

## AGREEMENT FOR MUTUAL ENFORCEMENT OF DEBARMENT DECISIONS

### PREAMBLE

The African Development Bank Group<sup>1</sup>, the Asian Development Bank, the European Bank for Reconstruction and Development, the Inter-American Development Bank Group<sup>2</sup> and the World Bank Group<sup>3</sup> (each a “Participating Institution”, collectively the “Participating Institutions”):

Acknowledge their membership in the International Financial Institutions Anti-Corruption Task Force and the Uniform Framework for Preventing and Combating Fraud and Corruption, dated September 17, 2006 (the “Uniform Framework”) and attached hereto as Annex A.

Reaffirm the provisions of paragraph 5 of the Uniform Framework that:

“[e]ach of the member institutions of the IFI Task Force has a distinct mechanism for addressing and sanctioning violations of its respective anti-corruption policies,”

“mutual recognition of these enforcement actions would substantially assist in deterring and preventing corrupt practices,” and

Confirm the importance of establishing a system for mutual recognition of enforcement actions in furtherance of the provisions of paragraph 5 of the Uniform Framework.”

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<sup>1</sup>The African Development Bank Group consists of the African Development Bank, the African Development Fund and Nigeria Trust Fund. The African Development Bank and the African Development Fund are public international organizations and the Nigeria Trust Fund is a fund administered by the African Development Bank pursuant to a trust agreement.

<sup>2</sup>The Inter-American Development Bank Group consists of the Inter-American Development Bank (IDB), the Inter-American Investment Corporation (IIC) and the Multilateral Investment Fund (MIF), which cooperate on operations in their developing member countries. The IDB and the IIC are public international organizations. The MIF is a fund under the administration of the IDB. Each has a distinct legal status, governance structure and assets.

<sup>3</sup> The World Bank Group is comprised of the International Bank for Reconstruction and Development (IBRD), the International Development Association (IDA), the International Finance Corporation (IFC), the Multilateral Investment Guarantee Agency (MIGA), and the International Centre for Settlement of Investment Disputes (ICSID).



Now agree as follows:

1. Each Participating Institution will enforce debarment decisions made by another Participating Institution, in accordance with the terms and conditions of this Agreement.

## CORE PRINCIPLES

2. Each Participating Institution hereby represents that its internal mechanisms for addressing and sanctioning violations of its respective anti-corruption policies are consistent with, and incorporate, the following core principles:
  - a. Adoption of the harmonized definitions of sanctionable (also known as prohibited) practices that include (i) Fraudulent Practice, (ii) Corrupt Practice, (iii) Coercive Practice, and (iv) Collusive Practice, as defined in the Uniform Framework;
  - b. Adherence to the International Financial Institutions Principles and Guidelines for Investigations as they appear in the Uniform Framework, which require each Participating Institution to conduct fair, impartial and thorough investigations;
  - c. Application of a process to determine whether a sanctionable practice has occurred and the appropriate enforcement action to address it that:
    - i. Includes an internal authority responsible for the investigative function and a distinct decision-making authority;
    - ii. Operates pursuant to written and publicly available procedures that require (a) notice to the entity or entities and/or individual(s) against whom the allegations are made, and (b) an opportunity for those entities and individuals to respond to the allegations;
    - iii. Employs the standard of proof embodied in the Uniform Framework being “more probable than not,” or its equivalent; and
    - iv. Provides for a range of sanctions that takes into account the principle of proportionality, including mitigating and aggravating factors.



