



Fighting Fraud & Corruption

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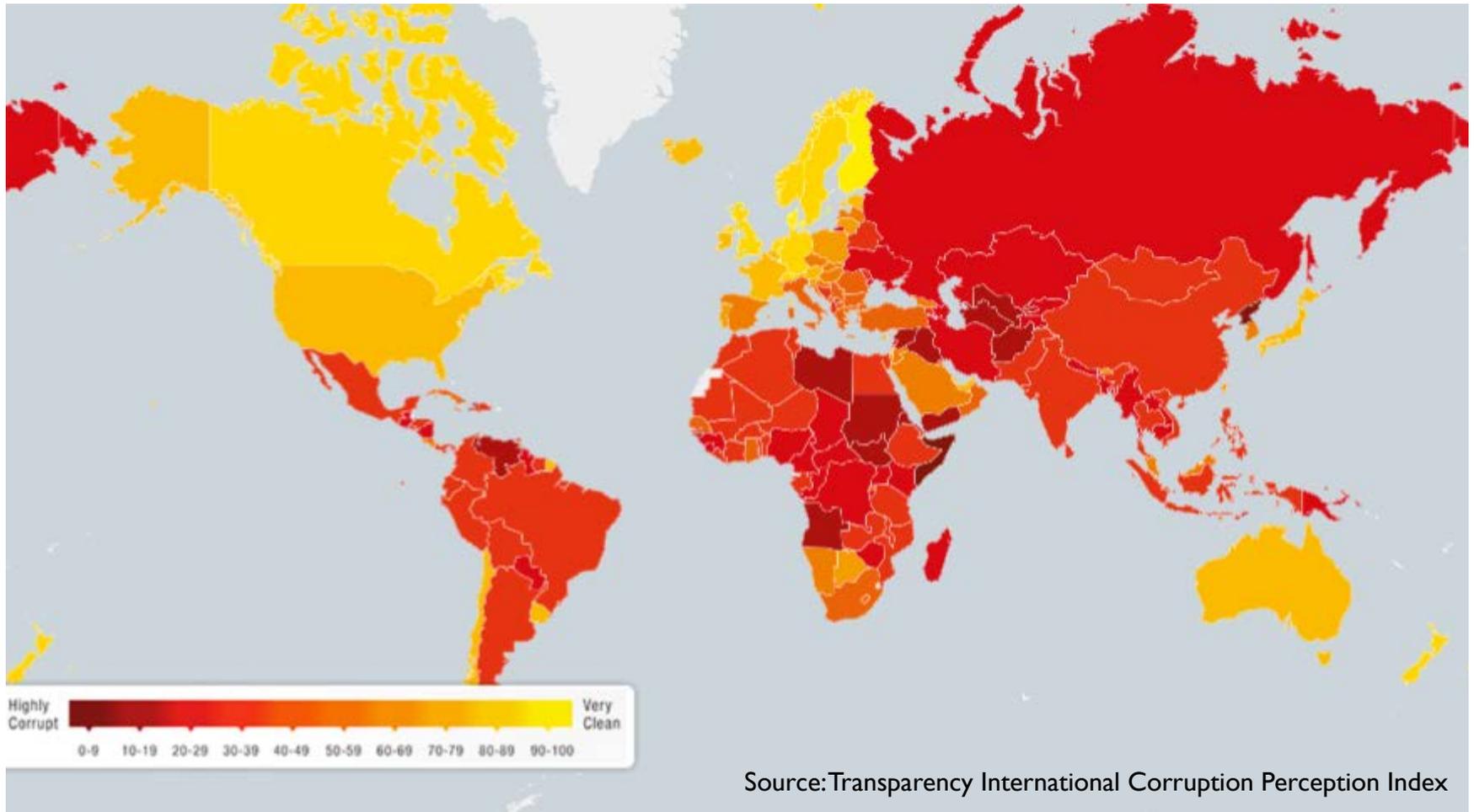
Economic Development Days – June 2016

Vienna University of Economics and Business (WUWien)

