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The World Bank Inspection Panel

Ibrahim F. I. Shihata

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Foreword

Fifty years of development experience indicate that the vast majority of World Bank operations meet the Bank's own high standards and objectives: to promote sustainable development and reduce poverty.

However, any group of individuals directly and adversely affected by a Bank-supported project can now ask an independent Inspection Panel to investigate complaints that the Bank has failed to abide by its policies and procedures. Thus, the Panel provides a safety net in the exceptional cases where the Bank's own high standards might not be met. In that sense, the Panel is a positive step toward strengthening the links between the Bank and the people affected by the operations it finances.

The Bank was the first among multilateral, global organizations to establish such an Inspection Panel. This book analyzes its origins, functions, and objectives. Since Ibrahim Shihata was one of the Panel's main architects, the book offers a uniquely insightful perspective.

As the world is changing rapidly, international institutions also must change. Efficiency, results-orientation, and participation have become more important in today's world than ever before. The Inspection Panel is part of the Bank's evolving policy of improving its effectiveness, strengthening accountability, and increasing openness—all of which augment the Bank's capacity to
fulfill its goal of helping to improve people's living standards throughout the world.

Lewis T. Preston
President
The World Bank
The World Bank
Inspection Panel
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The text was also circulated to the Bank’s Executive Directors. Comments were received from Fritz Fischer, Executive Director for Germany, and Jean-Daniel Gerber, Executive Director for Switzerland and several other countries, both of whom provided me with additional information about the early preparatory work which preceded the discussion of the resolution establishing the Panel and their respective roles in that work. Jan Piercy,
the U.S. Executive Director, also asked for certain clarifications which enabled me to better explain a few points in the text.

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Ibrahim F. I. Shihata
July 1, 1994
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Introduction

“Almost all nations observe almost all principles of international law and almost all of their obligations all the time.”¹ A stronger statement may be safely made about the observance by international organizations, especially international financial institutions, of their rules and procedures. However, no standing mechanisms independent from the governing organs of such organizations have hitherto existed to hear and investigate complaints by private entities and groups affected by their activities regarding deviation from their established policies and procedures—not, that is, until the World Bank² established its independent Inspection Panel in late 1993.³ The importance of this step is not only due to the fact that it opened for the first time a venue through which such alleged deviation may become subject to independent inspection at the request of private entities and groups, thus giving them the opportunity to invoke the Bank’s system of accountability.⁴ It is also due to the

² The terms “World Bank” and “Bank” are used in this study to cover both the International Bank for Reconstruction and Development (IBRD) and the International Development Association (IDA), unless the context indicates that reference is to the first institution only.
³ See Resolution of the Executive Directors establishing the Inspection Panel (No. 93-10 for the IBRD and 93-6 for IDA), approved on September 22, 1993 and circulated as document No. SecM93-988 (IBRD) and SecM93-313 (IDA), September 23, 1993 (hereinafter Resolution) (Annex 1 to this study). Members of the Panel were appointed by the Executive Directors on April 15, 1994.
probability that it has set in motion a process whereby similar fora would be established in other international organizations in response to the drive towards greater transparency and accountability in the work of multilateral institutions.

Whether confined to the World Bank or emulated in other international organizations, the creation of an independent inspection panel to investigate the extent to which an international organization complies with its rules will have a bearing on more general issues of international law and policy. These pertain in particular to the access by private persons or entities to international remedies against the actions or omissions of international organizations, especially when these otherwise enjoy general or specific immunity from legal action. Such access is not only relevant to the rights of these private persons or entities but also to the interests they represent, including environmental and other interests where international organizations have or may be given a mandate. From a broader perspective, such issues could potentially influence the evolution of the international law of human rights, especially the international procedural safeguards necessary for the protection of such rights.

The World Bank's Inspection Panel initiative is the subject of this first-hand account of the developments which led to the establishment of this Panel, the principles expected to govern its work and the details which will define its activities. While no evaluation can be made at this stage of the work of the Panel, as it is yet to be initiated, the analysis will highlight the relevance and
importance of the Panel, both in itself and as a precedent on the international scene. Some thoughts will also be offered in the concluding chapter with respect to the expected costs and benefits of this initiative to the Bank and its members, which will no doubt be influenced by the degree of success or failure the Panel will have in meeting the expectations and anxieties it has generated both within and outside the institution.

The purpose of this study is simply to ensure a better understanding of the inspection function as envisaged in the resolution establishing the Panel. It will attempt to serve this purpose by shedding light in the first chapter on the circumstances which led to the establishment of the Panel and the factors which influenced its final shape. By placing the provisions of the resolution establishing the Panel in their historical context and recalling in the second chapter the discussions which preceded their adoption, and which explain their particular features, the reader will be able to develop an understanding of these provisions as living phenomena, the meaning of which will no doubt be further influenced by the manner in which they will be applied in practice. Such understanding is perhaps the best safeguard against possibilities of abuse, under-utilization or excessive use of the inspection function.

5. As this book was going to press, the Inspection Panel had been established and on August 19, 1994 adopted a set of Operating Procedures. These procedures are reprinted in Annex III to this volume.
Chapter One

Evolution of an Independent Inspection Function in World Bank Operations

I. MOTIVES FOR THE ESTABLISHMENT OF AN INSPECTION FUNCTION

The creation of an operations inspection function in the World Bank came as a response to the concerns of a new Bank management with the efficiency of the Bank's work, which coincided with, and were influenced by, increasing emphasis by sources inside and outside the Bank on what was perceived as the Bank's inadequate attention to the standards reflected in its rules. Two distinct but interwoven concerns were thus mentioned explicitly in the proposal of the Bank's President to establish this function. The first was the President's concern—which turned out to be widely shared by Executive Directors, government officials, Bank staff and some external parties—that the management of the Bank's portfolio of loans required improvement. The second concern—prevalent among external parties, and reflected in the views of some Executive Directors—was that the Bank was perceived to be less accountable for its performance
and less transparent in its decision-making than it should be.¹

A. Internal Factors: The New Management’s Concern with Performance

It is significant that the initial concern was a managerial one. Upon taking office in September 1991, the new President of the World Bank, Lewis T. Preston, made it clear that he wanted to review the overall efficiency of the Bank’s operations. The President was aware, through his long experience in international finance and the extensive consultations he undertook prior to and immediately after taking charge, that the Bank’s performance had been questioned in spite of its generally recognized high standards. A task force headed by an experienced senior manager, Willi A. Wapenhans,² was convened in February 1992 to examine the quality of the Bank’s loan portfolio. One of the findings of the task force report (known in the Bank as the “Wapenhans Report”), which was submitted to the Bank’s Board of Executive Direc-

¹ Memorandum from the President, Operations Inspection Function: Objectives, Mandate and Operating Procedures for an Independent Inspection Panel, R93-122/2, para. 2 (September 10, 1993; limited circulation).

² At the time Mr. Wapenhans started this assignment he was Senior Adviser to the President after having been reassigned from his office as Vice President for Europe and Central Asia. Prior to that, Mr. Wapenhans was Senior Vice President, External Relations, Personnel and Administration. In the seventies and eighties he was Vice President, East Africa, and Vice President, Middle East and North Africa.
tors in November 1992,\(^3\) was that the Bank staff were often concerned about getting as many projects as possible approved under the Bank's lending program. In such an "approval culture," less attention had been given to the commitment of borrowers and their implementing agencies, or to the degree of "ownership" assumed by borrowers. At the project level, the leading design problem identified was that projects had become too complex. The Task Force concluded, inter alia, that the Bank should improve the performance of its portfolio through changes in its own policies and practices.

An action plan to respond fully to the recommendations of the Task Force was submitted to the Bank's Board on July 22, 1993.\(^4\) It outlined the specific measures to be undertaken within the areas of concern mentioned in the "Wapenhans Report." A number of staff working parties and special studies were consequently launched to address some of the Task Force recommendations, and Management was requested to present a progress report to the Board by June 1994.

The plan, which built on "best practices" already in use in the Bank, introduced more efficient and client-oriented business practices and processes. The plan further insisted on the need to address effectively issues

\(^3\) The findings of the Wapenhans Report were submitted to the Executive Directors as *Effective Implementation: Key to Development Impact*, R92-125 (November 3, 1992). They are summarized in *Getting Results: The World Bank's Agenda for Improving Development Effectiveness* 1-7 (July 1993). In this study, the terms "Board" and "Executive Directors" are used interchangeably to refer to the Bank's Board of Executive Directors which is responsible for the conduct of the general operations of the Bank and is delegated by the Bank's Board of Governors to exercise the latter's powers except those reserved in the Bank's Articles of Agreement to the Board of Governors. See the Articles of Agreement of IBRD (Article V, Sections: 2(b) and 4) and the Articles of Agreement of IDA (Article VI, Sections 2(c) and 4).

\(^4\) *Portfolio Management: Next Steps, A Program of Action* (July 22, 1993).
that had come to the forefront of the development debate in recent years, such as participation in the design and implementation of a project by the people to be affected by it, project "ownership" (in the sense of the commitment of the borrower to the project's objectives, its conviction of its priority, its responsibility for its preparation and the seriousness with which it carries out its execution), involvement of relevant non-governmental organizations in the Bank's work, and better ways of monitoring the performance of both the Bank and its operations. In this respect, the plan referred to a review "commissioned to take account of experience with inspection functions in selected member countries" which had to consider whether a new inspection function was needed to augment the Bank's existing supervision, audit and evaluation functions. Based on the knowledge that the preparatory work for the launching of such a function had been in an advanced stage, the plan highlighted the need for the Bank's access, when necessary, "to a reliable source of independent judgment about specific operations that may be facing severe implementation problems," reaching the conclusion that "the interests of the Bank would be best served by the establishment of an independent Inspection Panel."

B. External Factors: Mounting Demands

The second major force driving the establishment of the Inspection Panel was a new concern with the accountability and transparency of World Bank operations, prompted by mounting criticism from non-governmental

5. Id., para. 60.
6. Id.
organizations\textsuperscript{7} and echoed by influential circles in certain member countries with large subscriptions in the Bank's capital and large subscriptions/contributions to the Bank's affiliate, the International Development Association (IDA). This external criticism had been driven by a broader concern that international organizations were not adequately accountable for their activities and by the perception of the Bank as an important instrument of public policy in areas of international concern that needed to be more open and responsive. The criticism escalated in 1993, in the course of finalization by donor countries of the tenth replenishment of the IDA. At a time when some U.N. member states threatened to withhold part of their assessed contributions to the United Nations until that organization in turn would set up an independent Inspector General's office,\textsuperscript{8} the inspection function became one of the key issues to test the Bank's public credibility. Another related and equally sensitive issue, in terms of the institution's public image, was the Bank's policy of information disclosure which will be discussed below.\textsuperscript{9}

II. THE NARMADA LESSON

The single most important case to draw public attention to the accountability issue involved two major projects


\textsuperscript{9} See infra, Section V of this Chapter.
supported by the World Bank on the Narmada River in India: the *Narmada River Development (Gujarat) Sardar Sarovar Dam and Power Project*, and the *Narmada River Development (Gujarat) Water Delivery and Drainage Project*. Agreements with the World Bank to partially finance both projects were signed in 1985 and became effective on January 6, 1986. While the IDA credit for the canal project was fully disbursed and closed on July 1, 1992, the IBRD loan and the IDA credit for the dam project were still under disbursement when the project's implementation became an issue attracting world-wide attention.

Under construction since 1987, the projects include a large concrete dam, a 1200-megawatt powerhouse, transmission lines, a water conveyance system including the Narmada main canal (460 kilometers) to the Rajasthan border, branch and distributory canals, and a drainage network to serve an irrigation area of about 2 million hectares in Gujarat. In addition to major environmental impacts, the dam project was originally expected to require the resettlement of 70,000 persons (an estimate which subsequently had to be increased to 120,000) from a submersion area of approximately 370 square kilometers. Resettlement of a similar magnitude is now anticipated as a result of the canal project but was not foreseen at the time of project appraisal. World Bank funding represented only about 10% of overall costs, and the undisbursed balance of the IBRD loan was eventually cancelled at the request of the Indian Government.

From the beginning of project implementation, local and international non-governmental organizations had criticized both the environmental assessment and the

10. Development Credit Agreement No.1553-IN, and Loan Agreement No. 2497-IN.
resettlement/rehabilitation component of the Narmada projects. As the criticism intensified, Mr. Barber Conable, then President of the World Bank, decided in March 1991, at the request of some Executive Directors, to commission an independent review chaired by Mr. Bradford Morse, retired Administrator of the United Nations Development Programme and former U.S. Congressman. The objective of the review was “to conduct an assessment of the implementation of the ongoing Sardar Sarovar projects as regards (a) the resettlement and rehabilitation of the population displaced/affected ... and (b) the amelioration of the environmental impact of all aspects of the project,” with reference to “existing Bank operational directives and guidelines.” The review was not to be presented or perceived as a commission of inquiry, and the processes of consultation with various interested groups were not to have any mediation or adjudication function.

The independent review team visited the project sites and focussed on the resettlement and rehabilitation of the affected population, as well as on the amelioration of environmental impacts, taking into account the views of those directly affected by the project, local NGOs, and concerned governments and institutions. The final Morse Report was delivered to the Bank, and discussed by its Board, in June 1992. Among its findings, the report

11. Terms of Reference dated March 14, 1991 issued by the President of the World Bank following his appointment of Mr. Morse to address this issue on August 30, 1991. It may be noted that the establishment of the “Morse Commission” was not formally discussed by the Bank’s Board, even though some Executive Directors took an active role in this matter.

noted "a failure to incorporate Bank policies into the 1985 credit and loan agreements and subsequent failure to require adherence to enforceable provisions of these agreements"; and its recommendations included "a review of Bank procedures to ensure that the full reach of the Bank's policies is implemented." The first remark was not quite accurate in that both the credit agreement and the project agreement for the dam project made extensive provision for environmental and resettlement measures, including important technical matters. Moreover, the Bank's staff indicated their disagreement with some of the other findings in the report. However, a Management Response issued on June 23, 1992 acknowledged several flaws and proposed among remedial actions that a review of resettlement performance be undertaken throughout the Bank's portfolio together with strengthened staffing, skills mix, and review procedures.

After a further Board discussion of follow-up steps in October 1992, an internal review was undertaken of the "Bank-wide lessons" from the experience of the Narmada projects. Submitted to the Executive Directors in May 1993, it reiterated some of the main findings and criticism of the Morse Report on the implementation aspects of both the resettlement/rehabilitation and the environment action plan.

13. Morse Report at 353-54; but see also T.R. Berger, supra note 12, at 28-32.
15. H. Wyss, "Bankwide lessons learned from the experience with the India Sardar Sarovar (Narmada) Project," annexed to SecM93-516 (May 24, 1993) (limited circulation).
While the Narmada case thus undoubtedly fuelled the debate on the World Bank's accountability and on potential new remedies, none of the recommendations and action proposals made in this context mentioned the creation of a permanent inspection body. Attention at this stage was limited to existing internal mechanisms to monitor and control the quality of the Bank's operations which included, as shown in the Narmada case itself, the possibility of establishing an ad hoc independent commission for this purpose.

III. EXISTING CONTROL MECHANISMS

Under its Articles of Agreement, the Bank is required to make arrangements to “ensure that the proceeds of any loan are used only for the purposes for which the loan was granted.” As a development institution, the Bank is expected to exert its best efforts in order to ensure that projects achieve their development objectives and, in particular, to work with the borrowers in identifying and dealing with problems that arise during implementation. Hardly a project can be completed without facing implementation problems. Some of these problems cannot be foreseen, such as abrupt changes in the economic or political situation of the country where the project is located, in project management, or even in the weather. No matter how well a project has been prepared and appraised, its development benefits cannot be fully realized if it is not properly executed. Over the years, the Bank has accumulated unique experience in helping borrowers to resolve project implementation problems, which it uses to “feed back” into the design and prepara-

16. IBRD Articles of Agreement, Article III, Section 5. See also IDA Articles of Agreement, Article V, Section 1(g).
tion of future projects and into the improvement of its policies and procedures. More recently and following the "Wapenhans Report," the Bank has been taking additional measures to improve the management of the development projects and programs it finances. These measures are designed to make the Bank more effective in pursuing its basic goal of reducing poverty in its borrowing countries. The newly established Inspection Panel is meant to "complement the responsibilities and functions of the existing systems for quality control in project preparation and implementation," as the Bank's President emphasized in presenting this function to the staff.

In effect, the existing mechanisms for the Bank to ensure quality control and compliance with the requirements of the Bank's Articles of Agreement operate at three stages of the project cycle: preparation, supervision and evaluation.

A. Project Preparation

While formal responsibility for project preparation rests with the borrower, the Bank often assists the borrower's preparatory activities in a number of ways. Existing procedures for project design and appraisal include a number of safeguards not only for the economic soundness of Bank-financed projects but also for advance consideration of environmental and social impacts, and for prior public consultations on these impacts. In particular, Operational Directive 4.01 on Environmental Assess-

17. Supra, note 3.
ment\textsuperscript{20} aims at ensuring that the environmental effects of projects are discerned as early as possible in the project cycle and that measures are incorporated to minimize, mitigate or compensate for adverse impacts of the project or to enhance environmental benefits. Part of this assessment process consists of mandatory consultations with affected groups and local non-governmental organizations; for major, highly risky, or contentious projects the Directive also provides for the (optional) establishment of independent environmental advisory panels by the borrowing government. Similar advance assessments of social impacts, including informed public participation, are required under the operational directives concerning involuntary resettlement\textsuperscript{21} and indigenous peoples,\textsuperscript{22} and are routinely carried out in conjunction with environmental assessments. The Bank’s Environment Department carries out annual reviews to monitor the effectiveness of these assessments.\textsuperscript{23}

With regard to projects on international waterways, the World Bank’s Operational Directive provides for optional recourse to the technical advice of independent experts, to be selected from a roster of ten “independent and highly qualified experts.”\textsuperscript{24} Their technical opinion “will be for the purposes of the Bank only, and shall not

\textsuperscript{20} Operational Directive 4.01 (hereinafter “OD”) on \textit{Environmental Assessment} (October 1991); see I.F.I. Shihata, “The World Bank and the Environment: A Legal Perspective,” \textit{16 Maryland Journal of International Law and Trade} 1 (1992). Procedures for consultation have been further enhanced in this and other respects by the more open information disclosure policy recently adopted by the Bank, as explained in Section V, \textit{infra}.

\textsuperscript{21} OD 4.30 on \textit{Involuntary Resettlement} (June 1990).

\textsuperscript{22} OD 4.20 on \textit{Indigenous Peoples} (September 1991).

\textsuperscript{23} Summarized annually in the report on \textit{The World Bank and the Environment} (see e.g., \textit{The World Bank and the Environment} (1992/1993) at 60).

\textsuperscript{24} OD 7.50 on \textit{Projects on International Waterways}, Annex A (April 1990).
in any way determine the rights and obligations of riparians.\textsuperscript{25} Furthermore, in the case of dam and reservoir projects, Operational Directive 4.00/Annex B\textsuperscript{26} provides for the establishment of an advisory panel composed of independent, internationally recognized environmental specialists to advise the borrower periodically on environmental aspects of the project, starting in the preparatory phase and continuing throughout the life of the project. Establishment of this panel is not mandatory, however, and the reconnaissance study may advise that a panel is not needed. For example, in the controversial case of the \textit{Thailand Third Power System Development Project (Pak Mun)},\textsuperscript{27} the project staff together with the borrowing government decided after the initial assessments and consultations not to establish an environmental panel.\textsuperscript{28} However, at the request of the Bank’s Board, the Pak Mun hydropower dam project—which will result in the submersion of 60 square kilometers of land, requiring the resettlement of an estimated 5,000 persons—underwent a mid-term review by an expert panel composed of a World Bank task manager and three external consultants.

B. Project Supervision

The purpose of the Bank’s supervision of the implementation of the projects it finances is to help ensure effective project execution by identifying and dealing with problems and issues as or before they arise. As a lending insti-

\textsuperscript{25} \textit{Id.}, para. 6.

\textsuperscript{26} OD 4.00: Annex B on \textit{Environmental Policy for Dam and Reservoir Projects} (April 1989).


\textsuperscript{28} Decision confirmed by the Board of Executive Directors on December 10, 1991 with the objection or abstention of some Directors.
tution, the Bank must monitor progress in implementation and compliance with loan conditions, always ensuring that loan proceeds are appropriately used only for the purposes of the project, as required by its Articles of Agreement. As a development institution, the Bank must also help the borrower obtain the greatest benefits from its loans, in particular by identifying and assisting in the resolution of operational and managerial problems.

During the negotiation of Bank loan agreements, the staff of the Bank and the borrower normally agree on a schedule of progress reports to be submitted by the borrower. Once a loan has been approved by the Bank's Executive Directors, supervision concentrates on familiarizing new borrowers and implementing agencies with the Bank's requirements as regards the procurement of goods and services financed by the loan, disbursement of the proceeds, reporting on the progress of work and auditing the project's accounts and those of the project agency.

