board of Directors were informed of the recent publication of news regarding Grameen Bank in the newspapers at home and abroad. The Chairman of the Board of Directors Dr. Akbar Ali Khan expressed his joy for the recent achievements of the Bank and thanked all his colleagues at the bank including the Managing Director.

At last, after thanking the members present in today's meeting (28- 06- 93), he declared that the meeting was concluded.

Signed/ Dated 8- 3- 93

(Dr. Akbar Ali Khan)
Chairman
Board of Directors of Grameen Bank

In a brief report on the recent achievements of Grameen Bank, the Managing Director Professor Muhammad Yunus said that by May 31, 1993, a cumulative total loan of taka 1935. 80 crore has been distributed. During the same period, the recovery of loans reached taka 1491. 24 crore. In addition to this, under the house building finance program, taka 218. 02 crore has been disbursed to about two lakh members. At present, through 1029 branches, the bank's activities have been extended to 32,300 villages of the country. The number of members of the bank has now reached 15.87 lakh. Already, 2261 foreign trainees have received training on the action programs of Grameen Bank.

Concerning the progress of the program of construction of bank premises, he mentioned that by May 31, 1993, the construction work of 273 branches have been completed. The number of area offices constructed up until now stands at seventeen. Currently, there are 35 branch offices under construction. The expenditure for this program until now has reached taka 29.85 crore.

ANNEXURE 8

Extracts from Grameen Bank Board Meeting No. 34

Minutes of the 34th Meeting of the Board of Directors of Grameen Bank

The thirty-fourth meeting of the Board of Directors of Grameen Bank was held on Tuesday, December 29, 1993, at 3: 00 PM at the Grameen Bank Head Office (Mirpur 2, Dhaka – 1216). The Chairman of the Board of Directors Dr. Akbar Ali Khan presided over the meeting. The following members of the Board of Directors were present in the meeting:

1. Professor Muhammad Yunus	Managing Director
2. Dr. Saadat Hussain	Director
3. Mr. Shamsuz Zaman Chowdhury	Director
4. Ms. Photo Rani Dey	Director
5. Ms. Jaitun Nahar	Director
6. Ms. Lal Bhanu	Director
7. Ms. Musammat Amena Begum	Director
8. Ms. Musammat Firoza begum	Director
9. Ms. Manjira Khatun	Director
10. Ms. Musammat Aklima Begum	Director
11. Ms. Srimati Pushpa Lata Nandi	Director
12. Ms. Monowara Begum	Director

The following issues were discussed in the 34th meeting of the Board of Directors and decisions were taken.

34.1 Approval of the Minutes of the 33rd Meeting of the Board of Directors:

The minutes of the meeting of the Board of Directors held on June 28, 1993 was presented for approval. Member of the Board of Directors Mr. Shamsuz Zaman Chowdhury proposed that the minutes may be approved after revising the term ‘net profit’ contained in subsection 33.13.1. He opined that the term ‘net profit’ is not applicable here; in its place, the term ‘balance of profits and losses’ may be appropriate. In this connection, he gave a brief argument of justification in favor of his proposal. After a brief discussion on the proposal of Mr. Chowdhury, today’s (29- 12- 93) meeting of the Board of Directors approved the Minutes of the 33rd Meeting of the Board of Directors and took the following decisions:

Resolutions:

34.4.1 Let the advice of the auditors be obtained for consideration regarding the use of an appropriate term in place of the term ‘net profit’ contained in subsection 33. 13. 1 of the minutes of the meeting of the Board of Directors held on June 28, 1993.

34.4.2 The minutes of the 33rd meeting of the Board of Directors held on June 28, 1993 is approved subject to the revision by insertion of an appropriate term in place of the term ‘net profit’ contained in subsection 33.13.1.

34.2 Report of the Managing Director on the Progress of the Bank:

The Managing Director of the bank made a presentation of the report on the progress of Grameen Bank to inform the Board of Directors. In a brief statement regarding this matter, he said that currently, a lot of writings are appearing in news media at home and abroad about Grameen Bank. He said that the year 1993 was an auspicious one for the bank. In this connection, he stated that in 1993, the bank has been able to stand on a strong financial foundation. This year, the bank is expected to make a good profit. Out of all the loans disbursed in the last 17 years, one third of that, namely about 1100 crore taka was disbursed in just this year. As there was no visitation of natural disasters this year, it has been a good one for the members.