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Fighting Fraud & Corruption

More than 6 Billion People Live in Countries with Serious Corruption Problems



Corruption and Fraud – examples from the health sector

- ▶ Fraud leads to faulty condoms
- ▶ Malaria Drugs Stolen from the Public Health Care
- ▶ Detainees Denied access to HIV and TB Treatment
- ▶ Bed net bribery and corruption



Outline

- ▶ Fighting Fraud and Corruption based on the approach of the African Development Bank Group
1. The African Development Bank Group
 2. Sanctions Procedures
 3. Cross-Debarment
 4. Settlement Agreement
 5. Case Study



1. The African Development Bank Group

Overview, Mission, Integrity and Anti Corruption Department

Building today, a better Africa for tomorrow

- ▶ **Founded**
 - ▶ 1964
- ▶ **Constituent Institutions**
 - ▶ African Development Bank
 - ▶ African Development Fund
 - ▶ Nigeria Trust Fund
- ▶ **Shareholders**
 - ▶ 54 Regional Member Countries (RMCs)
 - ▶ 27 non-Regional Member Countries



Building today, a better Africa for tomorrow

- ▶ **Mission & Objective**

- ▶ Spur sustainable economic development and social progress in its RMCs



- ▶ **AfDB Strategy for 2013–2022**

- ▶ **Two objectives:** Inclusive Growth and the Transition to **Green Growth**
- ▶ **Five operational priorities:** Infrastructure, Regional Economic Integration, Private Sector Development, Governance and Accountability, Skills and Technology
- ▶ **Three areas of special emphasis:** Fragile States, Agriculture and Food Security, Gender

Building today, a better Africa for tomorrow

- ▶ Cumulative disbursements of USD 112 billion (2015)
- ▶ 4370 operations
- ▶ USD 8.8 billion disbursed in 2015 in 240 operations
- ▶ Sector Approvals in 2014
 - ▶ Infrastructure: UA 2.50 billion (55.5 percent of total loans and grants)
 - ▶ Multisector: UA 267.4 million (12.6 percent)
 - ▶ Agriculture and Rural Development: UA 488.3 million (10.9 percent)
 - ▶ Social: UA 366.9 million (8.2 percent)
 - ▶ Finance: UA 288.0 million (5.9 percent)
 - ▶ Environment: UA 33.2 million (0.7 percent)



Integrity and Anti Corruption Department (IACD)



