



Session Report

Please know you may design the structure of this report to better suit the session. It's important to capture the key outcomes and solutions proposed for the future.

Session Title: Ensuring Clean Development in Responding to Emergencies: How the MDBs address Corruption Risks, Empower Stakeholders and Work Together to Strengthen Integrity in Development Projects

Date & Time: Wednesday, 07.12.2022, 3:30 pm - 5:00 pm GMT -5

Report prepared by: Robert Delonis, Litigation Manager, Integrity Vice Presidency, World Bank Group

Moderated by: Gretta Fenner, Managing Director, Basel Institute on Governance

Panelists:

- Paula Santos Da Costa, Director of Integrity and Anti-Corruption Department, African Development Bank Group (AfDB)
- John Versantvoort, Head, Office of Anticorruption and Integrity, Asian Development Bank (ADB)
- Bernd Träxler, Chief Compliance Officer, European Bank for Reconstruction and Development (EBRD)
- Duncan Smith, Deputy Head, Fraud Investigations, European Investment Bank (EIB)
- Laura Profeta, Chief of the Office of Institutional Integrity, Inter-American Development Bank (IDB)
- Alan Bacarese, Director of Investigations, Strategy and Operations, Integrity Vice Presidency, World Bank Group (WBG)

Share the thematic focus of the session, its purpose and corruption risks?

In this session, moderated by the Managing Director of the Basel Institute on Governance, senior representatives of the integrity offices of six major multilateral development banks (MDBs) used [a hypothetical corruption case](#) – and related audience questions-and-answers – to illuminate how MDBs fight corruption and promote integrity in their projects.

Summary of panelists' contributions & discussion points (please be as detailed as possible)

The session began with [an introductory video](#) highlighting that:

- Addressing corruption is key to the success of development and emergency response projects. Such projects cannot achieve their goals if funds do not reach their intended beneficiaries.
- The MDBs' integrity offices use tools like due diligence, legal covenants, investigations, and sanctions to promote integrity at the project level. They also use other tools, such as the promotion of integrity compliance, proactive reviews, and client capacity building, to further these aims.
- The MDBs try to 'act as one' through harmonization initiatives. Examples include using common definitions of misconduct, and applying each others' sanctions decisions through cross-debarment.

The session then proceeded through a moderated set of questions and answers, anchored by the progressing case hypothetical.

With respect to the MDBs' use of integrity due diligence, **John Versantvoort, Head, Office of Anticorruption and Integrity, Asian Development Bank (ADB)** highlighted that:

- MDBs conduct due diligence on all their development projects. In sovereign lending, due diligence focuses on assessing and strengthening government agency capacity. In private sector operations, it follows a more classic counterparty evaluation approach.
- Based upon due diligence assessments, MDBs have multiple controls that they can utilize on projects, including procurement controls like standard bidding documents and clear contractor capacity requirements; and implementation controls like the use of supervision consultants, or MDB approval and oversight at key project milestones.

With respect to MDB projects' environmental and social dimensions – which include labor, health, safety, and sexual exploitation, abuse, and harassment – **Paula Santos Da Costa, Director of Integrity and Anti-Corruption Department, African Development Bank Group (AfDB)** and **Bernd Träxler, Chief Compliance Officer, European Bank for Reconstruction and Development (EBRD)**, highlighted that:

- The MDBs do environmental and social risk assessments for all projects, which include the consultation, engagement, and protection of vulnerable groups.
- Projects have grievance mechanisms to address environmental and social issues.
- These issues are not the province of the MDBs' integrity units. Instead, the MDBs have other compliance departments, and project accountability

mechanisms, that specifically focus on these issues. They provide an opportunity for project-affected persons to file complaints and seek redress; and they help hold the institutions accountable to their own environmental and social standards.

With respect to MDBs' contractual requirements, **Bernd Träxler, Chief Compliance Officer, European Bank for Reconstruction and Development (EBRD)** highlighted that:

- MDB controls appear on multiple levels, “building up” from the project to the contract level, always informed by project risks.
- The MDBs require tender and contract clauses that address fraud and corruption issues, as well as investigation rights. These clauses enable the MDBs to investigate and act if issues arise.
- The MDBs have their own procurement standards, which provide an additional process safeguard; and they may include additional requirements like covenants of integrity or representations about the absence of a conflict of interest. If these are falsely agreed to or claimed, that misrepresentation can be the basis for a fraud case.

