

Notice of Uncontested Sanctions Proceedings

May 24, 2022

**Sanctions Case No. 753
IDA Credit Number 5233-VN
(Vietnam Da Nang Sustainable City Development Project)**

**Respondent:
NiemTin Company Limited**

1. On February 15, 2022, the World Bank’s Chief Suspension and Debarment Officer (the “SDO”) issued a Notice of Sanctions Proceedings (the “Notice”) to NiemTin Company Limited (the “Respondent”) pursuant to sub-paragraph 4.01(a) of Section III.A of the Bank Procedure: Sanctions Proceedings and Settlements in Bank Financed Projects issued by the Bank on June 28, 2016 (the “Sanctions Procedures”).
2. The Statement of Accusations and Evidence (the “SAE”) prepared by the Bank’s Integrity Vice Presidency (“INT”) and appended to the Notice contained INT’s accusation that the Respondent engaged in Sanctionable Practices (as defined in the Sanctions Procedures) in connection with the above-named project (the “Project”). The SAE also contained the evidence gathered by INT in support of this accusation.
3. The specific accusation made by INT in the SAE was that the Respondent engaged in a fraudulent practice by omitting, from its joint venture bid for a public transportation contract under the Project, its intent to subcontract more than 10% of the contract’s total work volume to another company, in order to avoid an obligation and obtain a financial benefit.
4. Based on a review of INT’s SAE conducted in accordance with sub-paragraph 4.01(a) of Section III.A of the Sanctions Procedures, and pursuant to sub-paragraph 4.01(c), sub-paragraph 9.01, and sub-paragraph 9.04 of Section III.A of the Sanctions Procedures, with due consideration of the factors set forth in sub-paragraph 9.02 of Section III.A of the Sanctions Procedures and in the World Bank Group Sanctioning Guidelines, the SDO recommended in the Notice that the Respondent, together with certain Affiliates (as defined in the Sanctions Procedures) where so specified, be sanctioned as follows:

NiemTin Company Limited (“NTC”)

***Recommended Sanction: Debarment with Conditional Release
Minimum Period of Ineligibility of Two (2) Years and Ten (10) Months***

It is recommended that NTC (together with any entity that is an Affiliate directly or indirectly controlled by NTC) be declared ineligible (i) to be awarded or otherwise benefit from a Bank-financed contract, financially or in any other manner;¹ (ii) to be a nominated² sub-contractor, consultant, manufacturer or supplier, or service provider of an otherwise eligible firm being awarded a Bank-financed contract; and (iii) to receive the proceeds of any loan made by the Bank or otherwise to participate further in the preparation or implementation of any Bank-Financed Project; provided, however, that after a minimum period of ineligibility of two (2) years and ten (10) months, NTC may be released from ineligibility only if NTC has, in accordance with sub-paragraph 9.03 of Section III.A of the Sanctions Procedures, demonstrated to the Bank Group’s Integrity Compliance Officer that NTC has complied with the following conditions:

- (a) NTC has taken appropriate remedial measures to address the Sanctionable Practices for which NTC has been sanctioned; and*
- (b) NTC has adopted and implemented, in a manner satisfactory to the Bank, integrity compliance measures as may be imposed by the Bank Group’s Integrity Compliance Officer pursuant to sub-paragraph 9.03(b) of Section III.A of the Sanctions Procedures (e.g., an integrity compliance program or elements thereof) to address the Sanctionable Practice.*

In determining this recommended sanction, the SDO took into account, as a mitigating factor, NTC’s limited cooperation during the course of the investigation, noting that NTC representatives met with INT and provided some relevant information but did not accept responsibility for the misconduct. The SDO did not apply any additional mitigating factors or any aggravating factors.

¹ For the avoidance of doubt, the declaration of ineligibility to be awarded a contract will include, without limitation, (i) applying for pre-qualification, expressing interest in a consultancy, and bidding, either directly or as a nominated sub-contractor, nominated consultant, nominated manufacturer or supplier, or nominated service provider, in respect of such contract, and (ii) entering into an addendum or amendment introducing a material modification to any existing contract.

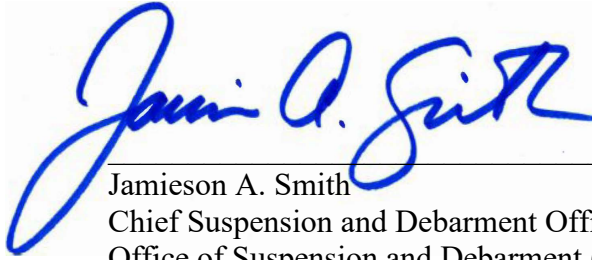
² A nominated sub-contractor, nominated consultant, nominated manufacturer or supplier, or nominated service provider (different names are used depending on the particular bidding document) is one which has been (i) included by the bidder in its pre-qualification application or bid because it brings specific and critical experience and know-how that allow the bidder to meet the qualification requirements for the particular bid or (ii) appointed by the borrower.

This declaration of ineligibility will extend across the operations of the World Bank Group, including IFC, MIGA, and the guarantee and carbon finance operations of the Bank.³ The Bank will also provide notice of this declaration of ineligibility to the other multilateral development banks (“MDBs”) that are party to the Agreement for Mutual Enforcement of Debarment Decisions (the “MDB Cross-Debarment Agreement”) so that they may determine whether to enforce the declarations of ineligibility with respect to their own operations in accordance with the MDB Cross-Debarment Agreement and their own policies and procedures.⁴

5. The Respondent did not submit an Explanation (as defined in the Sanctions Procedures) in accordance with sub-paragraph 4.02(b) of Section III.A of the Sanctions Procedures.
6. Sub-paragraph 4.04 of Section III.A of the Sanctions Procedures provides that if a respondent does not contest the accusation or the sanction recommended by the SDO in a Notice of Sanctions Proceedings by submitting a Response (as defined in the Sanctions Procedures) to the World Bank Group Sanctions Board (the “Sanctions Board”) within ninety (90) days after delivery of such Notice of Sanctions Proceedings, the sanction recommended by the SDO shall enter immediately into force.
7. No Response having been submitted to the Sanctions Board by the Respondent within the specified period, INT’s accusation in the SAE and the sanction recommended by the SDO in the Notice are deemed uncontested for purposes of sub-paragraph 4.04 of Section III.A of the Sanctions Procedures, and the recommended sanction set forth in paragraph 4 above has entered into force as of the date hereof.

³ *Sanctions Procedures, . . . sub-paragraph 9.01(c) of Section III.A. For the avoidance of doubt, the declaration of ineligibility also extends to activities financed through trust funds administered by the Bank to the extent governed by the Bank’s Procurement Regulations (or either of the Regulations’ predecessor documents, the Procurement Guidelines and Consultant Guidelines) or Anti-Corruption Guidelines. Id., sub-paragraph 1.01(c)(i) of Section III.A.*

⁴ *At present, the parties to the MDB Cross-Debarment Agreement are the Bank Group, the African Development Bank Group, the Asian Development Bank, the European Bank for Reconstruction and Development, and the Inter-American Development Bank Group. The MDB Cross-Debarment Agreement provides that, subject to the prerequisite conditions set forth in the MDB Cross-Debarment Agreement, unless a participating MDB (i) believes that any of the prerequisite conditions set forth in the MDB Cross-Debarment Agreement have not been met or (ii) decides to exercise its rights under the “opt out” clause set forth in the MDB Cross-Debarment Agreement, each participating MDB will promptly enforce the debarment decisions of the other participating MDBs.*



Jamieson A. Smith
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Office of Suspension and Debarment (OSD)
The World Bank