AMENDMENT

to the IBRD/IDA Sanctions Procedures

Dated June 25, 2010

The IBRD/IDA Sanctions Procedures are hereby amended to add a new Article X, as set out in Annex A to this amendment, providing for the enforcement of debarment decisions by other multilateral development banks.

The current Article X is renumbered as Article XI and Section 23 is renumbered as Section 26.

This amendment applies to all cases for which a Notice of Sanctions Proceedings will have been issued as of the date hereof.

Approved by:

Hans Jurgen Gruss, Deputy General Counsel

Date: 6/25/10

ANNEX A

ARTICLE X

ENFORCEMENT OF DEBARMENT DECISIONS BY OTHER MULTILATERAL DEVELOPMENT BANKS

Section 23. MDB Mutual Enforcement Agreement. The Bank may enforce debarment decisions taken by other multilateral development banks in accordance with its policies and procedures.

Section 24. 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 Sanctions Board in the manner described in Section 20.

Section 25. Dissemination of Enforcement Decisions. The decision to enforce debarment by another multilateral development bank shall be disseminated in the manner prescribed in Section 21.

SANCTIONS PROCEDURES

(*As amended on December 22, 2008 and May 11, 2009*)

I. INTRODUCTION

(a) It is the duty of the World Bank,[1] under its Articles of Agreement, to ensure that the proceeds of any loan are used only for the purposes for which the loan was granted.

(b) 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 process. The Bank's sanctions process consists of a two-tier process conducted by the Evaluation and Suspension Officer (the "Evaluation Officer") and the World Bank Sanctions Board (the "Sanctions Board").

(c) The Bank is issuing the procedures set forth in this document (these "Procedures") to inform Bank officials, parties accused of wrongdoing, and other interested parties, of the procedures currently to be followed in sanctioning corrupt, fraudulent, collusive, coercive or obstructive practices in connection with Bank-financed or Bank-executed Projects whether governed by the Bank's Procurement Guidelines, Consultant Guidelines or the IBRD/IDA Anti-Corruption Guidelines (referred to collectively as "Bank Projects") or the violation of a Material Term of the Terms & Conditions of the Bank's Voluntary Disclosure Program ("VDP").[2] These Procedures are intended to assist in facilitating the reasonable exercise of discretion by Bank officials in responding to allegations of corrupt, fraudulent, collusive, coercive or obstructive practices or the violation of a Material Term of the VDP Terms & Conditions and do not in themselves confer any rights or privileges.[3]

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[1] The World Bank, for purposes of the procedures set forth in this document, includes the International Bank for Reconstruction and Development and the International Development Association, and is referred to hereafter as the "Bank."

[2] For information regarding voluntary disclosure, please go to www.worldbank.org/vdp

[3] These Procedures apply to the Bank's sanctions proceedings in cases resulting from a Bank investigation into allegations of corrupt, fraudulent, collusive, coercive or obstructive practices or the violation of a Material Term of the VDP Terms and Conditions.

(d) As of the date of the issuance of these Procedures, the terms set forth below shall have the following meanings:

A "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;[4]

A "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;[5]

A "corrupt practice" is the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party;[6]

"Days" shall mean calendar days, unless stated otherwise;

"Evaluation Officer" means the individual Bank staff member appointed by the President of the Bank as the Evaluation and Suspension Officer to review proposed Notices of Sanctions Proceedings ("Notice") and determine whether there is sufficient evidence in each case to issue a Notice to the named Respondent. The Evaluation Officer shall also have the authority to impose temporary suspensions from eligibility to be awarded additional contracts for Bank Projects or participate in new activities[7] under Bank Projects and to recommend an appropriate sanction based on the facts alleged in the Notice. The International Finance Corporation ("IFC"), the Multilateral Investment Guarantee Agency ("MIGA"), and the Bank in relation to investment projects guaranteed by the Bank ("Bank Guarantee Project") shall each have their respective Evaluation Officer ("IFC Evaluation Officer," "MIGA Evaluation Officer," and "Bank Guarantee Project

[4] 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.