Referring to the program of credit distribution, the Managing Director said that by November 30, 1993, Grameen Bank has provided a cumulative sum of taka 2525. 90 crore of ordinary and joint loans. During the same time, loan recovery has reached taka 1928. 78 crore. During this period, another taka 295. 92 crore has been disbursed for house building loans and already taka 75. 15 crore has been recovered. At present, there are 1037 offices opened under 110 area offices in the 12 zones. By now, the activities of Grameen Bank have been extended to nearly half of the villages of the country, namely about 34000 villages. The number of members of the bank now stands at about 18 lakh.

Concerning the construction program of the bank, the Managing Director reported that the first phase of the construction of the multistoried building of the head office of the bank has been already completed. Till now, the construction work for 287 branch offices and 17 area offices has been completed. At present, 44 branch offices are under construction. The cost of construction so far has been about taka 31 crore.

Regarding the position of Grameen Bank in the international scene, the Managing Director said that Grameen Bank is now a topic of intense interest around the world. So far, 2652 foreigners have completed their training on Grameen Bank. It was learned recently through the World Bank that Pakistan has expressed special interest in applying the experience of Grameen Bank in that country. The Finance Minister of Thailand has made frequent contacts with the Ambassador of Bangladesh for the purpose of undertaking programs like that of Grameen Bank in his country.

In reply to a question raised by a member of the Board of Directors Mr. Shamsuz Zaman Chowdhury, the Managing Director recounted his recent tour of the World Bank and indicated that at last the World Bank has agreed to consider the matter of creating a separate fund for poverty alleviation. In reply to a further question on this matter, he told the Board that the World Bank has given 2 million dollars to Grameen Trust to facilitate the financing of projects that would replicate the Grameen Bank model in various countries of the world.

The Managing Director further mentioned in his report that 1993 was the last year of 3rd Expansion Program of Grameen Bank. The Review Mission of the donor agencies has recently visited Grameen Bank. The Mission has expressed satisfaction with the performance of Grameen Bank, because the bank has been able to reach the goals as per the agreements with them.

In his statement, the Managing Director informed the Board that after the approval of the Articles of Association and Memorandum of Association of Grameen Matsya Foundation, Grameen Fund, Grameen Udyog in the meeting of the Executive Committee of the Board, the three organizations are now in the final stage of the registration process. He expressed the hope that the registration of these three organizations would soon be completed. He mentioned however that there is separate agenda of the meeting to inform the Board regarding this matter.

At one stage during the presentation of the report by the Managing Director, member of the Board of Directors **Dr. Saadat Hussain wanted to know about the status and future relation with Grameen Bank of the three organizations created by the efforts of Grameen Bank** namely, Grameen Matsya Foundation, Grameen Fund, and Grameen Udyog. In reply to Mr. Saadat Hussein's question, the Managing Director stated that since 1986, Grameen Bank has been undertaking various projects for the purpose of applying appropriate technology in poverty alleviation and to familiarize the members with the use of new technology for their financial development. Though some of these projects have proved to be profitable, some of them have not yielded the expected results. All of these projects are funded by grants.

He said that it was never possible to run these projects within the rules and regulations of Grameen Bank. Further, these projects were undertaken with the intention to convert them into separate organizations in the future. Furthermore, Grameen Bank is bound by agreements with the funding donor agencies to convert them into separate organizations and hand them over to them. He further said that Grameen Bank will be primarily regarded as the promoter of the three organizations namely Grameen Matsya Foundation, Grameen Fund, and Grameen Udyog. The three organizations are going to be registered as separate companies under the Companies Act of 1913. To manage them, they will have their own personnel and Board of Directors or Governing Body. Grameen Bank will have no control over these organizations.