## MODALITIES FOR MUTUAL ENFORCEMENT OF DEBARMENT DECISIONS

3. Each Participating Institution will promptly notify the other Participating Institutions of each debarment decision qualifying under Paragraph 4 made by its decision-making authority, and any modification thereto. The notice shall include (a) the names of the entities or individuals sanctioned, (b) the sanctionable practice(s) found to have been committed, and (c) the terms of the debarment or modification.
4. Upon receipt of such notice, the other Participating Institutions will enforce such decision as soon as practicable, subject to the following criteria:
  - a. The decision was based, in whole or in part, on a finding of a commission of one or more of the sanctionable practices defined in the Uniform Framework;
  - b. The decision is made public by the Sanctioning Institution;
  - c. The initial period of debarment exceeds one year;
  - d. The decision was made after this Agreement has entered into force with respect to the Sanctioning Institution;
  - e. The decision by the Sanctioning Institution was made within ten years of the date of commission of the sanctionable practice; and
  - f. The decision of the Sanctioning Institution was not made in recognition of a decision made in a national or other international forum.
5. The period of debarment and any modifications thereto will be determined solely by the Sanctioning Institution.
6. Each Participating Institution may pursue independent debarment proceedings for separate sanctionable practices by the same entity or individual already debarred by the Sanctioning Institution, which may result in concurrent, consecutive or subsequent periods of debarment for the entity or individual.
7. Notwithstanding the provisions above, a Participating Institution may decide not to enforce a debarment by the Sanctioning Institution where such enforcement would be



inconsistent with its legal or other institutional considerations and, in such case, will promptly notify the other Participating Institutions of such decision.

## **SIGNATURE AND ENTRY INTO FORCE**

8. This Agreement will enter into force for a Participating Institution upon (a) its signature of this Agreement; and (b) notice by such Participating Institution that it has fulfilled all of the requirements for the implementation of this Agreement.

## **ADDITIONAL SIGNATORIES**

9. Following its entry into force, other international financial institutions may join this Agreement upon the consent of all Participating Institutions and signature of a Letter of Adherence by the international financial institution substantially in the form provided in Annex B. Upon adherence, such international financial institution shall become a Participating Institution for purposes of this Agreement.

## **WITHDRAWAL**

10. A Participating Institution may withdraw from this Agreement by delivering a written notice of withdrawal to the Heads of other Participating Institutions.

## **PUBLICATION**

11. Each Participating Institution may publish this Agreement in accordance with its policies for disclosure of information.

## **MISCELLANEOUS**

12. Each Participating Institution will designate a unit responsible for receiving and issuing notices pursuant to this Agreement. The identity of such responsible unit shall be notified to the other Participating Institutions in writing.



Dated as of: **9 April, 2010**

Donald Kaberuka  
African Development  
Bank Group

Haruhiko Kuroda  
Asian Development  
Bank

Thomas Mirow  
European Bank for  
Reconstruction and  
Development

Luis Alberto Moreno  
Inter-American Development  
Bank Group

Robert B. Zoellick  
World Bank Group



European  
Investment  
Bank



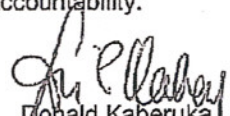
**Joint Statement by the Heads of the  
African Development Bank Group,  
Asian Development Bank,  
European Bank for Reconstruction and Development,  
European Investment Bank Group,  
Inter-American Development Bank Group,  
International Monetary Fund, and  
World Bank Group**

Singapore, September 17, 2006 – Today, the leaders of the African Development Bank Group, the Asian Development Bank, the European Bank for Reconstruction and Development, the European Investment Bank Group, the Inter-American Development Bank Group, the International Monetary Fund, and the World Bank Group agreed on a framework for preventing and combating fraud and corruption in the activities and operations of their institutions. This builds on the work of a joint Task Force established on February 18, 2006 by the leaders of these institutions.

The institutions recognize that corruption undermines sustainable economic growth and is a major obstacle to the reduction of poverty. The leaders have outlined the following joint actions to combat fraud and corruption:

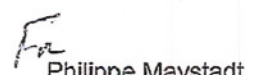
- agreement in principle on standardized definitions of fraudulent and corrupt practices for investigating such practices in activities financed by the member institutions;
- agreement on common principles and guidelines for investigations;
- agreement to strengthen the exchange of information, as appropriate and with due attention to confidentiality, in connection with investigations into fraudulent and corrupt practices;
- agreement on general integrity due diligence principles relating to private sector lending and investment decisions;
- agreement to explore further how compliance and enforcement actions taken by one institution can be supported by the others.