With respect to MDBs' intake function, **Alan Bacarese, Director of Investigations, Strategy and Operations, Integrity Vice Presidency, World Bank Group (WBG)** highlighted that:

- Each MDB can receive hundreds or thousands of complaints per year, and don't have the resources to investigate everything.
- Thus, they have developed intake functions that review each complaint to assess whether it falls within their mandates (and refer it out if not). Complaints that fall within their mandate are carefully assessed to determine whether they should be subjected to full investigation.
- Even if not, these complaints are included in MDBs' risk assessment and mitigation work. This can lead to different real-time interventions, such as changes in ongoing procurements.

With respect to MDB investigations, **Duncan Smith, Deputy Head, Fraud Investigations, European Investment Bank (EIB), Laura Profeta, Chief of the Office of Institutional Integrity, Inter-American Development Bank (IDB), Paula Santos Da Costa, Director of Integrity and Anti-Corruption Department, African Development Bank Group (AfDB), and John Versantvoort, Head, Office of Anticorruption and Integrity, Asian Development Bank (ADB)** highlighted that:

- The MDBs investigate prohibited practices, such as fraud and corruption, and all related facts.
- MDB investigations are administrative, so the MDBs don't have coercive powers like search or arrest warrants. The MDBs rely on contractual audit and inspection risks, and skilled staff, to obtain evidence for cases.
- A typical investigation involves both document review and interviews, beginning with the complainant, expanding out to other potential witnesses, and then focusing on the subject – ‘following the money’ whenever possible. If a case

involves technical questions, an investigative office might involve outside experts, such as engineers.

- MDBs incentivize cooperation by providing sanction mitigation, or potentially even an entire waiver of sanction, for voluntary disclosures or significant investigative cooperation. Cooperation is also contractually required in MDB tenders and contracts, and non-cooperation can aggravate a sanction.
- Nevertheless, a lack of cooperation, and post-conflict environments, can present significant investigative challenges. The MDBs learned during COVID that remote investigations are possible, but in-person ones are more effective.
- If misconduct is found, the MDB can seek sanctions, such as debarment. As administrative proceedings, the standard of proof is 'more likely than not.'
- Prevention is extremely important, and investigations often prompt additional MDB steps to protect and strengthen an investigated project.

With respect to the demand side of corruption, the IDB's **Ms. Profeta** highlighted that:

- MDBs do not sanction government officials, but they use prevention, collective action, and referrals to try to address the issue.
- If a borrower government does not act to address a corrupt official, the MDBs possess operational remedies – such as insisting that an official be excluded from participation in its projects, and/or applying and strengthening project reporting mechanisms and supervision – to mitigate that risk.

With respect to whistleblower protection, the EBRD's **Mr. Träxler** highlighted that:

- The MDBs have whistleblower protection policies, but they principally apply to the MDBs' own staff and direct contractors.
- The MDBs protect third-party whistleblowers through confidentiality commitments, clear standards prohibiting retaliation (e.g., in contract clauses), and the possibility of sanctions for coercion if a potential witness is threatened or intimidated.

With respect to referrals, the WBG's **Mr. Bacarese** highlighted that:

- MDBs may refer investigative findings to national law enforcement if the MDB believes that national law may have been violated. Such referrals are not limited or filtered by the fact that the MDBs apply a different standard of proof from national law enforcement. The goal of a referral is not to prove a legal violation, but rather to prompt an independent domestic criminal investigation.
- The MDBs also have Memoranda of Understanding with national enforcement authorities, and other bodies, to facilitate their exchange of information and cooperation.
- Strategic referrals are, as noted by Ms. Profeta, a key way in which the MDBs attempt to address the demand side of corruption.

With respect to sanctions and settlements, the EIB's **Mr. Smith** and the AfDB's **Ms. Da Costa** highlighted that:

- All the MDBs have sanctions processes, which use debarment – i.e., exclusion from receiving future MDB-financed contracts for a specified period of time – as their main accountability mechanism.
- To promote corporate integrity, sanctions often include release conditions that involve the adoption or enhancement of a corporate integrity compliance program.
- Sanctions can be subject to cross-debarment by other the MDBs if certain criteria are met.
- MDBs also can settle cases. Common settlement elements include an admission of wrongdoing; a sanction (usually debarment) for a period of time; compliance and cooperation requirements; and sometimes other conditions, such as the payment of restitution or another financial remedy, or a commitment to settle related civil or criminal cases.