After the statement of the Managing Director, the Chairman of the Board of Directors Dr. Akbar Ali Khan thanked him for the presentation of the report. He asked to know about the prevailing situation of the Rangpur Zone from the Managing Director of the bank. The Managing Director made a brief description of the prevailing conditions of the Rangpur Zone. He styled the current progress of the Rangpur Zone as satisfactory. He proposed that in the next meeting of the Board of Directors, he would present a separate report on the Rangpur Zone and would ask the Zonal Manager of the Rangpur Zone to attend the meeting. His proposal was accepted unanimously by the meeting.

- 34.3 The Board of Directors Offered Congratulation to the Managing Director Professor Muhammad Yunus for winning the Mohamed Sahabdeen Award for Science from Sri Lanka.

On the occasion of winning the Mohamed Sahabdeen Award for Science by Professor Muhammad Yunus, Managing Director of Grameen Bank, congratulations were accorded to him on behalf of the Board of Directors. Today's (29- 12- 93) meeting of the Board of Directors took the following decision:

Resolutions:

34.3.1 We are highly pleased with Professor Muhammad Yunus, Managing Director of Grameen Bank, for winning the Mohamed Sahabdeen Award for Science. This prize from Sri Lanka is another addition to the laurels of Grameen Bank's international recognition. The Board of Directors is offering congratulations to Professor Muhammad Yunus for winning the Mohamed Sahabdeen Award For Science.

34.4 Approval of the Revised Budget of Grameen Bank for 1993 and Proposed Budget for 1994:

In the meeting of the Board of Directors held on 29- 12- 93, the revised budget of the bank for 1993, and the proposed budget for the year 1994 were presented for discussion. Detailed discussions took place regarding the investment income of 1994, income from the interest of S. T. D. Deposits of 1993 and 1994, rental for houses, interest on deposits, interest from loans, loan loss provisions, and other items of allocation. In addition, a separate proposal was submitted to the board to increase the allocation for office equipment and furniture in the capital account. The board was informed of the reasons for the increase in the cost of those items. The meeting also discussed the issue of setting aside separately provisions of write off, and for separate funds for pension and provident funds. After detailed discussions on various items of the budget, the Board of Directors approved the bank's budget subject to the requisite adjustments in the income and expenditure items and by increasing the cost of interest on borrowing owing to an increase in the rate of interest on SAF funds. The Board of Directors took the following decisions:

Resolutions:

34.4.1 Approval is given to the revised budget of the bank for the year 1993 (from January 1, 1993 to December 31, 1993) and the proposed budget for the year 1994 (from January 1, 1993 to December 31, 1993) after a reduction of interest income from S. T. D. deposits, and by increasing the expenditure on interest on borrowing, and for pension and gratuity funds. (Appendix 34. 1)

34.4.2 The proposal to increase the expenditure on office equipment and furniture from taka 51. 25 lakh to taka 181. 25 lakh is approved for the proposed budget of the bank for the year 1994.

34.4.3 In the future, the sources of financing the expenditures in the capital account must be mentioned at the time of presenting the budget to the Board of Directors for approval.

34.4.4 Emphasis is reiterated regarding the importance of separating the Grameen Bank Employee Provident Funds and Pensions Funds, and the bank authorities are advised to take necessary steps promptly in this regard.

34.4.5 The proposal to create a separate fund out of the provisions for depreciation is approved. It is hereby decided that in the future, this fund may be utilized for the maintenance or repurchase of the properties.

34.5 Approval of the Revised Cost of 1993 and Proposed Cost of 1004 for the Socio-economic Development Project Funded by UNICEF Grants:

The board was informed of the financing by UNICEF for the various projects under the socio-economic development program launched at the initiative of Grameen Bank. The

Board adopted the following resolutions to approve the revised expenses for 1993 and the proposed expenditure for the year 1994 under this project:

Resolutions:

34.5.1 Approval is hereby given to the revised expenditure of taka 124. 68 lakh (one crore twenty four lakh sixty eight thousand) for the year 1993, and the proposed expenditure of taka 134. 59 lakh (one crore 34 lakh fifty nine thousand) for the year 1994, under the ‘Socio-economic Development Project’ run with UNICEF grants. (Appendix 34. 2)

34.5.2 It is supposed that there would be a surplus of taka 3. 97 lakh for the revised budget of 1993. If at the end of the year this amount of money accrues in surplus, it will be added to the allocation for the year 1994. In the same manner, if there is any surplus at the end of 1994, it will be added to the allocation for the year 1995.