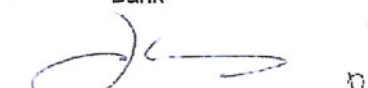
Further, the institutions will continue to work together to assist their member countries in strengthening governance and combating corruption, in cooperation with civil society, the private sector, and other stakeholders and institutions such as the press and judiciary with the goal to enhance transparency and accountability.

  
Donald Kaberuka  
African Development  
Bank

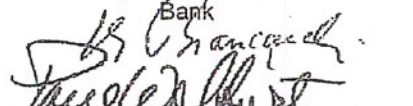
  
Haruhiko Kuroda  
Asian Development  
Bank

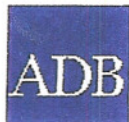
  
Jean Lemierre  
European Bank for  
Reconstruction and  
Development

  
Philippe Maystadt  
European Investment  
Bank

  
Luis Alberto Moreno  
Inter-American Development Bank

  
Rodrigo de Rato y Figaredo  
International Monetary Fund

  
Paul Wolfowitz  
World Bank



**The World Bank Group**

# **INTERNATIONAL FINANCIAL INSTITUTIONS ANTI-CORRUPTION TASK FORCE**

September 2006

## **UNIFORM FRAMEWORK FOR PREVENTING AND COMBATING FRAUD AND CORRUPTION**

On February 18, 2006, the leaders of the African Development Bank Group, Asian Development Bank, European Bank for Reconstruction and Development, European Investment Bank Group, International Monetary Fund, Inter-American Development Bank Group and the World Bank Group agreed to establish a Joint International Financial Institution Anti-Corruption Task Force to work towards a consistent and harmonized approach to combat corruption in the activities and operations of the member institutions. The leaders of the member institutions recognize that a unified and coordinated approach is critical to the success of the shared effort to fight corruption and prevent it from undermining the effectiveness of their work.

The International Financial Institutions (IFI) Task Force has agreed on the following recommended elements of a harmonized strategy to combat corruption in the activities and operations of the member institutions.<sup>1</sup>

### **1. Definitions of Fraudulent and Corrupt Practices**

Critical to the success of a harmonized approach is a common understanding of the practices prohibited. To this end, the Task Force has agreed in principle on the following standardized definitions of fraudulent and corrupt practices for investigating such practices in activities financed by the member institutions.

- A corrupt practice is the offering, giving, receiving, or soliciting, directly or indirectly, anything of value to influence improperly the actions of another party.
- 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.
- 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.
- A collusive practice is an arrangement between two or more parties designed to achieve an improper purpose, including influencing improperly the actions of another party.

Each of the member institutions will determine implementation within its relevant policies and procedures, and consistent with international conventions.

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<sup>1</sup> The Management of the IMF supports and encourages these efforts to fight corruption in project lending and dealings with private firms. Unlike the other member institutions, the IMF does not engage in project lending or lending to the private sector. It maintains procedures tailored to the circumstances of the IMF to deal with potential issues of staff misconduct and safeguard the use of Fund resources.



## **2. Principles and Guidelines for Investigations**

It is recognized that detection, investigation and sanctions are vital to effectively deterring corrupt activities. All investigations must be thorough, professional and respectful of the parties involved. To promote consistency in the practices of the member institutions' investigative units, the Task Force has endorsed the attached common principles and guidelines for investigations.

## **3. Exchange of Information**

The Task Force has recognized that exchange of relevant information among member institutions will promote a common approach and enhance cooperation in addressing integrity issues in their activities. It is also critical to ensure that the confidentiality of information be maintained so whistleblowers and others remain confident in their ability to communicate with member institutions. The IFI Task Force has agreed that the institutions should exchange information, as appropriate, in connection with investigations into fraudulent and corrupt practices consistent with these principles.