The Bank reviews all progress reports by the borrower, and Bank staff visit project sites and facilities to review progress, provide advice, and obtain information. An important element of project supervision concerns procurement which must be carried out in accordance with the Bank "Guidelines" on procurement which become binding on the borrower through their incorporation in every loan agreement. While the borrower—not the Bank—is responsible for preparing the specifications and tender documents, evaluating bids and awarding the contracts, the Bank's role is to make sure that these "Guidelines" are observed so that loan proceeds may be disbursed for the contract. (It should be noted that part of the actions following from the previously mentioned Wapenhans Report was the new

29. See Getting Results, supra note 3, at 14.
requirement that borrowers use standard procurement documents prepared by the Bank.)

The Bank, in accordance with the Action Plan prepared in response to the recommendations of the Wapenhans Report,\textsuperscript{30} intends to continue increasing the resources used for supervision in order to reinforce project and program implementation. Every new operation will have a clear implementation plan, developed together with the implementing agencies concerned, which will give a basis for tracking the project's progress and provide early warning of problems arising.

Further actions under preparation by the Bank include the issuance of new guidelines to focus the performance assessments more clearly on the progress being made toward the operation's goals. The Bank plans to introduce a more systematic method of dealing with "problem projects" in particular. For projects in problem status for more than twelve months, departmental managers are now required to agree with the borrower on a specific action plan for the following year, including the possible restructuring or cancellation of such loans. Other guidelines are being prepared to require that completion reports further review the sustainability of what has been achieved and make recommendations on this matter. Finally, the Bank is to expand the use of "midterm reviews" of project implementation (which were carried out in the past mainly for sector investment loans), and to shift more of the responsibility for its lending operations away from its Washington headquarters to field offices.\textsuperscript{31}

30. \textit{Id.}

31. \textit{Id. at} 16.
C. Project Evaluation

In contrast with “supervision,” which is understood in the Bank to apply during the project execution period, “ex post evaluation” looks more broadly at the probable impact in member countries of the completed project in relation to original expectations. The latter process takes place after the project is completed and the loan is disbursed in order to provide an account of the use of the Bank’s loan resources and to supply lessons from experience, and more generally to enhance the Bank’s internal and external accountability and transparency. The Bank’s evaluation system has two stages: First, six months after the closing date of the loan, the staff responsible for supervision during implementation prepares a project implementation report on the execution and initial operation of the project, the costs and benefits derived and to be derived from it, as well as the performance by the borrower and the Bank of their respective obligations under the loan agreement and the accomplishment of the purposes of the project. Second, a representative sample of completed operations is independently evaluated. To ensure its independence and objectivity, this ex post audit is carried out by the Operations Evaluation Department (OED), which is functionally separate from the operating staff of the Bank and which reports directly to the Executive Directors. In addition to “the performance audit on selected completed projects” the OED’s mandate includes “evaluation studies focusing on selected issues and sectors.” While it reviews ongoing operations in the context of such studies in order to update and test findings from completed projects, it does not review such individual ongoing projects in the same way it does completed projects. OED also comments informally and selectively on exec-
utive project briefs (project information documents) to ensure that lessons learned from past experience are taken into account in the design of new projects.\textsuperscript{32}

To assess the performance of completed operations, OED looks at their technical, financial, economic, social and environmental aspects and provides ratings of overall performance and sustainability. The results and recommendations, after having been reported to the Executive Directors, are meant to be fed back into the design and implementation of policies and lending operations. OED’s annual review of evaluation results is then issued to the public after being discussed by the Executive Directors.

This evaluation function should enable the Bank to draw lessons from past experience and to disseminate them to improve the management of development assistance and to support member countries in efforts to develop their own evaluation capacities. It will also be improved as a result of the measures proposed by the Action Plan prepared in response to the Wapenhans Report. For example, OED is now expected to build up its program of impact evaluations which take a second look at a project five to ten years after the completion of loan disbursements. OED is also expected to focus on country portfolios in selecting the operations to be evaluated and in planning evaluation studies programs. Finally, OED will diversify the scope of its evaluation studies, to include for example evaluations of the Bank’s operational policies and processes and quick studies on topical issues.\textsuperscript{33}


\textsuperscript{33} See \textit{Getting Results}, supra note 3, at 16-17.
D. Other Audits and Ad Hoc Evaluations

The Internal Auditing Department (IAD) of the Bank undertakes periodic and independent audits of operational, financial, administrative, personnel and information resource management systems and other activities, to assess their efficiency, compliance with policies and effectiveness, and to identify opportunities for improvement.

Special evaluations have also been undertaken ad hoc for a specific project (Narmada) or for particular categories of projects, such as the Bank-wide staff review of resettlement issues, initiated in the wake of the Narmada case.34 A comprehensive evaluation of the pilot phase of the Global Environment Facility (GEF) was carried out in 1993 by an independent panel of experts with the assistance of internal evaluators.35 The latter procedure, needed as a prelude to the restructuring and replenishment of the GEF, differed from standard OED practice concerning Bank-financed projects. Covering projects where the Bank was only a trustee and an implementing agency, it involved an evaluation of the implementation of ongoing projects (none of the GEF projects having been fully implemented so far) as well as the quality of preparatory work on projects not yet approved. It also differed from the standard “supervision” of Bank-financed projects in that it was directed by outside experts (rather than by Bank staff).

34. Supra, note 14.
IV. INTERNAL AND EXTERNAL INITIATIVES FOR CHANGE

Both the Wapenahs Report and the Narmada case received wide attention inside and outside the Bank, with a new focus on the debate over the adequacy of existing control mechanisms. The debate triggered a number of proposals in the course of 1993, some originating within the Bank, others from member governments and from external critics, which contributed no doubt to the process culminating in the establishment of the Inspection Panel.

A. The Four Executive Directors’ Proposal

On February 10, 1993, a group of four Executive Directors, representing borrowing and non-borrowing countries, submitted a memorandum to the President (hereafter referred to as the “Four Executive Directors’ Proposal”) calling for the establishment of an independent in-house capacity through an evaluation unit for ongoing projects. The proposal, to which a fifth Executive Director later associated himself, envisaged a small permanent unit, with one to three inspectors selected from among experienced Bank officers “of the highest calibre with the necessary independence,” presumably appointed by or with the concurrence of the Board. The unit would be located within the Bank, possibly under the Director-General, Operations Evaluation, but otherwise independent from the Bank’s OED, and would operate in the following way: First, it would receive requests for inspection—from borrowers or Executive Directors. After deciding on the eligibility for inspection of the requests filed, it would undertake the relevant inspection. In addition, random evaluation initiated by the unit would focus on a sample of projects in the loan portfolio. The Board would “normally take note” of
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The findings of evaluations and the unit's recommendations but would “ask for an increased role in cases of special importance.” A selective mechanism to reasonably limit the number of evaluated projects was also suggested.

The President requested a review of the proposal by senior staff in consultation with its authors and with other Executive Directors, also taking into account relevant national experience with comparable inspection offices. A staff report analyzing this proposal, co-authored by a staff member and a former Director-General, Operations Evaluation, concluded that there was no apparent need for a permanent inspection unit. It suggested instead that an inspection function be established in the form of an ad hoc inspection capacity. Inspection would be commissioned by the President on his initiative or on the request of Executive Directors, staff or third parties. The President would also designate an “operational ombudsman” through whom “staff and others” could raise issues for review. Following a positive assessment that inspection was warranted, the President would appoint one or two inspectors to investigate the case, and would forward their report to the Board together with management's response. This suggestion was not considered further and the matter was overtaken by subsequent events.

Meanwhile, the issue had generated public discussion in several member countries and specific proposals from concerned governments, academic observers and non-governmental organizations.

B. The Ombudsman Proposal

Testifying before a Canadian parliamentary committee in February 1993 and before a U.S. Congressional Committee in May 1993, Professor Daniel D. Bradlow of the Ameri-
can University Washington College of Law advocated the appointment of a World Bank ombudsman for complaints about Bank operations and policies.36 The ombudsman would be an independent Bank official appointed by and directly responsible to the Bank’s Board, with a mandate to investigate and respond to conflicts “relating to the staff’s implementation of the Bank’s operating rules and procedures and administrative practices.” His competence would be limited to issuing non-binding recommendations to the Executive Directors, while the final decision-making power would lie with the latter. “The ombudsman authority would end once loan disbursements were complete and the project/program was being reviewed by the Bank’s OED.” Complaints could be filed “by any party with a direct interest in the substance of the complaint,” directly with the ombudsman or through the Bank’s Resident Representatives. However, such complaints, to be eligible for investigation, should comply with minimum standards, such as the submission of supporting evidence with regard to the complainant’s direct interest in the matter; the relationship of the complaint to ongoing Bank operations and to the implementation of Bank rules, practices and procedures; the exhaustion of alternative channels of relief; and the submission of the complaint within a reasonable period after the alleged injury.

The ombudsman would also be able to “recommend changes in the applicable rule, procedure, or administrative


37. Emphasis in original.
practice," while the Board would "always retain [the] final decision-making power." The ombudsman would thus act as an instrument for the Board to detect deficiencies in the Bank's rules and procedures. Through an annual report made available to the public at large, the ombudsman would "provide the international community with independent information on the developmental and human impact of Bank operations and thus contribute to the debate which would take place about the role of the Bank in providing sustainable development."  

Professor Bradlow's proposal was studied in the Bank and the author of this study had the occasion to discuss it with him at length. The idea, which at one point seemed to be gaining ground, was dropped when it became clear that an inspection panel, rather than an individual ombudsman, was more likely to meet the rising expectations.

C. The Proposal for an "Independent Appeals Commission"

Testifying before the same U.S. Congressional Committee in May 1993, several U.S. non-governmental organizations advocated withholding at least part of U.S. funding for the 10th IDA replenishment (IDA-10) unless

38. See also the earlier proposal for a "private attorney general" by Professor David Wirth, "Legitimacy, Accountability and Partnership: A Model for Advocacy on Third World Environmental Issues," 100 Yale Law Journal 2645, at 2664 (1991), which went even further in the direction of an adjudicatory mechanism. See also the more extensive proposal of establishing a "watchdog agency" independent from the Bank which "would have the capacity to monitor, report on, and intervene in the World Bank lending process..." in Jonathan Cahn, "Challenging the New Imperial Authority: The World Bank and the Democratization of Development," 6 Harvard Human Rights Journal 159 (1993).
several conditions were met by the World Bank. 39 These conditions included the establishment of an “Independent Appeals Commission” which would have jurisdiction to investigate complaints from any member country or from individuals and NGOs in developing countries. The Commission would have access to Bank information, and all its decisions would be made available to the public.

With the authority to “recommend modification, suspension or cancellation of a World Bank financed project,” the proposed Commission would “investigate and pass judgment on complaints regarding violations of all World Bank policies, procedures, loan and credit agreements, the World Bank’s Articles of Agreement, by-laws, and violations of international human rights and environmental law.” The Commission’s “judgments” would be final and binding unless reversed by a two thirds majority of the Bank’s Board of Executive Directors. Such a comprehensive mandate would cover violations alleged to have occurred “during the course of the design, appraisal, monitoring or implementation of an ongoing World Bank financed project or program.”

Composed of nine members (none of them being nationals of the same country or of the nationality of the claimant or from the country where the project is located), appointed by the Bank's Board (with two nominated by NGOs), and acting separately from the Bank's OED, the Independent Appeals Commission would operate in panels of three persons. All decisions would be "final and binding." The budget would be borne by the World Bank and the Commission would be "housed separately from the World Bank" in Washington, D.C. The proposal also suggested that pending the creation of such a commission, the World Bank should be required to establish an ombudsman office by December 1993 to fulfill the same functions.

The formulation of these conditions for IDA-10 did not progress beyond a committee draft at the time and eventually entered the U.S. appropriation legislation in October 1993 in substantially modified form. However, the discussion gave a clear indication of an emerging trend in the U.S. Congress to strongly favor the establishment of a commission or panel of inspectors in the World Bank and in other international financial institutions. This obviously influenced the U.S. Government position in the Bank's Board prior to the adoption of the Panel Resolution in September 1993.


41. See the report of the House/Senate Committee of Conference on H.R. 2295 (103rd Congress, 1st Session, Report 103-257 of September 28, 1993) (instructing the Treasury Department to urge establishment of independent inspection entities in each international financial institution, and of an "independent commission to review the operations and management structure" of these institutions).
V. THE RELATED ISSUE OF INFORMATION DISCLOSURE

In the context of the 1993 U.S. congressional approval process of World Bank appropriations—especially IDA-10 and allocations for the Global Environment Facility (GEF)—the issue of "accountability" (in particular, through the inspection function) was always closely linked to the issue of "transparency" (i.e., disclosure of information), particularly in the environmental field.

Under the International Financial Institutions Act as amended by the 1989 International Development and Finance Act (the Pelosi Amendment), the U.S. Executive Director in the World Bank has been required since December 1991 "not to vote in favor of any action proposed to be taken...which would have a significant effect on the human environment" unless an environmental impact assessment had been made available to the Bank and to affected groups and local non-governmental organizations "at least 120 days before the date of the vote." Subsequent U.S. appropriations legislation in October 1992 expanded the requirements for timely availability of draft and final environmental assessment reports "to the public in borrowing and donor countries"; and made GEF funding subject to the establishment of "clear procedures ensuring public availability of

42. 22 U.S.C. § 262 n-7, Section 1307(d), as inserted by Section 521 of Public Law 101-240 on December 19, 1989, to become effective after two years.

43. This requirement would be held inapplicable if the Secretary of the Treasury found compelling reason to believe that disclosure would jeopardize the confidential relationship between the borrower country and the Bank.

documentary information" on all GEF and GEF associated projects, as well as consultation with affected peoples in recipient countries and with NGOs.

Partly in response to these new concerns with the timely availability and publicity of environmental assessment reports,\(^45\) which were also reflected in the IDA-10 Deputies Report,\(^46\) and taking into account similar—though less far-reaching—developments in other member countries\(^47\) and related recommendations by the Rio Earth Summit (the United Nations Conference on Environment and Development) in June 1992,\(^48\) the Bank's Executive Directors had already held informal discussions on the information disclosure issue in July and August 1992,\(^49\) and a revision of the applicable Bank directive and operational procedures\(^50\) had been initiated, including the preparation of specific procedures for GEF projects. The process culminated in an intensive

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\(^45\) E.g., a temporary rule issued on June 10, 1992, by the U.S. Department of the Treasury, 31 CFR Part 26, 57 Federal Register No. 112, at 24544 (subsequently suspended) (called for making all World Bank environmental assessments publicly available in Washington, DC).


\(^47\) E.g., the European Community's Council Directive 90/313/EEC on the Freedom of Access to Information on the Environment (June 7, 1990), which required EC member states to enact implementing legislation by December 31, 1992. While this Directive has no bearing on World Bank operations, it reflects the shared concern of European countries with the issue of public access to information in matters affecting the environment.


\(^49\) On July 7 and August 6, 1992. The discussion was based on a legal memorandum by the author; see "Some Legal Aspects of the Bank's Policy on Disclosure of Information," Memorandum of the Vice President and General Counsel, R92-145 (July 24, 1992).

Board discussion of a new document on the Bank's policy on disclosure of information on August 26, 1993, followed by the finalization of new procedures in September 1993. Under the revised Bank policy and procedures, more Bank documents became publicly available and a new Public Information Center (PIC) was established to respond to requests for documents and information from any interested party. In particular, all environmental assessments for projects to be financed by the World Bank are made available in borrowing countries to affected groups and local NGOs, and subsequently through the PIC. It must be kept in mind that this work proceeded all along in parallel and in continuous interchange with the ongoing discussions on the inspection function.

VI. PREPARATORY WORK IN THE BANK'S MANAGEMENT AND BOARD

All the above-mentioned elements and developments had a bearing on the preparatory work undertaken within the Bank during the first half of 1993. As requested by the President, a staff paper was prepared for Board discussion, in light of the Four Executive Directors' Proposal of February 10. The paper, dated June 10, 1993, analyzed existing governmental inspection practices in three member countries (Canada, Ger-


53. For the projects financed by the IBRD, the PIC would not make the assessment reports publicly available, if the borrower objects, in deference to the ownership rights of the borrower. The situation is different for IDA projects as agreed in the context of the IDA 10 replenishment.
many and the USA), concluding that these were functionally comparable to existing World Bank evaluation mechanisms. It then went on to present and assess the Four Executive Directors’ Proposal of February 10, 1993, together with a second alternative proposal.

Under this second scenario, an independent, in-house “Inspection Panel” consisting of three inspectors would be appointed by the Board on the recommendation of the President. As in other models proposed, it was understood that the Panel members would be of the highest professional and personal calibre and reputation, recruited from outside the Bank, while former staff members could also be eligible. As in the Four Executive Directors’ Proposal, the Panel proposed in the management paper would receive complaints from individual Executive Directors and affected parties, and the eligibility criteria for complaints would be similar, although the party lodging the complaint would be required to first seek explanation from Bank management before approaching the Panel. While the paper insisted on the fact that “responsibility for the concerns raised would rest with the borrower,” any concern with regard to adherence by the Bank to its own operating rules and

54. In Canada, development assistance operations are subject to review by the audit and evaluation staff of the Canadian International Development Agency (CIDA); CIDA does not have an independent inspection function. In Germany, the Federal Ministry for Economic Cooperation and Development evaluates on-going projects with a focus on identified problem cases, and occasionally conducts ex post evaluations of completed projects. In addition to these evaluations by the Ministry, the two implementing agencies (GTZ and KFW) routinely produce project completion reports (following the last disbursement) as well as ex post evaluation reports (after two to three years of the operation of the project). In the United States, independent inspectors carry out financial audits, investigations of alleged fraud or misuse, and evaluations of departmental programs (including ongoing ones).

procedures would justify the Panel's intervention. Following an inspection, the Panel would submit, for their consideration, recommendations to the President (on projects under preparation) and to the Board (on projects under implementation). It would also provide them with an Annual Report discussing the final disposition of the complaints received.56

The recommendations in the paper of June 10, 1993 attempted to reconcile the many views expressed and options suggested—both inside and outside the Bank—around the paramount objectives of improving “accountability” and “transparency” while fostering borrowers’ ownership of projects and public participation, in the context of poverty reduction and environmental protection efforts. The paper concluded that “in light of a review of the advantages and disadvantages of alternative approaches, the most effective arrangement would be the establishment of an independent, in-house Inspection Panel.”

While these recommendations did not go unchallenged,57 they provided a first basis for discussion by the Bank’s Executive Directors in an informal seminar held on July 9, 1993. The seminar discussion showed broad agreement on the need for an inspection function, although there was no consensus on any of the two options proposed (the Four Executive Directors’ Proposal and the alternative suggested in the paper). Con-

56. An earlier draft of this paper had also considered possible recourse to an ombudsman procedure for operational concerns voiced by working level staff, analogous to the existing ombudsman function for personnel matters, but had discarded this option mainly in view of the confidentiality requirements in staff relations.

57. The four Executive Directors who authored the February 10, 1993 proposal submitted, on June 22, 1993, a critique of the June 10, 1993 paper indicating their preference of their original proposal as restated to authorize evaluation of projects also at the request of affected parties and NGOs after the concurrence of a majority of the Executive Directors.
cerns were expressed, in particular, over the potential risks of interference with the role of the Board or Management, and of triggering a large volume of complaints at considerable cost.\textsuperscript{58}

A revised paper was prepared by Bank management in light of these discussions and of further written suggestions by an Executive Director who attempted to reconcile the two options. The revised paper was submitted to the Executive Directors Committee of the Whole on August 6, 1993, together with a draft resolution.\textsuperscript{59} The paper defined the inspection function and mandate as well as the complaint screening mechanism, and specified the role of the Board in appointing inspectors, approving inspections and receiving recommendations. While the paper continued to refer to an inspection unit, the appended draft resolution\textsuperscript{60} explicitly envisaged an independent three-member inspection panel, with powers to hear complaints presented either by a group of four or more Executive Directors, or by one or more persons directly affected by a failure of the Bank to follow its operating policies, rules and procedures.

The revised paper was considered by the Executive Directors in a Committee of the Whole on August 26 and 27, 1993. While there was still some support for an in-

\textsuperscript{58} In the course of these discussions I had the occasion to note that the risks inherent in either option could be substantially reduced through precise procedural requirements. I also noted, however, that while final decisions in the proposed alternative remained in the hands of management (in cases concerning project preparation), or of the Board and management (for projects under implementation), both would be hard pressed to depart from recommendations by the inspectors.

\textsuperscript{59} Functions and Operations of an Inspection Function, Draft Paper, R93-122/1 (August 6, 1993).

\textsuperscript{60} Draft IBRD/IDA Resolution on The World Bank Independent Inspection Panel (August 5, 1993). The text was based on an earlier draft originally submitted to the President’s Office on June 23, subsequently revised on July 20, and reviewed by the President and Vice Presidents on July 26.
house inspection unit under the Director-General, Operations Evaluation, a majority of participants favored the establishment of an independent panel. Discussions focused on the mandate of the panel; the need for a two-year review of the panel's operation; the issue of access to the panel, or standing to complain (for affected parties and Executive Directors); the role of the Board in approving inspections; participation by borrowing governments; membership and cost of the panel; the possibility of suspension of projects under investigation; coverage of projects under preparation and projects under implementation; follow-up action, and reports.

In light of the discussion, a further revised text was submitted as Memorandum of the President to the Executive Directors on September 10, 1993, together with a revised draft resolution. The Memorandum described details of the composition, jurisdiction and operational procedures of the proposed Panel, as specified in the draft resolution; and gave a budget estimate based on the assumption that the workload of the Panel would justify full-time employment of three panel members, supported by an Executive Secretary and special consultants.

