ANNEX II

WORLD BANK SANCTIONS PROCEDURES

As adopted by the World Bank as of September 15, 2010

ARTICLE I
INTRODUCTORY PROVISIONS

Section 1.01. Legal Basis and Purpose of these Procedures

(a) ***Fiduciary Duty***. It is the duty of the World Bank,[1] under its Articles of Agreement, to make arrangements to ensure that funds provided by the Bank are used only for their intended purposes. In furtherance of this duty, the World Bank has established a regime for the sanctioning of firms and individuals that are found to have engaged in specified forms of fraud and corruption in connection with Bank financed or executed projects (as hereinafter defined, "Sanctionable Practices"). This regime protects Bank funds and serves as a deterrent upon those who might otherwise engage in the misuse of the proceeds of Bank financing.

(b) ***Approval by Executive Directors***. The Executive Directors of the Bank approved, on July 9, 2004 and August 1, 2006, certain recommendations pertaining to the reform of the World Bank sanctions regime, including the adoption of a two-tier sanctions process conducted by an Evaluation Officer and the World Bank Group Sanctions Board.[2] The Executive Directors of the Bank approved the mutual enforcement of debarment decisions among multilateral development banks on March 19, 2010.

(c) ***Cases Subject to these Procedures***. These Procedures set out the procedures to be followed by the Evaluation Officer, the Sanctions Board, Bank officials, parties accused

[1] The terms "World Bank" or "Bank", as used in these Procedures, include the International Bank for Reconstruction and Development (IBRD) and the International Development Association (IDA).

[2] The Executive Directors also endorsed, on August 1, 2006, the establishment of a Voluntary Disclosure Program ("VDP"). For information regarding the VDP, please go to www.worldbank.org/vdp.

of Sanctionable Practices and other interested parties in cases involving Sanctionable Practices:

(i) in connection with Bank financed or Bank executed projects and programs governed by the Bank's Procurement Guidelines, Consultant Guidelines or Anti-Corruption Guidelines (such projects being hereinafter referred to, collectively, as "Bank Projects"); [3]

(ii) arising from the violation of a Material Term of the Terms & Conditions of the VDP; and

(iii) arising from violations of Section 13.06 of these Procedures.

Section 1.02. Definitions.

(a) ***Defined Terms***.

As used in these Procedures, the following terms have the following meanings:

"Affiliate" means any legal or natural person that controls, is controlled by, or is under common control with, the Respondent, as determined by the Bank.

"Anti-Corruption Guidelines" means the "Guidelines on Preventing and Combating Fraud and Corruption in Projects Financed by IBRD Loans and IDA Credits and Grants" dated as of October 15, 2006, as the same may be amended, supplemented or otherwise revised from time to time, or any similar instrument which may replace said Guidelines under which a case may be brought in accordance with these Procedures.

"Consultant Guidelines" means the January 1997, May 2002 or May 2004 edition of the document entitled "Guidelines: Selection and Employment of Consultants by World Bank Borrowers", as the case may be, as amended, supplemented or otherwise revised from time to time, or any later edition or

[3] The term "Bank Projects" includes projects financed through trust funds administered by the Bank to the extent governed by said Guidelines.

similar instrument which may replace said Guidelines under which a case may be brought in accordance with these Procedures.

"Days" means calendar days, unless stated otherwise.

"Evaluation Officer" means the Evaluation and Suspension Officer appointed by the President of the Bank for cases governed by these Procedures. The terms "IFC Evaluation Officer", "MIGA Evaluation Officer" and "Bank Guarantees Evaluation Officer" mean the Evaluation and Suspension Officers for cases governed by the IFC, MIGA or Bank Guarantee Sanctions Procedures, respectively.

"INT" means the Integrity Vice Presidency of the World Bank Group; and the "Integrity Vice President" means the head thereof.

"new activities" means (i) with respect to Bank Projects, non-procurement transactions, agreements or arrangements of whatever type financed by Bank loan proceeds or undertaken in connection with the use of Bank loan proceeds in the preparation and/or implementation of Bank Projects, and initiated on or after the date on which a Respondent's temporary suspension becomes effective; and (ii) with respect to IFC, MIGA and PRG operations, the activities of an IFC Counterparty, a MIGA Counterparty or a PRG Counterparty (as those terms are defined in the IFC, MIGA and PRG Sanctions Procedures), as the case may be.

"Notice" means Notice of Sanctions Proceedings or Notice of Temporary Suspension, as the case may be;

"Notice of Sanctions Proceedings" means the document containing INT's accusations of one or more Sanctionable Practices issued by the Evaluation Officer to a named firm or individual together with the sanction recommended by the Evaluation Officer in accordance with Section 4.01;

"Notice of Temporary Suspension" means the document containing INT's accusations of a Sanctionable Practice issued by the Evaluation Officer to a named firm or individual in accordance with Section 2.01;

"Procurement Guidelines" means the January 1995 or May 2004 edition of the document entitled "Guidelines: Procurement under IBRD Loans and IDA Credits", as the case may be, as amended, supplemented or revised from time to time, or any later edition or similar instrument which may replace said Guidelines under which a case may be brought in accordance with these Procedures.

"Respondent" means an entity or individual alleged to have engaged in a Sanctionable Practice and who has been designated as such in a Notice.

"Sanctionable Practice" means (i) with respect to any case under Section 1.01(c)(i), a corrupt, fraudulent, coercive, collusive or obstructive practice, as such terms are defined in the Anti-Corruption Guidelines, Procurement Guidelines or Consultant Guidelines, as the case may be, under which such case is being brought (see Annex A); (ii) with respect to any case under Section 1.01(c)(ii), a violation of a Material Term, as defined in the VDP Terms & Conditions; and (iii) with respect to any case under Section 1.01(c)(iii), a violation of Section 13.06 of these Procedures.

"Sanctions Board" means the World Bank Group Sanctions Board, and "Sanctions Board Chair" means the Chair of said Board. In respect of cases where the Sanctions Board Chair has convened a panel pursuant to Articles VII or VIII of the Sanctions Board Statute, and unless the context otherwise requires, the term "Sanctions Board" means the Sanctions Board Panel so convened, and "Sanctions Board Chair" means the Chair of said Panel.

"Sufficient evidence" means evidence sufficient to support a reasonable belief, taking into consideration

all relevant factors and circumstances, that it is more likely than not that the Respondent has engaged in a Sanctionable Practice.

"Voluntary Disclosure Program" or "VDP" means the Bank's Voluntary Disclosure Program endorsed by Executive Directors on August 1, 2006, as the same may be modified from time to time, or any successor program.

"World Bank" or "Bank" means the International Bank for Reconstruction and Development (IBRD) and the International Development Association (IDA). Whenever in these Procedures it is stipulated that an action or decision is to be taken by the Bank, it is understood that such action or decision shall be taken by the appropriate officer(s) of the Bank in accordance with its internal regulations.

"World Bank Group" means, collectively, the International Bank for Reconstruction and Development (IBRD), the International Development Association (IDA), the International Finance Corporation (IFC) and the Multilateral Investment Guarantee Agency (MIGA). For avoidance of doubt, the term "World Bank Group" includes the guarantee operations of IBRD and IDA (Bank Guarantee Projects), but does not include the International Centre for the Settlement of Investment Disputes (ICSID).