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

[6] 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.

[7] The term "new activities" means 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 the temporary suspension becomes effective.

Evaluation Officer," respectively) in accordance with their own sanctions procedures;

A "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;[8]

"INT" means the Integrity Vice Presidency of the World Bank Group, and "Integrity Vice President" means the head of such Vice Presidency;

"Notice of Sanctions Proceedings" or "Notice" means the document containing INT's findings of a Sanctionable Practice issued by the Evaluation Officer to a named firm or individual together with the sanction recommended by the Evaluation Officer in accordance with Sections 9(3) and 9(4);

"Notice of Temporary Suspension" means the document containing INT's findings of a Sanctionable Practice issued by the Evaluation Officer to a named firm or individual in accordance with Section 1;

An "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;

"Respondent" means a firm or individual alleged to have engaged in a Sanctionable Practice and who has been designated as such in a Notice of Sanctions Proceedings or a Notice of Temporary Suspension;

"Sanctionable Practice" means any corrupt, fraudulent, coercive, collusive or obstructive practice in a Bank Project as defined

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

above, or any violation of a Material Term of the VDP Terms & Conditions; and

"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.

(e) The Bank may amend, supplement or revise these Procedures at any time, with or without notice. A revision will not affect any pending cases, but will be applied only to cases for which a Notice has not been issued by the Evaluation Officer as of the date of revision.

(f) 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.

II. TEMPORARY SUSPENSION PRIOR TO SANCTIONS PROCEEDINGS

Section 1. Issuance of a Proposed Notice of Temporary Suspension.

(1) ***Submission by INT:*** If INT, before concluding an ongoing investigation, 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 proposed Notice of Sanctions Proceedings presented to the Evaluation Officer within a maximum period of one year, INT may present to the Evaluation Officer a proposed Notice of Temporary Suspension. INT shall accompany any such proposed notice 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 proposed Notice of Sanctions Proceedings to the Evaluation Officer, which may not exceed one year. INT shall further present evidence and represent to the Evaluation Officer that the investigation is being pursued with due diligence and dispatch.

(2) ***Contents of the Notice of Temporary Suspension:*** The proposed Notice of Temporary Suspension shall contain the elements cited in Section 7, items (1) through (3) and (7).

(3) ***Review and Issuance of the Notice of Temporary Suspension:*** The Evaluation Officer shall review the proposed Notice of Temporary Suspension within forty-five (45) days after receipt thereof from INT. If the Evaluation Officer determines, upon consideration of all the facts and arguments presented in the proposed Notice of Temporary Suspension and assuming the facts alleged therein to be true, that (i) there is sufficient evidence to support a finding that the Respondent has engaged in a Sanctionable Practice, and (ii) had the allegation 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 no less than two years, 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.[9]

(4) ***Withholding of Certain Evidence:*** The Evaluation Officer may, in his/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 allegations against it notwithstanding the withholding of such evidence.

Section 2. Respondent's Explanation in Opposition of 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 eligible to be awarded additional contracts for Bank Projects or other World Bank Group financing or otherwise participate in new activities[10] under Bank Projects, pending a final outcome of the sanctions proceedings (the "Preliminary Explanation").

Section 3. Effect of Temporary Suspension.

The Respondent shall be temporarily suspended for the period specified in Section 4 below upon issuance of the Notice of

[9] The Evaluation Officer's review of the Notice of Temporary Suspension shall also be subject to the ten-year limitations set out in the last paragraph of Section 9(1), with the term "Notice" in said section referring to the Notice of Temporary Suspension..

[10] See footnote 7 for the definition of "new activities."

Temporary Suspension by the Evaluation Officer; *provided*, *however*, that within thirty (30) days after submission of the Preliminary Explanation submitted by the Respondent pursuant to Section 2 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 9(6) shall apply to temporary suspensions under this Part II.

Section 4. Duration.

(1) ***Initial Duration and Renewal:*** A temporary suspension under this Part 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 presenting evidence to the Evaluation Officer 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.