The decisive Executive Session of the Board took place on September 21 and 22, 1993. The session began with a presentation of the above-mentioned President's Memorandum, but the meeting focused exclusively on the text of the revised draft resolution (dated September 9, 1993), further amending it in the process and culminating in its adoption on September 22.

61. See R93-122/2, supra note 1.
Chapter Two

The Resolution Establishing the World Bank Inspection Panel: Its Drafting History and Interpretation

This chapter explains the main features of the Inspection Panel which the Bank's Board of Executive Directors established in September 1993\(^1\) and appointed its members in April 1994.\(^2\) The analysis is based on the text of the resolution establishing the Panel (hereinafter the Resolution), the several drafts of the paper prepared by the Bank's management for the Board discussion of the subject,\(^3\) the successive draft resolutions prepared by the office of the Bank's General Counsel to formulate concepts as they evolved in the discussions of the Bank's

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1. Resolution of the Executive Directors establishing the Inspection Panel (No. 93-10 for the IBRD and 93-6 for IDA), circulated as document No. SecM93-988 (IBRD) and SecM93-313 (IDA) (September 23, 1993) (hereinafter Resolution) (Annex i to this study).

2. R94-56; IDA/R94-60, April 5, 1994, approved on April 21, 1994. The three members of the Panel are Mr. Ernst Günther Brüder, a German national (Chairman), Mr. Alvaro Umaña Quesada, a Costa Rican national, and Mr. Richard E. Bissell, a U.S. national.

3. See draft reports dated June 10 and August 6, 1993 and the President's Memorandum of September 10, 1993, referred to, supra, in Chapter One, Section VI (limited circulation).
management and Board, and the discussions which led to the adoption of the Resolution. These features include the objectives of the inspection function of the Panel, the scope of the Panel’s mandate, the eligibility criteria for accessing the Panel and thus invoking the inspection function, the composition of the Panel, the role the Panel is expected to play, including the procedural aspects of its work and the relevant reporting requirements, and finally the administrative and financial arrangements pertinent to the Panel.

I. OBJECTIVES OF THE INSPECTION FUNCTION

While the Resolution is silent on the objectives of inspection and the reasons which led to the creation of this function in the Bank, the management papers submitted to the Executive Directors and the discussion of these papers and of the draft resolution by the Executive Directors provide rich details on these matters. According to the President’s Memorandum submitted to the Board on September 10, 1993 to which the last draft resolution was attached: “[t]he objective of an inspection function in the Bank should be to provide independent judgement that would help resolve major differences in cases where it is asserted that rights and interests of parties are adversely affected because the Bank has failed to follow its operating policies and procedures in the design, appraisal

4. See draft resolutions dated June 23, July 20, August 5 and September 9, 1993, referred to, supra, in Chapter One, Section VI (limited circulation).
and/or implementation of Bank lending operations."\textsuperscript{5} Such function would, according to the same report, "complement the existing system for quality control in project preparation and supervision during implementation."\textsuperscript{6} As a result, the President’s Memorandum made clear that the inspection function “would not diminish the role of the Board in the governance of the Bank,” a point stressed as well by many Executive Directors during discussions, or “reduce, or otherwise modify, the accountability of the President for the management of Bank operation.”\textsuperscript{7} Nor would the function “disrupt the efficient conduct of Bank business,” “duplicate the functions of OED or IAD\textsuperscript{8} (the Operations Evaluation Department and the Internal Auditing Department) or “provide an over-all assessment of the status of the Bank’s portfolio.”\textsuperscript{9} Rather, the Panel is established as a facility within the Bank which is “designed to be consistent with and to complement the responsibilities and functions of the existing structure of the Bank.”\textsuperscript{10} Its function is limited to issues which are the responsibility of the Bank within the limits defined in the Resolution. It is not, therefore, to rule on complaints against the government of a borrowing country or “to adjudicate differences of views between a government and its citizens.”\textsuperscript{11}

\textsuperscript{5} Operations Inspection Function: Objectives, Mandate and Operating Procedures for an Independent Inspection Panel, Memorandum from the President, R93-122/2, September 10, 1993, at para. 7. It should be noted that the Board, which concentrated its discussion on September 21-22, 1993 on the draft resolution, did not specifically approve this report which reflected the ideas codified in the draft resolution before the changes introduced in the Board discussion. Earlier papers were submitted as “draft reports” for discussion purposes in the preparatory stage.

\textsuperscript{6} Id., para. 8.
\textsuperscript{7} Id., para. 9.
\textsuperscript{8} Id., para. 12.
\textsuperscript{9} Id., para. 9.
\textsuperscript{10} Id.
\textsuperscript{11} Id., para. 24.
The early discussion in the Executive Directors' seminar of July 9, 1993 revealed at least six reasons or justifications for the establishment of the inspection function which were summarized in the management report of September 10, 1993 as follows:

"• Citizens of developing and developed countries increasingly ask for transparency and accountability of development institutions. The World Bank, as the leading development agency, should respond positively and constructively to this demand.

• The Bank is responding effectively to the challenges of the developing countries and the countries in transition. The existence of an independent body will increase the credibility of the Bank.

• The cases where major conflicts arise with affected parties will be dealt with more efficiently and consistently by a permanent and independent structure than by ad hoc bodies.

• The borrowers involved, if they wish, will have a better opportunity to present and defend their position and to get the attention of the public and the media in the developing and industrialized countries.

• The professional competence and integrity of management and staff will be protected if an independent investigation assesses the facts and actions taken.

• Members of the Board, and directly affected parties, will have an additional, independent instrument to ensure that projects under preparation or implementation are fully compatible with the policies and procedures of the Bank."\(^{12}\)

12. *Id.*, para. 6.
II. Scope of the Panel’s Mandate

A. Institutional Coverage

The Resolution establishing the Panel explicitly indicates in its last paragraph that its work covers both the IBRD and IDA. Indeed, the Resolution was adopted in a joint session of the Boards of these two institutions (which consists of the same Executive Directors) and is formally adopted as a resolution of the IBRD and IDA.13

During the Board discussion of the draft resolution establishing the Panel, some Executive Directors suggested that the International Finance Corporation (IFC) should also be included in the Panel’s work. This matter, however, could only be considered in the Board of the IFC (which also has the same membership as the Bank’s Board, but was not included in the joint session of the Boards of the IBRD and IDA where the Resolution was adopted).14

The Resolution does not specifically mention whether the inspection function applies to the Bank’s activities as the trustee and the main “implementing agency” of the Global Environment Facility (GEF), where a large number of projects are being implemented under GEF’s pilot phase and more such projects are expected to be carried

13. See Resolution, supra note 1.
14. The IFC provides financing for private enterprises. As of the time of writing, its Board has not discussed the issue of establishing an inspection panel.
out by the Bank under the restructured GEF. Projects financed through GEF resources, but administered by the Bank could give rise to environmental controversies similar to those which would typically engage the Inspection Panel under Bank-financed projects.

The issue of the inclusion of the activities of trust funds administered by the Bank, and in particular of GEF projects, in the Panel’s work was not raised during the lengthy discussion of the proposal to establish the Panel. It seems, however, that the exclusion of GEF activities would run counter to the purpose of establishing the Panel and would unduly restrict the scope of its coverage. The Bank, as trustee of the GEF, and a major implementing agency of its projects, undertakes to administer GEF funds with the same care it administers its own funds. Several Bank operational policies and procedures specify that they apply equally to projects financed from GEF trust funds. There is no reason to shield the Bank’s activities as trustee and implementing agency of the GEF from the scrutiny

15. The Global Environment Trust Fund was established under the GEF by Resolution of the Bank’s Board No. 91-5 of March 14, 1991, circulated as document M91-15 (IBRD and IDA), April 12, 1991, which established the GEF as a pilot facility. See also 30 International Legal Materials 1735 (1991). The Ozone Projects Trust Fund was included under the umbrella of the GEF in this pilot phase. Agreement on the restructuring of the GEF as a “permanent” facility (not including the Ozone Projects Trust Fund) was completed in March 1994, and new resolutions by the Bank’s Board (Res. 1994-2, IBRD, and 1994-3, IDA, dated May 24, 1994) established the restructured GEF, subject to approval by the Board of Governors of the arrangements with the other implementing agencies.

16. See para. 3 of Annex B of the “Instrument” establishing the restructured GEF, adopted by the resolutions of the Bank’s Board mentioned in note 15. A similar provision appeared in the 1991 resolution establishing the GEF.

offered through the inspection function to other Bank activities regarding the design, appraisal and implementation of projects. The benefits of such scrutiny to the institution and its members seem to apply equally whether the project involved is financed directly by Bank resources or through the GEF. In all such cases, however, inspection will be limited to the Bank's compliance with its own policies and procedures. It would not extend to issues of compliance with other policies and procedures to be adopted separately by the GEF Council, unless the Bank agrees otherwise or adopts the same as its own policies and procedures. While the extension of the inspection function to GEF projects, when limited to compliance with Bank policies and procedures, seems justified to this writer for the reasons stated above, it may well be confirmed by the Bank's Board.

B. Subject Matter of Requests for Inspection

As envisaged in the Resolution, the Panel can only be seized of requests related to actions or omissions of the Bank which demonstrate a failure by the Bank to follow its own operational policies and procedures with respect to the design, appraisal or implementation of a Bank-supported project.\(^\text{18}\) Unlike project "appraisal," which is a function carried out by Bank staff, project preparation and implementation, it should be noted once again, are basically the responsibility of the borrower. However, the Bank often plays a role in assisting the borrower in project preparation\(^\text{19}\) and always supervises the borrow-

\(^\text{18}\) Resolution, para. 12.
\(^\text{19}\) See supra, Chapter One, Section III(A) and W. C. Baum, The Project Cycle, at 8-10 (World Bank Publication, 1982). "There are even exceptional circumstances in which the Bank itself does preparatory work." Id. at 9.
er's implementation of the projects it finances. The Panel will be concerned only with the failure of the Bank to carry out the duties expected from it under its own policies and procedures throughout these stages of the project cycle. Such a failure, with respect to the "design and appraisal" of projects, refers to the Bank's actions or omissions in the project preparation, preappraisal and appraisal stages. The failure with respect to project "implementation" specifically includes the Bank's failure to follow up on the borrowers' contractual obligations under the Bank's loan agreements, which reflect the Bank's policies and procedures.20

"Operational Policies and Procedures"

Operational policies and procedures are defined in the Resolution to include the policies and procedures stated in the Bank's documents, known as "Operational Policies," "Bank Procedures," "Operational Directives" and earlier similar documents. The practice of the Bank has seen several series of operational statements as well as ad hoc circulars embodying its policies and procedures. These documents constitute instructions from the Bank management to its staff, and are separate from the policy papers which are submitted to the Board for approval. Approval of the latter papers is normally reflected in the Board's minutes and does not take the form of "resolutions"; such a form being normally used when there is a need to present the Board's decisions to other parties. Prior to the Bank's reorganization in 1987, its operational policies were contained mainly in "Operational Manual Statements" known in the Bank as "OMSs" and "Operations Policy Notes" known as "OPNs," which were both issued, under the authority of the President, by the then

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existing office of the Senior Vice President, Operations, in the form of general instructions, supplemented occasionally by "Operational Circulars" or less formal notes from the Senior Vice President, Operations. Following the 1987 reorganization, OMSs were gradually reflected in new documents called "Operational Directives" or "ODs," some of which included changes from earlier OMSs and some of which were completely new. Unlike the OMSs and OPNs which were not discussed in the Board, a small number of ODs were discussed in draft in Board seminars prior to their issuance by management in view of the sensitivity or complexity of their subject-matter. These included the ODs on environmental assessment, poverty and procedures for investment operations under the Global Environment Facility. Subsequent developments resulted in increased interest by the Board in the discussion of ODs before their issuance by management.

Problems in implementation led a number of Executive Directors to question whether the ODs were binding instruments. This writer, as General Counsel of the Bank,

21. An exception is Operational Manual Statement 2.32 (1985) (hereinafter "OMS") on Projects on International Waterways—which was drafted as the conclusion of a detailed paper approved by the Board. (This OMS was reissued later as OD 7.50 (1990). Most, but not all, OMSs reiterated policies previously approved by the Board.


24. OD 9.01 (1992). This draft OD was circulated to the Executive Directors and was later issued in the absence of a request for discussion.

25. In mid 1992, the Board agreed that, for papers with policy proposals which are considered difficult or controversial, "in cases where the Board-approved policy covered sectors where Bank involvement was new or significantly altered, a follow-up Board seminar would be arranged at an appropriate time to discuss how management had translated the policy into a new Operational Directive." Report of the Ad-Hoc Committee on Board Procedures (the Naim Report), R92-103, May 28, 1992, approved June 23, 1992.
has maintained that the ODs are general instructions from management to staff issued for their guidance.\textsuperscript{26} They should be consistent with the Bank's Articles of Agreement as interpreted by the Board and with Board approved policies. They should be followed by staff within the limits of flexibility provided in the ODs themselves. Management is accountable to the Executive Directors for the consistency of the ODs with Board approved policies and the staff are accountable to management for the observance of the ODs, with such latitude as their text may explicitly indicate. Management, as the issuer of these instructions, can amend them or in extreme cases allow deviation from them to the extent that such amendment or deviation does not violate the Bank's Articles of Agreement or any Board-approved policy.

As the office of the Senior Vice President, Operations, no longer exists, the Bank's current procedure requires that deviation from existing ODs can only occur with the approval of the Office of the President, unless the OD itself allows exceptions to be made by the Regional Vice President, the Country Director or another designated Bank official. When approval by the Office of the President is required, it is normally obtained from the Managing Director concerned after consultation with the Vice President and General Counsel. Naturally, the ODs which reiterate Board-approved policies cannot be changed with respect to these policies before the Board approves such changes. The few ODs discussed in draft by the Executive Directors before they were issued by management have also acquired a certain status which suggests that deviation from them, even if it does not

\textsuperscript{26} Each OD has a statement on its front page indicating that it was issued "for the guidance of the staff."
violate a formally Board-approved policy, needs prior consultation with, or subsequent approval by the Board. Deviation from the ODs would, in any event, be explicitly brought to the attention of the Board at the time of Board consideration of the operation. However, exceptions which are not authorized by the text of the OD must be kept to a minimum, if the ODs are to serve their purpose and if the Bank is to avoid undue differentiation among its borrowers. After all, the ODs are not meant to be "marching orders" for a specific operation but a "general operational code" which is written to apply in different situations and allows for the differentiations and exceptions deemed acceptable at the time of its issuance.

While not all the standards provided for in the ODs are binding (it depends on the wording of each standard), those stated in binding terms create a duty for the staff to exert their best efforts to achieve them. Actual achievement of these standards may depend on the action of other parties, notably the potential borrower or the borrower, as the case may be. In the latter case, the staff must make sure that the borrower's contractual obligations towards the Bank would require the borrower to achieve these binding standards and the Bank should maintain serious follow-up to ensure the observance of such obligations.

Some ODs were seen to be too detailed or reflecting at times what should be sought and not necessarily what could be done in each project. The limits of flexibility in the application of the ODs were not always clear either, especially those written before their drafters were aware of the controversy regarding the nature of these documents. Differences on this issue and the desire of the Bank's management to streamline and simplify the Bank's business practices led, after an informal discussion by the Executive Directors, to the management's
decision in late 1992 to gradually replace the ODs by statements termed “Operational Policies” (OPs) and “Bank Procedures” (BPs), which would be binding on the staff, as well as by “Good Practices” (GPs), which would disseminate knowledge and indicate successful examples without being binding. Under current procedures, policy papers submitted to the Board for approval which address difficult or controversial issues normally have the draft OP attached to them. The OP would then be issued after Board approval of the policy, reflecting the policy as agreed by the Board. At the time of writing (June 1994), not all OMSs and OPNs have been converted to ODs and not all ODs have been converted to these new instruments. This could lead to controversies before the Panel on whether certain details in a specific OMS, OPN or OD are provided as technical advice to the staff or are meant to be strictly complied with, an issue which will require a careful reading of these documents in the context in which they were issued and in the light of their objective in guiding the staff’s work. Obviously, it is to the benefit of all that this issue be settled for future projects by the conversion of the remaining OMSs, OPNs and ODs to the new operational documents the nature and role of which are much clearer to the Bank staff.

The Resolution establishing the Panel, while indicating that “policy statements,” “Bank Procedures” and the still applicable ODs and similar documents (e.g., the OMSs and OPNs) are included in the “operational policies and procedures” against the violation of which the Panel may receive complaints, explicitly excludes nonbinding
"Guidelines and Best Practices and similar documents or statements."  

A question may be raised with regard to Bank "rules" which are not reflected in the specific instruments mentioned in the textual definition of "operations policies and procedures." Practically all operational rules are reiterated in these instruments, however. If an operational rule incorporated in the Bank's Articles of Agreement or in the decisions of its Board is not mentioned in the above list of documents, it would only be reasonable that its violation would still be subject to the Panel's review, if the other applicable conditions are met.

**Preliminary Requirements**

Not every departure from the Bank's binding statements on its policies and procedures is subject to the Panel's jurisdiction. In fact, *three conditions must be met for such failure to be considered by the Panel:*

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27. Resolution, para. 12. The term "guidelines" may lead to some confusion, especially as certain Bank "guidelines" are meant to be binding, as is the case for the "Procurement Guidelines," which were in fact discussed on several occasions by the Bank's Board and are incorporated, by reference, in each loan agreement. (Procurement issues are excluded, however from the scope of the Panel's work as will be explained in the text, *infra.*) To avoid this confusion, management decided in late 1993 not to use the term "guidelines" in the operational circulars to be issued to staff. The term is still used however in the environment guidelines issued by the GEF Secretariat.

28. The first draft resolution on the Inspection Panel dated June 23, 1993, referred in its para. 12, to "operating rules and procedures" (emphasis added.) A draft dated August 5, 1993 which was the first draft resolution discussed by the Executive Directors (in their Committee of the Whole meeting of August 26, 1993) referred in its para. 12 to "operating policies, rules and procedures" and included the definition of that phrase as it now appears in the final text. The word "rules" was dropped, however, from the text formally presented to the Board, dated September 9, 1993, as it was suggested in internal management discussion that it could lead to confusion and was not needed in view of the textual definition.
1. First, it has to be established that "such failure has had, or threatens to have, a material adverse effect";\footnote{Resolution, para. 12.}

2. second, the alleged violation of the Bank's policies and procedures must be, in the judgement of the Panel, "of serious character";\footnote{Id., para. 13.} and

3. third, the subject matter of the request for inspection must have been submitted to the Bank's management and the latter failed to demonstrate that it had either followed the Bank's policies and procedures or at least taken adequate steps to that end.\footnote{Id.}

Except for the reference to the "harm suffered by or threatened to" the affected party, no criteria are provided in the Resolution for the "materiality" of the adverse effect or the "seriousness" of the violation, which means that the Panel will have to exert its judgment on these matters (when it decides on whether to recommend an investigation), subject to the Board's review (when it considers the Panel's recommendation) as will be discussed further below. At this early stage, the Panel will not investigate the management's actions in depth. It will only ascertain whether the party submitting the request has first sought remedies from the management and, if this is the case, whether the latter's reply has convincingly disposed of the matter. Clearly, the Panel's recommendation that an inspection is warranted will depend on a positive answer to the first question and a negative answer to the second, assuming other conditions are met. A mere admission by management that the
Bank's policies or procedures were not followed in the design, appraisal or implementation of a project is not likely to obviate the need for inspection, as the Panel may still find it appropriate to explore the dimensions of such a failure and the specific actions it may call for. If such an admission is made, it has thus to be accompanied by a statement of the remedial actions management will take. Under these circumstances the Panel may find no need for inspection, unless serious complaints persist with respect to the inadequacy of management's actions or new complaints arise with respect to the manner in which such actions are being implemented.

Barred Complaints

In addition to the above requirements, four types of requests for inspection are specifically barred by the Resolution. The first is only a logical exclusion. Since the main purpose of inspection is to allow for an objective evaluation which would open the way for corrective action by the Bank if such action proves necessary or desirable, the scope of the Panel's coverage is limited to matters which involve actions or omissions by the Bank, not those which are the responsibility of other parties such as the borrower or potential borrower. Another logical exclusion relates to matters over which the Panel has already made recommendations on the occasion of earlier requests, unless, of course, new evidence or circumstances not known at the time of consideration of the earlier request by the Panel justify a new review. This is not unlike the "revision procedure" in judicial proceedings. A third exclusion concerns time barred complaints, i.e., those filed after the "closing date" of the

33. Id., para. 14(d).
loan which finances the project involved. Such a "closing date" is specified in each loan agreement but is extendable by the Bank. In fact, this exclusion extends also to the situation where the loan "has been substantially disbursed." To avoid disputes over the meaning of such substantial disbursement, the Resolution provides, in a note to paragraph 14(c), that a loan will be deemed to reach that stage "when at least ninety five percent of the loan proceeds have been disbursed." This means that the Panel's jurisdiction extends to projects where the Bank's involvement predates the Resolution so long as disbursement of the Bank's loan has not exceeded ninety-five percent of the loan proceeds. Technically, this does not mean that the Resolution has a retroactive effect; it only emphasizes its immediate effect, up to a certain point in the future of each loan.