(b) ***Interpretation***.

(i) *Use of Terms*. Unless the context otherwise requires, any term used in these Procedures in the singular includes the plural, and the plural includes the singular; pronouns of a particular gender include the other gender.

(ii) *References and Headings*. The headings of articles, sections and sub-sections of these Procedures are for ease of reference only and do not constitute interpretations of the text hereof. Unless otherwise

expressly indicated, references in these Procedures to articles, sections or sub-sections refer to articles, sections or sub-sections hereof.

(iii) *Questions as to Proper Interpretation*. If any question arises as to the proper interpretation of any provision of these Procedures or of the Procurement, Consultant or Anti-Corruption Guidelines, the Evaluation Officer or the Sanctions Board may consult with the Bank Group General Counsel for advice.

ARTICLE II

TEMPORARY SUSPENSION PRIOR TO SANCTIONS PROCEEDINGS

Section 2.01. Issuance of a Notice of Temporary Suspension.

(a) ***Submission by INT.*** If, before INT concludes an investigation, the Integrity Vice President believes that there is sufficient evidence to support a finding of a Sanctionable Practice against a Respondent and that it is highly likely that the investigation will be successfully concluded and a Statement of Accusations and Evidence will be presented to the Evaluation Officer within a maximum period of one year, INT may present to the Evaluation Officer a Request for Temporary Suspension consisting of the elements cited in Section 3.01(b), *mutatis mutandis*. INT shall accompany any such Request for Temporary Suspension with a description of the current progress of the ongoing investigation, including any evidence that remains to be gathered, together with a good faith estimate of the time required to complete its investigation and present a Statement of Accusations and Evidence to the Evaluation Officer in accordance with Section 3.01, which may not exceed one year. INT shall further represent to the Evaluation Officer that the investigation is being pursued with due diligence and dispatch.

(b) ***Contents of a Notice of Temporary Suspension***. A Notice of Temporary Suspension shall contain the elements cited in Section 4.01(b)(ii) through (iv).

(c) ***Issuance of the Notice of Temporary Suspension***. If the Evaluation Officer determines that:

> (i) there is sufficient evidence to support a finding that the Respondent has engaged in a Sanctionable Practice, and
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> (ii) had the accusations been included in a Notice of Sanctions Proceedings, the Evaluation Officer would recommend, as an appropriate sanction for such Sanctionable Practice, debarment for a minimum period of no less than two years,

then, the Evaluation Officer shall issue the Notice of Temporary Suspension to the Respondent and notify the Chair of the Sanctions Board and the Integrity Vice President thereof.[4]

(d) ***Withholding of Certain Evidence.*** The Evaluation Officer may, in his or her discretion and upon request by INT, withhold from the Respondent particular materials submitted in evidence upon a showing by INT that there is a reasonable basis to conclude that (i) the disclosure of such evidence would have a material adverse effect on the investigation, and (ii) the Respondent would retain the ability to mount a meaningful response to the accusations against it notwithstanding the withholding of such evidence. The Evaluation Officer shall inform INT of his or her decision and allow INT an opportunity to withdraw the Notice if the Evaluation Officer determines that such materials should not be withheld.

Section 2.02. Respondent's Explanation in Opposition to Temporary Suspension.

Within thirty (30) days after the date of issuance of the Notice of Temporary Suspension, the Respondent may explain in writing to the Evaluation Officer why it believes that, notwithstanding the evidence set forth in the Notice of Temporary Suspension, the Respondent should remain

[4] The Evaluation Officer's issuance of a Notice of Temporary Suspension shall be subject to the statute of limitations set out in Section 4.01(d), with the term "Statement of Accusations and Evidence" in said section referring to the Request for Temporary Suspension.

eligible to be awarded contracts for Bank Projects or other World Bank Group financing or otherwise participate in new activities in connection with Bank Projects, pending a final outcome of the sanctions proceedings (the "Preliminary Explanation").

Section 2.03. Effect of Temporary Suspension.

Upon issuance of the Notice of Temporary Suspension by the Evaluation Officer, the Respondent shall be temporarily suspended for the period specified in Section 2.04 below from eligibility to be awarded contracts for Bank Projects or otherwise participate in new activities in connection with Bank Projects; *provided*, *however*, that within thirty (30) days after submission of the Preliminary Explanation submitted by the Respondent pursuant to Section 2.02 and upon consideration of the arguments and evidence presented therein, the Evaluation Officer may decide to terminate the suspension. Except as specified above, the provisions of Section 4.02(d) and (e) shall apply to temporary suspensions under this Article II.

Section 2.04. Duration.

(a) ***Initial Duration and Renewal***. A temporary suspension under this Article II shall have an initial duration of six (6) months. Not later than five (5) months after the commencement of the temporary suspension, INT may request an extension thereof, for a further period not exceeding six (6) months, by submitting to the Evaluation Officer (x) a description of the current progress of the ongoing investigation, including any evidence that remains to be gathered, together with a good faith estimate of the time required to complete its investigation and (y) a representation that the investigation of the Respondent is still ongoing and is being pursued with due diligence and dispatch. The Evaluation Officer shall inform the Respondent of any such extension not later than the last day of the initial period of suspension.

(b) ***Extension Pending Final Outcome of Sanctions Proceedings***. Upon submission of a Notice of Sanctions Proceedings to the Evaluation Officer under Section 3.01, a

temporary suspension under this Article II shall be automatically extended pending the final outcome of sanctions proceedings, subject to the operation of Section 4.02.

(c) ***Expiration***. If a Statement of Accusations and Evidence is not submitted to the Evaluation Officer prior to the end of the period of temporary suspension under this Article II, the suspension shall automatically expire.

(d) ***Early Termination***. The Evaluation Officer may, at any time during the period of suspension, terminate the temporary suspension if the Evaluation Officer determines, based on information which comes to the attention of the Evaluation Officer, that there was a manifest error in the Notice of Temporary Suspension or other clear basis for termination. To this end, at all times during the period of suspension, INT shall present to the Evaluation Officer any exculpatory evidence that comes to light in the course of its investigation that bears upon the basis of the suspension. The Evaluation Officer shall promptly notify the Respondent, the Chair of the Sanctions Board and the Integrity Vice President of such termination and the reasons therefor.

ARTICLE III

REFERRALS TO THE EVALUATION OFFICER

Section 3.01. Referrals to the Evaluation Officer.

(a) INT may seek to initiate sanctions proceedings, if:

(i) as a result of investigation by INT, the Integrity Vice President believes that there is sufficient evidence to support a finding of one or more Sanctionable Practices in connection with a Bank Project; or

(ii) the Integrity Vice President makes a preliminary determination that a Material Term of the VDP Terms & Conditions has been violated by a VDP participant.

(b) In order to initiate sanctions proceedings, INT shall submit to the Evaluation Officer a Statement of Accusations and Evidence including:

(i) INT's specific accusations of Sanctionable Practices;

(ii) INT's designation of each Respondent alleged to have engaged in such practices, as well as each Affiliate proposed to be sanctioned in accordance with Section 9.04;

(iii) INT's summary of the facts constituting the Sanctionable Practice and the grounds for sanctioning any designated Affiliates; and

(iv) the evidence in support of its accusations, together with any exculpatory or mitigating evidence, as required by Section 3.02.