## **4. Integrity Due Diligence**

The member institutions of the IFI Task Force recognize the need to promote ethical business practices and good governance consistent with international standards as part of their lending and investment decisions. Accordingly, the Task Force recommends that member institutions will be guided by the following general principles in analyzing integrity issues relating to private sector lending and investment decisions:

- adequate "know-your-customer" procedures to ensure identification of beneficial ownership;
- close scrutiny of parties that have been convicted of or are under investigation for serious crimes, investigated or sanctioned by a regulatory body or appearing on a sanctions list recognized by the member institution;
- close scrutiny of parties involved in civil litigation involving allegations of financial misconduct;
- close scrutiny of Politically Exposed Persons consistent with the recommendations of the Financial Action Task Force;
- identification of mitigants and enforcement of covenants that address integrity risks; and
- ongoing monitoring of integrity risks through portfolio management.

## **5. Mutual Recognition of Enforcement Actions**

Each of the member institutions of the IFI Task Force has a distinct mechanism for addressing and sanctioning violations of its respective anti-corruption policies. The Task Force recognizes that mutual recognition of these enforcement actions would substantially assist in deterring and preventing corrupt practices. The member institutions will explore further how compliance and enforcement actions taken by one institution can be supported by the others. As an immediate

step, the Task Force recommends that each member institution should seek to require all bidders, sponsors, or other firms or individuals participating in activities financed by a member institution to disclose any sanction imposed on that firm or individual by a member institution.

## **6. Support for Anti-Corruption Efforts of Member Countries**

The Task Force recognizes the critical importance of ensuring integrity within the member institutions as well as the activities they finance. The Task Force also supports the initiatives of member countries and other stakeholders, including the press and judiciary, to increase transparency and accountability, strengthen governance and combat corruption.

To this end, the Task Force recommends that member institutions continue to develop analytical tools designed to assess risks of corruption in individual countries, sectors and regions and institutional capabilities to respond to those risks. In addition, member institutions should, within their respective mandates, seek to develop a proactive and coordinated approach to assist member countries and the private sector in the development of institutions, as well as administrative systems and policies that eliminate opportunities for fraudulent and corrupt practices.

The Task Force also recommends that the member institutions work to strengthen coordination on governance, integrity and anti-corruption activities and technical assistance with other donors, including in their activities in individual countries, to avoid duplication and maximize synergies. Where appropriate, member institutions also should assist executing agencies in evaluating integrity risks among potential contractors and in developing good governance and anti-corruption mechanisms.

## INTERNATIONAL FINANCIAL INSTITUTIONS PRINCIPLES AND GUIDELINES FOR INVESTIGATIONS

### **PREAMBLE**

The following Institutions have jointly endorsed these common principles and guidelines for investigations conducted by their respective investigative units:<sup>2</sup>

- the African Development Bank Group
- the Asian Development Bank
- the European Bank for Reconstruction and Development
- the European Investment Bank Group
- the Inter-American Development Bank Group
- the World Bank Group

These principles and guidelines are intended to be used as guidance in the conduct of investigations in conjunction with the policies, rules, regulations, and privileges and immunities applicable in the Organization.<sup>3</sup>

For the purpose of this document, use of the term "Organization" includes reference to all institutions that are part of or related to the above-mentioned Institutions. The investigative units of each Organization are hereinafter referred to as the "Investigative Office."

### **GENERAL PRINCIPLES**

1. Each Organization shall have an Investigative Office responsible for conducting investigations.
2. The purpose of an investigation by the Investigative Office is to examine and determine the veracity of allegations of corrupt or fraudulent practices as defined by each institution including with respect to, but not limited to, projects financed by the Organization, and allegations of Misconduct on the part of the Organization's staff members.

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<sup>2</sup> The designated investigative units are the Office of the Auditor General of the African Development Bank Group, the Integrity Division of the Asian Development Bank, the Office of the Chief Compliance Officer of the European Bank for Reconstruction and Development, the Inspectorate General of the European Investment Bank Group, the Office of Institutional Integrity of the Inter-American Development Bank Group, the Department of Institutional Integrity of the World Bank Group. The Management of the IMF supports and encourages these efforts to fight corruption in project lending and dealings with private firms. Unlike the other Organizations, the IMF does not engage in project lending or lending to the private sector. It maintains procedures tailored to the circumstances of the IMF to deal with potential issues of staff misconduct and safeguard the use of Fund resources.