34. *Id.*, para. 14(c). The "closing date" is defined as "the date specified in the loan agreement on which the Bank may terminate, by notice to the borrower, the right of the borrower to withdraw funds from the loan account." See OD 13-30: Closing Dates (April 1989).

35. Interestingly, the August 5 draft of the resolution introduced the time exclusion in a much more liberal fashion to include "complaints filed two years or more after the Closing Date of the loan financing the project with respect to which the complaint is filed." Objections to this language were voiced by Executive Directors during the meeting of the Board's Committee of the Whole on August 26 on the ground that it extends the Panel's review over matters falling within the purview of the Bank's Operations Evaluation Department (OED); see Chapter One, *supra* at Sections III (c) and VI. The September 9 draft resolution simply excluded "requests filed after the Closing Date of the loan financing the project with respect to which the request is filed." The addition "or after the loan financing the project has been substantially disbursed" was inserted during the Board discussion on September 21, 1993. It was originally suggested that a loan would be substantially disbursed if 75 percent of its proceeds were paid by the Bank. Other proposals were made for higher percentages. The controversy over the definition resulted in agreement to provide for the 95 percent requirement but in an explanatory note to the relevant provision in the Resolution.
The fourth and last exclusion relates to complaints against Bank borrowers with respect to the *procurement of goods and services* financed by Bank loans, including those from losing tenderers (paragraph 14(b)). The reference in the text is to actions of the Bank *borrowers*. However, loan agreements require the Bank's consent before the award by the borrower of large contracts (as these are defined in the loan documents) and the Bank has definite policies on the procurement of goods and services funded by its loans (which mandate international competitive bidding as a general rule, subject to a number of exceptions). The intention was to exclude procurement matters whether the complaint is against action by a borrower or by the Bank. As explained during the Board discussion of September 21, 1993, where the matter became the subject of a lengthy debate, procurement disputes are different in nature from the typical issues which justified the establishment of the Panel. They also often involve suppliers from countries other than the borrowing country. More importantly, the number and frequency of such complaints could cause a major disorientation of the Panel's work. Mechanisms to deal with procurement-related disputes are in place and have worked rather well. For these reasons, the Resolution should be read to exclude not only "complaints against procurement decisions by Bank borrowers" but also "complaints from losing tenderers" even if those were addressed against the Bank. This point was explained in detail during the discussion of the Executive Directors who accepted this broad exclusion on practical grounds. A literal reading of the text of paragraph 14(b) of the Resolution could suggest, however, that the exclusion is limited in all cases to complaints against procurement decisions of Bank borrowers and does not apply to any decision by the Bank or its staff.
with respect to procurement. Such a literal reading would render the text of paragraph 14(b) of the Resolution superfluous as it would be a mere repetition of the exclusion in paragraph 14(a).  

Finally, the scope of the Panel's mandate is generally delimited by its nature and purpose. While this is not specifically mentioned in the Resolution, it was clear in the discussion which preceded it and found expression in the following paragraph of the management report which introduced the draft resolution:

"The purpose of the Inspection Panel is to carry out independent administrative reviews, not to conduct judicial proceedings. It would collect information on matters complained of, provide an independent assessment and make recommendations to the President and the Executive Directors. It would not have power of decision...Nor would it be within the purview of the Panel to make recommendations on

36. The reason the text of paragraph 14(b) of the Resolution refers only to "decisions by Bank borrowers" is that the Bank maintains that all procurement decisions are taken by borrowers, even if the Bank's consent is required before such decisions are made. See para. 12 of the management report referred to in supra note 5: "Since procurement decisions are the responsibility of the borrower, procurement-related disputes, which are subject to separate review procedures in the Bank, are excluded."

37. Other exclusions appeared in earlier drafts of the Resolution, but were dropped in the final text. These included in the first draft of June 23, 1993, "complaints from staff members and former staff members of the Bank with respect to which the Bank's Appeals Committee or Administrative Tribunal has jurisdiction" and "complaints with respect to projects for which the Bank under its normal procedure has no responsibility because the loan has been fully repaid." Another exclusion also appeared in the internal draft of July 20, 1993 with respect to "issues concerning compliance by Bank staff with the Bank's financial policies which will continue to be addressed by the Internal Auditing Department." It was pointed out in internal management discussion that such exclusions were too obvious to require explicit provisions.
the adequacy or suitability of existing policies and procedures.”38

III. ELIGIBILITY OF THE PARTY REQUESTING INSPECTION

In addition to the requirements elaborated in the previous section related both to the type of requests to be submitted to the Panel, which constitute its jurisdiction *ratione materiae*, and the time limit on the projects to which such requests may be related, which indirectly constitutes the Panel’s jurisdiction *ratione temporis*, the Resolution specifies also in detail the eligibility requirements of the persons authorized to submit such requests, i.e., the Panel’s jurisdiction *rationae personae*.39 These latter requirements were in fact subject to a number of changes in the successive drafts of the Resolution as well as to considerable discussion in the meetings of the Board’s Committee of the Whole on August 26–27, 1993, and in the Board’s meetings of September 21–22, 1993.

The Resolution makes it clear that a request for inspection has to be submitted by “an affected party in the territory of the borrower which is not a single individual,” or the representative of such party, or by an Executive Director of the Bank. While eligibility of requests by an Executive Director was subject to a lengthy debate in the discussion leading to the adoption of the Resolution (as will be discussed in detail), the requirement of “affected party” appeared in all earlier drafts, with differences in details regarding whether such party should be “in the territory of the borrower,” could be an individual or could have representation from outside its country.

38. *See supra* note 5, para. 8. *See also* Chapter Three, Section 1(B), *infra.*
A. Meaning of "Affected Party"

The term "affected party" is defined in the Resolution in two respects: First, "the affected party must demonstrate that its rights or interests have been or are likely to be directly affected by an action or omission of the Bank." However, not any effect will qualify for this purpose. Whether actually suffered or merely threatened, such an effect, as already mentioned, must, according to the Resolution, be a "material adverse effect." Second, the action or omission by the Bank which gave, or will give rise to such material adverse effect, must represent a failure of the Bank to follow its operational policies and procedures which is deemed to be of a "serious character." To put it in simpler words, an "affected party" for the purposes of the Resolution is a party whose rights or interests have been or are likely to be directly and adversely affected in a material way as a result of a serious violation by the Bank of its operational policies and procedures with respect to the preparation, appraisal or implementation of projects.

Judged by general legal doctrine this would require two elements: (i) that the affected party must be a party which has suffered or may suffer material damage, and (ii) that such damage is the result of the alleged violation by the Bank. The materiality of the damage is left for

40. Id. (emphasis added). This requirement was introduced in the September 9, 1993 draft Resolution in response to queries by Executive Directors in the Committee of the Whole discussion of August 26, 1993, regarding the meaning of the expression "affected party." The expression "rights" and "interests" should be given their usual legal meanings. The combination is meant to broaden the scope of coverage so as to include not only titles, powers and privileges protected by law but also substantiated claims to such titles, powers and privileges.

41. Resolution, para. 12.

42. Id.

43. Id., para. 13.
the Panel to determine when it recommends whether an investigation should be carried out. It is noteworthy that the Resolution used in this respect the term “affected party,” not the term “interested party” which was used in a separate document on information disclosure policy prepared for the Board at the same time. In that document, “interested party” was meant to cover more broadly any party which expressed interest. This is clearly not the meaning of “affected party” in the Resolution establishing the Inspection Panel where the Resolution further provides that the affected party must state in its request “the harm suffered by or threatened to such party.” Clearly, such party cannot simply be an entity claiming it acts on behalf of the public, without any specific harm being suffered or threatened to be suffered by it. The burden of proof that a material damage has been, or is likely to be, suffered falls on the “affected party.” So is the proof that a causal link exists between the Bank's alleged failure to follow its policies and procedures and such material damage. While the Panel is not supposed to act as a court of law in determining with judicial precision the existence of the damage, its extent or the causality between it and the Bank's actions or omissions, it must be reasonably satisfied that such elements are met before it recommends an investigation.

The Resolution further provides that the affected party must not be a single individual. Such a requirement was absent in the drafts preceding the Board's Committee of the Whole meeting of August 26, 1993. In fact, such earlier drafts consistently referred to complaints by a “person or persons directly affected.” The change resulted

44. SecM93-927, August 31, 1993; see also BP 17.50 on Disclosure of Operational Information (1993), issued after the adoption of the Bank's new policy on this matter.
45. Resolution, para. 16.
from a comment by an Executive Director during the August discussion. Referring to the experience of the national aid agency of his country, he indicated that allowing individuals to make complaints could open the door to frequent, frivolous requests causing unwarranted disruption. The point was met with a general support for limiting requests to those made by “a community of persons,” especially with the expectation that, if adverse effects were to take place, they are not likely to be confined to one person. The Resolution provides as examples requests by “an organization, association, society or other grouping of individuals.”

Also, the Resolution clearly describes the affected party as a party “in the territory of the borrower.” This requirement was intentionally introduced in the Board discussion of September 21, 1993, to exclude requests by advocacy groups and other interested parties outside the borrowing country. While it is not explicitly mentioned, it is implied that the “affected party” cannot be the borrower itself. Bank loan agreements (the General Conditions) provide that disputes arising under them between the Bank and the borrower are to be settled by negotiation and, failing this, by arbitration. If the borrower is not the government, the latter is required, in the case of IBRD loans, to act as the guarantor. Disputes arising under guarantee agreements are also to be settled by negotiation and arbitration. (In practice, disputes with borrowers and guarantors have always been resolved through negotiation.) Reference to “affected parties” in the Resolution should therefore be read as a reference to groups of people (whether or not they are incorporated or otherwise have juridical personality) whose rights or interests are specifically affected in a negative way by

46. *Id.*, para. 12. *See also infra*, Chapter Three, Section I(A)(2).
the alleged violation. Such groups must have a presence in the territory of the borrower, which in the case of associations and other incorporated entities, would normally mean that they should have their principal place of business in such a territory. Typically, though not necessarily, they would be in the area of the project financed by the Bank loan.

B. Representation of the Affected Party

No reference was made in the drafts preceding the Board’s Committee of the Whole discussion of August 26, 1993 to representation of the affected party in the submission of requests to the Panel. The debate in the Committee of the Whole on whether an affected party may have a foreign representative (e.g., a Washington-based law firm or NGO), revealed a difference of views between some Executive Directors representing developed countries who favored such foreign representation and borrowing countries’ Directors who opposed it. The September 9, 1993 draft resolution provided for the principle of representation but left open whether such representation be local or foreign. The issue was obviously of great importance to the concerned NGOs in developed countries which wanted to be in a position to represent affected parties in borrowing countries who, in the judgment of these NGOs, may not always be able to present their case against the Bank. It was also an important issue for some of the governments of borrowing countries which feared intervention of foreign parties in

47. The September 9, 1993 draft provided for requests by “a party other than a single individual ... or its representative [in the territory of the borrower]”. The bracketed words were meant to introduce the concept of foreign representation for further discussion in the Board meeting of September 21, 1993. They indicated that the Bank’s management was not averse to such representation.
the relationship between these governments and their citizens and the increased politicization and internationalization of their domestic issues. Board discussion led to agreement on a compromise solution whereby a foreign representative may be allowed to act on behalf of an affected party “in the exceptional cases where the party submitting the request contends that appropriate representation is not locally available and the Executive Directors agree with this contention at the time they consider the request for inspection.”

The requirement of Board approval of such foreign representation was meant to assure those who feared abuse of this arrangement that the Board remained the final arbiter on whether the situation justified it. The text clearly excludes complaints by external NGOs acting on their own and the Board discussions which preceded its adoption confirm this point beyond doubt. Eligible complaints would have to originate with the affected party which, as the concerned principal, could act on its own or through an agent appointed by it. Such a representative, according to the Resolution, “shall present to the Panel written evidence that he is acting as agent of the party on behalf of which the request is made.”

C. Requests by Executive Directors

The earliest draft resolution, dated June 23, 1993, included two alternative possibilities: Under the first option, complaints could be presented “by an Executive Director [of the Bank] or by a person or persons directly affected by an action or omission of the Bank.” Under the second, complaints could be presented “by a person or persons directly affected by a Bank action or omission.

49. Id.
or by an Executive Director on behalf of such a person or group. The difference between the two alternatives was clear; under the second option the Executive Director who submits the request would be acting only as the agent or representative of the affected party. These two formulas were replaced by the following language in the internal draft of July 20, 1994: "The Panel shall hear complaints presented to it by an Executive Director or a group of Executive Directors or by a person or persons directly affected.... Following discussion in the Bank's management and with individual Executive Directors, the draft dated August 5, 1993 which was later discussed in the Board's Committee of the Whole, spoke, instead, of requests "by a group of four or more Executive Directors or by a person or persons directly affected" provided that the requests by an affected party would, from the beginning, be "subject to approval by the Executive Directors." The Panel was authorized to investigate a request made by four or more Executive Directors without having to go back to the Board for approval of the investigation. However, if in the opinion of the Panel the complaint failed to meet the eligibility criteria *ratione materiae* or *ratione temporis*, the Panel would decline to investigate, unless the Board as such decided that the complaint ought to be investigated. These provisions were questioned by many Executive Directors during the meeting of the Board's Committee of the Whole of August 26, 1993 who pointed out in particular that the requirement of four Directors was excessive. As a result, the revised text submitted to the Board Meeting (draft

50. Paragraph 12 of draft resolution dated June 23, 1993 (limited circulation).
52. August 5, 1993 draft, para. 11 (limited circulation).
53. Id., para. 18.
dated September 9, 1993) mentioned that "[s]ubject to approval by the Executive Directors, the Panel shall hear requests for inspection presented by any Executive Director or by a party other than a single individual or its representative [in the territory of the borrower]..." 54

Although this provision reflected earlier discussion by the Executive Directors in August 1993, it aroused the greatest controversy in the Board meetings of September 21–22, 1993.

Some Directors objected strongly to allowing any Executive Director to present requests to the Panel fearing in particular that the Directors' offices would become conduits for frequent submissions of complaints by their respective national NGOs which would not otherwise be eligible to submit requests. Reasons mentioned against the lodging of requests by individual Executive Directors included the following. Executive Directors, it was argued, should go through management if they felt there was cause for an investigation; direct access to the Panel by individual Directors could only lead to politicization of the inspection process; this avenue would open wide the door for outside pressure on the Directors' offices; it would also put the Executive Directors at the same level as outsiders while they are part of the institution and have other means for ascertaining facts relevant to their work; if the requests were to be made on behalf of affected parties, the Executive Director could instead help affected parties in his constituency make such a request directly in their names; getting an Executive Director involved in complaints against the Bank could create a conflict of interest situation for Executive Directors and may cause problems with their authorities; and

finally such access would unreasonably increase the Directors' workload.

Against these arguments, a case was also made for allowing individual Executive Directors direct access to the Panel, with some Directors arguing that this was an inherent power of each Director, that it would be inconsistent with Bank and Board policies and practice to deprive an Executive Director of this power, and that such a deprivation would result in the inability of Directors to meet their responsibilities under the Articles of Agreement. It was also noted that if requests were limited to affected parties in the borrowing countries, access to the Panel might become unduly limited as most of the requests were expected to originate with NGOs in developed countries!

Further arguments arose as to whether Executive Directors as officials of the Bank could act as agents or representatives of the complainants before the Panel and whether the "right" of an Executive Director to access Bank facilities, including the projected Panel, could be hindered by the simple fact that it was not mentioned in the Resolution.55 By the end of the first day of discussion in the Board (September 21, 1993), no agreement could be reached on the right of individual Executive Directors to submit requests to the Panel. A large number of Directors seemed to have been against allowing for such a right, however. (The requirement that such access was subject, in the draft text, to Board approval seemed to have been lost in the debate; when it was mentioned, it was strongly objected to by those who favored the Directors' unhindered access to the Panel.)

55. I took the position before the Board that Executive Directors are expected to act as principals, not as agents to complainants and that if it was agreed to give them individually the right to present complaints, this should be provided for in the Resolution to avoid future differences over that matter.
When the Board met on the following day it had before it a revised draft of the resolution, with three alternative texts for the relevant paragraph (paragraph 12), prepared by the General Counsel in an attempt to assist the Board in resolving the controversy. Alternative A provided access to the affected party, his local representative or another representative in exceptional cases, but added that: "[I]n view of the institutional interest of Executive Directors in the observance by the Bank of its operational policies and procedures, any Executive Director also may ask the Panel for an investigation of an alleged violation of such policies and procedures, subject to the requirements of paragraphs 13 and 14." Alternative B was identical to Alternative A except for the above quoted sentence on requests by any Executive Director, which did not appear in Alternative B. Alternative C allowed an individual Executive Director to submit to the Board a request that a certain alleged violation of the Bank's operational policies and procedures be investigated by the Panel, with the addition that, if the Board agreed to this request, the Panel could proceed with the investigation without having to seek another Board approval of the investigation.

Alternative C attracted some of the Executive Directors who had previously opposed access to the Panel by individual Directors. Other opponents expressed again their concern that the Directors' offices of major developed countries would serve as a "mail box" for the NGOs of these countries, who would tend excessively to use these offices for the submission of complaints even when no serious violation or material harm was

56. The introduction of a third alternative was intended to break the deadlock as some of the adherents to each of the other two positions could find in it a basis for modifying their positions thus enabling a compromise to emerge.
involved. I had the occasion to explain during the Board discussion that (i) the Executive Directors as officials of the Bank were expected to act according to their own convictions as to what was in the best interest of the institution and (ii) if an Executive Director had access to the Panel, (a) he/she would have to be satisfied in each case that the alleged violation was serious enough to warrant his/her intervention and (b) he/she would have first to exhaust resort to management and would be expected to submit the request to the Panel only if he/she remained unsatisfied with management's reply. I also explained that the main difference between Alternatives A and C lay in the fact that in the latter alternative the Board would decide on whether to let the Panel proceed with the investigation without the benefit of the Panel's advice on whether an investigation was warranted, such advice being required in all cases under paragraph 19 of the draft resolution, in the absence of a provision to dispense with it (as was envisaged in the situation addressed by Alternative C). Based on a suggestion by an Executive Director, I further indicated that Alternative A might explicitly specify that requests submitted by individual Directors to the Panel would be made only in "special cases of serious alleged violations" of the Bank's operational policies and procedure, to allay fears regarding possible abuses. Paragraph 13 of the draft Resolution would thus state that the Panel would have to satisfy itself that the violation was of a serious character in such cases. (This addition to paragraph 13 was extended at the end to apply to all cases, not only to the case of requests by an Executive Director. The reference to this requirement in paragraph 12 where requests for inspection are made by an Executive Director was maintained, however, for the purpose of emphasizing that such requests would not constitute
a normal practice but would be confined to "special cases of serious alleged violations.") The text of paragraph 12 would also distinguish between requests by individual Executive Directors and requests by the Board as a whole. In the latter case the Panel would proceed directly with the investigation without having to ascertain the eligibility of the request or the seriousness of the alleged violations. In the case of requests by individual Executive Directors, under Alternative A as revised, the Panel would still be required to submit to the Board its recommendation on whether to proceed with the investigation and the Board would be the arbiter on the decision to proceed, thus exercising control over any possible abuse.

With these clarifications, the Board reached a consensus on Alternative A as revised which was seen in the light of these clarifications as a partial merger of Alternatives A and C.

IV. COMPOSITION OF THE PANEL

The Panel consists of three members who are appointed by the Bank's Board upon the nomination of the Bank's President. Such a nomination must be preceded, however, by consultation with the Executive Directors.57 During the Board discussion of the Resolution (September 21–23, 1993) a suggestion was made that a "search committee," consisting of Board members and management representatives, select candidates for submission to the Board. This proposal was not approved, however. Instead, the draft was amended to require the President to consult with the Directors before making nominations. In practice, the President of the Bank asked the

57. Resolution, para. 2.
Executive Directors to propose to him names for nomination to the first Panel, then submitted to them a short list of fourteen candidates for comments. This process resulted in shortening the list to seven, from which the President circulated his nomination of three candidates.

During the same Board discussion, several Executive Directors urged that at least one Panel member be from a borrowing country and that the Panel’s composition reflect “balanced representation.” Although the Resolution requires Panel members to be “of different nationalities” without further elaboration, the initial expectation, reflected indirectly in the first short list of nominees, was that one would be from North America, one from Europe and one from a developing country. This need not always be the case, however. In subsequent Board discussions at the time of the selection of the Panel members, several Executive Directors expressed disappointment that persons from important borrowing regions were not included and hoped that a better balance be reached in future selections.

Earlier drafts of the Resolution provided that the period of service on the Panel would be three years, except for the first members who would have staggered terms of two, three and four years, and that members may serve for two terms. This was challenged in the Board’s Committee of the Whole discussion on August 26, 1993 where emphasis was placed on a one, non-renewable term, as a safeguard for the independence of the Panel. As a result, the September 9 draft mentioned that after the staggered periods of the first Panel (three, four and five years), each vacancy will be filled for a period of five years but no member will serve for more than one term, a requirement that remained intact in the final text. As the experience of the inspection function will be reviewed by the Board “after two years from the
date of the appointment of the first members of the Panel" and such review may, at least in theory, lead to the abolition of this function, the Resolution, at the suggestion of an Executive Director, included a provision to the effect that the appointment of Panel members, which always exceeds two years, will be "subject to the continuity of the inspection function." This will be reflected in the inspectors' terms of employment.

