

Số: 5608 /NHNN-HTQT
V/v thông báo về việc áp dụng
Thoả thuận xử lý vi phạm chung
của WB

Hà Nội ngày 28 tháng 7 năm 2010

Kính gửi:

Các Bộ: Tài chính, Bộ Kế hoạch và Đầu tư, Tư pháp, Ngoại
giao, Giao thông Vận tải, Công thương, Nông nghiệp và Phát
triển Nông thôn, Y tế, Giáo dục, Tài nguyên và Môi trường,
Công thương, Xây dựng;
UBND các tỉnh/thành phố: Hà Nội, Hồ Chí Minh, Quảng
Bình, Bình Định, Khánh Hoà, Đà Nẵng.
Tập Đoàn điện lực Việt Nam, Tổng Cục thuế,

Tại công văn số 5010/VPCP-QHQT ngày 19/7/2010, Thủ tướng Chính
phủ đã đồng ý áp dụng Thoả thuận xử lý vi phạm áp dụng chung cho các Dự án
vay vốn Ngân hàng Thế giới (WB) và sửa đổi các Hiệp định của WB có thư mời
đàm phán ban hành vào trong hoặc sau ngày 1/5/2010 để thực hiện Thoả thuận
xử lý vi phạm áp dụng chung của WB và giao NHNN và thông báo cho các cơ
quan chủ quản có sử dụng vốn vay WB về việc áp dụng Thư thoả thuận này.

Theo thông báo của WB, ngày 9/4/2010, WB đã ký “Thoả thuận giữa các
bên về xử lý các vi phạm trong hoạt động đấu thầu”, hay gọi cách khác là “Thoả
thuận xử lý vi phạm áp dụng chung”. Thoả thuận cũng đã được ký bởi 04 Định
chế Tài chính Quốc tế bao gồm: Ngân hàng Phát triển Châu Phi, Ngân hàng
Phát triển Châu Á, Ngân hàng tái thiết và Phát triển Châu Âu và Ngân hàng
Phát triển liên Mỹ. Theo Thoả thuận này, các hình thức xử phạt nhà thầu vi
phạm do một Định chế Tài chính Quốc tế thi hành cũng sẽ được các Định chế
Tài chính Quốc tế khác cùng ký Thoả thuận áp dụng. Đối với WB, thoả thuận
này có hiệu lực vào tháng 6/2010 và sẽ được áp dụng đối với tất cả các dự án
được tài trợ bởi Ngân hàng Tái thiết và Phát triển quốc tế (IBRD) và Hiệp hội
Phát triển Quốc tế (IDA) có thư mời đàm phán ban hành **vào hoặc sau ngày
1/5/2010.**

Thực hiện ý kiến chỉ đạo của Thủ tướng Chính phủ, NHNN xin gửi các
Cơ quan Thư WB ngày 29/5/2010 và ngày 11/6/2010 liên quan đến việc tiến
hành sửa đổi các Hiệp định pháp lý của các Chương trình/Dự án sử dụng vốn
vay IBRD, tín dụng IDA và vốn viện trợ IDA có thư mời đàm phán ban hành
vào hoặc sau ngày 1/5/2010 để thực hiện Thoả thuận trên và đề nghị Quý Cơ
quan thông báo tới Chủ đầu tư, các nhà thầu và các đơn vị thực hiện liên quan

đến dự án sử dụng vốn vay WB biết và thực hiện Thư sửa đổi các Hiệp định để thực hiện Thỏa thuận về xử lý vi phạm chung của WB.

Mong nhận sự quan tâm phối hợp của Quý Bộ./.

Nơi nhận:

- Như trên;
- VPCP;
- Lưu: VP, HTQT-WB.

Đính kèm:

- Thư WB;

**KT.THÔNG ĐỐC
PHÓ THÔNG ĐỐC**



Nguyễn Văn Bình

June 11, 2010

Mr. Nguyen Van Giau
Governor
State Bank of Vietnam
47-49 Ly Thai To Street
Hanoi
Vietnam

Dear Governor Giàu,

*Cross-Debarment by International Financial Institutions:
Amendment to Legal Agreements for International Bank for Reconstruction
and Development and International Development Association Financings*

1. We refer to the legal agreements for the projects set out in the Attachment to this Amendment Letter (the "Legal Agreements") between the International Bank for Reconstruction and Development (IBRD) / International Development Association (IDA), and the Socialist Republic of Vietnam (the "Recipient"). We also refer to our letter (attached) dated May 29, 2010 informing the Socialist Republic of Vietnam of the approval by the Boards of the World Bank Group (referred to here as the "Board") for the Bank to enforce debarment decisions made by International Financial Institutions with which the World Bank Group has signed an Agreement for the Mutual Enforcement of Debarment Decisions.
2. As endorsed by the Board, the Bank proposes to amend existing legal agreements with all Recipients of Bank Financings to make applicable this cross-debarment regime to:
 - (i) all new contracts for which the notification of award is issued and/or the contract signed after the effective date of the respective amendment letter; and
 - (ii) all existing contracts whose scope, price or other terms are subject to material modification after the effective date of the respective amendment letter.
3. In this respect the Bank proposes to amend the Legal Agreements as set out below.
4. For purposes of this Amendment Letter the following terms have the following meanings:
 - (a) "Amendment Letter" refers to this letter;
 - (b) "Agreement for the Mutual Enforcement of Debarment Decisions" means the agreement dated April 9, 2010 entered into among 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 as such agreement may be amended from time to time;