**Improve Africa's
investment climate**



**Deters, Prevents and
Detects corruption**



**Safeguard resources by
working closely with
other departments**



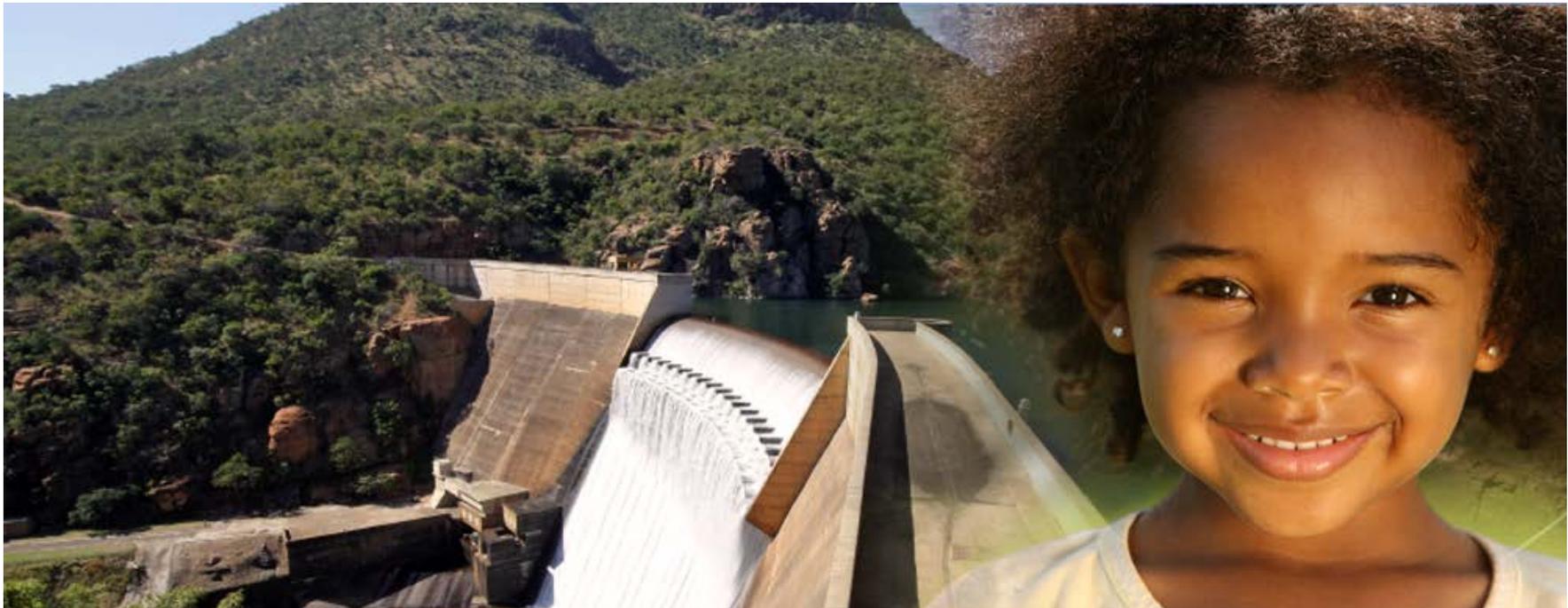
2. Sanctions Procedures

Background, Sanctionable Practices, Process, Range of Sanctions, Aggravating and Mitigating Factors

Harmonize Sanctions Procedures

▶ Background

- ▶ Derived from the mandate, a fiduciary and legal duty to ensure that funds are used for the purposes for which they were intended



Sanctions Procedures

- ▶ Corruption
- ▶ Collusion
- ▶ Coercion
- ▶ Fraud
- ▶ Obstruction

Sanctionable
Practices

Sanctions Procedures



▶ Corrupt practices

- ▶ The offering, giving, receiving or soliciting, directly or indirectly, of anything of value to improperly influence the actions of another party.

▶ Fraudulent Practices

- ▶ 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.

▶ Collusive Practices

- ▶ An arrangement between two or more parties designed to achieve an improper purpose, including to improperly influence the actions of another party.

Sanctions Procedures



▶ Process

- ▶ Investigation done by IACD
- ▶ Issuance of Findings of Sanctionable Practices to the **independent** Sanctions Commissioner
 - *Including Exculpatory or Mitigating Evidences*
- ▶ The Sanctions Commissioner reviews the Findings of Sanctionable Practice(s) and the Respondent's Response to determine whether a preponderance of the evidence supports a finding that the Respondent has engaged in a Sanctionable Practice
 - burden of proof: **more likely than not**
- ▶ Sanctions Appeals Board
 - *Two tier process*

Sanctions Procedures

▶ Range of Sanctions

- ▶ Letter of Reprimand
- ▶ Conditional Non-Debarment
- ▶ Debarment with Conditional Release
 - base sanction of 3 years
- ▶ Permanent Debarment
- ▶ Restitution and/ or Remedy (independently or joint with other sanctions)



General Principles and Guidelines for Sanctions

Sanctions Procedures

▶ Aggravating Factors

Aggravating and Mitigating Circumstances⁵

5. The following aggravating circumstances shall be considered in defining the debarment period:



Increase in Base Sanction	Aggravating Circumstances
1-5 years	<u>Severity</u> <ul style="list-style-type: none">• Repeated Pattern of sanctionable conduct• Sophisticated means• Central role in the sanctionable conduct• Management's role in the sanctionable conduct• Involvement of public official or IFI staff
	<u>Harmed Caused</u> <ul style="list-style-type: none">• Harm to Public Welfare• Harm to the Project
1-3 years	<u>Interference with Investigation, or obstruction of the investigative process</u> <ul style="list-style-type: none">• Intimidation/payment of a witness• Refusal to accept notice/failure to respond
Up to 10 years	<ul style="list-style-type: none">• Past History of sanction by any Institution• Violation of a Sanction or Temporary Suspension