Independence of the Panel members was emphasized in the management report submitted to the Board's Committee of the Whole as "a condition of effectiveness, objectivity, and credibility." The qualifications provided for in the Resolution include "their ability to deal thoroughly and fairly with the requests brought to them, their integrity and their independence from the Bank's management, and their exposure to development issues and to living conditions in developing countries." "Knowledge and experience of the Bank's operations" which was included in the requirements in the early drafts of the Resolution, is mentioned in the text only as "desirable," to alleviate a concern expressed in the discussion of the Board's Committee of the Whole on August 26, 1993 and in the Board's meeting of September 21, 1993. Making it a condition, it was argued, would favor only the appointment of former Bank officials, whereas it would suffice to have one of the members of the Panel with knowledge of Bank operations. It was clear that such knowledge would be useful for inspectors but it was agreed it should not be a condition of

58. Resolution, para. 3.
59. Id., para. 27.
60. Id., para. 3.
61. Functions and Operations of an Inspection Function, R93-122/1, August 6, 1993, para. 9 (limited circulation).
62. Resolution, para. 4.
eligibility. This conclusion also varied from the require-
ments explained earlier in the management report to the
Board’s Committee of the Whole, where knowledge of
the Bank figured prominently in the qualifications of
Panel members.63

As a further guarantee of the independence of inspec-
tors, the Resolution clearly excludes from appointment
anyone who worked for the Bank Group (including not
only the IBRD but also all its affiliates), as a staff mem-
ber (a term which includes consultants and “local staff”) or an Executive Director, or Alternate or Advisor to an
Executive Director, unless two years have elapsed since

63. In that report, the inspectors’ qualifications were stated as follows:

“• sufficient knowledge and understanding of the Bank, its
work, and its culture, to work comfortably and effectively in
its environment;
• sufficient objectivity to be able to see the Bank’s strengths
and weaknesses in perspective;
• sufficient exposure to development issues to have a broad
multi-disciplinary grasp of the technical aspects of Bank op-
erations; and
• sufficient experience of living and working in developing
countries to have a sympathetic understanding of the eco-
nomic and political realities that shape the Bank’s relation-
ship with its borrowers.” Supra note 61, para. 9.

The required qualifications were rephrased in the President’s Memoran-
dum to the September 1993 meeting of the Board to read as follows:

“The credibility of the Inspection Panel will depend on its
independence and on the objectivity and professional qual-
ity of the Inspectors. Inspectors should have experience of
living or working in developing countries, in order to have
an understanding of the economic and political realities that
shape the Bank’s relationship with its borrowers, and a
broad multi-disciplinary grasp of the technical aspects of
Bank operations; knowledge and understanding of Bank op-
erations and procedures would also be useful.” Supra note
5, para. 13 (emphasis added). The Resolution, as stated
above, mentions that knowledge of the Bank is “desirable,”
para. 4.
the end of such service. Earlier drafts (prior to the last, September 9, 1993 draft) had a waiting period of five years but this was reduced to two years following discussions in the Board's Committee of the Whole in August 1993. These discussions also resulted in the addition of a provision disqualifying a Panel member from participation in the hearing and investigation of "any request related to a matter in which he/she has a personal interest or had significant involvement in any capacity," as this was seen as more important than a long waiting period before appointment.

Moreover, the Resolution provides for two other safeguards to ensure that Panel members would not be subject to management influence, through sanctions or rewards. First, members of the Panel "may be removed from office only by decision of the Executive Directors, for cause," thus giving them immunity from arbitrary termination of service and from any management action in this respect. Second, "members of the Panel may not

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64. Resolution, para. 5.
65. Resolution, para. 6. The words "significant involvement" in this text replaced the words "has been personally involved with" in the draft resolution dated September 9, 1993, as the latter wording was found by Executive Directors to be too restrictive.
66. Some Directors found the waiting period unnecessary especially for Executive Directors and their Alternates, in view of the many safeguards in the Resolution ensuring the independence of Panel members. This view did not prevail, however.
be employed by the Bank Group, following the end of their service on the Panel.\textsuperscript{68}

The above requirements show that great attention must be given to the choice of Panel members. These should be persons whose knowledge, experience, integrity and independence are such as to generate confidence on the part of all the parties concerned within and outside the Bank. Without such confidence, the credibility of the function, its very \textit{raison d’être}, will be called into question. In addition, the choice should take into account the ability of the individuals concerned to work together as a team which would command respect of the Bank and its critics alike.

All Panel members will work on a full time basis when the workload justifies such an arrangement, as will be recommended by the Panel and approved by the Bank’s Board.\textsuperscript{69} Meanwhile, only the chairperson will work on a full time basis and the other two members will be called upon when actual requests for inspection or other Panel business require their attendance. The first chairperson was known at the time of the appointment as such person is designated in the Resolution as the “Panel

\textsuperscript{68} \textit{Id.}, para. 10. It should be noted that on the first occasion of appointment of Panel members, management initially asked the Board to modify the latter condition for two of the proposed candidates who, given their relatively young age and the fact that their appointment was to be for non-renewable terms of three and four years, respectively, had some reservations about serving under that condition. The condition was to be modified to prohibit these members from any employment with the Bank within five years of the end of their service on the Panel and from any \textit{regular staff} employment after this five year period, thus allowing for their possible future employment as consultants to the Bank. Concerns expressed by some Executive Directors led to full conformity with the Resolution, i.e., appointment of all members of the Panel under the general ban of future employment in the Bank in any capacity.

\textsuperscript{69} \textit{Id.}, para. 9.
member initially appointed for five years,”70 the other two being appointed for three and four years, respectively. Until all Panel members serve on a full time basis, the terms of employment of each member should therefore account for the fact that work conditions may shift from a full time to a part time basis or vice versa, depending on who is elected as chairperson after each year. During the Board discussion of the text of the Resolution in September 1993, the annual “rotation” of the chair was emphasized to avoid a situation where the Panel would be dominated by the same chairperson to the detriment of its multilateral character. It should be noted, however, that the text of the Resolution does not require such a rotation; it only states that, following the first year of the Panel, “the members of the Panel shall elect a Chairperson for a period of one year.”

Finally, the Resolution provides that the Panel members “shall be officials of the Bank” but, taking into account that initially two of them will be working on a part-time basis, qualifies this by the phrase “in the performance of their duties.”71 As stated in the Resolution, this entails that they will enjoy in their work as inspectors the privileges and immunities accorded to Bank officials, will be subject to the requirements of the Bank’s Articles of Agreement concerning their exclusive loyalty

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70. Id., para. 7.
71. Id., para. 10.
to the Bank, and will be subject to the Bank’s applicable Staff Principles.72

V. ROLE OF THE PANEL: PROCEDURAL ASPECTS AND SAFEGUARDS IN THE INSPECTION FUNCTION

With the careful procedural and substantive requirements in the selection of Panel members, the precise delineation of their terms of reference and of the qualifications of the parties who can properly activate the Panel’s function, it is clearly important that the Panel acts within the boundaries and according to the procedures stated in the Resolution. During the preparatory stages, fears were expressed, as shown earlier, that some Executive Directors may be pressured by NGOs in their countries to invoke the Panel’s role beyond its defined mandate. Risks were also highlighted regarding possible adverse effects on the respective roles of the Bank’s Board and management, on the attitude of Bank staff and their work on future projects, and on the Bank’s

72. The Resolution specifies in this respect the obligations stated in sub-paragraphs (c) and (d) of paragraph 3.1 and paragraph 3.2 of the Principles of Staff Employment. These require that staff members shall: “3.1 (c) conduct themselves at all times in a manner befitting their status as employees of an international organization. They shall avoid any action and, in particular, any public pronouncement or personal gainful activity, that would adversely or unfavorably reflect on their status or on the integrity, independence and impartiality that are required by that status;” and “(d) observe the utmost discretion in regard to all matters relating to the Organizations both while they are staff members and after their service with the Organizations has ended. In particular they shall refrain from the improper disclosure, whether direct or indirect, of information related to the business of The World Bank or the IFC.” and that: “3.2 All rights in any work produced by staff members as part of their official duties shall belong to The World Bank or the IFC unless such rights are explicitly relinquished.”
liability to third parties.73. The temptation to expand the role of the Panel beyond the limits stated in the Resolution could be fed by the high expectations of those who will see in it an instrument to drastically change the World Bank to their liking as well as by the disappointment of those who will fail to see it moving in that direction. To avoid the risk of such expansion and to ensure that the Panel would properly play the role envisaged for it, the Resolution specifies in precise terms the steps to be followed in invoking the inspection function and in the conduct of such function by the Panel.

A. Activating the Panel’s Role: The Request for Inspection

While the steps specified in the Resolution mainly address the situation where inspection is requested by an affected party, it should be borne in mind that this is only one of three ways of activating the work of the Panel, the other two being a request by one or more Executive Directors and a request by the Board.

In the case of a request by the Board, the Panel will proceed directly with the investigation and present its findings to the Board for decision. In the other two cases, the Panel must first ascertain whether its investigative function can be exercised according to the Resolution and report on this preliminary question to the Board. Any further action by the Panel will depend on the Board’s decision. In ascertaining that question, the Panel will naturally analyze whether the request was submitted by an eligible party (jurisdiction *ratione personae*), was not time barred (jurisdiction *ratione temporis*) and relates to a matter falling within the Panel’s mandate (jurisdiction *ratione materiae*), all according to the details specified in the

73. For a treatment of the risk factors, see Chapter Three.
Resolution and elaborated above. Only when the Panel is satisfied on these three counts, including the seriousness of the alleged violation and the exhaustion of the recourse to management, would the Panel recommend that an investigation be carried out. The Board will consider this recommendation according to its normal procedures. This could be “on a no objection basis” if the matter seems to be a straightforward, non-controversial routine matter, or in a Board meeting. Earlier drafts of the Resolution provided for the no objection procedure in all cases (unless an Executive Director requests consideration of the question in a Board meeting) but this was opposed in the Board discussion of September 21–22, 1993. The Resolution simply states that “[t]he recommendation of the Panel shall be circulated to the Executive Directors for decision within the normal distribution period.” If this recommendation is against investigation, the Secretary’s Department of the Bank is expected to circulate it for approval on a “no objection” basis. There is nothing to prevent a Board member in this case from requesting discussion and there is nothing to prevent the Board from asking the Panel to investigate the matter, notwithstanding the Panel’s earlier recommendation. If, on the other hand, the Panel’s recommendation is for the conduct of an investigation, the Board’s approval is normally expected to be sought on a “no objection” basis unless the question seems to warrant Board discussion or any Executive Director.

74. See Sections II and III of this Chapter.

75. Resolution, para. 19. According to the Rules of Procedure of the Executive Directors of the Bank, the President prepares the agenda for Board meetings. In practice, routine matters which are deemed to be non-controversial are circulated to Board members for approval on a “no objection” basis. The normal distribution period, i.e., the period between circulation and Board consideration (or approval on a no objection basis) would be three weeks.
requests such discussion. This was the understanding of the Board when the text of Paragraph 19 of the Resolution was approved as stated. In all instances, the decision to proceed with the investigation is that of the Board.

If the Board's decision, whether in a meeting or not, is for the carrying out of the investigation, this will be the occasion for the Board to allow, in case the request was submitted by an affected party, for the representation of such party by a representative from outside its country, should the affected party so requests on the basis that no appropriate representation was available locally.\textsuperscript{76}

The procedure to be followed in the submission of the request and in the preliminary handling of it by the Panel is spelled out in detail in the Resolution. The request for inspection which is required in all cases to be in writing, must state "all relevant facts."\textsuperscript{77} It must explain, in all cases, (i) the nature of the alleged action or omission by the Bank in violation of its operational policies and procedures; (ii) the actions taken to bring such violation to the attention of management; (iii) management's response to such action; and (iv) all "the steps already taken to deal with the issue."\textsuperscript{78} In case of a request by an affected party, the facts stated in the request must include "the harm suffered by or threatened to such party" by the Bank's action or omission.

Once a request is received from an Executive Director or an affected party (or its representative), the Chairperson of the Panel must promptly inform the Board and the President. No distinction is made in this respect in the Resolution between requests related to projects under preparation and to projects under implementation. In all

\textsuperscript{76} Resolution, para. 12, and the elaboration in Section III of this Chapter.
\textsuperscript{77} Resolution, para. 16.
\textsuperscript{78} Id.
the drafts preceding the Board's discussion and approval of the Resolution in September 1993, such a distinction was maintained in deference to the fact that assisting the borrower in project preparation is a management function. The Board's role with respect to specific projects normally begins as of the time the proposed loan is submitted to the Board for approval. The draft resolution thus required that, for complaints concerning projects under preparation, the Panel's Chairperson, upon receiving the request, inform the President of the Bank, "with a copy to the Executive Directors," whereas for projects under implementation the Chairperson inform the Executive Directors and the President. The distinction was not only procedural; it had important consequences spelled out in the draft with respect to the action following investigation. Such a distinction was based in fact on the con-

79. Under paragraph 23 of the draft resolution dated September 9, 1993, the consequential difference which was to come after completion of the investigation by the Panel, was explained as follows:

In case of an inspection concerning a project under preparation, the Management will inform the Executive Directors within six weeks from receiving the Panel's recommendations of the action(s) taken or planned to be taken by Management with respect to such recommendations. The recommendations of the Panel and the actions completed during project preparation also will be discussed in the Staff Appraisal Report when the project is submitted to the Executive Directors for financing. In case of requests for inspection concerning projects for which financing was approved by the Executive Directors, the President, within six weeks of receipt of the Panel's report, notify the Executive Directors of the actions he/she intends to take or which he/she recommends the Executive Directors to take on the basis of the report. In all cases, the Bank shall inform the party who requested inspection of the results of the examination of the request and the action taken in its respect, if any." As stated above, the distinction maintained in the draft was dropped in the final text of the Resolution.
cern not to confuse the respective functions of the management and the Board and to avoid getting the latter involved in operational actions which are correctly those of the Bank's management. In particular, it was presumed that there would be no possibility for Board action with respect to a project under preparation before the loan financing that project was actually submitted to the Board for approval. Nonetheless, such a distinction was opposed in the Board's discussion of the text especially as it was pointed out that certain issues, which arise early in the preparation stage, could be of great sensitivity to the Executive Directors and their authorities, mainly issues related to the effect of the project on the environment and on the resettlement of population. As Bank policies regarding these issues could be violated in the project preparation stage, Executive Directors insisted that the Board should be fully informed of the alleged violation and should be able to decide on whether an investigation was warranted even with respect to complaints at this early stage. The distinction and its consequences were thus deleted in the final text of the Resolution.

After the President of the Bank receives notification of the request from the Panel's chair, the Bank's management will have to provide the Panel, within 21 days of the date of notification, with evidence that it is actually in compliance with the Bank's policies and procedures, or that it is taking or intends to take measures to ensure such compliance. The adequacy and specificity of such measures may well obviate the need for any inspection. Within 21 days of receiving such a reply from management, the Panel must, after consulting with the recipient of the loan involved and the Executive Director representing the borrowing (or guaranteeing) country, reach

80. Resolution, para. 21.
its preliminary conclusion on whether the request is eligible for investigation. This conclusion entails the Panel's recommendation to the Board as to whether an investigation is warranted. The Board's decision on this recommendation, whether positive or negative, must be communicated to the affected party within two weeks of its date, in the cases where the request was submitted to the Panel by such a party.

It is conceivable that the Panel may find the request from the outset to be manifestly outside the scope of its mandate and thus would not warrant waiting for a response from management. A reasonable reading of the text suggests that the Panel would not have to wait in such a case for a response from management and may proceed directly to recommend to the Board that no action be taken. In case the request is manifestly frivolous or absurd, no such recommendation would be needed. The Panel may simply refuse to have the request registered, to avoid the waste of time and effort, provided it informs the requesting party, the Board and the President. Although this is not provided for in the text of the Resolution, it would result, in my view, from a common sense reading of the text.

After the Board decides on whether the Panel should proceed with the investigation, the request for inspection, the Panel's recommendation and the Board's decision will be made publicly available by the Bank,81 which means that copies of these documents will be available to the public through the newly established Public Information Center and the Bank's field office in the country concerned. The Resolution does not specify a period for such publication, except for its earlier provision on the notification of the affected party of the

81. Id., para. 25.
Board's decision within two weeks of the date of the decision.82

A decision by the Board authorizing inspection “normally would not involve cessation of preparatory work on an operation,” as was explained in the management report to the Board dated September 10, 1993,83 in answer to questions raised earlier in the discussion of the Board's Committee of the Whole. Management may decide, however, to suspend the Bank's preparatory work, or the Board may request it to do so pending the outcome of inspection in cases where the prevailing circumstances require such a measure. The Panel, in recommending inspection, may indicate whether in its view suspension of preparatory work would be needed for the purposes of its inspection (e.g., if the continuation of such work would have the potential of making the alleged harm irreversible).

B. Investigation by the Panel

The manner in which investigation by the Panel is to be conducted is also described in the Resolution. The Chairperson designates one or two members as having primary responsibility for a given inspection.84 (One would normally expect that the inspection of each request would be assigned initially to one Panel member). The Panel, not the Chairperson, fixes a certain period for the assigned inspector(s) to report his/her findings to the Panel.85 Such a period is expected to vary according to the nature and complexity of the case. Upon receiving this preliminary report from the assigned inspector, the

82. Id., para. 19.
83. See supra note 5, para. 11.
84. Resolution, para. 20.
85. Id.
Panel will deliberate on it and reach its conclusion. Such a conclusion is normally expected to be reached by the consensus of the members of the Panel, as is the case with its procedural decisions generally and with its earlier recommendation on whether to proceed with the inspection. If consensus cannot be reached, the Panel's report will state "the majority and minority views." Conceivably, there could be three different views in the Panel, in which case these disparate views will be stated in the report, although this situation is not explicitly envisioned in the Resolution. As stated earlier, the Panel's conclusions will be preceded by a statement of the facts which led to them; in other words, they have to be reasoned. In fact, the Panel's report to the Board and the President has to discuss "all relevant facts" and should specifically indicate "whether the Bank has complied with all relevant Bank policies and procedures."

Certain safeguards are provided in the Resolution to ensure that the investigation will be carried out properly. These include the access given to the members of the Panel to all the Bank staff, i.e., to all those in the employment of the Bank, whether they are regular staff, "consultants," or local field office staff, as well as to "all pertinent Bank records." In particular, Panel members are required as needed to consult with the Director-General, Operations Evaluation Department and with the Internal Auditor. Consultation with the former was a subject of some discussion in the Board meeting which

86. Resolution, para. 24. The text of the Resolution speaks of the Panel's "findings." The term "recommendation" was mentioned in earlier drafts but was replaced by "findings" on the suggestion of an Executive Director to avoid confusion with the management recommendation on the steps to be taken in light of these findings.
87. Id., para. 22.
88. Id.
adopted the Resolution. Some Board members from the beginning wanted the Panel to operate “under the umbrella” of the office of the Director-General, Operations Evaluation. When the difference was explained between the “inspection function,” which deals with projects before their completion, and the “operations evaluation function,” which typically deals with completed projects, the Board agreed, after hearing the views of the Director-General, Operations Evaluation, to only mention in the Resolution that the Panel “shall consult” with the Director-General. The words “as needed” were added in this context to avoid the impression that such consultation was mandatory in all cases. Consultation with the Internal Auditor, as needed, was also provided for on that occasion.

Other safeguards are mentioned in the Resolution to ensure that the Panel is fully aware of the views of the borrower and of the Executive Director representing the country which is the borrower or the guarantor of the loan that gave rise to the investigation and to further ensure that the investigation would not undermine the Bank’s relationship with that country or encroach on its

89. This was suggested in the “Four Executive Directors’ Proposal” referred to in Chapter One, Section V and advocated by some of the authors of that proposal in later discussions.

90. The views of the Director-General, Operations Evaluation, were also sought at an earlier stage by the Joint Audit Committee of the Board on a comparison between the “Four Executive Directors’ Proposal” and the “management proposal.” In the Board discussion of September 1993, the Director-General, who is appointed by the Board and reports to it (with an administrative link to the President) expressed the view that the two functions (inspection and operations evaluation) had the same corporate objective and shared the same tool kit and professional relationship and that to the extent possible there should be a commonality of views between them, although an arm’s length relationship was needed with respect to specific inspections to ensure that the integrity of the Operations Evaluations Department (which may cover the same projects in the post-completion stage) was not affected.
jurisdiction. Specifically, Panel members must consult with both the borrower and the Executive Director during the investigation and must receive the consent of the country where actual inspection is to be carried out before such inspection takes place. This is not, it should be clarified, meant to make the inspection function itself subject to the prior consent of any country. Nor does it require a special consent for visits of Bank representatives, including Panel members, which do not involve investigative activities exceeding normal supervision and evaluation. (Such visits being authorized by an explicit provision in the General Conditions applicable to all loans).\textsuperscript{91} It only requires that such investigative activities by the Panel (e.g. interrogation of officials, holding public hearings with groups, etc.) will not take place in the territory of a country without its prior approval. Beyond this limitation, the inspection process may otherwise proceed even if that country or any other country was opposed to it.