(2) ***Extension pending final outcome of Sanctions Proceedings:*** Upon issuance of a Notice of Sanctions Proceedings under Section 9(3), a temporary suspension under this Part II shall be automatically extended pending the final outcome of sanctions proceedings, subject to the operation of Sections 9(5) and 9(6).

(3) ***Expiration:*** If a proposed Notice of Sanctions Proceedings is not submitted to the Evaluation Officer prior to the end of the period of temporary suspension under this Part II, the suspension shall automatically expire.

(4) ***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 thereof.

III. PREPARATION OF THE NOTICE OF SANCTIONS PROCEEDINGS

Section 5. Integrity Vice Presidency.

INT investigates[11] allegations of corrupt, fraudulent, collusive, coercive and obstructive practices in World Bank Group[12] projects.

Section 6. Referrals to the Evaluation Officer.

If, as a result of investigation, the Integrity Vice President believes that there is sufficient evidence to support a finding of a Sanctionable Practice, INT shall present to the Evaluation Officer a proposed Notice, which may become the basis of an official Notice as described hereafter.

Section 7. Contents of Notice of Sanctions Proceedings.

The Notice shall:

(1) state INT's specific allegations of a Sanctionable Practice and INT's designation of each Respondent alleged to have engaged in such practices;

(2) include INT's summary of the facts constituting the Sanctionable Practice;

(3) attach or identify the evidence that INT intends to present to the Evaluation Officer and to the Sanctions Board in support of any proposed sanction, together with any exculpatory or mitigating evidence, as contemplated in Section 8;

(4) state the sanction recommended by the Evaluation Officer in accordance with Section 9(4);

(5) advise the Respondent that if, following issuance of the Notice by the Evaluation Officer, the Respondent desires to contest the allegations and/or the recommended sanction[13] in the Notice, the Respondent must so notify the

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[11] INT also makes a preliminary determination of an alleged violation of a Material Term of the VDP Terms & Conditions in accordance with such Terms & Conditions.

[12] "World Bank Group", as used in these Procedures, includes the Bank, IFC, and MIGA.

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

Secretary of the Sanctions Board (the "Secretary") in the manner described in Section 9(7);

(6) state the procedure by which the Respondent may respond to the allegations and/or recommended sanction as described in Section 10(2); and

(7) append a copy of these Procedures, as then in effect, and a copy of the Sanctions Board Statute, as then in effect.

Section 8. Disclosures of Exculpatory or Mitigating Evidence.

In transmitting to the Evaluation Officer a proposed Notice, and in transmitting to the Sanctions Board all subsequent written submissions, INT shall present all relevant evidence in INT's possession or knowledge that would reasonably tend to exculpate the Respondent or mitigate the Respondent's culpability.

IV. COMMENCEMENT OF PROCEEDINGS

Section 9. Issuance of Notice of Sanctions Proceedings.

(1) ***Review of Proposed Notice:*** The Evaluation Officer shall review the proposed Notice and, within forty-five (45) days after receipt from INT, shall determine, upon consideration of all the facts and arguments presented in the proposed Notice and assuming the facts alleged there to be true, whether there is sufficient evidence to support a finding that the Respondent has engaged in a Sanctionable Practice.

The Evaluation Officer shall close the matter and shall notify the Integrity Vice President accordingly if the proposed Notice pertains to:

(a) a contract whose execution has been completed for more than ten (10) years prior to the date on which the Notice would be issued for cases subject to the Bank's Procurement and Consultant Guidelines; or

(b) for all other cases,[14] a Sanctionable Practice that took place more than ten (10) years prior to the date on which the Notice would be issued.

(2) ***Referral Back to INT:*** If the Evaluation Officer determines that the proposed Notice does not contain sufficient evidence to support a finding that the Respondent engaged in a Sanctionable Practice, the Evaluation Officer shall not issue the Notice and shall notify the Integrity Vice President of the decision and the basis therefor. The Integrity Vice President may resubmit a proposed Notice to the Evaluation Officer after making appropriate amendments, in which case the procedures set out in Section 9(1) shall apply to the resubmitted proposed Notice.