- (c) “Bank” means IBRD with respect to an IBRD Loan, IDA with respect to an IDA Credit or IDA Grant, or both IBRD and IDA as the context requires;
- (d) “Financing” means an IBRD Loan, IDA Credit or IDA Grant provided by the Bank to a Recipient;
- (e) “General Conditions” means the General Conditions applicable to the Legal Agreement as such term is defined in the Legal Agreement;
- (f) “International Financial Institution” or “IFI” means the African Development Bank Group, the Asian Development Bank, the European Bank for Reconstruction and Development, the Inter-American Development Bank Group and any other institution that joins the Agreement for the Mutual Enforcement of Debarment Decisions in accordance with its terms;
- (g) “Recipient” means a Borrower or Recipient of Financing, as such term is used in the Legal Agreement;
- (h) “Project” means the project defined as such in the Legal Agreement
- (i) “Project Implementing Entity” means the entity referred to as such in the Legal Agreements or an entity with which the Bank has entered into a Project Agreement for purposes of implementing the Project, or part thereof; and
- (j) “World Bank Group” is comprised of the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Multilateral Investment Guarantee Agency and the International Centre for the Settlement of Investment Disputes.

5. Through this Amendment Letter, the following Annex is added at the end of each Legal Agreement:

“Annex

Section 1. (a) A firm or an individual or a Project Implementing Entity or Recipient (other than a Member Country) that has been found by an IFI to have engaged in fraudulent, corrupt, coercive or collusive practices in connection with the use of the proceeds of financing provided by such IFI, may be declared ineligible by the Bank on the terms set by the IFI to:

- (i) be awarded a Bank-financed contract;
- (ii) be a nominated sub-contractor, consultant, manufacturer or supplier, or service provider of an otherwise eligible firm being awarded a Bank-financed contract;
- (iii) benefit from a Bank-financed contract, financially or otherwise; and
- (iv) otherwise participate in the preparation or implementation of the Project or any other project financed, in whole or in part, by the Bank.

(b) The provisions set out in Section 1(a) to this Annex apply to: (i) all new contracts for which the notification of award is issued and/or the contract signed after the effective date

of the Amendment Letter; and (ii) all existing contracts whose scope, price or other terms are subject to material modification after the effective date of the Amendment Letter.

Section 2. An additional event of suspension under the applicable provisions of the General Conditions shall be as follows: the Recipient (other than the Member Country) (if applicable) or the Project Implementing Entity (if applicable) has been declared ineligible by the Bank to receive proceeds of any financing made by the Bank, as a result of a declaration by an IFI that such Recipient or Project Implementing Entity is ineligible to receive proceeds of financings made by such IFI or otherwise to participate in the preparation or implementation of any project financed in whole or in part by such IFI as a result of a determination by such IFI that the Recipient or the Project Implementing Entity has engaged in fraudulent, corrupt, coercive or collusive practices in connection with the use of the proceeds of a financing made by such IFI.

Section 3. The Recipient shall cause the Project Implementing Entity (if applicable) to carry out the Project in accordance with the provisions set out in this Annex.”

6. All terms of the Legal Agreements not hereby amended shall remain in full force and effect.

7. The proposed amendments set out in this Amendment Letter are hereby submitted for your consideration on an absence of objection basis. Accordingly, in the absence of an objection (to be communicated to the Country Director in writing by close of business on June 25, 2010) the Legal Agreements shall be considered to have been amended in accordance with the terms set out in this Amendment Letter. The Bank requests the Recipient to notify all relevant Project Implementing Entities of the above amendments to the Legal Agreements.