In carrying out their investigations, Panel members are likely to face legal issues relevant to the rights and obligations of the Bank, the borrower, the guarantor (if the borrower is not the government) and the “affected parties.” However, the Panel is not a court of law and has no power to interpret the Bank’s Articles of Agreement, loan agreements, project agreements, guarantee agreements and other agreements between the Bank and its borrowers. Nor does its power extend to determining the legal rights and obligations of the Bank under these instruments or under the Bank’s policies and procedures. The Panel is requested by explicit provisions in its constituent

\textsuperscript{91} See General Conditions Applicable to Bank Loan Agreements, at Section 9.01(c) and General Conditions Applicable to IDA Credit Agreements, at Section 9.01(b).
Resolution to “seek the advice of the Bank’s Legal Department on matters related to the Bank’s rights and obligations with respect to the request under consideration.” In providing its advice, the Legal Department must limit itself to the legal questions put before it and avoid taking a position on the specific subject matter of the inspection.

C. Follow-up Action

Once the Executive Directors and the President receive the report of the Panel, management will have up to six weeks from that date to submit its own report to the Board. This report should include management’s recommendations in response to the Panel’s findings, whether the project which gave rise to the complaint was under preparation or under implementation. The Board will discuss the Panel’s report and management’s recommendations before deciding on the directives to issue to management in their respect. No time limit is set in the Resolution for Board action and the Panel’s report remains confidential at this stage. As in the case of the Board decision on whether to allow the Panel to proceed with the inspection, in the cases where inspection is requested by an “affected party” (or its representative) the Bank must, as stated earlier, inform such party of the actions agreed to by the Board “within two weeks of the

92. Resolution, para. 23.
93. The proceedings of the Executive Directors are confidential according to the Board’s Rules of Procedure. It has been noted that the fact that there are 24 Directors and 24 Alternates who report to 177 member governments has made it difficult in practice to maintain the confidentiality of reports circulated to Board members. Maintaining such confidentiality to the extent possible is nonetheless deemed essential for protecting Board members from outside pressure by special interest groups. According to the Resolution establishing the Panel, the report submitted by the Panel on the investigation is to be made publicly available only “after consideration by the Executive Directors of the report.” Resolution, para. 25.
Board's consideration of the matter."94 If such Board consideration takes more than one meeting,95 the two week period would reasonably be expected to run from the date where the Board decision is reached, although the Bank may chose to keep the affected party informed as the matter progresses. In any case, the Panel's report and the Bank's response as agreed by the Board will have to be made publicly available "within two weeks after consideration by the Executive Directors of the report." It is thus presumed that the affected party will be informed simultaneously with or shortly before the general public within the two-week period.

The matter will not be closed at this point. For projects under preparation, if the Bank continued its work on the financing of the project, the "Staff Appraisal Report," a document which is circulated to Board members along with the President's Memorandum recommending the approval of the Bank's loan or guarantee, must include the findings of the Panel and the actions completed by management and the borrower to address these findings (assuming that the findings required such actions). The issue is bound to be reviewed by the Board at the time of loan approval, with a view to seeing, in the light of the information provided in the Staff Appraisal Report, whether adequate corrective measures have been taken. For projects under implementation, the borrower remains bound by its obligations under the loan agreement until the loan is fully repaid.96 Disbursement under

94. Resolution, para. 23.
95. In the case of the Narmada Project (Chapter One, Section II, supra), several Board sessions discussing successive management reports were held before the matter was settled.
96. This is by virtue of explicit provisions in the standard General Conditions Applicable to Bank Loans (Section 6.06) and to IDA Credits (Section 6.06).
the loan would continue unless of course an "event of suspension" specified in the loan document occurs to justify such action on the part of the Bank. If the measures agreed by the Board require action by the borrower and the latter is not willing to take such action, the borrower may decide to cancel the undisbursed part of the loan (as was the case in the Narmada project). Otherwise, a conclusion will have to be reached by the Bank on whether the borrower's failure to act constitutes a violation of its agreement with the Bank, in which case the Bank will have available to it the remedies provided for in the General Conditions applicable to its loans, i.e., suspension of disbursement of loan proceeds, cancellation of the loan and, the (unprecedented) acceleration of the maturity of the loan, including demand of immediate repayment of the full amount outstanding. Given the cooperative nature of the Bank and its on-going long-term relationships with its borrowing members, matters are expected to be settled through negotiation more often than through resort to such remedies.

VI. ADMINISTRATIVE AND FINANCIAL ASPECTS OF THE PANEL'S WORK

A. Status of the Panel

As explained earlier, the Panel is not merely a list of names of persons to be called upon to participate in an

97. This point was explicitly mentioned in the management report to the Board dated September 10, 1993. See supra note 5, para. 11. The General Conditions applicable to Bank loans gives the Bank the power to suspend disbursement, *inter alia*, when the borrower (or guarantor) fails to perform any obligation under the loan (or guarantee) agreement and when an extraordinary situation arises which makes it improbable that the project can be carried out or that the borrower (or guarantor) will be able to perform its obligations (Sections 6.02(c) and (e), IBRD; and 6.02(b) and (d), IDA).
inspection when the need arises; nor will it be a full time operating Bank facility until its workload justifies this status. Initially, the Panel is envisaged as a compromise between these two situations, a compromise necessitated by the impossibility of predicting the number of requests the Panel will receive and by the desire to avoid the large cost of appointing its members on a full-time basis for a job that could be exercised only on a few occasions or, theoretically, not at all. Although the idea of an agreed list to be activated when the need arises was proposed by some Executive Directors during the Board's discussion of the Resolution, it was felt that a stronger presence would be needed to give credibility to this new facility and to provide a basis for an institutional working relationship between it and the Bank's management and Board. The Resolution thus assumes that of the Panel's three members only the Chairperson will work on a full time basis at Bank headquarters, the other two being called upon on a case by case basis until the workload reaches a stage where the Board finds it reasonable, on the recommendations of the Panel, to allow the three inspectors to work on a full time basis. Practical arrangements will be made to facilitate the work of the Panel in spite of this situation and the three inspectors would be provided with electronic mail and fax facilities at their homes or offices which would allow them to remain in touch with the Bank and with each other on a continuous basis.

There is no doubt that the idea of a full-time Chairperson is meant to emphasize the visibility of the new facility, rather than on any prediction regarding the volume

98. Resolution, para. 9.
of its work at the outset. 99 No similar arrangement exists for instance for the Bank's Administrative Tribunal which deals with staff disputes and handles dozens of such disputes every year. The arrangement might prove impractical if the assumption on which it was based proves unrealistic, in which case it could be revised by the Board on the occasion of the review of the experience of the inspection function after two years from the date of the appointment of the first Panel members. 100

B. The Executive Secretary

The Panel's Chairperson is not the only official of the Panel expected to be available in the Bank's headquarters from the outset. The Resolution provides that the President of the Bank will appoint, after consultation with the Executive Directors, an Executive Secretary for the Panel. 101 The Secretary will be chosen from Bank staff members, presumably to ensure full familiarity with the Bank's policies, procedures, and working methods. He or she also need not work on a full time basis "until the workload so justifies." 102 The requirement of consultation with the Board before the appointment of the Executive Secretary was introduced in the September 1993 Board discussion of the draft resolution after some

99. An earlier version of the management report to the Board on the Panel stated that "it was more likely than not that the [complaints] will be more substantial at the outset than later." See supra note 61, para. 27. If such prediction was accurate, it would not be consistent with the Resolution's arrangement for the initially part-time work of the other two inspectors. Obviously, the number and nature of the complaints submitted to the Panel will be the practical determinants of whether only the Chairperson or the full Panel will work on a full-time basis.

100. This review is mandated by the Resolution, para. 27.

101. Resolution, para. 11.

102. Id.
Directors went further to suggest that the Executive Secretary be appointed by the Board.103

C. Remunerations and Other Costs

The Resolution provides that "once [the members of the Panel] begin to work on a full-time basis, they shall receive remuneration at a level to be determined by the Executive Directors upon a recommendation of the President, plus normal benefits available to Bank fixed-term staff."104 This provision applies from the outset to the Chairperson of the Panel while he serves as such. During the Board discussion of the Resolution, management indicated that its budget estimates for the Panel's cost assumed full-time inspectors at grades 27–28 in the Bank's salary scale, which are the highest grades for Bank staff below the Vice Presidential level. On that basis, and on the assumption that the three inspectors would make five trips a year of different distances and would need office space, support staff and occasionally some consultants, along with the cost of the Executive Secretary, management assumed that the Panel's annual budget would be around $1.5 million, a figure which caused some Executive Directors to question the need for granting such high grades to full-time inspectors and to urge for cost restraint.105

The Resolution, assuming two inspectors will not be working full time at the outset, provides that "they shall

103. The first Executive Secretary of the Panel was appointed on April 4, 1994. He is Mr. Eduardo G. Abbott, a Chilean national, who served as a member of the Bank's Legal Department since 1978. As of August 1, 1994, Mr. Abbott is expected to work on a full-time basis on Panel matters.

104. Resolution, para. 10.

105. The Board approved on April 21, 1994 that the remuneration of full-time members of the Panel will be fixed at the ceiling of level 28 of the Bank's salary scale (R94-56, IDA/R94-60, April 5, 1994).
be remunerated on a *per diem* basis and shall be reimbursed for their expenses on the same basis as the members of the Bank's Administrative Tribunal." The *per diem* payment for such members is at present SDR600, roughly the equivalent of US$845.

The management's report to the Board's Committee of the Whole meeting of August 26, 1993, emphasized the need for an "institutional system" for the Panel. While recognizing the importance of avoiding the cost of a full-time unit before the need for it existed, it concluded by stating that "it would not seem appropriate to make a decision on this function largely or even significantly on the basis of costs alone. The important thing is to structure the function in such a way that if the workload is modest, costs can be adjusted to match it. If the costs turn out to be larger, it would only be because there is a substantial and continuous volume of legitimate complaints, and hence a need for the function. In that case, it is hard to conceive the costs arising as anything but an essential cost of doing business in the way that now seems appropriate to the Bank community and its shareholders." 106

D. Annual Report

The Resolution requires the Panel to furnish an annual report to the President and the Executive Directors concerning its activities and mandates the publication of such a report by the Bank. Given the importance of its subject matter to varied audiences, it is expected that requests will be made for the publication of this report in several languages.

E. Location of the Panel in the Bank's Organizational Structure

The Resolution is silent on the administrative location of the Panel which was described in all preceding drafts as an "independent" inspection panel. During Board discussion of the draft resolution of September 1993, management indicated that the Panel would be located in the Secretary's Department and that its "administrative link" with that Department would not undermine the independent function of the Panel. This will be identical to the treatment of the Bank's Administrative Tribunal. Such administrative linkage means that the Executive Secretary of the Panel will, administratively, report to the Bank's Vice President and Secretary and that the latter will be responsible for the administrative aspects of the selection of Panel members and of the Panel's budget. It does not give the Vice President and Secretary the right to intervene in the work of the Panel. Such work will be subject only to the Resolution and, ultimately, to the Board's control through its decisions on whether to allow an inspection to take place and on the measures to be taken in response to the Panel's findings in a specific case.

107. The word "independent" was dropped at the suggestion of an Executive Director during the September 21, 1993 Board meeting on the basis that, although the Panel members are to exercise their function with full independence, the Panel remains part of the Bank and describing it as an "Independent Inspection Panel" may give the erroneous impression that it is an external supervisory authority.
Chapter Three

A Preliminary Assessment
and Concluding Remarks

By giving affected parties direct access to a new independent unit within the World Bank's structure (the Inspection Panel), the Bank's Executive Directors have opened a new chapter in the status of private groups (affected entities and groups of persons) vis-à-vis the Bank. Before discussing the potential effects of this important contribution of the Panel and, more generally, its possible impact on the law of international organizations and on the status of private groups in international law, a preliminary evaluation of the decision establishing the Panel may be useful. Such an evaluation may serve as a prelude to the future review and assessment of the inspection function by the Bank's Board, as well as by outsiders, in light of the actual experience of the Panel in the years to come.

I. A PRELIMINARY ASSESSMENT OF THE INSPECTION FUNCTION AS DEFINED IN THE RESOLUTION

A. Early Criticism

Although the Panel has yet to begin its activities, at least seven features of the inspection function entrusted to it
have been strongly criticized. These relate to the perceived lack of adequate independence of the Panel members, the limited access to the Panel, the limited scope of its activities, the advisory nature of its role, the possible preemption of that role by management's early remedial action, the perceived lack of, or delay in, the disclosure of its processes and decisions and the possible termination, or limitation, of the inspection function after a two-year period. Each of these points deserves further clarification.

1. Is the Independence of the Panel Adequately Secured?

The Panel has already been characterized by one critic as a "subordinate organ" of the World Bank's President and Board\(^1\) in view of the fact that its members are nominated by the former and appointed by the latter. Some earlier proposals, it should be recalled, suggested the creation of an "Independent Appeals Commission" located outside the Bank,\(^2\) or a completely separate "watchdog agency" which "must be insulated from the conflicts of interest inherent in the Bank's multiple roles as development agency, lending institution, debt collector and representative of developed country interests."\(^3\)

While the Panel established in the Bank is part of the Bank's administrative structure, its functional indepen-

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2. See supra, Chapter One, Section IV(C).

vidence is secured by a number of safeguards. Bank staff members cannot be appointed as Panel members before a lapse of two years after the termination of their service. Panel members serve only for one non-renewable term, they cannot be reappointed as staff members, and their remuneration is predetermined at fixed amounts not subject to individual changes. Furthermore, the Panel will have a budget of its own (as part of the budget of the Secretary's Department in the Bank) and a separate secretariat (initially confined to its own Executive Secretary and support staff). Neither the location of the Panel within the Bank's organizational chart, nor the fact that its Executive Secretary will initially work on a part-time basis, affects the functional independence of the Panel. The fear that only former Bank staff would be appointed has proved to be unjustified. (Only one of the members chosen worked for a brief period for the Bank more than three decades ago.) Even the complaint that NGOs would play no role in the nomination of Panel members proved exaggerated in practice. The President's consultation with the Executive Directors prior to making his nominations gave them the opportunity to express all relevant concerns known to them, including those of NGOs.

2. Do Relevant Parties Have Limited Access to the Panel?

Access to the Panel was found to be "excessively restricted" because of the condition that only groups in the borrowing country whose rights or interests are adversely affected are eligible to lodge complaints, to

4. See supra, Chapter Two, Section IV.
5. See Sumu, supra note 1.
the exclusion of claims by an affected individual as well as by groups outside the borrowing country concerned.\textsuperscript{6} It should be recalled, however, that an Executive Director may also request investigation by the Panel. If individuals or groups who do not meet eligibility conditions have a serious complaint that warrants investigation by the Panel they can bring it to the attention of any one of the Bank’s twenty-four Executive Directors. The judgment of an Executive Director as to whether to pursue the matter is likely to depend on its seriousness and on whether, after discussing the question with management, it is clear that an independent investigation by the Panel is needed. This need not be seen as a limitation on the inspection function, but rather as a safeguard against frivolous claims which may otherwise limit the time the Panel may devote to handling serious complaints.

The criteria for standing and eligibility to make requests for inspection, explained in the previous chapter, expressly require complainants to be directly affected, except for the Executive Directors who have a special “custodial” role based on their institutional responsibility for the observance by the Bank of its own policies and procedures.\textsuperscript{7} While not excluding the possibility of collaboration between locally affected claim-

\textsuperscript{6} Id.

\textsuperscript{7} On the role of the Executive Directors, see generally the Memorandum of the Vice President and General Counsel, “The Role of the Executive Directors of the Bank Under the Bank’s Articles of Agreement and in the Bank’s Practice,” BPC87-2 (October 5, 1987). See also R. Gerster, “Accountability of Executive Directors in the Bretton Woods Institutions,” 27 Journal of World Trade Law 87, 104-05 (1993).
ants and external partner organizations in case of need, the Panel thus is not a forum for an actio popularis, that is a public action by a person acting on behalf of the public at large.

Finally, the exclusion of a request for inspection submitted by a single individual is based only on practical grounds as explained earlier. It thus need not be theorized as a denial of the “subjective rights” approach prevalent in much of the academic discussion, especially in the environmental field. While such a denial was consciously pursued in the 1992 Rio Declaration on Environment and Development, which studiously avoided references to individual “rights,” the drafting history of the Resolution on the Panel shows that indivi-

8. In the “exceptional case where the party submitting the request contends that appropriate representation is not locally available and the Executive Directors so agree at the time they consider the request for inspection” (see Resolution, para. 12 and Chapter Two, supra at III(B). For illustrations of cooperation among local and foreign NGOs on environmental issues, see D.A. Wirth, “Legitimacy, Accountability, and Partnership: A Model for Advocacy on Third World Environmental Issues,” 100 Yale Law Journal 2645 (1991).


10. See supra Chapter Two, Section III(A).


dual requests were originally provided for and subsequently deleted only in response to a concern that the Panel could be distracted by too many such requests.

3. Is the Panel's Jurisdiction Unduly Limited in Scope?

The Panel's substantive jurisdiction is, for the reasons explained in the previous Chapter,\textsuperscript{14} no doubt limited to matters for which the Bank is responsible and can take remedial actions. Giving the Panel an unrestricted right to further investigate whether the Bank's actions are consistent with all international agreements on human rights and the environment without any limitation, as advocated by certain NGOs\textsuperscript{15} and authors,\textsuperscript{16} would give the Panel a role other than the one for which it was established. It would also entangle the Bank in areas clearly outside its mandate (as far as \textit{political} human rights are concerned).\textsuperscript{17} The Panel can certainly investigate environmental and human rights issues (e.g., rights of those involuntarily resettled as a result of a Bank-financed project, rights of indigenous people in project areas, etc.) to the extent that these are covered by the Bank's policies.

International agreements, whether on the environment, human rights or other matters, are binding on the states parties to them. It is the responsibility of these states, through their actions within and outside the Bank,

\textsuperscript{14} See Chapter Two, Section II.
\textsuperscript{15} See the proposal to establish an "Independent Appeals Commission" referred to in Chapter One, Section IV(C).
\textsuperscript{16} See Sumi, \textit{supra} note 1.
to meet their international obligations under these agreements. The Bank is bound by its own rules and policies and by the agreements to which the Bank is a party. It has been Bank policy since 1984 that the Bank does not finance (i) "projects that contravene any international environmental agreement" to which the country on whose territory the project is located is a party, and (ii) "projects which would significantly modify natural areas designated by international conventions as World Heritage Sites or Biosphere Reserves." As long as this principle remains part of Bank policy, the Panel's mandate will cover claims regarding its violation. However, the Panel, as explained during the Board's discussion which led to the adoption of the Resolution establishing it, is not meant to be a supra-national organization to enforce international agreements which are binding on member states and to which the Bank is not a party. Other mechanisms exist or should exist for the enforcement of such international agreements. Rather, the Panel is simply a mechanism to help ensure that the Bank's operational actions will be consistent with the Bank's policies (and procedures), including the above-stated policy regarding certain international environmental agreements. The Panel also has a mandate to investigate whether the Bank has properly followed up on the borrowers' obligations under Bank loan agreements.

In all such respects, the Bank is accountable to its members which are all represented in its Board of Executive Directors and, individually, in its Board of Governors as to the legality and propriety of its own acts, as will be further explained below.

18. OMS 2.36 on Environmental Aspects of Bank Work, para. 9(e) (May 1984). See also OP 4.36 Forestry, para. 2 (September 1993).
4. Should the Panel Have Decision-Making Powers?

The Panel has also been criticized for its inability to make its own decisions on whether investigations are warranted and to offer relief to complainants as a result of such investigations. However, the Bank's own governance rules require that decisions be made by the decision-making organs of the Bank which are defined in its Articles of Agreement. The Panel is not one such organ. Its intervention in operational matters by the issuance of binding decisions would conflict with the Bank's present governance structure and could cause serious problems to the management of its business. The Panel's potential role should not be underestimated, however. The Panel is not, as several commentators erroneously described it, an "advisory body." Rather, it is an investigative body. Its function is not to provide advice to the Bank, except on the preliminary issue of whether an inspection should be undertaken. Its main role is to investigate complaints and come to a finding, that is to a conclusion as to whether the Bank has observed its policies and procedures. If its finding is that the Bank has not been in compliance, this will obviously be a powerful conclusion that neither the Bank's management nor its Board can ignore.