(3) ***Issuance of Notice:*** If the Evaluation Officer determines that the proposed Notice contains sufficient evidence to support a finding that the Respondent engaged in a Sanctionable Practice, the Evaluation Officer shall issue the Notice to the Respondent and shall notify the Chair of the Sanctions Board (the "Sanctions Board Chair") and the Integrity Vice President.

(4) ***Recommendation of Appropriate Sanction:*** The Evaluation Officer shall include in the Notice a recommendation of the appropriate sanction to be imposed on each Respondent, which sanction shall be selected from the range of possible sanctions identified in Section 19(3) of these Procedures and with due consideration, to the extent applicable, of the factors in Section 19(5).[15]

(5) ***Respondent's Explanation in Opposition to Temporary Suspension:*** Within thirty (30) days after the date of issuance of the Notice, the Respondent may explain in writing to the Evaluation Officer why it believes that, notwithstanding the evidence set forth in the Notice, the Respondent should remain eligible to be awarded additional contracts for Bank Projects or other World Bank Group financing or otherwise participate in

[14] These include Sanctionable Practices subject to the IBRD/IDA Anti-Corruption Guidelines and Obstructive Practices. 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 VDP Terms & Conditions, the Evaluation Officer shall close the matter and shall notify the Integrity Vice President accordingly if the proposed Notice pertains to VDP Terms & Conditions which terminated more than ten (10) years prior to the date on which the Notice would be issued.

[15] Provided, however, that for a case involving an alleged violation of a Material Term of the VDP Terms & Conditions, the Evaluation Officer shall note the imposable sanction of mandatory ten (10)-year debarment.

new activities under Bank Projects, pending a final outcome of the sanctions proceedings (an "Explanation").[16]

(6) ***Temporary Suspension:*** Unless the Evaluation Officer determines otherwise upon consideration of the Explanation submitted by the Respondent pursuant to Section 9(5), the Respondent shall be temporarily suspended, pending a final outcome of the sanctions proceedings, upon the earlier of (A)(i) failure by the Respondent to submit an Explanation in accordance with Section 9(5) above, or (ii) determination by the Evaluation Officer that the temporary suspension shall come into effect notwithstanding the reasons set forth in the Explanation, or (B) the lapse of sixty (60) days after the date of issuance of the Notice, from:

> (a) eligibility to be awarded additional contracts for Bank Projects, in cases subject to the Bank's Procurement and Consultant Guidelines. Such temporary suspension shall likewise extend to eligibility to participate in new activities under Bank Projects;
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> (b) eligibility to participate in new activities[17] under Bank Projects, in cases subject to the IBRD/IDA Anti-Corruption Guidelines. Such temporary suspension may extend to eligibility to be awarded additional contracts for Bank Projects if the Evaluation Officer determines that the Respondent is a potential provider of goods, works or services subject to the Procurement and Consultant Guidelines.

The Evaluation Officer shall notify the IFC Evaluation Officer, the MIGA Evaluation Officer and the Bank Guarantee Project Evaluation Officer of the temporary suspension so that they may impose a temporary suspension with respect to their own operations, pending the final outcome of the sanctions proceedings. A suspension from eligibility for Bank Projects shall be posted on the Bank's Client Connection website unless the Respondent has informed the Evaluation Officer in writing that the Respondent shall voluntarily refrain from seeking or obtaining World Bank Group financing and from being awarded contracts for World Bank Group projects or otherwise participating in new

[16] The Temporary Suspension shall not apply to a case involving an alleged violation of a Material Term of the VDP Terms & Conditions. However, the Respondent may explain why it believes that the Evaluation Officer should withdraw the Notice pursuant Section 9(9).