Sanctions Procedures

▶ Mitigating Factors

6. The following mitigating circumstances shall be considered in defining the debarment period:

Decrease	Mitigating Circumstance
1-2 years or alternatively up to 25%	Minor Role in the sanctionable conduct
1-3 years or alternatively up to 33%	<u>Voluntary Corrective Action Taken</u> <ul style="list-style-type: none">• Cessation of sanctionable conduct independent to and in advance of investigation• Internal action against responsible party• Institution of corrective measures to prevent the sanctionable conduct• Restitution or financial remedy
1-3 years or alternatively up to 50%	<u>Cooperation with Investigation</u> <ul style="list-style-type: none">• Assistance and/or ongoing cooperation• Internal Investigation• Admission/acceptance of guilt/responsibility• Voluntary restraint

7. When the subject is found to have engaged in multiple instances of sanctionable conduct discovered at or about the same time either in the same project or different project, the subject may be sanctioned on a cumulative basis.



3. Cross Debarment

Uniform Framework for Preventing and Combating Fraud and Corruption
and the Agreement on Mutual Enforcement of Debarment Decisions

Cross Debarment

- ▶ **Uniform Framework for Preventing and Combating Fraud and Corruption**
 - ▶ Signed 18 February 2006
 - ▶ Participating Institutions: AfDB, AsDB, EIB, EBRD, IDB and WB
- ▶ **Key points**
 - ▶ Common definitions for corrupt, fraudulent, coercive and collusive practices (obstruction not included)
 - ▶ Common principles and guidelines for investigations
 - ▶ Exchange of information
 - ▶ Integrity Due Diligence
 - ▶ Mutual Recognition of Enforcement Actions
 - ▶ Support for Anti-Corruption Efforts in Member Countries

Cross Debarment

▶ Agreement on Mutual Enforcement of Debarment Decisions

Signatory Banks



- ▶ Signed 9 April 2010
- ▶ Participating Institution will enforce debarment decisions made by another Participating Institution if:
 - ▶ Decision is based on sanctionable practices
 - ▶ Debarment decision exceeds one year
 - ▶ Publication
 - ▶ Decision within 10 years
- ▶ Each Participating Institution may pursue independent debarment proceedings for separate Sanctionable Practices by the same entity, which may result in concurrent, consecutive or subsequent periods of debarment

4. Settlement Agreement

Overview and example

Settlement Agreement

- ▶ Stay of Proceedings

- ▶ Requested by IACD together with the respondent



- ▶ Submission and Review of Settlements

- ▶ Prior to the final decision
- ▶ Subject to review by the Sanctions Commissioner to ensure fairness, transparency and credibility
- ▶ Subject to review by the General Counsel to ensure that all Bank's policies are adhered to