Section 3.02. Disclosures of Exculpatory or Mitigating Evidence.

In submitting a Statement of Accusations and Evidence to the Evaluation Officer, INT shall present all relevant evidence in INT's possession that would reasonably tend to exculpate the Respondent or mitigate the Respondent's culpability. If any such evidence comes into INT's possession subsequently, such evidence shall be disclosed by written submission to the Evaluation Officer or Sanctions Board, as the case may be.

ARTICLE IV

COMMENCEMENT OF PROCEEDINGS

Section 4.01. Issuance of Notice of Sanctions Proceedings

(a) ***Issuance of Notice.*** If the Evaluation Officer determines that INT's accusations in the Statement of Accusations and Evidence are supported by sufficient evidence, the Evaluation Officer shall issue a Notice of Sanctions Proceedings to the Respondent, with copies to the Sanctions Board Chair and the Integrity Vice President.

(b) The Notice shall:

(i) set out the sanction(s) recommended by the Evaluation Officer in accordance with Section 4.01(c);

(ii) if applicable, inform the Respondent of its temporary suspension and the manner in which it may provide an Explanation;

(iii) inform the Respondent of the manner in which it may contest the accusations and/or the recommended sanction[5] in the Notice;

(iv) append the Statement of Accusations and Evidence, together with copies of these Procedures and the Sanctions Board Statute, as in effect at the time of issuance of the Notice.

(c) ***Recommendation of Appropriate Sanction.*** The Evaluation Officer shall recommend in the Notice an appropriate sanction to be imposed on each Respondent, selected from the range of possible sanctions identified in Section 9.01 of these Procedures with due consideration of the factors set forth in Section 9.02.[6] The Evaluation Officer may also recommend the imposition of sanctions on Affiliates of the Respondent in accordance with Section 9.04.

(d) ***Statute of Limitations***. Notwithstanding the foregoing, the Evaluation Officer shall close the matter and shall notify the Integrity Vice President thereof if the accusations in the Statement of Accusations and Evidence pertain to:

(i) a Sanctionable Practice in connection with a contract the execution of which was completed more than ten (10) years prior to the date on which the Statement of Accusations and Evidence was submitted to the Evaluation Officer, for cases brought under the Bank's Procurement or Consultant Guidelines; or

[5] The Respondent may not contest the recommended sanction in a case involving a violation of a Material Term of the VDP Terms & Conditions, where the appropriate sanction is a mandatory ten (10)-year debarment.

[6] In a case involving an alleged violation of a Material Term of the VDP Terms & Conditions, the appropriate sanction is a mandatory ten (10)-year debarment.

(ii) for all other cases,[7] a Sanctionable Practice that took place more than ten (10) years prior to the date on which the Statement of Accusations and Evidence was submitted to the Evaluation Officer.

Section 4.02. Temporary Suspension

(a) ***Effect of Temporary Suspension***. In cases where the Evaluation Officer recommends a sanction including a minimum period of debarment exceeding six months, the Respondent,[8] effective from the date of issuance of the Notice until the date of the final outcome of the sanctions proceedings, shall be temporarily suspended from eligibility to be awarded contracts for Bank Projects or to participate in new activities in connection with Bank Projects. [9]

(b) ***Respondent's Explanation.*** Within thirty (30) days after delivery of the Notice, the Respondent may provide a written explanation to the Evaluation Officer as to why the Notice should be withdrawn or the recommended sanction revised by the Evaluation Officer pursuant to Section 4.03. The Explanation shall consist of a single document not exceeding twenty (20) single-sided pages, unless the Evaluation Officer approves a longer submission, and shall present arguments by the Respondent and attach any credible evidence in support thereof. The provisions of Sections 5.02 (a) and (b) and 5.03 shall apply, *mutatis mutandis*, to the Explanation.[10] The Evaluation Officer shall

[7] These include cases brought under the Anti-Corruption Guidelines and cases involving accusations of obstructive practices. In such cases, the date of a Sanctionable Practice shall be deemed to be the date on which the last constituent act or element of the Sanctionable Practice occurred. For cases involving alleged violations of a Material Term of the VDP Terms & Conditions, the Evaluation Officer shall close the matter and shall notify the Integrity Vice President accordingly if the Statement of Accusations and Evidence pertains to VDP Terms & Conditions which terminated more than ten (10) years prior to the date on which the Statement of Accusations and Evidence was submitted to the Evaluation Officer.

[8] Any Affiliate of the Respondent for which the Evaluation Officer recommends a sanction including a minimum period of debarment exceeding six months shall likewise be subject to temporary suspension.

[9] The temporary suspension shall not apply to a case involving an alleged violation of a Material Term of the VDP Terms & Conditions. However, in lieu of an Explanation, the Respondent may provide the Evaluation Officer with the reasons it believes that the Evaluation Officer should withdraw the Notice.

[10] For purposes of this Section 4.02(b), references to the "Sanctions Board" or "Sanctions Board Chair" in Sections 5.02(a) and (b) shall be deemed references to the Evaluation Officer.

provide the Integrity Vice President and the Secretary of the Sanctions Board with a copy of any Explanations received.

(c) ***Termination of Temporary Suspension***. Within thirty (30) days after receipt of an Explanation, and upon consideration of the arguments and evidence presented therein, the Evaluation Officer may decide to terminate the temporary suspension. The Evaluation Officer shall promptly notify the Respondent, the Chair of the Sanctions Board, and the Integrity Vice President of such termination and the reasons therefor.

(d) ***Notification to Other Evaluation Officers***. Temporary suspensions imposed by the Evaluation Officer shall apply to the operations of IFC, MIGA and Bank Guarantee Projects. To this end, the Evaluation Officer shall notify the IFC Evaluation Officer, the MIGA Evaluation Officer and the Bank Guarantee Project Evaluation Officer of the temporary suspension.

(e) ***Posting of Temporary Suspensions***. A temporary suspension from eligibility for Bank Projects shall be posted on the Bank's Client Connection website.

Section 4.03. Other Actions Subsequent to the Submission of an Explanation

(a) ***Withdrawal of Notice; Revision of Recommended Sanction***. Within thirty (30) days after receipt of an Explanation, the Evaluation Officer may:

> (i) withdraw the Notice upon concluding that there is manifest error or other clear basis for supporting a finding of insufficiency of evidence against the Respondent, or
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> (ii) revise the recommended sanction in light of evidence or arguments as to mitigating factors presented by the Respondent.

(b) ***Notice and Closure of Proceedings***. The Evaluation Officer shall notify the Respondent, the Integrity Vice President and the Chair and the Secretary of the Sanctions Board of the withdrawal or revision and the reasons

therefor. In the case of a withdrawal, the proceedings shall be closed.

(c) ***Resubmission of Notice***. In the event a Notice is withdrawn, INT may submit a revised Statement of Accusations and Evidence on the basis of additional information not contained in the original Notice, in which case the matter shall proceed in accordance with the procedures set forth in this Article IV.

Section 4.04. Sanctions in Uncontested Proceedings

If the Respondent does not contest the accusations or the sanction recommended by the Evaluation Officer in the Notice within ninety days (90) days after delivery of the Notice in accordance with Section 5.01(a), the sanction(s) recommended by the Evaluation Officer in the Notice shall enter immediately into force. The Evaluation Officer shall promptly notify the Respondent, the Secretary of the Sanctions Board and the Integrity Vice President thereof.