34.6 Approval of the Revised Cost of 1993 and Proposed Cost of 1994 for Various Programs Funded by Grants:

The Board of Directors approved the revised expenditure for the year 1993 and the proposed expenditure for the year 1994 for the program of Studies, Innovation, Development, and Experimentation (namely, SIDE) and the program of Monitoring and Evaluation. In the meeting of the Board, the following decisions were taken:

Resolutions:

34.6.1 The revised expenditure of taka 85. 55 lakh (eighty five lakh fifty five thousand) for the year 1993, and the proposed expenditure of taka 88. 26 lakh (eighty eight lakh twenty six thousand) for the year 1994 are hereby approved for the program of Studies, Innovation, Development and Experimentation (namely, SIDE). (Appendix 34. 3)

34.6.2 The revised expenditure of taka 122 lakh (one crore twenty two lakh) for the year 1993, and the proposed expenditure of taka 195. 38 lakh (one crore ninety five lakh thirty eight thousand) for the year 1994 are hereby approved for the program of Monitoring and Evaluation. (Appendix 34. 4)

34.7 Approval of the Revised and Proposed Budgets for Projects under the Technology Development Program:

In the meeting of the Board of Directors, the following decisions were taken to approve the revised budget for 1993 and the proposed budget for 1994 for the various projects run under the Technology Program adopted with the initiative of Grameen Bank.

Resolutions:

34.7.1 Under the SIDE Program, for the following eight projects, the revised budget for the year 1993 (January 1, 1993 to December 31, 1993) and the proposed budget for the year 1994 (January 1, 1993 to December 31, 1993) are approved. (Appendix 34. 5)

- 1 Griha Nirman Upakaran Project (House Building Materials Project)
- 2 Mainamati Himagar (Mainamati Cold Storage)
- 3 Ghatal Service Center
- 4 Chandaikona Service Center
- 5 Bauphal Krishi Prakash (Bauphal Agricultural Project)

- 6 Jaisagar Krishi Prakalpa (Jaisagar Agricultural Project)
(Closed since July 1993)
- 7 Dakkhinanachal Krishi Prakalpa (Southern Agricultural Project)
- 8 Packages Corporation**

34.7.2 Under the same program (SIDE), for the following five projects, the revised budget for the financial year of 1993 (January 1, 1993 to December 31, 1993) and the proposed budget for the financial year of 1994 (January 1, 1993 to December 31, 1993) are approved. (Appendix 34. 6)

- 1 Jaisagar Matsya Khamar (Jaisagar Fisheries Farm)
- 2 Dinajpur Matsya Khamar (Dinajpur Fisheries Farm)
- 3 Satkhira Chingri Khamar (Satkhira Shrimp Farm)
- 4 Chakaria Chingri Khamar (Chakaria Shrimp Farm)
- 5 Matsya Vij Utpadan Khamar (Fish Seed Production Farm)

34.7.3 In the meeting of the Board of Directors, a proposal by member of the Board of Directors Dr. Saadat Hussain was accepted unanimously to require the submission of a separate report on the current situation of the above projects in the next meeting of the Board.

34.8 Approval of the Proposal to Waive the Interest on Recoverable Loans after a Certain Time:

On the day of the meeting of the Board of Directors (29- 12- 93), the previous proposal regarding the matter of waiving the interest on recoverable loans after a certain time was withdrawn and a new proposal was submitted. After discussions on the revised proposal in the meeting, the following decisions were taken:

Resolutions:

34.8.1 For the members of Grameen Bank, for all kinds of loans, it is hereby decided that no further interest will be charged after the interest on the loan has become equal to the principal of the loan.