<sup>3</sup> These guidelines are not intended to confer, impose, or imply any duties, obligations, or rights actionable in a court of law or in administrative proceedings on the Organization carrying out the investigation. Nothing in the guidelines should be interpreted as affecting the rights and obligations of each Organization per its rules, policies and procedures, nor the privileges and immunities afforded to each Organization by international treaty and the laws of the respective members.

3. The Investigative Office shall maintain objectivity, impartiality, and fairness throughout the investigative process and conduct its activities competently and with the highest levels of integrity. In particular, the Investigative Office shall perform its duties independently from those responsible for or involved in operational activities and from staff members liable to be subject of investigations and shall also be free from improper influence and fear of retaliation.
4. The staff of the Investigative Office shall disclose to a supervisor in a timely fashion any actual or potential conflicts of interest he or she may have in an investigation in which he or she is participating, and the supervisor shall take appropriate action to remedy the conflict.
5. Appropriate procedures shall be put in place to investigate allegations of Misconduct on the part of any staff member of an Investigative Office.
6. Each Organization shall publish the mandate and/or terms of reference of its Investigative Office as well as an annual report highlighting the integrity and anti-fraud and corruption activities of its Investigative Office in accordance with its policies on the disclosure of information.
7. The Investigative Office shall take reasonable measures to protect as confidential any non-public information associated with an investigation, including the identity of parties that are the subject of the investigation and of parties providing testimony or evidence. The manner in which all information is held and made available to parties within each Organization or parties outside of the Organization, including national authorities, is subject to the Organization's rules, policies and procedures.
8. Investigative findings shall be based on facts and related analysis, which may include reasonable inferences.
9. The Investigative Office shall make recommendations, as appropriate, to the Organization's management that are derived from its investigative findings.
10. All investigations conducted by the Investigative Office are administrative in nature.

## **DEFINITIONS**

11. Misconduct is a failure by a staff member to observe the rules of conduct or the standards of behavior prescribed by the Organization.
12. The Standard of Proof that shall be used to determine whether a complaint is substantiated is defined for the purposes of an investigation as information that, as a whole, shows that something is more probable than not.

## **RIGHTS AND OBLIGATIONS**

### **Witnesses and subjects**

13. A staff member who qualifies as a "whistleblower" under the rules, policies and procedures of the Organization shall not be subjected to retaliation by the Organization. The Organization will treat retaliation as a separate act of Misconduct.

14. The Organization may require staff to report suspected acts of fraud, corruption, and other forms of Misconduct.
15. The Organization shall require staff to cooperate with an investigation and to answer questions and comply with requests for information.
16. Each Organization should adopt rules, policies and procedures and, to the extent that it is legally and commercially possible, include in its contracts with third parties, provisions that parties involved in the investigative process shall cooperate with an investigation.
17. As part of the investigative process, the subject of an investigation shall be given an opportunity to explain his or her conduct and present information on his or her behalf. The determination of when such opportunity is provided to the subject is regulated by the rules, policies and procedures of the Organization.

#### **Investigative Office**

18. The Investigative Office should conduct the investigation expeditiously within the constraints of available resources.
19. The Investigative Office should examine both inculpatory and exculpatory information.
20. The Investigative Office shall maintain and keep secure an adequate record of the investigation and the information collected.
21. The staff of the Investigative Office shall take appropriate measures to prevent unauthorized disclosure of investigative information.
22. The Investigative Office shall document its investigative findings and conclusions.
23. For purposes of conducting an investigation, the Investigative Office shall have full and complete access to all relevant information, records, personnel, and property of the Organization, in accordance with the rules, policies and procedures of the Organization.
24. To the extent provided by the Organization's rules, policies and procedures and relevant contracts, the Investigative Office shall have the authority to examine and copy the relevant books and records of projects, executing agencies, individuals, or firms participating or seeking to participate in Organization-financed activities or any other entities participating in the disbursement of Organization funds.
25. The Investigative Office may consult and collaborate with other Organizations, international institutions, and other relevant parties to exchange ideas, practical experience, and insight on how best to address issues of mutual concern.
26. The Investigative Office may provide assistance to and share information with other Investigative Offices.