ARTICLE V

REFERRALS TO THE SANCTIONS BOARD

Section 5.01. Written Submissions to the Sanctions Board

(a) ***Respondent's Response to Notice of Sanctions Proceedings.*** Within ninety (90) days after delivery of the Notice, the Respondent may contest the case by submitting to the Sanctions Board, through the Secretary, a written response to the accusations and/or the recommended sanction contained in the Notice (the "Response"), including written arguments and evidence. The Secretary of the Sanctions Board shall notify the Sanctions Board Chair, the Evaluation Officer and the Integrity Vice President of the receipt of such Response, together with a copy thereof, and the matter shall be referred to the Sanctions Board for its review and decision pursuant to its Statute and these Procedures.

(b) ***INT's Reply in Support of the Notice of Sanctions Proceedings.*** Within thirty (30) days after the Respondent's

submission of a Response, INT may submit to the Sanctions Board, through the Secretary, a written reply to the arguments and evidence contained in the Response (the "Reply").

(c) ***Submission of Additional Materials.*** In the event that additional material evidence becomes available to INT or to the Respondent after the applicable deadlines for the submission of written materials have passed, but prior to the conclusion of any hearing to be held on the matter, the Sanctions Board Chair may, as a matter of discretion, authorize such additional evidence to be submitted, together with a brief argument predicated upon such evidence. The Sanctions Board Chair may also authorize either INT or the Respondent to submit, within a reasonable timeframe, additional arguments and evidence in response to the evidence and arguments contained in the additional materials presented by the other party. The Sanctions Board Secretary shall provide the other party to the proceeding, whether it be INT or the Respondent, with a copy of any such additional materials.

5.02. Formal Requirements for Written Submissions

(a) ***Language.*** All written materials submitted to the Sanctions Board shall be submitted in English, except that exhibits shall be in the original language with the pertinent parts translated into English. The Sanctions Board Chair may require, either *sua sponte* or on request by the other party, that such other parts or the entirety of an exhibit be translated into English as the Sanctions Board Chair may deem appropriate.

(b) ***Extensions of Time Periods for Filing Submissions.*** Upon request by INT or the Respondent, a reasonable extension of any time period for the filing of submissions may be granted as a matter of discretion by the Sanctions Board Chair, by notice to both parties.

(c) ***Length.*** The Sanctions Board Chair shall set reasonable limits for the length of written submissions to the Sanctions Board.

Section 5.03. Admissions of Culpability

In its Response, the Respondent may admit all or part of any accusation set forth in the Notice. The Respondent may also present evidence and arguments of mitigating circumstances[11] or other facts relevant to the decision of the Sanctions Board concerning an appropriate sanction. Such evidence and arguments shall be submitted in accordance with the schedule for written submissions set forth in these Procedures.

Section 5.04. Distribution of Written Materials

(a) ***Distribution of Materials to INT and the Respondent.*** The Secretary shall provide to INT and the relevant Respondent, in a timely manner, copies of all written submissions and evidence, and any other materials received or issued by the Sanctions Board relating to the proceedings against said Respondent not previously provided by the Evaluation Officer, except as otherwise provided in this Section 5.04.

(b) ***Distribution of Materials to Other Respondents in Sanctions Proceedings.*** The Secretary may, at any time, upon approval of the Sanctions Board, make materials relating to sanctions proceedings against a particular Respondent available to other Respondents in sanctions proceedings involving related accusations, facts, or matters. In determining whether to approve the disclosure of such materials, the Sanctions Board shall consider, among other factors, the standard for withholding sensitive materials set forth in Section 5.04(c).

(c) ***Distribution of Sensitive Materials.*** The Sanctions Board may, in its discretion and upon request by INT, agree to the withholding of particular evidence submitted to the Evaluation Officer or the Sanctions Board, upon a determination that there is a reasonable basis to conclude that revealing the particular evidence might endanger the life, health, safety, or well-being of a person or constitute a violation of any undertaking by the Bank in favor of a VDP

[11] Except for a case involving an alleged violation of a Material Term of the VDP Terms & Conditions, where the appropriate sanction is mandatory ten (10)-year debarment.

participant. In the event that the Sanctions Board denies INT's request, INT shall have the option to withdraw such evidence from the record or to withdraw the Notice.

(d) ***Redaction of Materials***. Notwithstanding the provisions of paragraphs (a) and (b) above, INT, in its sole discretion, may redact particular parts or pieces of evidence presented to the Respondent or the Sanctions Board, by: (i) removing references to Bank staff; and (ii) removing references to other third parties (together with other material which would permit such third parties to be identified), in cases where the identity of such parties is either not relevant or not germane to the case. The Respondent may challenge such redaction in its Response under Section 5.01 (a), in which case the Sanctions Board shall review the unredacted version of such evidence to determine whether the redacted information is necessary to enable the Respondent to mount a meaningful response to the allegations against it. In the event that the Sanctions Board determines that the redacted information is necessary, the unredacted version of the evidence in question will be made available to the Respondent in accordance with paragraph (e) below, and the Respondent shall be afforded an opportunity to comment thereon in an additional submission under Section 5.01(c).

(e) ***In Camera Review of Certain Materials***. Upon request by INT, the Sanctions Board may provide that certain pieces of evidence be made available to the Respondent solely for review at a designated Bank country office or such other place as the Sanctions Board Chair may designate for the purpose. The Respondent may request the Sanctions Board Chair, in consultation with INT, to designate another place upon a showing that review at such location would present an undue burden. Such materials shall be available for review during normal business hours, for as long as the Respondent may reasonably request, but the Respondent shall not be authorized to make copies of such materials.

ARTICLE VI

HEARINGS

Section 6.01. Applications for a Hearing.

The Respondent or INT may request that the Sanctions Board hold a hearing on the accusations against the Respondent. Such requests shall be made exclusively in the Respondent's Response or in INT's Reply. The Secretary, after consulting with the Sanctions Board Chair, shall provide the Respondent and the Integrity Vice President reasonable notice of the date, time and location of any hearing. If no such request is made, the Sanctions Board shall review the case and render its decision on the basis of the existing record, in accordance with Section 8.02(a), without a hearing.

Section 6.02. Representation at Hearings.

INT shall be represented in a sanctions proceeding by one or more representatives who may or may not be employees of the World Bank Group. A Respondent may be self-represented or represented by an attorney or any other individual authorized by the Respondent, at the Respondent's own expense.

Section 6.03. Conduct of Hearings.

(a) ***Attendance.*** The representatives of INT, the Respondent and the Respondent's representatives may be present throughout the hearing. The hearing shall remain confidential and not be open or available to the public. Neither the representatives of INT nor the Respondent nor the Respondent's representatives shall be present for, or participate in, the deliberations of the Sanctions Board.

(b) ***Presentations by the Parties.*** Presentations to the Sanctions Board shall be subject to the following rules:

> (i) *Order*. INT shall present its case first. The Respondent or Respondent's representative shall present the Respondent's case second. INT shall be permitted to reply to the Respondent's case.

(ii) *Length.* The Sanctions Board Chair shall set a reasonable period of time for each presentation.