As one commentator has noted, "the strength of the Panel's advisory powers [sic] comes from the combination of its independence and the fact that the Bank will make the complaints, all the Panel's recommendations and findings, and the decisions of the Executive Direc-

19. Id. See also, Hunter and Udall, supra note 1, at 3. Sumi suggests that the Panel's "recommendations" be followed by staff unless a specific decision to the contrary is made by a two-thirds majority vote of the Board.
tors publicly available." With all the care taken in the Resolution to ensure the professional and personal integrity and credibility of the Panel members, it is only to be expected that their findings will receive great attention by both the Bank's management and Board. Such findings, while legally not binding on the Bank's decision-making organs, will undoubtedly have an overwhelming impact. As correctly noted by the above-mentioned commentator "[I]f the recommendations and findings of the Panel are not respected or generally adopted by the Board, the Panel runs the risk of being viewed as irrelevant by non-Bank actors." 21

Certainly, the publication of the Panel's findings and reports will provide these "non-Bank actors" with "an opportunity to evaluate the work of the Panel and the Bank's response to its findings..." 22 It is difficult, however, to see how the same commentator has reached the conclusion that "if all the Panel's recommendations are accepted, without debate, by the Board, the Panel runs the risk of being viewed as too subservient to the Bank." 23

It should be recalled, in any event, that the Bank's ability to resort to remedial actions against its borrowers (e.g., suspension and cancellation of the loan) is governed by the loan agreements and the General Conditions applicable to them. A finding by the Panel may well lead to such actions but only to the extent that it

22. See Bradlow, supra note 20, at 7-8.
23. See Bradlow, supra note 21, at 3.
establishes an event of default on the part of the borrower and the Bank decides to apply the remedies available to it. This may particularly happen in the context of a complaint that the Bank has failed in its follow-up on the borrower's obligations.24

5. **Does the Possibility of Remedial Action by Management Obviate the Need for Investigation?**

As explained in Chapter Two above, the Bank's management may, after being informed of a complaint submitted to the Panel, admit the error and provide the complainant and the Panel with the list of actions it intends to take to correct it. Under such circumstances, the Panel may conclude that there would be no need for investigation, unless the proposed remedial actions were not deemed by the complainant to be adequate and the Panel agreed that an inspection was required.25 The obviation of the need for inspection in such cases should be seen as a positive development to the extent that it allows for correcting Bank failures in a speedy manner. It seems however to have been criticized on the basis that it gives the Bank an opportunity to handle problems before they become subject to investigation without the complainant being given the opportunity to respond.26 As a practical matter, if the complainant remains dissatisfied in spite of the declared remedial actions by the Bank's management, because of the inadequacy of such actions or because they have not been properly imple-

24. *See Resolution, para. 12. Compare Sumi, supra note 1, where he calls for empowering the Panel to recommend suspension of lending for the project in question “during the period up to completion of investigation and to cancel the loan in cases where a high degree of infringement of human rights or destruction of the environment is taking place.”*
25. *See supra, Chapter Two, Section II(B).*
26. *See Bradlow, supra note 21, at 8.*
mented, it can pursue its complaint before the Panel which will decide whether an investigation still needs to be recommended to the Board. If, on the other hand, management's actions satisfactorily addresses the complaint, the objective of the Panel's function would have been served.

6. Timing of Making the Panel's Reports Publicly Available

The resolution establishing the Panel has also been criticized for not making the Panel's recommendation (on whether an investigation is warranted) and findings (on the result of the investigation) available to the complainant at the same time they are presented to the Board and in the same language of the community to which the complainant belongs.27 Such disclosure is required in the Resolution within two weeks after the Board's decision on the matter in each case28 (although the language issue is not addressed by the Resolution). For this reason, critics contend that the Resolution "excludes the public from participating until after the Executive Directors consider the [Panel's] reports."29 Making the reports public at an earlier date would not in itself give the public a formal role in the process, however. The Panel, it should be noted, is not a political or judicial organization. It can, however, hear any individual or group who may contribute to its inspection, before, not after, it reaches its conclusions. The Resolution does not require that such hearing necessarily be conducted in a closed session; only it was not intended to open the door for the lobbying of Panel members or for other attempts by

27. See Sumi, supra note 1.
28. See Resolutions, paras. 23, 25.
29. See Hunter and Udall, supra note 1, at 3.
third parties to influence them. Confidentiality of the Board’s proceedings is a different matter. It is required by the Board’s Rules of Procedure to preserve the integrity of its deliberative process and to protect the Board against undue pressure from the parties who may have special interests in a particular outcome.30

7. Is the Review of the Inspection Function in Two Years too Restrictive?

The provision in the Resolution requiring the Executive Directors to review the Panel’s experience in two years has also been criticized as possibly allowing for the termination of its function or for further restricting this function. This has called for the suggestion by some writers that such a review be carried out not only by the Bank’s Board but also by “representatives from the borrowing countries and NGOs.”31 The Board’s review of new Bank initiatives after a period of implementation is a regular feature of the Board’s work. It is meant to enable the Board to introduce necessary or desirable improvements in the light of experience and should not be viewed with suspicion. Other writers have indeed seen in the review a cause for the Panel “to be prudent and deliberate in its actions” and for NGOs “to carefully select the complaints they bring to the Panel” so that they may “demonstrate both the need for an independent inspection panel and the contribution that it can make to improving the operations of the Bank.”32 There is nothing, of course, to prevent NGOs from undertaking

31. See Sumi, supra note 1.
32. See Bradlow, supra note 12, at 9.
their own evaluation of the Panel's experience and making it available to the Bank.

B. Costs and Benefits to the Bank and Its Members

1. Perceived Risks to the Bank and Its Member Countries

A number of potential risks were mentioned during the discussion of the draft resolution establishing the Panel in the Bank's Board. Although it is too early to evaluate the potential impact, many of the perceived risks may, under closer scrutiny, prove not to be real or may be outweighed by the benefits of this initiative to the Bank and its borrowing members.

i. Possible Deterrent Effect on Bank Staff

The first perceived risk is that the establishment of the Panel may have a deterrent effect on the Bank's staff causing them to be overconcerned with following the rules and less innovative in their work. In particular, it was noted that projects which involve resettlement of population or have environmental effects may as a result be unreasonably delayed or dropped altogether. Job security, it was feared, would prevail under these new circumstances over job productivity. The same fear caused some Executive Directors during the discussion to call on the Bank's management to adopt clear rules that would not subject Bank staff to disciplinary actions except in cases of intentional violation of the Bank's policies and procedures.

Innovation does not have to take place at the expense of applicable rules, however. While the Bank's staff are expected to be innovative and are encouraged to question rules when they feel they no longer serve their
purpose, they are neither encouraged nor expected to violate Bank policies or procedures as long as these are in force. Violation of such policies or procedures could entail disciplinary action, whether the Panel exists or not. If the presence of the Panel makes the staff more careful in their work or causes them to question the need for some existing rules or policies which need to be reconsidered, that would be a welcome contribution to the Bank’s work.

**ii. Possible Internationalization of Domestic Disputes in Violation of the Borrowing Countries’ Jurisdiction**

Another perceived risk is that a complaint by an affected party (to the effect that the Bank is not following up on a violation by a borrowing country of its obligations under a loan agreement) could transform a domestic dispute between the affected party and its government into an international dispute between this government and the Bank. Such internationalization, the argument goes, would limit the country’s jurisdiction over persons and events in its territory.

It should be noted, however, that to the extent that such internationalization occurs it will be the result of the international obligation of the country under the agreement with the Bank. Neither the complaint, nor the Panel’s findings, create in this situation new obligations

33. “Resourcefulness and creativity” are indeed among the competencies against which the performance of Bank staff is measured. In particular, managerial staff are evaluated *inter alia* as to whether the manager “challenges conventional wisdom and actively pursues new approaches” and “takes prudent risks in situations where delay could have high costs for the client or the Bank.” See The World Bank, *Competencies for Managerial Jobs*, item 16 (1994).

34. See Staff Rules, Rule 8.01, Section 3.
for the borrowing country. They merely alert the Bank to the borrower's obligations under its loan agreement and to the Bank's corresponding duty to see to it that these obligations are being carried out. As these obligations are meant to serve the agreed objective of the project for which the loan is made, their fulfillment would presumably be in the borrower's interest. Any limitation on the country's domestic jurisdiction would only be due to what the country initially undertook to do under the loan agreement. The Panel will in any event be concerned with the Bank's actions and omissions. It has no authority to address the borrower or call on it to behave in any particular manner towards individuals or entities subject to its jurisdiction.

iii. Possible Expansion or Abuse of the Panel's Functions Beyond the Limits Defined in the Resolution

There is no basis to fear that the members of the Panel will disregard the limits set on their function by the Resolution establishing the Panel, whether these relate to the standing of complainants, the subject matter of inspection or the projects in respect of which investigation may be authorized. On the contrary, Panel members can only be expected to exert their function judiciously with great attention to all the procedural and substantive requirements provided for in the Resolution. As explained earlier, these were designed to ensure that the inspection function will not exceed the purpose for which it has been established.

It is true, however, that pressure is expected from sources outside the Bank, mainly from NGOs in developed countries, to broaden the eligibility for requesting
inspection, the scope of such inspection and the power of the inspectors with respect to remedial actions.36

Some commentators have already envisaged that the Panel will make recommendations on the compensation to be paid to affected parties or on changes in the project design,37 even though the Resolution lends no support to such a conclusion. Some of those who correctly understood the role of the Panel as envisaged are asking for changes to enlarge that role. A few members of the U.S. Congress indicated in Congressional discussions that they expect such enlargement to take place.

It is therefore possible that the concerns expressed so far by the above mentioned sources may be translated over time into requests from certain member countries to change the scope or the nature of the inspection function. The opportunity for such a change would be the Board’s review of the function envisaged under the Resolution after two years from the date of the appointment of the first members, i.e., in 1996. It is the responsibility of the Bank’s Board and management to ensure that changes will be introduced if they are deemed, after careful analysis, to be necessary or desirable, and in a manner consistent with the Bank’s governance under its Articles of Agreement.

iv. Possible Legal Action Against the Bank Based on the Panel’s Findings

Fears have been expressed that the Panel’s findings confirming the Bank’s non-observance of its own policies and procedures could expose it to the risk of suits before national courts initiated by or on behalf of affected parties. While in most cases liability, if it existed

36. See Section I(A) of this chapter.
37. See e.g., Bradlow, supra note 20 at 11.
at all, would fall on the borrower whose actions or omissions on the ground would have caused the damage, there is a risk that the Bank may be sued for alleged damage resulting directly from its own failure. Such a risk may not materialize except in rare cases but it could be particularly real in litigious environments where resort to courts by activist groups is a normal practice.

The Bank maintains however that as a public international organization pursuing international public purposes (e.g., facilitating reconstruction and development in less developed countries, promoting international investment and trade, thus raising living standards and reducing poverty on a world-wide scale), the Bank enjoys immunity from legal action before national courts except where this immunity is explicitly waived: Such immunity is based on customary international law which accords immunity to all public international organizations, at least for their non-commercial activities. The principle is codified in the 1947 Convention on the Privileges and Immunities of the Specialized Agencies of the United Nations, subject only to the waiver of immunity by the agency concerned. The Bank is a specialized agency of the U.N. and the waiver provided for in its Articles of Agreement is repeated in this context. This waiver is an exception from the Bank's general immunity


40. See Agreement between the UN and the IBRD approved by the Board of Governors on September 16, 1947 and between the UN and the IDA approved by the Board of Governors on February 24, 1961.

as an international organization pursuing a public purpose. The Bank has asserted this immunity in the few cases in which it was sued before national courts. There has been no case in which a national court denied the Bank's immunity when asserted. Such immunity was confirmed in two cases before U.S. courts, the *Mendaro* case,\(^4\) initiated against the Bank by a former staff consultant, and the *Morgan* case,\(^4\) initiated by a "temporary employee" who worked for the Bank under a contract between the Bank and an employment agency. In both cases, the U.S. federal district court dismissed the suits on the basis of the Bank's immunity. In the words of the *Mendaro* court,

> "the facially broad waiver of immunity contained in the Bank's Articles of Agreement must be narrowly read in light of both national and international law governing the immunity of international organizations."\(^4\)

Later, in *Morgan*, where the claimant had no recourse to the Bank's Administrative Tribunal because he was not a staff member, the U.S. court nevertheless upheld the Bank's immunity. The clear conclusion in both cases is that the waiver of such immunity provided for in the


\(^4\) *Mendaro*, supra note 42, at 611.
Bank's Articles is limited to actions "arising out of [the Bank's] external commercial contracts and activities."\(^\text{45}\)

The Bank's Articles of Agreement provide for the immunity from legal process of the Bank's Governors, Executive Directors, Alternates and staff with respect to acts performed by them in their official capacity, except when the Bank waives this immunity.\(^\text{46}\) They also contain a general provision which provides that the Bank may be sued in certain circumstances. It reads as follows:

"Actions may be brought against the Bank only in a court of competent jurisdiction in the territories of a member in which the Bank has an office, has appointed an agent for the purpose of accepting service or notice of process, or has issued or guaranteed securities. No actions shall, however, be brought by members or persons acting for or deriving claims from members. The property and assets of the Bank shall, wheresoever located and by whomsoever held, be immune from all forms of seizure, attachment or execution before the delivery of final judgment against the Bank."\(^\text{47}\)

\(^{45}\) Mendaro, supra note 42, at 620 (emphasis added). Compare Lutcher S.A. Cellulose e Papel v. Inter-American Development Bank, 382 F.2nd 454 (D.C. Cir., 1967) where the Court of Appeals denied immunity of IDB and permitted a suit by a private borrower alleging IDB wrongfully lent money to plaintiff's competitors and failed to carry out alleged promises to make market study before participating in further loans to industry. The Court found that the complaint "does not raise large or delicate international policy issues." Id. at 460.

\(^{46}\) See IBRD Articles of Agreement, at Article VII, Section 8(i), and IDA Articles of Agreement, at Article VIII, Section 8.

\(^{47}\) See IBRD Articles of Agreement, at Article VII, Section 3 and IDA Articles of Agreement, at Article VIII, Section 3.
This provision was meant to enable the Bank to borrow from financial markets by making it possible for its creditors to sue it before national courts. Such borrowings are conducted as commercial transactions subject to national law and the disputes arising under them are subject to the jurisdiction of national courts. Outside the area of borrowing and similar commercial activities, the Bank has consistently asserted immunity or accepted international arbitration (as for disputes arising under its loan and guarantee agreements). The Bank has also successfully asserted immunity in cases brought by staff and former staff members before national courts and has only accepted to be sued by them before its Administrative Tribunal established in 1980. The narrow interpretation of the waiver provided for in the above quoted Article VII, Section 3, was supported by the U.S. State

48. See General Conditions Applicable to Bank Loans, at Article X, Section 10.04.
Department Legal Adviser,50 and, as demonstrated above, by U.S. courts. In the Mendaro case the court concluded that “it is evident that the World Bank’s members could only have intended to waive the Bank’s immunity from suits by its debtors, creditors, bond holders, and those other potential plaintiffs to whom the Bank would have to subject itself to suit in order to achieve its chartered objectives.”51 The same conclusion could be drawn from the U.S. International Organizations Immunities Act of 1945 which provides that international organizations designated by the President “shall enjoy the same immunity from suit and every form of judicial process as is enjoyed by foreign governments, except to the extent that such organizations may expressly waive their immunity for the purpose of any proceedings or by the terms of any contract.”52

50. Letter from Roberts B. Owen, U.S. Department of State Legal Adviser, to LeRoy D. Clark, Equal Employment Opportunity Commission General Counsel (June 24, 1980). Commenting on Article VII, Section 3 of the IBRD Articles, the letter stated:

The language of the Article does not specify the exact scope of actions which may properly be brought against the Bank under its provisions. However, at the time the Articles of Agreement were negotiated, Article VII (3) was intended as a limited waiver of immunity specifically to permit suits by private lenders against the Bank in connection with the Bank’s issuance of securities, and to specify the venue for such actions, in order to facilitate the Bank’s access to capital markets. Cf. Restatement (Second), Foreign Relations Law of the United States, § 84, Reporter’s Note at 275 (1965). It was not designed (and should not now be construed) to subject the Bank to the full range of our domestic jurisdiction or to expose the Bank’s internal personnel and administrative actions to review by our courts and administrative agencies. (citation deleted.)

51. Mendaro, supra note 42, at 615.

The narrow interpretation of the Bank’s waiver of immunity is also consistent with the prevalent theory and practice with respect to state immunity which excludes from such immunity only acts ratione gestiones, i.e., of commercial or business character.\(^5\) Neither the Bank’s lending operations, nor, clearly, the issuance and observance of its policies and procedures are commercial activities pursued for profit purposes. On the contrary, these represent the core of the international public purposes for which the Bank was established, i.e., supporting development in the territories of its members and promoting international investment and trade.\(^4\)

No case has ever been decided by national courts concerning damages to third parties resulting from a Bank action or omission in the context of its loan or guarantee operations. The Articles of Agreement are definitive on the Bank’s immunity from actions “brought by members or persons acting for or deriving claims from members.” It cannot however be stated with certainty what other types of actions against the Bank national courts would rule to fall outside their jurisdiction or declare inadmissible. However, as the Panel’s findings would not relate to the Bank’s commercial activities but to the degree of its compliance with its own policies and procedures, it is most unlikely that a national court would consider such findings a valid basis for legal action against the Bank without regard to the Bank’s general immunity from the jurisdiction of national courts for activities which are not


\(^{54}\) See IBRD Articles of Agreement, at Article 1 (Purposes).
commercial in nature. To rule otherwise would be to allow national courts to become involved in the internal functioning of a public international organization, contrary to the rationale of the concept of immunity of international organizations as understood in contemporary international law, and reflected in Article VII, Section 1 of the Bank's Articles of Agreement which endows the Bank with its immunities "[t]o enable the Bank to fulfill the functions with which it is entrusted."  

2. Possible Benefits to the Bank and Its Members

The Inspection Panel's activities, perhaps its mere presence, could enhance the Bank's efficiency, to the benefit of its borrowers. The Panel's accessibility to a broad range of affected parties could also broaden the scope of the Bank's accountability. These two factors can only increase the Bank's credibility in both its borrowing and non-borrowing member countries and provide the basis for their continued support which is vital for its future. Other benefits may also ensue.

i. Effect on the Bank's Efficiency

The Bank, as explained earlier, has developed in the past several review and evaluation mechanisms which are meant to provide it with the feedback necessary to enhance its knowledge and technical capabilities.  

55. Accord, Mendaro, supra note 42, at 618: "a waiver of immunity to suits arising out of the Bank's internal operations, such as its relationship with its own employees, would contravene the express language of Article VII, Section 1." See also Lutcher, supra note 45, at 450 where the Court of Appeals agreed with the District judge that "where delicate, complex issues of international economic policy are involved, jurisdiction should be denied."

56. See supra, Chapter One, Section III.
portunity for further inspection, after an actual complaint has been received, by three independent experts who, unlike the operational staff, have not been involved in the project's design, preparation or appraisal and have no interest in defending the staff's prior action. It is also different from the post-implementation review by the Operations Evaluation Department, in that it allows for independent inspection from the beginning of the project cycle and therefore for possible remedial action before project completion. The efficiency effects of the Panel's work are therefore relevant both to the project at hand and to future Bank activities in general.

In fact, the mere presence of the Panel is likely to make the Bank staff more diligent in the observance of Bank policies. The usual zeal of presenting projects for Board approval in a manner and pace that meet the lending program's targets will be tempered, to a greater extent than in the past, by the zeal not to put the institution in the embarrassing position of being found in non-compliance with its own policies and procedures. Since these policies and procedures are meant to ensure quality in the Bank-financed projects and to serve broader institutional objectives approved by Bank members (through the Executive Directors), the greater attention paid to them can only serve the Bank, its members as a whole, and in particular the borrowers concerned. Inspection can also raise issues not otherwise known or appreciated and may cause the Bank to adopt more effective or clearer standards in the pursuit of its objectives. In the process, it can enhance the awareness of the borrowers involved of deficiencies in their own processes and attitudes that need to be corrected. The publication of the results of the Panel's work should also enable all those concerned with the development process, governments, NGOs, international financial institu-
tions and others, to draw lessons from this experience and to have them reflected in their subsequent policies and actions. The end result should increase the efficiency of the Bank and of the process of development finance in general. This of course assumes that the Panel will be properly used as envisaged and will carry out its function with the high degree of competence, integrity and independence expected from it. It also assumes that the Bank staff will make every effort to facilitate the Panel's work and benefit from its results.

ii. Effects on the Bank's Accountability

Much confusion seems to exist in current writings on the Bank's accountability and, more generally, on the accountability of multilateral organizations. Many such writings ignore the structure of accountability institutionalized in these organizations by their constituent instruments. In the case of the World Bank, the staff are accountable to the President who appoints them. The President is appointed by the Executive Directors and is accountable to them.57 The Executive Directors are appointed or elected according to a system whereby each of the five members with the largest number of shares appoints one Executive Director and the Governors appointed by other members elect the other (19) Executive Directors every two years through constituencies of Governors.58 With the exception of certain powers reserved to the Board of Governors, all the powers of the Bank, which, in principle, are vested in the Board of Governors, have been delegated to the Executive

57. See IBRD Articles of Agreement, at Article V, Section 5(a) and IDA Articles of Agreement, at Article VI, Section 5(a).
58. See IBRD Articles of Agreement, at Article V, Section 4(b). The Executive Directors of the IBRD serve ex officio as Executive Directors of IDA.
Directors. All member countries are represented individually in the Board of Governors, each by a Governor and an Alternate Governor. These are typically ministers of finance or development who are accountable to their parliaments, the members of which are accountable to the public which elects them. This is therefore a structure which, due to its international nature, is somewhat removed from direct accountability to the public of a single member. But it is a sophisticated structure of accountability befitting an international institution. Many commentators, however, seem to assume that the only meaningful accountability is direct accountability to the public and, seeing that this is lacking in international organizations, accuse them, and the Bank in particular, of lack of accountability.59

The Bank's system of accountability enables any member country which disputes the manner in which the Bank applies its Articles of Agreement to submit any question of interpretation to the Executive Directors for decision, subject to possible appeal by any member to the Board of Governors.60 Disputes between the Bank and its borrowers which are not settled through negotiation can be submitted to international arbitration.61 Furthermore, an Executive Director can at any time raise with management or before the Board relevant issues of concern to the governments which appointed or elected him/her or to private parties. Ultimately, the parliaments


60. See IBRD Articles of Agreement, at Article IX and IDA Articles of Agreement, at Article X.

61. See General Conditions Applicable to Loan and Guarantee Agreements of the IBRD, at Section 10.04 (and of IDA).
of member countries, through their authorization and appropriation of funds to the Bank and through their approval of the amendment of its charter, can exercise a form of parliamentary review which complements the institution’s system of accountability.

