



The World Bank

Robert B. Zoellick
President

September 8, 2010

The Honorable Richard G. Lugar
Committee on Foreign Relations
United States Senate
Washington, D.C. 20510-6225

Dear Senator Lugar,

I am writing in response to your letter of August 3, 2010.

As you know, the World Bank has scaled up its funding to developing countries to soften the blow on the poorest and to invest in long-term drivers of economic growth. In recognition of these efforts, our shareholders endorsed the World Bank's first major capital increase in more than 20 years. We recognize that this support comes with greater responsibility to assure donors and client governments that we are responsible stewards of scarce development funds.

The Bank has been working for over ten years to put in place tools to combat fraud and corruption in Bank-supported projects. Our efforts have never been more robust. Recent sanctions against Siemens and Macmillan Publishers underscore our focus on high-impact wrongdoers that can serve as a strong deterrent to other firms involved in projects financed by us or others.

As you note in your letter, we are pleased to have pressed successfully for a cross-debarment accord among a number of other MDBs. Cross-debarment significantly raises the cost of corruption and is the first multinational enforcement mechanism of its kind. You may be aware that the World Bank has taken the first action recently, cross-debarring two Albanian companies.

While we seek new and innovative tools to fight corruption, we have continued to sanction firms and individuals for engaging in fraud and corruption. The sanctions are based on investigations undertaken by our Integrity Vice Presidency (INT). Over the past five years, we have debarred 80 firms and individuals.

We do not have a formal policy regarding the prosecution of cases by national authorities. It is, of course, a sovereign national prerogative, and we respect that prosecutors, as in the United States, have to weigh various priorities. Moreover, the Bank does not have jurisdiction to sanction government officials believed to have been involved in misconduct.

Nevertheless, where INT substantiates findings of a sanctionable practice on the part of firms and individuals under the Bank's anti-corruption policies, it refers such findings to member countries. Indeed, the Bank has made 70 referrals to national authorities and international agencies over the last five years. There is no direct correlation between the number of referrals and the number of debarred firms. One referral may arise from one particular matter, but involve many firms and different countries. Further, one case report may be referred to a number of authorities in the same country.

The attached tables will provide you more details on the number of debarments, referrals, and Bank staff sanctions.

Our referrals for possible prosecution are generally transmitted to the Minister of Finance, as well as to the appropriate law enforcement authority in the country at issue, along with an open offer to provide assistance in any investigation or prosecution arising from the referral. This assistance has included providing additional evidence or information, witness testimony, as well as training. For example, in the last fiscal year, INT sponsored a forensic auditing work session for nearly 100 Kenyan government officials, including the Kenya Anticorruption Commission and the Kenyan National Audit Office. The Bank follows up and tracks progress on referrals made and actively engages with country authorities about likely cases that we believe warrant criminal investigation.

The level and extent of assistance in each case is determined by the type of assistance sought by authorities, weighed against the implications (if any) such assistance may have on the Bank's immunities. To date, the Bank has been able to balance these interests effectively and has been proactive in approaching authorities, to help enable them to take action in their own inquiries.

Developed countries tend to have more capacity to pursue investigations and prosecutions. However, developed and developing countries alike can do more. Authorities – whether in developed or developing countries – must apply their own laws and standards of proof for assessing which cases to pursue among the many allegations received. In addition, INT has limited investigative powers and INT's findings are made based on the Bank's own rules and policies. Therefore, our findings alone may not be a sufficient basis on which an authority can initiate an investigation. This has been a reason cited in the past by authorities for not pursuing an investigation. Other reasons include difficulty in interviewing international witnesses, confidentiality, statutes of limitations, and the fact that a particular act is not a violation of local laws.

Notwithstanding the hurdles, there have been successes. For example, in November 2009, INT referred findings from a forensic review to the Kenyan Anticorruption Commission. As a result, the government opened 38 criminal investigations, two of which have led to prosecutions. In another matter, acting on information it received from INT, the Norwegian government has indicted three former employees of a company for bribery. The Palestinian Attorney General's office has likewise opened an investigation, pursuing a firm and its owner for fraud. Criminal investigations are also underway – with prosecutions contemplated – in India, Indonesia, the UK, and here in the United States.

We believe the above recent successes are based principally on the strong efforts the Bank has made over the past two years to follow up with investigating and prosecuting authorities and to establish working and cooperative relationships with them. These steps include bilateral cooperation agreements and the creation of regional corruption hunter networks among anti-corruption officials from around the world. These mechanisms contemplate not only the exchange of information on a systematized basis, but also parallel investigations where appropriate. We anticipate that these networks will also serve to enhance the follow-up on actions taken in response to referrals of INT's investigative findings.

We will continue to develop and build constructive working relationships with investigating and prosecuting authorities in an effort to achieve more "referral" successes. In the interest of maximizing the outcome of referrals, INT is discussing the referral process with the Audit

Committee of our Board. Further, I have sought the advice of our Independent Advisory Board (IAB) on how to press and support referrals more effectively. We created the IAB in 2008, on the recommendation of the Independent Review Panel chaired by Paul Volcker, to help protect the independence and strengthen the accountability of INT.