(iii) *Form.* Presentations shall be informal. They shall be limited to arguments and evidence contained in the written submissions filed with the Evaluation Officer and/or the Sanctions Board, and may rely upon or refute individual items of evidence.

(iv) *Live Testimony.* No live witness testimony shall be taken, except that one or more witnesses may be called and questioned by members of the Sanctions Board only. The Respondent or its authorized representative may make a statement during the hearing. There shall be no cross-examination, although rebuttal evidence may be presented during the hearing.

(v) *Matters Relating to the Sanction.* INT and the Respondent may present evidence of mitigating or aggravating factors relating to the appropriateness of a particular sanction.[12]

(c) ***Response to Questions:*** The representative of INT and the Respondent or Respondent's representative shall be subject to questions by the members of the Sanctions Board. A party's refusal to answer, or failure to answer truthfully or credibly, may be construed against that party.

ARTICLE VII

EVIDENCE

Section 7.01. Forms of Evidence.

Any kind of evidence may form the basis of arguments presented in a sanctions proceeding and conclusions reached by the Evaluation Officer or the Sanctions Board. The Evaluation Officer and the Sanctions Board shall have discretion to determine the relevance, materiality, weight, and sufficiency of all evidence offered. Hearsay evidence or

[12] Except for a case involving an alleged violation of a Material Term of the VDP Terms & Conditions, where the appropriate sanction is mandatory ten (10)-year debarment.

documentary evidence shall be given the weight deemed appropriate by the Evaluation Officer or the Sanctions Board. Without limiting the generality of the foregoing, the Evaluation Officer and the Sanctions Board shall have the discretion to infer purpose, intent and/or knowledge on the part of the Respondent, or any other party, from circumstantial evidence. Formal rules of evidence shall not apply.

Section 7.02. Privileged Materials.

Communication between an attorney, or a person acting at the direction of an attorney, and a client for the purpose of providing or receiving legal advice and writings reflecting the mental impressions, opinions, conclusions or legal theories of an attorney in connection with a legal representation shall be privileged and exempt from disclosure.

Section 7.03. No Discovery.

Except as expressly provided for in these Procedures, the Respondent shall have no right to review or obtain any information or documents in the Bank's possession.

ARTICLE VIII

DECISIONS BY THE SANCTIONS BOARD

Section 8.01. Sanctions Board Decisions.

The Sanctions Board shall determine, based on the record, whether or not it is more likely than not that the Respondent engaged in one or more Sanctionable Practices; and:

> (a) if the Sanctions Board determines that it is not more likely than not that the Respondent engaged in a Sanctionable Practice, the proceedings shall be terminated.[13]

[13] At any time thereafter, however, subject to the time limits set forth in Section 4.01(d), INT may submit an amended Statement of Accusations and Evidence to the Evaluation Officer in accordance with Section 3.01, if evidence not available at the time of submission of the Statement of Accusations and Evidence is subsequently received or obtained by INT.

(b) if the Sanctions Board determines that it is more likely than not that the Respondent engaged in one or more Sanctionable Practices, it shall impose an appropriate sanction or sanctions on the Respondent, which sanction(s) shall be selected from the range of possible sanctions identified in Section 9.01. In determining the appropriate sanction(s), the Sanctions Board shall not be bound by the recommendation of the Evaluation Officer.

In either case, the Sanctions Board shall issue a decision setting forth a recitation of the relevant facts, its determination as to the culpability of the Respondent, any sanction to be imposed on the Respondent and its Affiliates and the reasons therefor.

A. Section 8.02. Determinations by the Sanctions Board.

(a) ***Record as Sole Basis for Determinations.*** The review and deliberation of the Sanctions Board shall be restricted to the record consisting of the Notice, the Explanation (if any), the Response, the Reply, all other related written submissions of arguments and evidence, and all arguments presented at any hearing before the Sanctions Board. The record shall be confidential and not be available to the public.

(b) ***Standard and Burden of Proof.***

(i) **Standard of Proof.** The Sanctions Board shall determine whether the evidence presented by INT, as contested by the Respondent, supports the conclusion that it is more likely than not that the Respondent engaged in a Sanctionable Practice. "More likely than not" means that, upon consideration of all the relevant evidence, a preponderance of the evidence supports a finding that the Respondent engaged in a Sanctionable Practice.

(ii) **Burden of Proof.** INT shall have the burden of proof to present evidence sufficient to establish that it is more likely than not that the Respondent engaged in a Sanctionable Practice. Upon such a showing by INT, the burden of proof shall shift to the Respondent to demonstrate

that it is more likely than not that the Respondent's conduct did not amount to a Sanctionable Practice.

Section 8.03. Entry Into Force of Sanction Board Decisions.

(a) ***Final Nature of Decision.*** The decision of the Sanctions Board shall be final and shall take effect immediately, without prejudice to any action taken by any government under its applicable law.

(b) ***Dissemination of Decision:*** The decision of the Sanctions Board shall be transmitted by the Sanctions Board Secretary to the Respondent, INT, the Evaluation Officers for the Bank, PRG, IFC and MIGA; the Executive Directors representing the Borrower concerned and the country of the Respondent; Senior Management; the General Counsels of the Bank, IFC and MIGA, and the Director, GSD; and such other units or persons within the World Bank Group as the Sanctions Board Chair may determine.

ARTICLE IX

SANCTIONS

Section 9.01. Range of Possible Sanctions.

(a) ***Reprimand.*** The Respondent is reprimanded in the form of a formal "Letter of Reprimand" of the Respondent's conduct.

(b) ***Conditional Non-Debarment.*** The Respondent is required to comply with certain remedial, preventative or other conditions as a condition to avoid debarment from World Bank Group projects. Conditions may include (but are not limited to) verifiable actions taken to improve business governance, including the introduction, improvement and/or implementation of corporate compliance or ethics programs, restitution or disciplinary action against or reassignment of employees.

(c) ***Debarment.*** The Respondent is subject to one or more of the following forms of ineligibility:

(i) For cases subject to the Bank's Procurement and Consultant Guidelines, the Respondent is declared ineligible, either indefinitely or for a stated period of time, to be awarded a contract subject to such Guidelines for any Bank Project;[14]

(ii) For cases subject to the Anti-Corruption Guidelines, the Respondent is declared ineligible, either indefinitely or for a stated period of time, to receive the proceeds of any loan made by the Bank or otherwise to participate further in the preparation or implementation of any Bank Project;[15] and

(iii) For cases involving the violation of a Material Term of the VDP Terms & Conditions, where the only applicable sanction shall be a ten (10)-year debarment, the Respondent shall be debarred for a period of ten (10) years, pursuant to sub-paragraph (i) and/or (ii) above, as the Evaluation Officer or Sanctions Board, as the case may be, deems appropriate under the circumstances.

The ineligibility resulting from debarment shall extend across the operations of the World Bank Group. Debarment arising out of an IFC, MIGA or Bank Guarantee Project shall also render the Respondent ineligible to be awarded a contract for a Bank Project or to receive the proceeds of any loan made by the Bank or otherwise to participate further in the preparation or implementation of any Bank Project.