[17] *See* footnote 7 for definition of "new activities."

activities under Bank Projects pending a final outcome of the sanctions proceedings.[18]

(7) ***Review by the Sanctions Board:*** If the Respondent informs the Sanctions Board pursuant to Section 10(2) that it desires to contest the allegations and/or the sanction recommended[19] by the Evaluation Officer in the Notice, the Secretary shall so notify the Sanctions Board Chair, the Evaluation Officer and the Integrity Vice President, and the matter shall be referred to the Sanctions Board for its review and decision pursuant to its Statute.[20]

(8) ***Sanctions in Uncontested Proceedings:*** If the Respondent does not inform the Sanctions Board pursuant to Section 10(2) of the Respondent's desire to contest the allegations and/or the sanction recommended by the Evaluation Officer in the Notice within ninety days (90) days after the date of issuance of the Notice (including in those cases where, pursuant to Section 9(6), the Evaluation Officer has determined that the temporary suspension shall not come into effect), the Sanctions Board shall, through the Secretary and without need of a hearing, issue a Sanctions Board decision imposing the sanction recommended by the Evaluation Officer in the Notice.

(9) ***Withdrawal of Notice:*** Within thirty (30) days after the date of the submission of an Explanation, the Evaluation Officer may withdraw the Notice upon concluding that there is manifest error or clear basis for supporting a finding of insufficiency of evidence against the Respondent. The Evaluation Officer shall notify the Respondent and the Integrity Vice President of the withdrawal and the reasons therefor, and the proceedings shall be closed. Such withdrawal and closure shall be subject to INT's opportunity to submit a revised proposed Notice 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 Section 9(1).

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[18] In the event that the Respondent violates such undertakings, the Respondent's ineligibility will be posted on the Bank's Client Connection website. Such violation, if committed knowingly or recklessly, shall be considered, *per se*, a fraudulent practice and would be a separate sanctionable offense.

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

[20] The terms "Sanctions Board," "Sanctions Board Panel," "Sanctions Board Chair" and "Panel Chair" shall have the meanings intended under the Sanctions Board Statute.

V. SUBMISSIONS TO THE EVALUATION OFFICER AND TO THE SANCTIONS BOARD

Section 10. Written Submissions.

(1) ***Respondent's Explanation in Opposition to Temporary Suspension:*** The Respondent's Explanation opposing a temporary suspension shall consist of a single document not exceeding twenty single-sided pages, unless the Evaluation Officer approves a longer submission, and shall present arguments by the Respondent and summarize any credible evidence in support thereof. No other opportunity to oppose a temporary suspension, either orally or in writing, shall be provided to the Respondent.

(2) ***Respondent's Response to Notice of Sanctions Proceedings:*** Within ninety (90) days after issuance of the Notice, the Respondent may submit to the Sanctions Board through the Secretary a written response to the allegations and recommended sanction contained in the Notice (the "Response"). The Response may contain written arguments and evidence, subject to Section 10(7), and shall contain a certification, signed by an individual Respondent or an authorized officer of a Respondent that is an entity, that the information contained therein is true, complete and correct to the best of the signer's knowledge after the exercise of reasonable due diligence in reviewing the matter and the records of the Respondent within Respondent's possession or control.

(3) ***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").

(4) ***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 the hearing to be held on the matter, the Sanctions Board Chair or the Chair of the Sanctions Board Panel (the "Panel Chair") convened to hear the case pursuant to Articles VII or VIII of the Sanctions Board Statute 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 or the Panel 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.

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

(6) ***Time Period for Filing Submissions:*** Time periods for filing submissions shall be those specified in Sections 9 and 10 of these Procedures, subject to any reasonable extension of time granted as a matter of discretion by the Sanctions Board Chair or the Panel Chair in accordance with the Sanctions Board Statute.

(7) ***Length:*** The Sanctions Board Chair or the Panel Chair shall, in accordance with the Sanctions Board Statute, set reasonable limits for the length of written submissions.

Section 11. Admissions of Culpability.

