

**THE COMMITTEE ON FOREIGN RELATIONS OF THE UNITED STATES SENATE:  
COMBATING CORRUPTION IN MULTILATERAL DEVELOPMENT BANKS  
Statement by Patricia Adams, Executive Director, Probe International, to the  
US Senate Committee on Foreign Relations  
May 25/2004**

I appreciate the opportunity to submit this written statement to the Senate Committee on Foreign Relations regarding its investigation of corruption in multilateral development bank (MDB) projects. As an economist and the executive director of Probe International, a Canadian non-profit research group, I have researched the environmental, financial, and social effects of MDB projects over the past 20 years. In 1991, I published a book, *Odious Debts: Loose Lending, Corruption, and the Third World's Environmental Legacy*, which exposes how corruption led to unrepayable debts, environmental harm, and the demise of democracy throughout the Third World. I submit a copy for your reference.

I have followed the case of corruption in the Lesotho Highlands Water Project, and especially the trial of Acres International – the first corporation to be convicted – since before the indictments were issued in 1999. I have read many of the court documents and my organization makes these widely available to the public and press around the world by posting them on our Web site .

I first wish to correct the record regarding testimony you received on May 13, 2004 from Professor Jerome I. Levinson of the Washington College of Law at the American University. He is incorrect in stating that corruption did not occur in the award of a World Bank Lesotho Highlands Water Project contract.

In his statement to the Committee on Foreign Relations, Professor Levinson states:

A recent project in Lesotho, Africa illustrates the issue. The Director of the Lesotho Highland Water Authority was convicted in the courts of that country of corruption in the award of contracts in connection with the project. Part of the project was financed by the World Bank. There is no allegation of corruption in the award of contracts on that part of the project financed by the World Bank. (Emphasis added)

The Lesotho High Court transcripts, which are available at <http://www.odiousdebts.org/odiousdebts/index.cfm?DSP=titles&SubID=795> and the World Bank's own "Notice of Debarment Proceedings," dated March 21, 2001, which is available at [www.odiousdebts.org/odiousdebts/publications/DebarmentProceedings.pdf](http://www.odiousdebts.org/odiousdebts/publications/DebarmentProceedings.pdf) show Professor Levinson to be mistaken. These documents show that Acres International was convicted in the Lesotho High Court (later upheld by the Appeal Court) for bribery payments to the former head of the Lesotho Highlands Development Authority in order to secure Contract 65, a World Bank contract signed in 1991 with a base value of CAD\$16,986,413.

This conviction regarding the award of a Bank contract is important because, according to the World Bank's self-defined guidelines, only those who have committed fraud or corruption in the procurement or execution of Bank-financed contracts will be subject to the Bank's debarment proceedings. Indeed, the World Bank acknowledged that Acres' crime did involve a World Bank contract when it reopened its debarment proceedings against Acres International in March, 2004.

Under World Bank anti-corruption guidelines, a contractor that commits fraud or corruption in the procurement or execution of Bank-financed contracts will be barred from receiving future World Bank contracts. World Bank contracts are the bread and butter of many multinationals. As the world's largest development agency, and the standard setter for the world's other agencies, a World Bank blacklisting could be the death knell for a corrupt company. No more effective deterrent exists to corruption in international development projects than a World Bank debarment.

I understand this principle drives the sanctions against bribery under the U.S. Foreign Corrupt Practices Act which includes, among other sanctions, fines, imprisonment, and being "barred from doing business with the Federal government." Indeed, according to the U.S. Department of Justice's Web site, "Indictment alone can lead to suspension of the right to do business with the government." The Foreign Corrupt Practices Act, which has been in place since 1977, "was intended to have and has had an enormous impact on the way American firms do business," says the Justice Department. This is consistent with my own anecdotal experience: Relative to firms in other countries, American companies are acutely alert to the serious consequences of a conviction for corruption. This may explain why, of the 19 individuals and firms from nearly a dozen countries that were indicted in the Lesotho Highlands Water Project corruption scandal (many of them Organisation for Economic Co-operation and Development members), none of them was from the United States.