(d) ***Debarment with Conditional Release.*** The Respondent is subject to one or more of the forms of ineligibility outlined in Section 9.01(c)(i) through (iii) and is released from debarment only if the Respondent demonstrates compliance with certain remedial, preventative or other conditions for release, after a minimum period of debarment. Conditions may include (but

[14] If the Evaluation Officer or the Sanctions Board, as the case may be, determines that such Respondent participates, or may participate, in any activity subject to the Anti-Corruption Guidelines, the Respondent shall also be sanctioned pursuant to sub-paragraph (ii).

[15] If the Evaluation Officer or the Sanctions Board, as the case may be, determines that such Respondent is also a potential provider of goods, works or services subject to the Procurement or Consultant Guidelines, the Respondent shall also be debarred pursuant to sub-paragraph (i).

are not limited to) verifiable actions taken to improve business governance, including the introduction, improvement and/or implementation of corporate compliance or ethics programs, restitution or disciplinary action against or reassignment of employees. Debarment with conditional release shall also result in extension cross the operations of the World Bank Group as outlined in Section 9.01(c).

(e) ***Restitution or Remedy.*** The Respondent is required to make restitution to the Borrower or to any other party or take actions to remedy the harm done by its misconduct.

Section 9.02. Factors Affecting the Sanction Decision.

Except for cases involving violation of a Material Term of the VDP Terms & Conditions for which there is a mandatory ten (10)-year debarment, the Evaluation Officer or Sanctions Board, as the case may be, shall consider the following factors in determining an appropriate sanction:

(a) the severity of the misconduct;

(b) the magnitude of the harm caused by the misconduct;

(c) interference by the sanctioned party in the Bank's investigation;

(d) the sanctioned party's past history of misconduct as adjudicated by the Bank Group or by another multilateral development bank in cases governed by Article XII;

(e) mitigating circumstances, including where the sanctioned party played a minor role in the misconduct, took voluntary corrective action or cooperated in the investigation or resolution of the case, including through settlement under Article XI;

(f) breach of the confidentiality of the sanctions proceedings as provided for in Section 13.06;

(g) the period of temporary suspension already served by the sanctioned party; and

(h) any other factor that the Evaluation Officer or Sanctions Board, as the case may be, reasonably deems relevant to the sanctioned party's culpability or responsibility in relation to the Sanctionable Practice.

Section 9.03. Compliance with Conditions for Non-Debarment and Release from Debarment.

(a) ***Notification of Conditions***. As soon as practicable after a sanction of conditional non-debarment or debarment with conditional release is imposed by the Evaluation Officer or the Sanctions Board, an officer designated for such purpose (the "Integrity Compliance Officer") shall contact each party so sanctioned to advise them as to the requirements for meeting the conditions, including, where applicable, the adoption and implementation of an integrity compliance program acceptable to the Bank Group.

(b) ***Monitoring of Compliance***. The Integrity Compliance Officer shall have the right to monitor compliance by each sanctioned party with the conditions for release or non-debarment. The Integrity Compliance Officer may impose on the sanctioned party such requirements as may be reasonably necessary, including (but not limited to) periodic reporting by the sanctioned party, the appointment of an independent monitor, external auditing and inspection of the books and records of the sanctioned party.

(c) ***Application***. No earlier than one hundred and twenty (120) days prior to (x) any deadline for compliance with conditions for non-debarment under Section 9.01(b) or (y) the last day of the minimum period of debarment under a debarment for conditional release under Section 9.01(d), but no later than any such deadline for compliance with conditions for non-debarment under Section 9.01(b), the Respondent may submit to the Bank an application (the "Application") setting forth arguments for and evidence of its compliance with the requirements set by the Integrity Compliance Officer. The Application shall include, among other things, a detailed report on its implementation of any integrity compliance program agreed with the Integrity Compliance Officer, details relating to remedial actions taken in response to the misconduct for which the party was

sanctioned as well as any other any misconduct detected during the period of debarment or conditional non-debarment, any debarment of the sanctioned party by another international financial institution, and any criminal, civil or regulatory conviction or decision based on conduct of the type of a Sanctionable Practice.

(d) ***Decision by Integrity Compliance Officer***. Within thirty (30) days after receipt of the Application, the Bank, acting through the Integrity Compliance Officer shall begin its review thereof to determine, based on the arguments and evidence set forth in the Application and any other factors he or she may deem relevant, whether or not the Respondent has complied with the conditions for non-debarment or release from debarment. Before making such determination, the Integrity Compliance Officer, or an agent designated by the Integrity Compliance Officer, may verify the arguments and evidence contained in the Application. The Respondent shall cooperate fully with any such verification, including by permitting the Integrity Compliance Officer (or such agent) access to relevant books and records. The Integrity Compliance Officer shall conclude his or her verification and make his or her determination as soon as practicable, and thereafter promptly notify the sanctioned party of such determination and the basis therefor. In the case of a determination by the Integrity Compliance Officer of non-compliance with conditions for non-debarment, a debarment with conditional release (the conditions for release being those originally stipulated for non-debarment) would automatically become effective for a period of time established by the Evaluation Officer or the Sanctions Board, as the case may be, with such debarment also resulting in cross-debarment as outlined in Section 9.01(c). In the case of a determination of non-compliance with conditions for release, the Integrity Compliance Officer shall specify a continuation of the period of debarment, for a period not to exceed one (1) year, after which the Respondent may again apply for release in accordance with paragraph (c) above. A determination of non-compliance, with reasons therefor, will be issued to the sanctioned party.

(e) ***Appeals of Compliance Determinations***. Determinations of non-compliance by the Integrity

Compliance Officer may be appealed by a Respondent as follows:

(i) No later than thirty (30) days after a determination of non-compliance by the Integrity Compliance Officer, the sanctioned party may request in writing that the Sanctions Board review such determination. Any such request shall set forth the reasons why the sanctioned party believes that in making his/her determination the Integrity Compliance Officer committed an abuse of discretion. The sanctioned party shall append to its request the Application and the Integrity Compliance Officer's determination of non-compliance. The Respondent's request for review may be accompanied by additional evidence and arguments in response to the stated grounds for the determination of non-compliance.

(ii) Within thirty (30) days after receipt of such request, and upon consideration of the arguments and evidence presented therein, the Sanctions Board shall decide whether the Integrity Compliance Officer committed an abuse of discretion. The Sanctions Board may consult with the Integrity Compliance Officer in making any such decision.

(iii) In the event that the Sanctions Board determines that the Integrity Compliance Officer committed an abuse of discretion in the determination of non-compliance, such determination shall be rescinded and the conditions shall be deemed complied with, but in the event that the Sanctions Board determines that the Integrity Compliance Officer did not commit an abuse of discretion, the determination of non-compliance shall remain in effect as provided in paragraph (d) above.

(iv) For purpose of this paragraph (e), the Integrity Compliance Officer commits an 'abuse of discretion' in a determination of non-compliance if the determination (1) lacks an observable basis or is otherwise arbitrary, (2) is based on disregard of a material fact or a material mistake of fact, or (3) was

taken in material violation of the procedures set out in this Section 9.03.

(f) ***Default by the Respondent***. In the event that a sanctioned party (x) fails to timely submit an Application with respect to conditions for non-debarment or (y) fails to fully cooperate with any verification of compliance under Section 9.03(d), the sanctioned party shall be deemed not to have complied with the relevant conditions for non-debarment or for release; *provided*, *however*, that the Integrity Compliance Officer may, in his or her sole discretion, agree to accept an Application within a reasonable period after the deadline therefor upon a showing by the sanctioned party of sufficient reasons for its late submission. A determination of non-compliance by reason of default shall not be subject to review.