The Respondent may admit all or part of any allegation set forth in the Notice. The Respondent may also present evidence and arguments of mitigating circumstances,[21] the intervening implementation of programs to detect or prevent Sanctionable Practices or other facts relevant to the Sanction Board's decision 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 12. Distribution of Written Materials.

(1) ***Distribution of Materials to INT and the Respondent:*** The Secretary shall provide to INT and the Respondent, in a timely manner, copies of all written submissions and evidence, records of any related proceedings and any other materials received or issued by the Sanctions Board relating to the proceedings, except as provided in Section 12(3). The Respondent shall have no right to review or obtain any other information or documents in the Bank's possession.

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

(2) ***Distribution of Materials to Other Respondents in Sanctions Proceedings:*** With respect to materials submitted to the Sanctions Board in a Respondent's sanctions proceedings the Secretary may at any time, upon approval of the Sanctions Board or the Sanctions Board Panel, make such materials available to other Respondents in sanctions proceedings involving related allegations, facts or matters. In determining whether to approve the disclosure of such materials, the Sanctions Board Panel shall consider, among other factors, the standard for withholding sensitive materials set forth in Section 12(3).

(3) ***Distribution of Sensitive Materials:*** Although all evidence presented to the Sanctions Board by INT, including all relevant evidence in INT's possession or known to INT that would reasonably tend to exculpate the Respondent or mitigate the Respondent's culpability, shall ordinarily be provided by the Sanctions Board to the Respondent, the Sanctions Board or the Sanctions Board Panel may, in its discretion and upon request by INT, withhold particular evidence 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 participant in the VDP.

Section 13. Contents of Record.

The record to be considered by the Sanctions Board shall consist of the Notice, the Response, the Reply, all other related written submissions of arguments and evidence and all arguments presented at any hearing before the Sanctions Board, including any Explanation submitted pursuant to Section 9(5). The record shall be confidential and not be available to the public.

VI. HEARINGS

Section 14. Applications.

Should the Respondent or INT desire that the Sanctions Board hold a hearing on the allegations against the Respondent, such request shall be made in the Respondent's Response or in INT's Reply. If a request for a hearing is made, 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 the 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, as defined in Section 13, without a hearing.

Section 15. Representation at Hearings.

(1) ***INT:*** INT shall be represented in a sanctions proceeding by a representative who may or may not be an employee of the World Bank Group.

(2) ***The Respondent:*** 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 16. Conduct of Hearings.

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

(2) ***Presentations:***

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

(b) **Length:** The Sanctions Board Chair or the Panel Chair shall set a reasonable period of time for each presentation.

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

(d) **Live Testimony:** No live witness testimony shall be taken, except that one or more witnesses may be called and questioned only by members of the Sanctions Board or the Sanctions Board Panel. A Respondent who appears in person or, in the case of a Respondent that is an entity, through an authorized representative, may make a statement during the hearing. There shall be no cross-examination, although rebuttal evidence may be presented during the hearing.

(e) **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.[22]

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

VII. EVIDENCE

Section 17. Forms of Evidence.

Any kind of evidence may form the basis of arguments presented in a sanctions proceeding and conclusions reached by the Sanctions Board. The Sanctions Board or the Sanctions Board Panel shall have discretion to determine the relevance, materiality, weight and sufficiency of all evidence offered. Hearsay evidence or documentary evidence shall be given the weight deemed appropriate by the Sanctions Board. Without limiting the generality of the foregoing, the Sanctions Board or the Sanctions Board Panel shall have the discretion to infer purpose, intent and/or knowledge on the part of the Respondent, or any other party, from circumstantial evidence before it. Formal rules of evidence shall not apply.

Section 18. 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 ("attorney-client communications") and writings reflecting the mental impressions, opinions, conclusions or legal theories of an attorney in connection with a legal representation ("attorney work product") shall be privileged and exempt from disclosure.

VIII. IMPOSITION OF SANCTIONS BY THE SANCTIONS BOARD

Section 19. Findings and Sanction Decision.

(1) ***Basis for Findings:*** The review and deliberation of the Sanctions Board or the Sanctions Board Panel shall be restricted to

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

the record as defined in Section 13 and to other facts contained in the public record.