34.8.2 The said decision will take effect from January 1, 1994. The Managing Director will take all necessary next steps to implement this decision

34. 9 The Adoption of Decisions on the Creation of the SAF (Social Advancement Fund) for the Adoption of Programs to Promote the Welfare of the Members and Employees of Grameen Bank and the Utilization of This Fund:

The Managing Director of the bank briefly informed the Board of Directors about the objectives and procedures of creating the SAF (Social Advancement Fund). He explained the proposal presented in the agenda of the meeting to increase the rate of interest from 2% to 6% in phases on the grants obtained to finance the ordinary and joint loans. After being informed in detail of the creation of SAF, its utilization, and the future increase of this Fund, the following decisions were adopted in the meeting of the Board of Directors:

Resolutions:

- 34.9.1 The Board of Directors has been informed of the creation of SAF out of the 2% interest charged on the ordinary and joint loans funded by grants under the Third Expansion Program of Grameen Bank.
- 34.9.2 In pursuance of the terms and conditions of the Agreements with the donor agencies, out of the 2% interest charged on the grants received for financing the ordinary and joint loans, 1% for the welfare of the employees, and 1% for the welfare of the members will be spent on a regular basis.
- 34.9.3 The proposal to impose an additional 4% interest in phases, from 2% charged since January 1993, on the funds obtained from grants for the bank's Third Expansion Program, on the ordinary and joint loans is hereby approved. The additional interest of 4% that will be increased in phases will be deposited to the SAF, and the entire interest income from the additional 4% interest will be devoted to undertake welfare programs for the members of the bank.
- 34.9.4 Only out of the funds obtained from grants for financing ordinary and joint loans, the income of SAF according to the above regulations may be used for the welfare of the bank's members and employees. However, if the funds for ordinary and joint loans are obtained from credit with interest rates below 6% (including 0% interest), by the same procedure 6% interest will be charged on it and deposited in the SAF, but the entire interest income will be spent for the welfare of the members. That is, no money may be spent for the welfare of the employees of the bank out of the fund created by charging interest on funds obtained as credit.
- 34.9.5 The Managing Director is hereby given the powers to determine to what extent and in which year the interest rate will be increased.
- 34.9.6 The decision is hereby taken to implement the welfare programs out of the SAF (Social Advancement Fund) for the bank's members and employees in view of the above decisions with the approval of the Board
- 34.10 Approval of the Proposal to Provide Taxi Cabs to Grameen Bank Drivers who Resign Voluntarily:

In the meeting of the Board of Directors, it was found that the Managing Director has the administrative authority endowed to him to take decisions regarding the offer of baby taxis of predetermined value to the drivers who opt to resign voluntarily. It was decided to withdraw the matter from the meeting's agenda as follows:

Resolutions:

- 34.10.1 The issue regarding the offer of baby taxis of predetermined value to the drivers of Grameen Bank who opt to resign voluntarily is hereby withdrawn from the agenda of the 34th meeting of the Board of Directors.
- 34.11 **Informing the Board of Directors about the Creation of Grameen Matsya Foundation, Grameen Fund, and Grameen Udyog:**

The Board of Directors was informed of the decisions taken by the Executive Committee in its meeting held on 09- 09- 93 regarding the approval of the Articles of Association, Memorandum of Association, and institutional registration of the three organizations Grameen Matsya Foundation, Grameen Fund, and Grameen

Udyog created with the initiative of Grameen Bank. After being duly informed, the Board of Directors took the decision in today's meeting (29- 12- 93) as follows:

Resolutions:

34.11.1 The Board of Directors has been informed of the decisions taken by the Executive Committee in regard to the creation of the three organizations Grameen Matsya Foundation, Grameen Fund, and Grameen Udyog

34. 12 Miscellaneous:

34.12.1 Informing the Board of Directors of the list of recently opened branches of the bank:

The Board of Directors has been informed that 12 new branches of the bank were opened during the period from May 1, 1993 to October 31, 1993. (Appendix 34. 7)

34.12.2 Informing the Board of Directors about recently published news about Grameen Bank in news media at home and abroad:

The members of the Board of Directors were informed of the recent publication of news regarding Grameen Bank in the newspapers at home and abroad. The Chairman of the Board of Directors Dr. Akbar Ali Khan expressed his joy for the recent achievements of the Bank, and thanked all his colleagues at the bank including the Managing Director.

At last, after thanking the members present in today's meeting (29- 12- 93), he declared that the meeting was concluded.