Section 9.04. Affiliates Subject to Sanction.

(a) ***Imposition of Sanctions on Affiliates***. When a sanction is imposed on a Respondent, appropriate sanctions may also be imposed on any Affiliate of the Respondent.

(b) ***Notices to Affiliates; Submissions.*** If the Evaluation Officer temporarily suspends and/or recommends the imposition of a sanction on an Affiliate of the Respondent that controls or is under common control with the Respondent, the Evaluation Officer shall provide such Affiliate with a copy of the relevant Notice in accordance with the provisions of Section 13.05. Such Affiliate(s) shall have procedural rights hereunder equivalent to those of the Respondent, except that any Preliminary Explanation, Explanation, Response or other formal submission shall be consolidated with that of the Respondent unless the Evaluation Officer or the Sanctions Board, as the case may be, determines as a matter of discretion to permit an independent submission.

Section 9.05. Successors and Assigns.

Any sanction imposed shall apply to the sanctioned party's successors and assigns, as determined by the Bank. Such determinations may be appealed by the party(ies) affected

thereby in accordance with Section 9.03(e), *mutatis mutandis*; *provided*, *however*, that no such appeal shall stay or otherwise affect determinations of eligibility taken by the Bank in accordance with its operational procurement policies prior to a decision by the Sanctions Board.

ARTICLE X

DISCLOSURE

Section 10.01. Disclosure to the Public

(a) ***Disclosure of Sanctions***. If a sanction is imposed on a Respondent, or on an Affiliate as provided in Section 9.04, information concerning the identity of each sanctioned party and the sanctions imposed shall be publicly disclosed.

(b) ***Law Digests***. The Sanctions Board will publish and update, on a periodic basis, a digest of such aspects of its decisions that it deems illustrative of the legal principles it has applied in reaching its decisions.

Section 10.02. Sharing of Materials with Third Parties

(a) ***Sharing of Materials With Other Organizations or Agencies.*** The Bank may at any time make materials submitted by INT or the Respondent to the Evaluation Officer and/or the Sanctions Board available to another multilateral development bank or other international or multinational organization, or to national development agencies or the investigative or prosecuting authorities of its member countries, if the Bank determines that doing so would be in the best interests of the Bank; *provided* that the recipient of such materials agrees to keep them confidential on terms and conditions acceptable to the Bank.

(b) ***Sensitive Materials; Withholding of Certain Information***. In determining whether to approve the sharing of information under this Article X, the Bank shall consider, among other factors, the standard for withholding sensitive materials set forth in Section 5.04(c). The Bank shall withhold information if it determines that sharing such information would violate any undertaking by the Bank in favor of a VDP participant.

Section 10.03. Sharing of Investigative Materials.

For avoidance of doubt, nothing in this Article X shall prohibit or otherwise restrict the ability of the Bank to share information obtained by the Bank in the course of an investigation with parties identified in Section 10.02 if such information sharing is permitted by its policies and procedures.

ARTICLE XI

SETTLEMENTS

Section 11.01. Stays of Proceedings.

(a) At any time during sanctions proceedings, INT and one or more Respondents, acting jointly, may request the Evaluation Officer for a stay of proceedings for the purpose of conducting settlement negotiations.

(b) An initial stay of proceedings may be granted for no longer than 60 days, but may be renewed upon request by INT and the Respondent, acting jointly, for another 30 days, together with written confirmation by both parties that they continue to be actively engaged in settlement negotiations.

(c) Requests for a stay of proceedings shall be granted as a matter of course.

(d) All time periods specified in these Procedures shall be tolled during the pendency of a stay of proceedings.

Section 11.02. Submission and Review of Settlements.

(a) At any time prior to or during sanctions proceedings prior to the issuance of a decision by the Sanctions Board under Section 8.01, whether or not a stay has previously been granted, INT and one or more Respondents party thereto may submit a signed copy of any settlement agreement to the Evaluation Officer for review, together with a certification by both parties that the Respondent(s) entered into said agreement freely and fully informed of the terms thereof, and without any form of duress. Such submission shall automatically stay sanctions proceeding

then pending with respect to any case or cases so specified in the settlement agreement, including any proceedings before the Sanctions Board.

(b) The Evaluation Officer, shall review the settlement agreement to ensure that the terms of the agreement do not manifestly violate Section 9.02 or any guidance issued by the Bank in respect thereof.

(c) Upon review by the Evaluation Officer the agreement shall become effective immediately or, if different, as of the date specified in said agreement.

Section 11.03. Effect of Settlement Agreements.

(a) If the settlement agreement provides for the definitive disposition of the case, in whole or in part, subject to sanctions proceedings, the case (or such part thereof as the agreement may specify) shall be closed as of the effective date of the agreement or, if different, the date specified in the agreement, on such terms, including the imposition of such sanctions on the Respondent(s), as may be stipulated in the agreement.

(b) If the settlement agreement provides for the deferral of proceedings for a period of time pending compliance by the Respondent with specified conditions, proceedings shall be deemed stayed for the period specified in the agreement, so long as the Respondent remains in compliance. Unless the agreement otherwise expressly provides, upon expiration of the deferral period and compliance by the Respondent with all conditions specified therefor in the agreement, the case shall be closed. All statute of limitations and other time periods specified in these Proceedings shall be tolled during the pendency of such deferral.

(c) Unless the settlement agreement otherwise expressly provides, compliance by the Respondent with the terms and conditions thereof shall be deemed conditions for release from debarment or conditions for non-debarment, as the case may be.

(d) If a settlement agreement is to become effective prior to the commencement of sanctions proceedings, the terms of the agreement shall have the same effect as if sanctions proceedings had been commenced and concluded with the outcome, including the imposition of such sanction(s) on the parties thereto, as may be specified in the agreement.

(e) Any other term of the settlement agreement shall be given such effect as may be specified in the agreement.

Section 11.04. Compliance with Settlement Agreements.

Unless the settlement agreement expressly provides otherwise, all determinations as to the compliance by the Respondent(s) with the terms and conditions of the settlement agreement, and any controversy between the parties as to the interpretation or performance thereof, shall be taken by INT, subject to a right of appeal in accordance with the provisions of Section 9.03(e), *mutatis mutandis*. In the case of settlement agreements providing for a deferral of proceedings under Section 11.03(b), if INT determines that the Respondent has violated the settlement agreement, the case shall be re-opened and resume at the point at which it had been deferred.

ARTICLE XII

ENFORCEMENT OF DEBARMENT DECISIONS BY OTHER MULTILATERAL DEVELOPMENT BANKS

Section 12.01. MDB Mutual Enforcement Agreement. The Bank may enforce debarment decisions taken by other multilateral development banks in accordance with its policies and procedures.

Section 12.02. Effect of Enforcement. Any decision by the Bank to enforce the debarment decision of another multilateral development bank shall have the same effect as if the firm(s) or individual(s) debarred by said institution had been debarred by the Evaluation Officer or the Sanctions Board in the manner described in Section 9.01(c) or Section 9.01(d), as applicable.