(2) *Findings:*

(a) **Standard of Proof:** The Sanctions Board or the Sanctions Board Panel shall determine whether the evidence presented by INT, as refuted 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.

(b) **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.

(c) **Insufficient Evidence:** If the Sanctions Board or the Sanctions Board Panel determines that it is more likely than not that the Respondent did not engage in a Sanctionable Practice, the Sanctions Board or the Sanctions Board Panel shall notify INT and the Respondent in writing, and the proceedings shall be terminated. The Notice may be resubmitted if evidence not available at the time of filing of the Notice is subsequently obtained.

(d) **Sanctions Board's Decision:** If the Sanctions Board or the Sanctions Board Panel determines that it is more likely than not that the Respondent did engage in a Sanctionable Practice, it shall impose an appropriate sanction on the Respondent, which sanction shall be selected from the range of possible sanctions identified in Section 19(3). In determining the appropriate sanction, the Sanctions Board or the Sanctions Board Panel shall not be bound by the recommendation of the Evaluation Officer.

(3) *Range of Possible Sanctions*

(a) **Reprimand:** The Sanctions Board or the Sanctions Board Panel may decide that the Respondent be reprimanded in the form of a formal "Letter of Reprimand" of the Respondent's conduct.

(b) **Debarment:** Debarment shall apply as follows:

(i) For cases subject to the Bank's Procurement and Consultant Guidelines, the Sanctions Board or the Sanctions Board Panel may decide that the Respondent be declared ineligible, either indefinitely or for a stated period of time, to be awarded a contract subject to such Guidelines for any Bank Project;[23]

(ii) For cases subject to the IBRD/IDA Anti-Corruption Guidelines, the Sanctions Board or the Sanctions Board Panel may decide that the Respondent be 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;[24]

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

(iv) The ineligibility resulting from debarment shall extend across the World Bank Group, including IFC, MIGA and Bank Guarantee. 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.

(c) **Conditional Non-Debarment:** The Sanctions Board or the Sanctions Board Panel may decide that the Respondent be required to comply with certain remedial, preventative or other measures as a condition to avoid debarment from World Bank Group Projects. In the event the Respondent fails to demonstrate compliance with the conditions within the time periods established by the

[23] If the Sanctions Board or the Sanctions Board Panel determines that such Respondent participates, or may participate, in any activity subject to the IBRD/IDA Anti-Corruption Guidelines, the Respondent shall also be sanctioned pursuant to subparagraph (ii).

[24] If the Sanctions Board or the Sanctions Board Panel 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).

Sanctions Board, a debarment would automatically become effective for a period of time established by the Sanctions Board or the Sanctions Board Panel.

(d) **Debarment with Conditional Release:** The Sanctions Board or the Sanctions Board Panel may decide that the Respondent be made subject to debarment with conditional release, under which the Respondent's period of debarment would be reduced or terminated if the Respondent demonstrates compliance with the conditions of release set forth in the decision of the Sanctions Board or the Sanctions Board Panel, such as introduction and/or implementation of corporate compliance or ethics programs, compliance with procurement requirements or other measures. Such debarment with conditional release shall also result in cross-debarment as outlined in Section 19(3)(b).

(e) **Restitution Requirements:** The Sanctions Board or the Sanctions Board Panel may decide to require the Respondent to make restitution of diverted funds to the Borrower or to any other party.

(f) **Combination of Sanctions:** The Sanctions Board or the Sanctions Board Panel may decide to impose one or more of the above sanctions in the alternative or in combination.

(g) **Multiple Sanctionable Practices**: For cases involving multiple Sanctionable Practices, the Sanctions Board or the Sanctions Board Panel may impose the most severe sanction for the most serious Sanctionable Practice. However, when warranted by the circumstances,[25] the Sanctions Board or the Sanctions Board Panel may impose cumulative sanctions pertaining to the multiple Sanctionable Practices.