Main outcomes of session (include quotes/highlights and interesting questions from the floor)

Key Points and Quotes

MDBs play a critical role as lenders of development finance in high-risk environments. As the MDBs must operate in these environments, risk is inevitable. (“I wouldn’t give them my money, but I’m glad that the MDBs do!”) Thus, MDBs must act in a risk-aware way, and apply safeguards to protect development funds. The aim is not to stop projects, but to identify and mitigate risk.

Effective due diligence is critical to the success of development projects – be it through assessing and supporting client government agency capacity, or evaluating the integrity of potential private sector partners.

MDBs remain closely involved in projects throughout their lifecycle, promoting integrity all along the way. MDBs have also played a key role in capacity building – for example, through the gradual professionalization of public procurement worldwide, which the MDBs significantly supported as a means of fighting fraud and corruption.

Given their broad remits and limited resources, MDBs’ integrity offices must be selective in the matters they investigate and, if substantiated, sanction. But even if a complaint doesn’t result in a full investigation, the MDBs still analyze the complaint and use it to assess risks and strengthen systems. Received information does not go unreviewed or unused.

Prevention is a growing part of all MDB integrity office work. *“We need the strongest possible enforcement mechanisms, but we also need to prevent integrity issues in our projects.”*

The work of MDB integrity offices is challenging, but important and often successful. *“As Mandela said, ‘It always looks impossible until it’s done.’”*

Interesting Questions and Answers

Do the MDBs ever “phase in” their projects, adding further elements and larger funding amounts if initial phases are successful?

- This is common – both for technical reasons (as some project stages must necessarily follow others), and because client countries may have limited absorption capacity for development funds and projects. The goal is always to lend in a way most likely to achieve development success.

Do the MDBs use technology (e.g., smart contracts or geospatial analytics) to address project risks?

- Yes. The EIB, for example, has issued digital green bonds; and the WBG is exploring tools like AI and geospatial technologies to both supervise projects and aid integrity office investigations (e.g., by beginning a road investigation ‘remotely’ by geospatially sensing construction extent and quality).

Is there a mechanism for the MDBs to share information among themselves, addressing confidentiality and privacy considerations?

- Yes, and such information exchange occurs very frequently, on a range of different topics.

Do the MDBs’ country diagnostics inform their procurement processes?

- Yes; they are often applied using a three-tier country- / sector- / project-based risk assessment approach.

Do MDB tenders include beneficial ownership transparency?

- Increasingly yes, although such work is still in early stages.

Can journalists access the evidence and investigative reports generated by MDBs?

- Investigations and their evidence are confidential. However, MDB sanctions, and the facts of the misconduct that underlie them, are public.

MDB sanctions can sometimes also trigger domestic procurement exclusions, e.g., in the EU. Do the MDBs consider these collateral consequences in their sanctioning decisions?

- As the MDB sanctions are protective and administrative in nature, the MDBs do not factor potential collateral consequences in their decisions.
- Although the objective of the sanctions process is not to drive firms out of business – something that is actually very rare – the MDBs cannot ignore substantial corporate issues and misconduct. Thus, the MDBs’ focus is on the company’s misconduct.
- Sanctions have a significant deterrent effect, and their integrity compliance release conditions also help promote good behavior. As a result, recidivism by formerly-sanctioned companies is highly uncommon.

Key recommendations for the future and concrete follow-up actions

MDB systems are not perfect. In the future, MDBs should:

- Try to do more to inform project-affected people where to send complaints. Although MDBs have complaints mechanisms, and robust follow-up inspection and investigation functions, project-affected individuals often don't know where to submit complaints or concerns. Many MDB complaints come from disgruntled contractors, not civil society.
- Continue to explore ways to further incentivize investigative cooperation – “expanding from carrots [and sticks] to brownies.”

What can be done to create opportunities for scaling up the solutions discussed in the session? And by whom?

This question is less applicable to this panel, as it principally was an informative session on the MDBs' anti-corruption efforts.

Is there a specific call to action to key stakeholders, such as governments, businesses, funders, civil society, young people, journalists or any other stakeholder that should be noted? Please specify if relevant.

Collective action – among entities like the MDBs, government, and civil society – is critical to successfully fighting corruption. Join us in the fight!

Rapporteur's name and date submitted

Robert Delonis, 08.12.2022