Sincerely,



Victoria Kwakwa
Country Director, Vietnam

| Name of Project | Financing Number |
|--|-------------------------|
| Mekong Transport and Flood Protection Project | CREDIT NUMBER 3448-VN |
| Additional Financing for Mekong Transport and Flood Protection Project | CREDIT NUMBER 3448-1-VN |
| Primary Education for Disadvantaged Children Project | CREDIT NUMBER 3752-VN |
| Ho Chi Minh City Environmental Sanitation (Nhieu Loc-Thi Nghe Basin) Project | CREDIT NUMBER 3475-VN |
| Ho Chi Minh City Environmental Sanitation (Nhieu Loc-Thi Nghe Basin) Project | CREDIT NUMBER 4708-VN |
| Road Network Improvement Project | CREDIT NUMBER 3843-VN |
| Vietnam Water Resources Assistance Project | CREDIT NUMBER 3880-VN |
| Forest Sector Development Project | CREDIT NUMBER 3953-VN |
| System Efficiency Improvement, Equitization and Renewables Project | CREDIT NUMBER 3680-VN |
| Urban Upgrading Project | CREDIT NUMBER 3887-VN |
| Urban Upgrading Project | CREDIT NUMBER 4604-VN |
| Natural Disaster Risk Management Project | CREDIT NUMBER 4114-VN |
| Urban Water Supply Development Project | CREDIT NUMBER 4028-VN |
| Second Rural Energy Project | CREDIT NUMBER 4000-VN |
| Second Rural Energy Project | CREDIT NUMBER 4576-VN |
| Public Financial Management Reform Project | CREDIT NUMBER 3767-VN |
| Third Rural Transport Project | CREDIT NUMBER 4150-VN |
| Red River Delta Rural Water Supply and Sanitation Project | CREDIT NUMBER 4115-VN |
| Additional Financing for Red River Delta Rural Water Supply and Sanitation Project | CREDIT NUMBER 4710-VN |
| Vietnam Information and Communication Technology Development Project | CREDIT NUMBER 4116-VN |
| Mekong Regional Health Support Project | CREDIT NUMBER 4153-0-VN |
| Second Higher Education Project | CREDIT NUMBER 4328-VN |
| Coastal Cities Environmental Sanitation Project | CREDIT NUMBER 4253-VN |
| Vietnam HIV/AIDS Prevention Project | IDA GRANT NUMBER 152-VN |
| Second Payment System and Bank Modernization Project | CREDIT NUMBER 4041-VN |

| | |
|---|-----------------------|
| Northern Upland Health Support Project | CREDIT NUMBER 4398-VN |
| Hanoi Urban Transport Development Project | CREDIT NUMBER 4347-VN |
| Mekong Delta Transport Infrastructure Development Project | CREDIT NUMBER 4306-VN |
| Second Transmission and Distribution Project | CREDIT NUMBER 4107-VN |
| Customs Modernization Project | CREDIT NUMBER 4123-VN |
| Road Safety Project | CREDIT NUMBER 4073-VN |
| Da Nang Priority Infrastructure Investment Project | CREDIT NUMBER 4402-VN |
| Financial Sector Modernization and Information Management System Project | CREDIT NUMBER 4505-VN |
| Livestock Competitiveness and Food Safety Project | CREDIT NUMBER 4649-VN |
| School Education Quality Assurance Program | CREDIT NUMBER 4608-VN |
| Local Development Investment Funds Project | CREDIT NUMBER 4609-VN |
| Northern Delta Transport Development Project | CREDIT NUMBER 4474-VN |
| Vietnam Land Administration Project | CREDIT NUMBER 4407-VN |
| Rural Distribution Project | CREDIT NUMBER 4444-VN |
| Tax Administration Modernization Project | CREDIT NUMBER 4361-VN |
| Third Rural Finance Project | CREDIT NUMBER 4447-VN |
| Vietnam Avian and Human Influenza Control and Preparedness Project | CREDIT NUMBER 4273-VN |
| Renewable Energy Development Project | CREDIT NUMBER 4564-VN |
| Ho Chi Minh City Investment Fund for Urban Development Project | CREDIT NUMBER 4329-VN |
| Agriculture Competitiveness Project | CREDIT NUMBER 4518-VN |
| Advance Agreement for the Preparation of Proposed Hai Phong Urban Transport Development Project | Q6960-VN |
| Central North Region Health Support Project | CREDIT NUMBER 4688-VN |
| Second Northern Mountains Poverty Reduction Project | CREDIT NUMBER 4698-VN |

VICTORIA KWAKWA
COUNTRY DIRECTOR

May 29, 2010

H.E Mr. Nguyễn Văn Giàu
Governor
State Bank of Vietnam
47 Lý Thái Tô, Hanoi

Dear Governor Giàu,

Ref: Cross Debarment Notification

I am pleased to inform you that on April 9, 2010 the World Bank Group signed an "Agreement for Mutual Enforcement of Debarment Decisions", more commonly referred to as the "Cross-Debarment Agreement." The agreement was also signed by four other Multilateral Development Banks (MDBs) including: the African Development Bank, the Asian Development Bank, the European Bank for Reconstruction and Development and the Inter-American Development Bank.

This landmark agreement is a major step in the global fight against fraud and corruption and a significant input to ensuring that scarce development resources reach their intended beneficiaries. Under the new agreement, sanctions imposed by one MDB will also be enforced by the other signatory MDBs.

We anticipate that the agreement will become effective in June 2010. It will apply to all IBRD and IDA-financed projects for which an invitation to negotiate was issued on or after May 1, 2010. In addition, to help prevent integrity risks in all ongoing projects and create consistency across the portfolio, you will be receiving an amendment letter shortly, that will enable the application of the cross debarment regime to new contracts under existing Bank-supported projects.

Sincerely yours,



Victoria Kwakwa