Section 12.03. Dissemination of Enforcement Decisions. The decision to enforce debarment by another multilateral development bank shall be disseminated in the manner prescribed in Section 10.01.

ARTICLE XIII

ADDITIONAL PROVISIONS

Section 13.01. Effective Date.

(a) These Procedures are effective as of September 15, 2010 (the "Effective Date") and shall apply to:

(i) all proceedings for which a Notice is issued by the Evaluation Officer on or after the Effective Date;

(ii) any settlement in respect of which a request for a stay or a settlement agreement is submitted to the Evaluation Officer on or after the Effective Date;

(iii) any decision in respect of compliance by a sanctioned party with conditions for release from debarment or for non-debarment taken on or after the Effective Date; and

(iv) any decision taken in respect of the application of sanctions to affiliates or successors and assigns on or after the Effective Date.

(b) For avoidance of doubt, the decisions referred to in (c) and (d) above include decisions in respect of sanctions imposed prior to the Effective Date.

Section 13.02. Amendments.

The Bank may amend, supplement, or otherwise revise these Procedures at any time, with or without notice. Any such revision will be effective as of the date of approval thereof by the appropriate authority and will apply to proceedings for which a Notice is issued after such date.

Section 13.03. No Rights or Privileges Conferred.

These Procedures are intended to assist in facilitating the reasonable exercise of discretion by Bank officials in such cases and do not in themselves confer any rights or privileges.

Section 13.04. No Waiver of Privileges and Immunities.

Nothing in these Procedures, and nothing revealed during proceedings under these Procedures, shall be considered to alter, abrogate or waive the Bank's status, immunities and privileges as set forth in the Bank's Articles of Agreement or other provisions of national or international law.

Section 13.05. Issuance and Delivery.

(a) ***Issuance and Delivery of Notices and other documents.*** A Notice, Reply or any other document shall be deemed issued to the Respondent on the date it is deposited in the mail or with a courier service by the Evaluation Officer or Secretary of the Sanctions Board. The Bank may issue rules regulating the delivery, including constructive delivery, of Notices, Replies and other materials to the Respondent.

(b) ***Submission of Explanations and Responses.*** Explanations, Responses and other materials shall be deemed submitted to the Evaluation Officer or Sanctions Board on the date they are actually received by the Evaluation Officer or the Secretary of the Sanctions Board, as the case may be.

(c) ***Means of delivery or submission.*** Documents may be delivered or submitted by mail or courier, or in person. The Evaluation Officer or the Secretary of the Sanctions Board may, in their discretion, accept submission of materials by electronic means.

(d) ***Determination of date of delivery or submission.*** If there is any doubt as to the date as of which a document should be deemed as delivered or submitted, the Evaluation Officer or the Secretary of the Sanctions Board, as the case

may be, shall decide. Their determination shall be final and unappealable.

Section 13.06. Confidentiality. Neither the Respondent (including any Affiliate thereof) nor the Bank shall disclose to, or discuss with, any third party any part of the record, or information relating thereto, except as follows:

(a) The Respondent may disclose any part of the record in its possession in accordance with these Procedures (x) to legal counsel engaged for the purpose of representing or advising the Respondent in the proceedings to which the record relates, and discuss the case with such counsel, *provided* that such counsel agrees that it shall not disclose to, or discuss with, any third party any part of the record, or information relating thereto; (y) as required by an order of any court of competent jurisdiction, including pursuant to any procedure for the discovery of documents in proceedings before such court, or (z) pursuant to any law or regulation having the force of law to which the Respondent is subject. Except as provided in (x) above, the Respondent shall provide INT and the Evaluation Officer or the Sanctions Board, as the case may be, with reasonable prior notice of any such disclosure.

(b) The Bank may disclose materials and other information in accordance with Article X or as otherwise permitted by its policies and procedures.

A violation of this Section 13.06 (whether by a Respondent and/or its Affiliates, or by legal counsel thereto) shall be (i) an aggravating factor in determining an appropriate sanction if the violation is brought to the attention of the Evaluation Officer or the Sanctions Board during sanctions proceedings, and (ii) a separate basis for sanction, if the violation comes to light after the conclusion of sanctions proceedings.

Appendix 1

SANCTIONABLE PRACTICES

A. 2006 Definitions

The following definitions of Sanctionable Practices apply to cases brought under the October 2006 versions of the Procurement, Consultant or Anti-Corruption Guidelines:

"Coercive practice" is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;[1]

"Collusive practice" is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;[2]

"Corrupt practice" is the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party;[3]

"Fraudulent practice" is any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation;[4] and

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[1] For the purpose of the Bank's Procurement and Consultant Guidelines, the term "party" refers to a participant in the procurement or selection process or contract execution.

[2] For the purpose of the Bank's Procurement and Consultant Guidelines, the term "parties" refers to participants in the procurement or selection process (including public officials) attempting to establish bid prices at artificial, non competitive levels.

[3] For the purpose of the Bank's Procurement and Consultant Guidelines, the term "another party" refers to a public official acting in relation to the procurement or selection process or contract execution. In this context, "public official" includes World Bank staff and employees of other organizations taking or reviewing procurement decisions.

[4] For the purpose of the Bank's Procurement and Consultant Guidelines, the terms "party" refers to a public official and "benefit" and "obligation" relate to the procurement or selection process or contract execution; and the "act or

"Obstructive practice" is (i) deliberately destroying, falsifying, altering or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede a Bank investigation into allegations of a corrupt, fraudulent, coercive or collusive practice; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation, or (ii) acts intended to materially impede the exercise of the Bank's contractual rights of audit or access to information.

B. 2004 Definitions

The following definitions of Sanctionable Practices apply to cases brought under the May 2004 versions of the Procurement or Consultant Guidelines (each revised October 2006 and May 2010):

"Corrupt practice" means the offering, giving, receiving, or soliciting, directly or indirectly, of any thing of value to influence the action of a public official in the [procurement/selection] process or in contract execution

"Fraudulent practice" means a misrepresentation or omission of facts in order to influence a [procurement/selection] process or the execution of a contract

"Collusive practices" means a scheme or arrangement between two or more bidders, with or without the knowledge of the Borrower, designed to establish [bid] prices at artificial, non-competitive levels

"Coercive practices" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in a procurement process, or affect the execution of a contract.

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omission" is intended to influence the procurement or selection process or contract execution.

C. Pre-2004 Definitions

The following definitions of Sanctionable Practices apply to cases brought under the January 1995 version of the Procurement Guidelines (revised January and August 1996, September 1997 and January 1999) or the January 1997 version of the Consultant Guidelines (revised September 1997, January 1999 and May 2002):

> "Corrupt practice" means the offering, giving, receiving, or soliciting of any thing of value to influence the action of a public official in the [procurement/selection] process or in contract execution.
>
> "Fraudulent practice" means a misrepresentation of facts in order to influence a procurement [selection] process or the execution of a contract to the detriment of the Borrower, and includes collusive practices among [bidders/consultants] (prior to or after [bid submission/submission of proposals]) designed to establish bid prices at artificial, non-competitive levels and to deprive the Borrower of the benefits of free and open competition.

NOTE: *The foregoing definitions are provided for information only. The definitions set forth in the Procurement, Consultant or Anti-Corruption Guidelines are the sole source of legal authority.*