## **PROCEDURAL GUIDELINES**

### **Sources of Complaints**

27. The Investigative Office shall accept all complaints irrespective of their source, including complaints from anonymous or confidential sources.
28. Where practicable, the Investigative Office will acknowledge receipt of all complaints.

### **Receipt of Complaint**

29. All complaints shall be registered and reviewed to determine whether they fall within the jurisdiction or authority of the Investigative Office.

### **Preliminary Evaluation**

30. Once a complaint has been registered, it will be evaluated by the Investigative Office to determine its credibility, materiality, and verifiability. To this end, the complaint will be examined to determine whether there is a legitimate basis to warrant an investigation.

### **Case Prioritization**

31. Decisions on which investigations should be pursued are made in accordance with the rules, policies and procedures of the Organization; decisions on which Investigative Activities are to be utilized in a particular case rest with the Investigative Office.
32. The planning and conduct of an investigation and the resources allocated to it should take into account the gravity of the allegation and the possible outcome(s).

### **Investigative Activity**

33. The Investigative Office shall, wherever possible, seek corroboration of the information in its possession.
34. For purposes of these guidelines, Investigative Activity includes the collection and analysis of documentary, video, audio, photographic, and electronic information or other material, interviews of witnesses, observations of investigators, and such other investigative techniques as are required to conduct the investigation.
35. Investigative Activity and critical decisions should be documented in writing and reviewed with managers of the Investigative Office.
36. Subject to the Organization's rules, policies and procedures, if, at any time during the investigation, the Investigative Office considers that it would be prudent, as a precautionary measure or to safeguard information, to temporarily exclude a staff member that is the subject of an investigation from access to his or her files or office or to recommend that he or she be suspended from duty, with or without pay and benefits, or to recommend placement of such other limits on his or her official activities, the Investigative Office shall refer the matter to the relevant authorities within the Organization for appropriate action.

*FORM OF*

**LETTER OF ADHERENCE  
TO THE  
AGREEMENT FOR MUTUAL ENFORCEMENT  
OF  
DEBARMENT DECISIONS**

[Date]

[Name of Additional Signatory]  
[Address]

Reference is made to the Agreement for Mutual Enforcement of Debarment Decisions dated as of April 9, 2010, (the "Agreement") by and among the African Development Bank Group, the Asian Development Bank, the European Bank for Reconstruction and Development, the Inter-American Development Bank Group, and the World Bank Group and, if applicable, name other Participating Institutions thereto.

The [Name of Additional Signatory] hereby agrees to the terms of the Agreement as a Participating Institution thereof and confirms that the [Name of Additional Signatory] has fulfilled all requirements for the implementation of the Agreement.

This Letter of Adherence shall become effective and the [Name of Additional Signatory] shall become a Participating Institution as of the last date of signature of this Letter of Adherence by the [Name of Additional Signatory] and the Participating Institutions named below who hereby record their consent as contemplated in Section 9 of the Agreement.

Sincerely yours,

[ADDITIONAL SIGNATORY]

\_\_\_\_\_  
[Name]  
[Title]

Date: \_\_\_\_\_

Letter of Adherence for  
[Name of Additional Signatory]  
Agreement for Mutual Enforcement  
of Debarment Decisions

**Acknowledged and agreed:**

**AFRICAN DEVELOPMENT BANK GROUP**

\_\_\_\_\_  
[Name]  
[Title]

Date: \_\_\_\_\_

**ASIAN DEVELOPMENT BANK**

\_\_\_\_\_  
[Name]  
[Title]

Date: \_\_\_\_\_

**EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT**

\_\_\_\_\_  
[Name]  
[Title]

Date: \_\_\_\_\_