(4) ***Parties Subject to Sanction:*** When the Sanctions Board or the Sanctions Board Panel imposes a sanction on a particular Respondent, the Sanctions Board or the Sanctions Board Panel may also impose an appropriate sanction on any individual or organization that, directly or indirectly, controls or is controlled by the Respondent.

(5) ***Factors Affecting the Sanction Decision:*** Except for cases involving the violation of a Material Term of the VDP Terms &

[25] An example would be a corrupt practice coupled with an obstructive practice.

Conditions for which there is a mandatory sanction, the Sanctions Board or the Sanctions Board Panel may consider the following factors in determining an appropriate sanction:

(a) egregiousness and severity of the Respondent's conduct;

(b) degree of involvement of the Respondent in the Sanctionable Practice (including whether the conduct involved was "active" or "passive");

(c) magnitude of any losses caused by the Respondent and damage caused by the Respondent to the credibility of the procurement process;

(d) past conduct of the Respondent involving a Sanctionable Practice;

(e) breach or attempted breach of the Respondent's undertaking pursuant to Section 9(6) to voluntarily refrain from seeking or obtaining World Bank Group financing, from being awarded contracts for World Bank Group Projects or otherwise participating in new activities under Bank Projects pending a final outcome of the sanctions proceedings;

(f) mitigating circumstances, including the extent to which the Respondent cooperated in the investigation and whether such cooperation is of substantial benefit to the World Bank Group;

(g) savings of World Bank Group resources or facilitation of an investigation that was occasioned by the Respondent's admission of culpability or cooperation in the investigation or sanctions process;

(h) period of temporary suspension already served by the Respondent; and

(i) any other factor that the Sanctions Board or the Sanctions Board Panel deems relevant.

Section 20. Entry Into Force of Final Decision.

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

(2) ***Dissemination of Decision:*** The decision of the Sanctions Board or the Sanctions Board Panel shall be transmitted by the Sanctions Board Secretary to the Respondent and INT; the Executive Directors representing the Borrower concerned and the country of the Respondent; and IFC and MIGA.

IX. DISCLOSURE

Section 21. Disclosure of a Sanction to the Public.

If a sanction is imposed on a Respondent, or on another individual or organization as provided in Section 19(4), information concerning the identity of each sanctioned party and the sanctions imposed shall be publicly disclosed.

Section 22. Disclosure of Information Obtained in the Course or as a Result of a Sanctions Proceeding to Government Authorities and Other Organizations.[26]

(1) ***Information Pertaining to Illegal Activities:*** If the Bank determines that the law of a member country may have been violated by a Respondent, the Bank may at any time make available to its government counterpart information relating to such potential violation. In determining whether to disclose such information, the Bank shall consider, among other factors, the standard for withholding sensitive information set forth in Section 12(3).

(2) ***Information Pertaining to a Project Financed by Another Organization or Agency:*** If the Bank determines that there is information relating to a Sanctionable Practice in connection with a project financed by another international or multinational organization, including another development bank, or by an agency of a member government that promotes international development, the Bank may at any time make such information available to that organization or agency. In determining whether to disclose such information, the Bank shall consider, among other factors, the standard for withholding sensitive information set forth in Section 12(3).

(3) ***Sharing of Materials Submitted to the Sanctions Board With Other Organizations or Agencies:*** The Bank may at any time make available materials submitted to the Sanctions Board to

[26] The Bank may withhold information if it determines that disclosure would violate any undertaking by the Bank in favor of a VDP participant.

another international or multinational organization, including another development bank, or to an agency of a member government that promotes international development, where the Bank and such organization or agency have agreed that the organization or agency shall make similar information available from its own files to the Bank. In determining whether to approve the disclosure of such materials, the Bank shall consider, among other factors, the standard for withholding sensitive materials set forth in Section 12(3).

X. ADDITIONAL PROVISIONS

Section 23. Effective Date.

These Procedures shall become effective on October 15, 2006, and shall apply to all proceedings for which a Notice is issued on or after that date.