- ▶ Publication

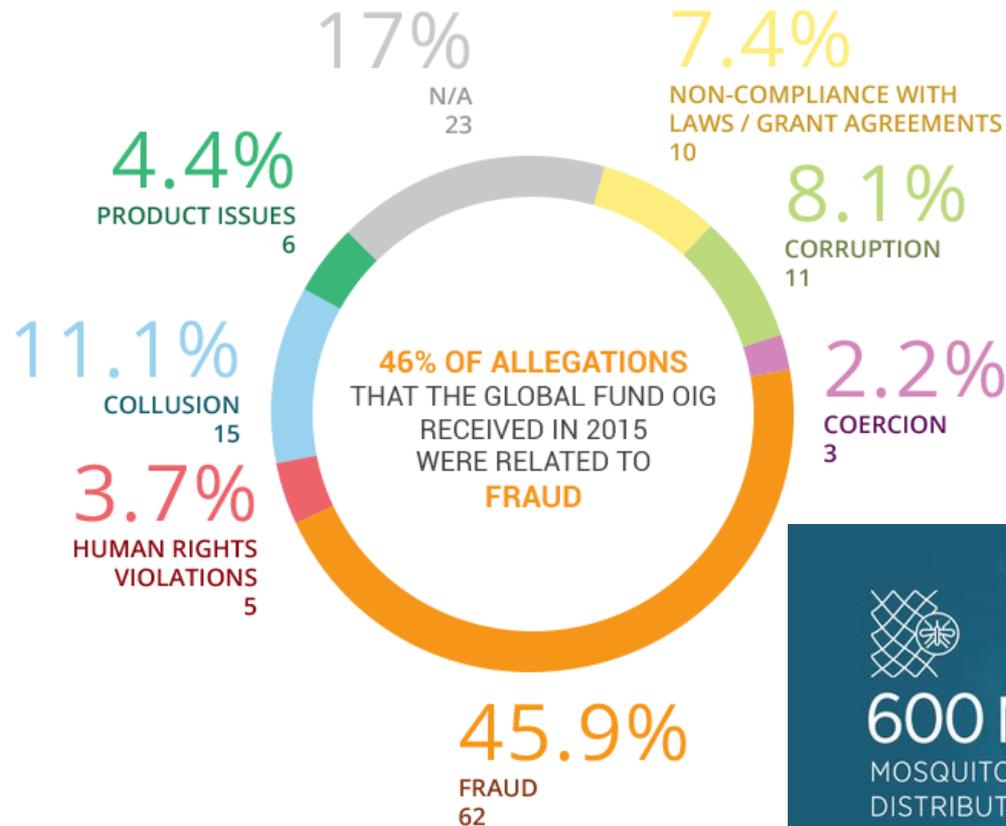
Settlement Agreement - Example

- ▶ AfDB Levies US \$17 Million in Financial Penalties in Corruption Case (21/03/2014)
 - ▶ Kellogg Brown & Root LLC, Technip S.A. and JGC Corp. agree to pay the equivalent of US \$17 million in financial penalties as part of Negotiated Resolution Agreements with the African Development Bank following admission of corrupt practices by affiliated companies in relation to the award of services contracts for liquefied natural gas production plants on Bonny Island, Nigeria, from 1995 until 2004.

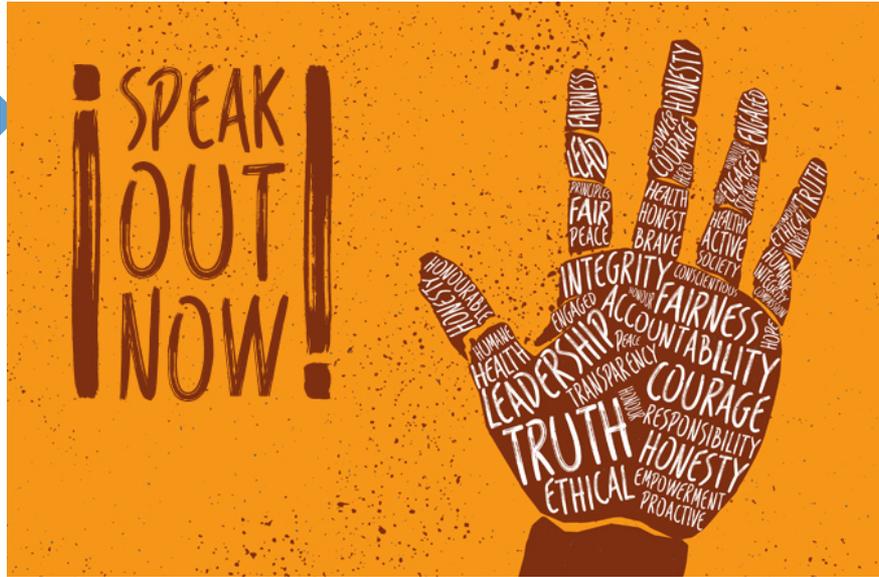
5. Case Study

Fraud in Global Fund financed operations

Case Study – The Global Fund



Case Study – The Global Fund



Audits and Investigations - ... x

entries

Date*	Report Number	Subject	Type of Report	Title / Downloads
2016-05-03	GF-OIG-16-015	Nigeria	Investigation	Investigation Report - Global Fund Grants to Nigeria ◦ Report PDF - 682 KB English
2016-05-03	GF-OIG-16-014	Nigeria	Audit	Audit Report - Global Fund Grants to the Federal Republic of Nigeria ◦ Report PDF - 624 KB English Français
2016-04-15	GF-OIG-16-013	Côte d'Ivoire	Investigation	Investigation Report - Global Fund Grants to Côte d'Ivoire ◦ Report PDF - 851 KB English Français



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