

# AFRICAN DEVELOPMENT BANK GROUP TEMPORARY RELOCATION AGENCY



Officer-in-Charge  
Integrity and Anti-Corruption Department

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United States Senate  
Committee on Foreign Relations  
Washington, DC 20510-6225  
USA

**Attention: Ms. Nilmini Rubin**

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**SUBJECT: AfDB's RESPONSE TO SENATOR RICHARD G. LUGAR'S  
LETTER DATED 21 SEPTEMBER 2010**

Dear Ms Rubin,

President Kaberuka has asked me to respond to Senator Lugar's letter in which he sought information on the efforts of the AfDB to fight corruption associated with its lending programs and other operations.

The position in respect to the sanctions imposed by the African Development Bank over the last five years is given below.

One staff member was dismissed in 2006 for dishonesty in the line of duty. Following the Integrity and Anti-Corruption Unit's investigative findings in 2007-2008, twelve staff members were dismissed for various acts of professional misconduct. In 2009, the Bank debarred three companies and six individuals from participating in Bank funded projects for periods ranging from three to five years. The sanctioned entities violated applicable standards and rules of conduct for Bank-financed activities when they paid or received bribes and kickbacks, including submitting forged vouchers and receiving payments of services not rendered, which led to embezzlement of funds and subsequent loss of project funds.

During the period under review, one corruption case was referred to a National Authority in 2009, for further administrative investigations and/or subsequent prosecutions. This national authority is pursuing the case (still on-

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going), by conducting its own investigations, and has acknowledged it would bring criminal charges against any persons found to have committed fraudulent acts. Furthermore, the national authority cooperated with the Banks' Integrity and Anti-Corruption Department's (IACD's) investigations that led to the Bank's imposition of sanctions against the entities found to have violated its rules in the implementation of the project, which led to this case referral.

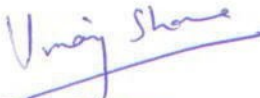
The Bank does not have a formal policy regarding prosecution in cases of corruption that it investigates because its investigations are purely administrative in nature and not criminal. The standard of proof required for such investigations is the preponderance of evidence, that is, the information as a whole is more probable than not. This standard may not meet with the requirements of proof applicable to criminal cases or prosecutions under national laws. The Bank does however, cooperate with national authorities on a case-by-case basis by making referrals, and in providing further evidence in its custody to the concerned authorities, particularly when it believes that criminal acts have occurred in its operations or activities and that referring to the national authorities could lead to prosecutions.

There are no restrictions or limitations on Bank personnel cooperating with prosecuting authorities other than those necessary to protect the immunities and privileges of the Bank and its staff members. In fact, under Bank Staff Rules, staff must cooperate with a Bank investigation- failure to do so is itself deemed a violation of Bank rules. However, safeguards and due process rights of subjects under investigation conform to Bank policies and Staff Rules, and where appropriate, the immunities and privileges of staff members may be waived by the President where, in his/her opinion, the immunity would impede the course of justice and can be waived without prejudice to the interest of the AfDB.

Finally, we hope this response helps and that you may wish to access further information on Bank's efforts in fighting fraud and corruption in its financed activities, on IACD website: <http://www.afdb.org/en/about-us/structure/auditor-generals-office/integrity-and-anti-corruption>.

The President sends his kind regards to Senator Lugar and requests that you do not hesitate to contact the undersigned in the event you may have further questions.

Yours faithfully,



Vinay Sharma