Jeremy Pope from Transparency International described the importance of tough consequences for corrupt acts when he said, "If executives see they can be prosecuted, humiliated and jailed, their firms barred from work and their names damaged, they will conclude bribery is not worth it."

If the World Bank does not debar those companies convicted of corrupt acts in the Lesotho Highlands Water Project trials, corporations will get the message that a bribery conviction is an affordable irritant, and that they can counter bad press with promises to adopt new internal corporate anti-corruption management systems. In the absence of meaningful deterrents, bribery will continue to pay and firms will have an incentive to look for more devilishly inscrutable ways to hide their crime.

Also, if the World Bank does not debar those companies convicted of corrupt acts, Third World governments will learn that the OECD convention against bribery is meaningless, and that those who repeatedly lecture them on the need to adopt good governance and the rule of law – OECD member governments and the World Bank alike – are hypocrites.

The Lesotho bribery trials, involving over a dozen of the world's most prominent engineering firms, is the most important case of corruption in the history of international development. For the first time, multinational firms have been brought to trial by a Third World government. Two of the firms have been convicted and one has been fined after pleading guilty to bribery in connection with their contracts on the \$8 billion Lesotho Highlands Water Project dam-building scheme. In the international development business, this case is being closely watched by engineering companies around the world, as well as by companies in other sectors, as a bellwether that will indicate the World Bank's tolerance of corruption.

Lesotho and other Third World countries that are confronting corruption deserve western government support and respect for courageously tackling this cancer. And

they deserve to have western governments follow up their extraordinary, precedent setting trials with action, not business as usual. As Lesotho's Attorney General Fine Maema said, "The attitude has always been that Africans are corrupt. But it takes two to tango, and we want rich world corporations and countries to acknowledge their role." It is time for western governments and all the international funding institutions, such as the MDBs, to stop awarding contracts to individuals and corporations that engage in corrupt acts.

### **The U.S. Congress's Investigations Into This Matter Are Especially Important**

To my knowledge, apart from the U.S. Congress, no northern governments or legislatures have worked to make the World Bank crack down on corruption. Indeed in Canada, in contrast to the U.S. Congress's attempt to root out corruption and expose it to the light of day, the Canadian government has been lobbying the World Bank not to debar Acres. A Canadian official in our Executive Director's office at the World Bank, for example, has told me that the Canadian government would resist Acres' debarment because "there is corruption with courts in the Third World." Other Canadian government agencies have also disparaged, without any evidence, the judicial process in Lesotho. A spokesman from Export Development Canada, Canada's counterpart to the Export-Import Bank of the United States, stated: "Had the case been heard in an Ottawa courtroom, there might have been a different outcome." Indeed, EDC and other Canadian agencies recently announced that they will continue to favour Acres with taxpayer-funded programs.

Also disturbing, Acres agent in Lesotho, the person who arranged Acres bribery payments for which it was later convicted, was a Canadian federal cabinet appointee. The person in question was Mr. Zalisiwonga Bam, Canada's Honorary Consul to Lesotho.

Bribery is a "corrupt and ugly offence, striking cancerously at the roots of justice and integrity," quoted the Court of Appeal in Lesotho in its judgment confirming the lower court's finding of guilt. Acres' "cynical exploitation" of Africa's largest international development project "motivated as it was by greed, is the more reprehensible."

Countries that are working against the odds to rid their countries of corruption, as is Lesotho, deserve honesty and integrity from those of us in the West. Many of Probe International's supporters have written compelling and principled letters to Mr. Wolfensohn, urging him to resist pressure from the Canadian government. They ask him not to "derail the course of justice" and to follow through on Bank policy to debar Acres and any other company that is convicted of bribing a Third World official.

The developed countries have long lectured Third World nations to clean up their corruption. In Lesotho, we have a little country that has found the courage and fortitude to do just that. Now it is the western countries and western institutions like the World Bank, long on lip-service to corruption but short on action, that must muster their courage. We appreciate the efforts of the U.S. Congress to make that case to the World Bank.

Thank you.