I wanted to take the opportunity of this letter to note some other recent successes on the Bank's fraud and corruption front, many of which you may already be aware of:

- The 2009 Bank settlement with Siemens in which Siemens AG agreed to pay US\$100 million towards the fight against fraud and corruption set an important precedent. It opened the door for a negotiated resolution with UK publisher Macmillan Limited and for negotiated resolutions with a period of debarment to be folded into the sanctions system as a case resolution mechanism.
- In 2009, the Bank created a Company Risk Profile Database, located in INT. Close cooperation with project staff resulted in significantly increased use of the Database in FY10. The database helps Bank staff perform more thorough due diligence before awarding a contract, alerting them to firms about which INT has pertinent information. In FY10, staff performed 3,029 searches on the database, resulting in matches approximately 2 percent of the time.
- In FY10, the Bank introduced "debarment with conditional release" — whereby debarred entities will not have their debarment lifted until they implement a suitably rigorous compliance program. Adding conditional release to the terms of debarment will prevent companies from merely waiting out their debarment, only to return at a later date without having rectified their behavior.
- The Bank spends approximately US\$1 billion a year on products and services for its own internal requirements through its corporate procurement unit. The Bank's corporate procurement unit can request INT to investigate vendors suspected of having engaged in misconduct. The Bank uses INT's findings as a basis for debarring "non-responsible" vendors. In the last fiscal year, this process resulted in six firms being declared non-responsible for fraud and collusion related to an office relocation and refurbishment project.
- We are refining INT's disclosure policy, which will aim to strike an appropriate balance between the need to grant the public access to information in INT's possession and INT's obligation to respect confidentiality and protect the integrity of its investigations. This new policy leans towards greater transparency. Increased transparency will already be evident in INT's 2010 Annual Report, which will become public in the next few weeks.
- Based on lessons learned over the past four years, the World Bank has proposed changes to its Voluntary Disclosure Program (VDP) – which is located in INT. The objective is to provide greater incentives to firms to join the VDP, to gather more and better results from VDP participants, and to ensure that the VDP will be understood as one of a spectrum of case resolution options available – such as investigation and sanction, settlement, cross-debarment, and the VDP.

While the fight against corruption is never-ending, we believe we have made notable strides towards reducing integrity risks in projects we finance. We look forward to your continued support and your suggestions on how we can do more.

I have asked our Vice President of INT, Mr. Leonard McCarthy, to follow-up with your office, to answer any questions you might have and to discuss the work of INT in more detail.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bib".

Robert B. Zoellick

cc: Mr. Ian Solomon, Executive Director for the United States, The World Bank

Attachment

| Debarments of Firms and Individuals, FY06-FY10, and Notices of Sanctions Proceedings (NoSPs) Filed | | |
|---|-------------------|----------------------|
| Fiscal Year | Debarments | Notices Filed |
| FY06 | 13 | 1 |
| FY07 | 1 | 2 |
| FY08 | 8 | 4 |
| FY09 | 13 | 40 |
| FY10 | 45 | 42 |
| TOTAL | 80 | 89 |

| Referrals to Authorities, FY06-FY10¹ | |
|--|------------------|
| Fiscal Year | Referrals |
| FY06 | 12 |
| FY07 | 9 |
| FY08 | 8 |
| FY09 | 9 |
| FY10 | 32 |
| TOTAL | 70 |

| World Bank Group Staff Members Sanctioned for Fraud or Corruption (related either to the administrative budget or to operations) | | | |
|---|----------------------------------|--|--------------|
| Fiscal Year | Termination of Employment | Other Sanctions Imposed (including salary reduction, restitution, reprimand/ censure, or conditional reappointment block) | Total |
| FY06 | 13 | 2 | 15 |
| FY07 | 14 | 19 | 33 |
| FY08 | 6 | 10 | 16 |
| FY09 | 4 | 6 | 10 |
| FY10 | 0 | 0 | 0 |
| TOTAL | 37 | 37 | 74 |

¹ The number of referrals for FYs 06-08 is based on the INT Annual Reports published for those fiscal years. At the end of FY08, Leonard McCarthy became INT's first Vice President. In INT's Strategic Framework, which was approved by the Board on 29 January 2010 for publication, INT explained: (i) its Final Investigation Reports (FIR) are "the basis for INT's preparation of a Referral Report that is shared with the countries having jurisdiction over possible criminal acts or actors described in the FIR"; (ii) the purpose of Referral Reports is "to empower ... country counterparts on the corrupt schemes that may infiltrate projects, as well as put corrupt firms and individuals on notice that the Bank will pursue cases of alleged corruption aggressively"; and (iii) its 'Referral' strategy "is to break down barriers to action and prompt greater exchange of information between INT and national authorities." While the impact of and response to Referrals remains a difficult area, INT's new strategy has begun to bear fruit. Over the last two years, INT has made 41 Referrals, 32 in the last fiscal year. These Referrals relate to projects executed in member countries in every region in which the Bank operates. These matters are in various stages of response, for example, in four (4) of these matters, the relevant authorities have completed their investigations and legal proceedings have been initiated. In a further eight (8), criminal investigations are underway or about to commence. Seven (7) of the Referrals were made to multilateral development banks and co-financiers. In a further four (4) matters, we do not anticipate any action being taken by such authorities. The remaining eighteen (18) Referrals have only been made recently and we are following up with the authorities to determine what legal or other actions will be taken.