Signed/

(Dr. Akbar Ali Khan)

Chairman

Board of Directors of Grameen Bank

The Managing Director of the bank briefly informed the Board of Directors about the objectives and procedures of creating the SAF (Social Advancement Fund). He explained the proposal presented in the agenda of the meeting to increase the rate of interest from 2% to 6% in phases on the grants obtained to finance the ordinary and joint loans. After being informed in detail of the creation of SAF, its utilization, and the future increase of this Fund, the following decisions were adopted in the meeting of the Board of Directors:

The members of the Board of Directors were informed of the recent publication of news regarding Grameen Bank in the newspapers at home and abroad. The Chairman of the Board of Directors Dr. Akbar Ali Khan expressed his joy for the recent achievements of the Bank and thanked all his colleagues at the bank including the Managing Director. At last, after thanking the members present in today's meeting (28- 06- 93), he declared that the meeting was concluded.

ANNEXURE 9

SUMMARY OF COMMISSION'S INVESTIGATION INTO GRAMEEN TELCOM ON THE BASIS OF WHICH THE COMMISSION HAS WRITTEN TO THE GOVERNMENT

Commission's Memo (No. Grabac/2013-31, dated 21 Jan 2013)

1. Grameen Telecom (GTC) along with Telenor (Norway) and Gonophone (of NY) signed a non-binding Memorandum of Understanding (MOU) on 05 Nov.1996. This group named themselves Grameenphone Consortium (GPC) and they were to bid for a digital mobile telecommunication licence. The MOU stated that GTC would furnish the necessary bid-bonds and financial guarantee for the tender (Bid). The three groups would be shareholders in this venture based on 44.5% for GTC, 51% for Telenor and 4.5% for Gonophone. The MOU goes on to state that after six years of operations Telenor intends to reduce its share to under 35% and that GTC would have the right of first refusal to these share.
2. The digital mobile telecommunication licence agreement between GPC and the Government (Ministry of Post, T & T) was signed on 11 Nov 1996 and the licence itself was issued in the name of Grameenphone Consortium (GPC) on 28 Nov 1996.
3. The licence allowed Grameenphone Consortium (GPC) to commence mobile telecommunication operation on 26 March 1997. However, the GPC Agreement with the Government signed on 11 Nov 1996 was amended on 08 March 1999 so that Grameenphone Ltd. (GP) replaced Grameenphone Consortium (GPC).
4. The Commission as examined the available documents relating to the issue of the digital mobile telecommunication licence and the related government file. The bid documents cannot be found in either the Ministry or the Bangladesh Telecommunication Regulatory Commission (BTRC). Grameenphone Ltd (whose major shareholder is Telenor of Norway) was requested to furnish a copy in Sept. 2012 but they said that it would take then a month to get copies from Norway. So far they too have not furnished a copy of the bid document. Significantly the Grameen Bank Review Committee have stated how their attempts to see these documents were rebuffed not only by GTC & GP but also the Ministry of Post, T & T.
5. It turns out that Government made a serious error in accepting the bid of Grameenphone Consortium for mobile telecommunication licence. The MOU was non-binding on the parties and had not been registered. In effect it was not a legal entity and therefore GTC could not have bid and should have had their offer rejected right away.
6. The Commission has been told that the bid itself was seriously flawed and that fact alone should have rendered it unacceptable. The only reason for giving a digital mobile telecommunication licence to them was that the benefits would go to the target group of Grameen Bank i.e. the landless and poor most of who were women. Records of the Board meeting of Grameen Bank bear out that the Managing Director Prof. Yunus had repeatedly mentioned this and used it to garner the mobile telecommunication licence. It has been reported that the Prime Minister had personally intervened to ensure that the licence was issued on the assumption that its benefits would accrue directly to the clients of Grameen Bank who are largely women and landless.

7. The Managing Director of Grameen Bank Prof. Yunus has explicitly used and named Grameen Bank as the creator and sponsor of Grameen Telcom. Their letterhead used for communication with the government when bidding for the mobile telecommunication licence states: Grameen Telcom - An Enterprise of Grameen Bank. Prof. Yunus has signed the mobile telecommunication licence agreement with the government using his full name and stating that he was Managing Director of Grameen Bank and that he was signing it 'on behalf of Grameenphone Consortium.'
8. Grameenphone Ltd's Managing Director in his letter of 24 Nov 2012 to the Commission has made an unsolicited attempt to distance Grameen Telcom and Grameenphone Consortium from Grameen Bank by stating that Prof. Yunus had signed those named agreements and documents in his personal capacity and not on behalf of Grameen Bank.
9. He was asked by the Commission to explain how he came to this conclusion but a satisfactory reply has not yet been received from him. The Commission has been informed that this Managing Director of Grameenphone Ltd was unceremoniously removed from his post soon after he wrote this letter and has since left the country.
10. The constituents of the MOU knew full well that they were not eligible to get the mobile telecommunication licence on the basis of the MOU. In order to overcome this major defect they did their best to get the government to issue the actual licence in the name of Grameenphone Ltd and not Grameenphone Consortium who had submitted the bid documents. The officer who dealt with this matter in the government had to write a lengthy note on this demand by the Grameenphone Consortium. In the end his views prevailed and the actual licence issued on 28 Nov 1996 names Grameenphone Consortium as the digital mobile telecommunication licence holder. There is no reference to Grameenphone Ltd. in the licence.
11. The constituents of the MOU also have apparently committed a serious crime by an illegal statement in the Agreement between the Government and Grameenphone Consortium dated 11 Nov 1996 when they have stated that Grameenphone Consortium was a registered organization and a company registered under the Companies Act when this was not so. This makes all three of the parties to the MOU liable and subject to legal proceedings. They have knowingly induced the Government to sign an Agreement under patently false pretences.
12. Three years later an amendment was made to the Agreement of the Government with GPC dated 11 Nov 1996 so that GPC was replaced by Grameenphone Ltd. as the licensee of the digital mobile communication facility. This too was in violation of the terms of the Agreement and from the records seems to have been malafide. The Agreement clearly stipulates that (a) the mobile telecommunication licence is not transferable and (b) that any change to the terms of the Agreement can be made only if it is initiated or requested by the First Party (i.e. the Government) and not by the Second Part (i.e. GPC).
13. The records of the government do not indicate that this request for a change to the terms of the Agreement was made or initiated by any Government entity. The change was sought by Grameenphone Ltd which was not even a party to the Agreement of 11 Nov. 1996 and should have been rejected outright. The change itself amounted to a transfer to another entity which is also a violation of the Agreement of 11 Nov. 1996.

14. The illegality and malafide nature of the whole transaction culminates in the amendment being signed by the Government and Grameenphone Ltd. This too is malafide because Grameenphone Ltd was not even a party to the Agreement of 11 Nov 1996 and they had no locus in the amendment when it was signed by them on 08 March 1999!
15. The Commission has, in view of what has been stated, requested that the Grameenphone Ltd mobile telecommunication licence be suspended immediately. But as this is a on-going enterprise it should not be allowed to cease operation. The digital mobile telecommunication licence may held in Trust or even be issued in the name of Grameen Telecom as they were the once charged with providing the bid bonds and financial guarantee under the MOU and were the substantial Bangladeshi party to the licence.
16. Should Government desire to let Grameenphone Ltd continue operation it may consider doing so but only if (a) Telenor agrees to immediately and unconditionally transfer 16% of its shares to either Grameen Telecom or Grameen Bank itself. This should be given effect to from 2002 i.e. six years after they began operation which is in terms of their MOU and also all benefits accruing from that date and (b) account for all the financial transactions in an open and transparent manner and made available for public scrutiny. The Commission estimates that these changes alone should be worth not less than Tk.6000 crores for Grameen Bank and through it to the landless, poor members who are overwhelming rural women of Bangladesh and whose cause was so openly bandied by officials of Grameen Bank and other constituents of the MOU while lobbying for the digital mobile telecommunication licence.

Grameen Bank Commission

Mamun Ur Rashid President/Chairman

Mamun Ur Rashid was a Lecturer at the Aitcheson Chiefs College, Lahore before joining the Civil Service of Pakistan. After almost 35 years in government service, including time as a Freedom Fighter in Bangladesh's War of Liberation, he retired in December 2001 as the senior most officer in the administrative service.

He served as Secretary in the Ministry of Environment and Forest; Secretary (Statistics Division) & Census Commissioner. His long and distinguished stint in other Ministries and statutory organisations includes the Ministry of Land & Land Reform; Ministry of Civil Aviation and Ministry of Finance. He served as Director (Finance) of the Integrated Rural Development Program; was the founder of Bangladesh's Rural Electrification Board; as Managing Director & CEO of B.S.R.S (a development finance bank) he was called on to restructure it for privatisation; as Controller of Capital Issues he played a key role in liberalizing the economy & setting up the Securities & Exchange Commission and also amending the Companies Act 1913. Immediately after Liberation his work in the Ministry of Finance involved him in renegotiating all multilateral and bilateral agreements and contracts with donors; negotiate Air Services Agreements; the first Production Sharing Contracts with Multinational Oil Cos.; Aeroport de Paris for the international airport in Dhaka and Tokyu Group for the five-star Hotel Sonaragon. He was also elected as a member of the Metropolitan Chamber of Commerce & Industries.

He has studied at Dhaka University; London School of Economics & Political Science (South Foundation Scholar) and at the Wharton School of the University of Pennsylvania from where has an MBA (majoring in Finance & International Business). He is a major contributor to a publication on Donors & LDC Corruption titled "Rotting from the Head" (UPL-2004).

Ajmalul Hossain QC Member

Ajmalul Hossain QC, senior partner of A Hossain & Associates is the very first and only Queen's Counsel in England of Bangladeshi origin and a Senior Advocate of the Supreme Court of Bangladesh. He regularly practices in the superior courts in England and Bangladesh.

Ajmalul specialises in arbitrations, transnational banking, trading, supply and financial contracts and in corporate and regulatory matters. He is a member of Selborne Chambers in London and also practices in Singapore as Foreign Lawyer and International Arbitrator. Ajmalul was called to the Bar in 1976 by the Honourable Society of Lincoln's Inn and was appointed Queen's Counsel in 1998. He is a Fellow of the Chartered Institute of Arbitrators of England and a Fellow of the Society for Advanced Legal Studies.

He is presently a Bencher of the Honourable Society of Lincoln's Inn, a member of the Commission on Arbitration of the International Chamber of Commerce in Paris, a member of Code of Conduct Commission of the International Cricket Council and a member of the Ethics Committee of the Federation International de l'Automobile. He was one time a member of the Standards Panel of the London Borough of Tower Hamlets and a member of the ICC International Court of Arbitration in Paris.

Mosleh Uddin Ahmed Member

Mosleh Uddin Ahmed is a microinsurance specialist. He qualified as a Chartered Accountant from the UK 1970. He is at present running a 'not for profit' microinsurance research centre based in St. Albans, UK, with presence in Bangladesh, India, Kenya and Sri Lanka.

He started his accountancy career with KPMG Peat Marwick Mitchell & Co., Chartered Accountants, in the UK and subsequently joined Deloitte & Co., Chartered Accountant, in the UK. In both the firms he held the position of an audit manager. He also served as Auditor-in-Charge of U.S. Army Audit in Germany under the NATO Command and as Chief Examiner, Banking Examination Department of the UAE Central Bank in Abu Dhabi. He moved to Bangladesh in 1992 as CFO of Rural Employment Sector Programme (RESP), a SIDA funded rural development project in Faridpur and subsequently became the Bangladesh Resident Representative of Hifab International AB, a Swedish firm of Project Management Consultants managing RESP. He also worked as Deputy Managing Director of Delta Life Insurance Company Limited from 1998 to 2003.

Mosleh Uddin Ahmed works as an independent consultant with the ADB, GIZ, IFC, UNDP and the World Bank and has been involved in development projects in Armenia, Bangladesh, Brazil, Croatia, Georgia, India, Indonesia, Kazakhstan, Moldova, Mongolia, Nepal, Nigeria, Pakistan, Sri Lanka, Tajikistan and Uganda,

He is a member of UK All Party Parliamentary Group on Microfinance, Microinsurance Network, Microfinance Without Borders, UK Microfinance Club and Planet Finance UK. He is an accredited Technical Assistance Provider of ILO Microinsurance Innovation Facility, Geneva, Switzerland.