The Inspection Panel provides an additional instrument in this sophisticated system by introducing a possible direct relationship between private affected parties and the Bank. In other words, far from making the Bank accountable for the first time, the inspection function adds to a system of accountability based on the institutional hierarchy of the organization another system initiated by complaints by affected parties. This new measure of accountability does not substitute for the upward system of accountability that exists; it simply assists it to function more efficiently by adding a downward system of accountability reaching out to affected parties. Decisions on remedial actions which may result from this new system remain in the hands of the Executive Directors who are responsible for the general operations of the Bank. The Panel simply gives the affected parties a voice in questioning the Bank’s actions and provides the Executive Directors and the President, through its findings, with independently ascertained facts which enable them to perform their duties and to ensure the Bank’s compliance with its policies and procedures. In this manner, the additional mechanism neither detracts from nor dilutes the existing system of accountability. On the contrary, it strengthens it and increases its efficiency.

iii. Other Benefits

The Bank’s independent inspection function could have other, perhaps unintended, benefits. It will give the Bank, and indirectly its borrowers, the opportunity to
defend themselves before a credible forum against mounting accusations of critics who often lack accurate information but feel free to blame project failure on the Bank. For this reason the Bank's management has confidently welcomed the exercise by the Panel of its investigative function. The Bank should have nothing to lose in this process. Whether the facts found by the Panel clear the Bank from the accusations leveled against it or point out where the Bank failed, inspection could be helpful to the institution. In both situations, the Bank will demonstrate to all the parties concerned and to the public at large that it is a credible, responsive institution worthy of the broad and continued support it receives from its members.

II. CONCLUDING REMARKS: IMPACT ON THE EVOLUTION OF INTERNATIONAL LAW AND POLICY

The effects of the establishment and operation of the Inspection Panel will not be limited to the Bank and its borrowing members. Over time, they are likely to influence a number of areas of international law and policy far beyond the scope of the Bank's activities.

The establishment of the Panel, it should be noted, comes at a time of growing interest in the role of individuals and private groups in international affairs. The traditional view of international law as the law governing relations between sovereign states as its sole subjects has gradually given way to the recognition of the international juridical personality of certain non-state entities.

i.e., public international organizations. Increasingly, individuals and private entities in certain circumstances are also accorded rights and subjected to obligations under international law. However, the phenomenal expansion of the rights of individuals and private groups derived directly from international law is a relatively recent development. This development is most manifestly reflected in rights of access and hearing granted to claimants other than states before an increasing number of international courts and tribunals. At the global level, such facilities include sophisticated arbitration and conciliation mechanisms open to foreign investors against their host states, most notably, the International Centre for Settlement of Investment Disputes (ICSID). At the regional level, they include such fora as the Court of Justice of the European Communities, the European Commission of Human Rights, the European Court of Human Rights (under its present Rules of Court) and the Inter-American Commission on Human Rights. Bilateral


arrangements such as the U.S.-Mexico Claims Commission of the 1920s and the current Iran-U.S. Claims Tribunal provide further examples of this trend.\textsuperscript{66} There is a widespread tendency to describe this evolution in terms of developing and strengthening international procedural safeguards for the protection of human rights, with a focus on judicial remedies against the violation of such rights based directly on international legal principles.

However, with the exception of the Court of Justice of the European Communities, existing international review mechanisms that have been invoked as possible precedents for the Panel are concerned exclusively with the activities of States, rather than international organizations. This applies, in particular, to mechanisms in the field of human rights—including the procedures developed within international organizations for this purpose, such as the U.N. Commission for Human Rights\textsuperscript{67} (and more recently the office of the U.N. High Commissioner for Human Rights)\textsuperscript{68} and the facilities of the International Labour Organization\textsuperscript{69}—as well as the judicial and semi-judicial review mechanisms referred to earlier.

By contrast, review mechanisms of international organizations' decisions have traditionally been limited to the

\textsuperscript{66} For references on the Iran-U.S. Claims Tribunal, see N. Ziadé, Selective Bibliography on the Iran-United States Claims Tribunal, 2 ICSID Rev.—FILJ 534 (1987).


review of staff appeals in personnel matters through an administrative tribunal and/or a less formal mechanism such as a staff "appeals committee" or an "ombudsman." The Bank, which has had a staff appeals committee since 1977, established its Administrative Tribunal in 1980 and the office of the staff Ombudsman in 1981.

What is often overlooked is the lack of other, non-adjudicatory mechanisms which address the operational activities of international organizations and aim at introducing greater efficiency in these activities by strengthening the accountability system of such organizations. The World Bank's Inspection Panel provides this type of mechanism, introducing a non-judicial process to assist in ensuring compliance with the internal operational policies and procedures of one of the largest and most effective international organizations. The deterrent effect of this process may be gained by the mere presence of the Panel. Its remedial effects, though ultimately brought about by an organ of the organization itself (the President or the Executive Directors), will also be driven by the Panel through the findings it will reach in each case.

The institutional simplicity of the Panel and its apparent benefits make it easily replicable in other international organizations. This is likely to add demands on such organizations to follow suit. Once accountability to the affected public is postulated as an efficient complementary element in the overall accountability system of an international organization, it is indeed difficult to see why such element should be restricted to the World Bank or to multilateral development institutions. Obviously, this would not be the case if the function were to contradict or dilute

existing systems of accountability or otherwise hinder the efficient operation of the organization involved.

The concepts of public participation and civic action are also receiving increased recognition in international circles, as recently demonstrated at the 1992 United Nations Conference on Environment and Development\(^\text{71}\) and as now reflected in World Bank policies.\(^\text{72}\) Non-governmental organizations in all countries are clearly playing an effective role which is only expected to grow. In a future where governments' actions, including their actions within international organizations, are likely increasingly to reflect this "people's empowerment" movement, international organizations will have to adapt their working methods to this new environment. The World Bank Inspection Panel is a reflection of this reality which attempts to reconcile the legitimate concerns of the people who may be affected by Bank supported projects and the institution's legitimate concern for efficiency.

The establishment of the panel may serve another related, though unintended, purpose, i.e., the development of the law of international trust in the direction of recognizing the interests of ultimate beneficiaries by conferring on them the right to invoke certain procedures regarding the duties of the trustee. International trusts financed by outside donors and administered by an international organization abound at present. The World Bank alone has been trustee for more than fifteen


\(^{72}\) See, e.g., OD 4.01 on \textit{Environmental Assessment} (October 1991) and OD 4.30 on \textit{Involuntary Resettlement} (June 1990). See generally, Picciotto, \textit{Participatory Development: Myths and Dilemmas} (World Bank publication, 1992); \textit{The World Bank and Participation} (World Bank publication, forthcoming).
hundred trust funds established by agreements between donors and the Bank. These trust arrangements assume that the legal ownership of the funds involved is held by the trustee but funds uncommitted at the expiry of the trust are to be returned eventually to the donor. The recipient of the financial assistance provided through a trust fund is typically not a party to the arrangement, except in new types of international trusts where donors and recipients participate in the overall governance of the trust fund, as is the case in the "Interim Multilateral Fund" established under the Montreal Protocol, from which the Bank-administered Ozone Projects Trust Fund is financed. Participation of recipient countries has also been institutionalized in the restructured Global Environment Facility (GEF), the trust fund of which is to be administered by the Bank. GEF-financed projects administered by the Bank would, under the interpretation provided in this study, be subject to the Panel's jurisdiction, insofar as compliance with the Bank's policies and procedures applicable to these projects is concerned. To that extent "it may be argued that even

73. See OD 14.40 on Trust Funds and Reimbursable Programs (December 1990).


75. Negotiation on the restructuring of the GEF resulted in agreement in March, 1994, on a new organizational structure whereby an Assembly of all the Participant countries would have an overall oversight over the GEF which would be governed by a separate Council of 32 members in which developed, developing and transition countries would be represented.

76. See supra, Chapter Two, Section I(A).
‘secondary’ trust beneficiaries other than states (in particular locally affected groups) are now empowered to invoke the Bank’s fiduciary duties—to the extent that these have been embodied in rules subject to review by the Panel.” 77 While this does not vest in such beneficiaries “beneficiary ownership” of the trust funds,78 it would bring the international trusts involved a step closer to domestic trusts as known under common law.79 This would represent a progressive development of international trust law.

In conclusion, it is important in the context of such increased openness by the Bank to the parties ultimately affected by its operations to recall the initial managerial motive of the Inspection Panel which coincided with the mounting demands on the Bank.80 Rather than deferring to an abstract democratic ideal of participation—though in full harmony with it—the procedural involvement of affected local people in the work of the Panel aims at two practical concerns: Protecting the rights and interests of those parties which may be unintentionally undermined by Bank actions or omissions, and improving the very process of development (i.e., environmentally and socially sustainable development), which is at the center of the Bank’s mandate as interpreted at present.

78. Accord, id.
80. See supra, Chapter One, Section I(A).
ANNEXES

Basic Documents
Resolution No. 93-10
Resolution No. IDA 93-6
September 22, 1993

The World Bank Inspection Panel

The Executive Directors:

Hereby resolve:

1. There is established an independent Inspection Panel (hereinafter called the Panel), which shall have the powers and shall function as stated in this Resolution.

Composition of the Panel

2. The Panel shall consist of three members of different nationalities from Bank member countries. The President, after consultation with the Executive Directors, shall nominate the members of the Panel to be appointed by the Executive Directors.

3. The first members of the Panel shall be appointed as follows: one for three years, one for four years and one for five years. Each vacancy thereafter shall be filled for a period of five years, provided that no member may serve for more than one term. The term of appointment of each member of the Panel shall be subject to the continuity of the inspection function established by this Resolution.

4. Members of the Panel shall be selected on the basis of their ability to deal thoroughly and fairly with the requests brought to them, their integrity and their independence from the Bank's Man-
agement, and their exposure to developmental issues and to living conditions in developing countries. Knowledge and experience of the Bank's operations will also be desirable.

5. Executive Directors, Alternates, Advisors and staff members of the Bank Group may not serve on the Panel until two years have elapsed since the end of their service in the Bank Group. For purposes of this Resolution, the term “staff” shall mean all persons holding Bank Group appointments as defined in Staff Rule 4.01 including persons holding consultant and local consultant appointments.

6. A Panel member shall be disqualified from participation in the hearing and investigation of any request related to a matter in which he/she has a personal interest or had significant involvement in any capacity.

7. The Panel member initially appointed for five years shall be the first Chairperson of the Panel, and shall hold such office for one year. Thereafter, the members of the Panel shall elect a Chairperson for a period of one year.

8. Members of the Panel may be removed from office only by decision of the Executive Directors, for cause.

9. With the exception of the Chairperson who shall work on a full-time basis at Bank headquarters, members of the Panel shall be expected to work on a full-time basis only when their workload justifies such an arrangement, as will be decided by the Executive Directors on the recommendation of the Panel.

10. In the performance of their functions, members of the Panel shall be officials of the Bank enjoying the privileges and immunities accorded to Bank officials, and shall be subject to the requirements of the Bank’s Articles of Agreement concerning their exclusive loyalty to the Bank and to the obligations of subparagraphs (c) and (d) of paragraph 3.1 and paragraph 3.2 of the Principles of Staff Employment concerning their conduct as officials of the Bank. Once they begin to work on a full-time basis, they shall receive remuneration at a level to be determined by the Executive Directors upon a recommendation of the President, plus normal benefits available to Bank fixed-term staff. Prior to that time, they shall be remunerated on a per diem basis and shall be reimbursed for their expenses on the same basis as the members of the Bank’s Administrative Tribunal. Members of the Panel may not be employed by the Bank Group, following the end of their service on the Panel.
11. The President, after consultation with the Executive Directors, shall assign a staff member to the Panel as Executive Secretary, who need not act on a full-time basis until the workload so justifies. The Panel shall be given such budgetary resources as shall be sufficient to carry out its activities.

Powers of the Panel

12. The Panel shall receive requests for inspection presented to it by an affected party in the territory of the borrower which is not a single individual (i.e., a community of persons such as an organization, association, society or other grouping of individuals), or by the local representative of such party or by another representative in the exceptional cases where the party submitting the request contends that appropriate representation is not locally available and the Executive Directors so agree at the time they consider the request for inspection. Any such representative shall present to the Panel written evidence that he is acting as agent of the party on behalf of which the request is made. The affected party must demonstrate that its rights or interests have been or are likely to be directly affected by an action or omission of the Bank as a result of a failure of the Bank to follow its operational policies and procedures with respect to the design, appraisal and/or implementation of a project financed by the Bank (including situations where the Bank is alleged to have failed in its follow-up on the borrower’s obligations under loan agreements with respect to such policies and procedures) provided in all cases that such failure has had, or threatens to have, a material adverse effect. In view of the institutional responsibilities of Executive Directors in the observance by the Bank of its operational policies and procedures, an Executive Director may in special cases of serious alleged violations of such policies and procedures ask the Panel for an investigation, subject to the requirements of paragraphs 13 and 14 below. The Executive Directors, acting as a Board, may at any time instruct the Panel to conduct an investigation. For purposes of this Resolution, “operational policies and procedures” consist of the Bank’s Operational Policies, Bank Procedures and Operational Directives, and similar documents issued before these series were started, and does not include Guidelines and Best Practices and similar documents or statements.

13. The Panel shall satisfy itself before a request for inspection is heard that the subject matter of the request has been dealt with by
the Management of the Bank and Management has failed to demonstrate that it has followed, or is taking adequate steps to follow the Bank's policies and procedures. The Panel shall also satisfy itself that the alleged violation of the Bank's policies and procedures is of a serious character.

14. In considering requests under paragraph 12 above, the following requests shall not be heard by the Panel:

(a) Complaints with respect to actions which are the responsibility of other parties, such as a borrower, or potential borrower, and which do not involve any action or omission on the part of the Bank.

(b) Complaints against procurement decisions by Bank borrowers from suppliers of goods and services financed or expected to be financed by the Bank under a loan agreement, or from losing tenderers for the supply of any such goods and services, which will continue to be addressed by staff under existing procedures.

(c) Requests filed after the Closing Date of the loan financing the project with respect to which the request is filed or after the loan financing the project has been substantially disbursed.¹

(d) Requests related to a particular matter or matters over which the Panel has already made its recommendation upon having received a prior request, unless justified by new evidence or circumstances not known at the time of the prior request.

15. The Panel shall seek the advice of the Bank's Legal Department on matters related to the Bank's rights and obligations with respect to the request under consideration.

Procedures

16. Requests for inspection shall be in writing and shall state all relevant facts, including, in the case of a request by an affected party, the harm suffered by or threatened to such party or parties by the alleged action or omission of the Bank. All requests shall explain the steps already taken to deal with the issue, as well as the nature

¹ This will be deemed to be the case when at least ninety five percent of the loan proceeds have been disbursed.
of the alleged actions or omissions and shall specify the actions taken to bring the issue to the attention of Management, and Management's response to such action.

17. The Chairperson of the Panel shall inform the Executive Directors and the President of the Bank promptly upon receiving a request for inspection.

18. Within 21 days of being notified of a request for inspection, the Management of the Bank shall provide the Panel with evidence that it has complied, or intends to comply with the Bank's relevant policies and procedures.

19. Within 21 days of receiving the response of the Management as provided in the preceding paragraph, the Panel shall determine whether the request meets the eligibility criteria set out in paragraphs 12 to 14 above and shall make a recommendation to the Executive Directors as to whether the matter should be investigated. The recommendation of the Panel shall be circulated to the Executive Directors for decision within the normal distribution period. In case the request was initiated by an affected party, such party shall be informed of the decision of the Executive Directors within two weeks of the date of such decision.

20. If a decision is made by the Executive Directors to investigate the request, the Chairperson of the Panel shall designate one or more of the Panel's members (Inspectors) who shall have primary responsibility for conducting the inspection. The Inspector(s) shall report his/her (their) findings to the Panel within a period to be determined by the Panel taking into account the nature of each request.

21. In the discharge of their functions, the members of the Panel shall have access to all staff who may contribute information and to all pertinent Bank records and shall consult as needed with the Director General, Operations Evaluation Department and the Internal Auditor. The borrower and the Executive Director representing the borrowing (or guaranteeing) country shall be consulted on the subject matter both before the Panel's recommendation on whether to proceed with the investigation and during the investigation. Inspection in the territory of such country shall be carried out with its prior consent.

22. The Panel shall submit its report to the Executive Directors and the President. The report of the Panel shall consider all relevant
facts, and shall conclude with the Panel's findings on whether the Bank has complied with all relevant Bank policies and procedures.

23. Within six weeks from receiving the Panel's findings, Management will submit to the Executive Directors for their consideration a report indicating its recommendations in response to such findings. The findings of the Panel and the actions completed during project preparation also will be discussed in the Staff Appraisal Report when the project is submitted to the Executive Directors for financing. In all cases of a request made by an affected party, the Bank shall, within two weeks of the Executive Directors' consideration of the matter, inform such party of the results of the investigation and the action taken in its respect, if any.

Decisions of the Panel

24. All decisions of the Panel on procedural matters, its recommendations to the Executive Directors on whether to proceed with the investigation of a request, and its reports pursuant to paragraph 22, shall be reached by consensus and, in the absence of a consensus, the majority and minority views shall be stated.

Reports

25. After the Executive Directors have considered a request for an inspection as set out in paragraph 19, the Bank shall make such request publicly available together with the recommendation of the Panel on whether to proceed with the inspection and the decision of the Executive Directors in this respect. The Bank shall make publicly available the report submitted by the Panel pursuant to paragraph 22 and the Bank's response thereon within two weeks after consideration by the Executive Directors of the report.

26. In addition to the material referred to in paragraph 25, the Panel shall furnish an annual report to the President and the Executive Directors concerning its activities. The annual report shall be published by the Bank.

Review

27. The Executive Directors shall review the experience of the inspection function established by this Resolution after two years from the date of the appointment of the first members of the Panel.
Application to IDA projects

28. In this resolution, references to the Bank and to loans include references to the Association and to development credits.
ANNEX II

Operational Policy Statements and Operational Directives Most Relevant to the Panel's Work

- OMS 2.36: Environmental Aspects of Bank Work, issued May 1984 (to be issued as OP/BP 4.00: Environmental Policies).
- OD 4.01: Environmental Assessment, issued October 1991 (to be issued as OP/BP 4.01: Environmental Assessment).
- Annex B-B4 to OD 4.00: Environmental Policy for Dam and Reservoir Projects, issued April 1989 (to be issued as OP/BP 4.05: Dams and Reservoirs).
- OPN 11.02: Wildlands: Their Protection and Management in Economic Development, issued June 1986 (to be issued as OP/BP 4.04: Natural Habitats).
- OD 7.60: Projects in Disputed Areas, issued April 1989 (to be issued as OP/BP 7.60: Projects in Disputed Areas).
Operational Manual Statement
No. 2.36: Environmental Aspects of Bank Work

Introduction

1. The World Bank's experience during the past decade has demonstrated the need for early attention to the environmental dimensions of both project and sector work. This Operational Manual Statement (OMS) outlines the Bank's policy and procedures pertaining to projects, technical assistance, and other aspects of its work that may have environmental implications. This policy is still evolving. For further background, see "The Environment, Public Health, and Human Ecology: Considerations for Economic Development" (World Bank Publication, 1984).

2. Since 1970 the Bank has steadily increased its attention to the environmental opportunities and risks introduced by the development process. The Bank has found that:

   (a) economic development requires sound management of natural resources, particularly renewables, and systematic attention to its impact on the environment;

   (b) environmental damage can be prevented or greatly reduced at a cost which is financially acceptable to borrowers; and

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1. This Statement refers to IBRD, IDA, and IFC work, and includes subprojects financed by Development Finance Companies. References to the World Bank include IFC.

2. Renewable natural resources include living resources (plants and animals) and other natural resources (particularly soil and water) that create or sustain life and that are self-renewing if not overexploited or otherwise mismanaged. Nonrenewable natural resources include minerals (which can often be profitably recycled) and fossil fuels (which cannot). Care is also required in the extraction and processing of nonrenewable resources to prevent unnecessary environmental damage.
environmental protection measures can often be shown to have economic benefits that exceed their economic costs. In other cases, qualitative or not readily quantified benefits, particularly from avoidance of irreversible effects, may readily justify the cost of protection. In most cases, preventive measures give more effective protection and at less cost than later remedial measures.

Scope of Environmental Concerns

3. The Bank interprets environmental concerns broadly as those pertaining to the natural and social conditions surrounding all organisms, particularly mankind, and including future generations. These concerns encompass human ecology and occupation health and safety. Actions affecting the environment, for better or worse, include the pollution of air, water and land and measures to control such pollution; management of renewable resources; waste of resources, or measures to improve the effectiveness or resource use, for example, by multiple use of facilities, recycling of materials and control of erosion; treatment of unique sites and habitats, especially for endangered species; and the preservation or despoiling of mankind's aesthetic and cultural heritage.

4. Environmental problems may be classified into three broad categories:

(a) Global problems are those that have wide-reaching effects around the globe and in the atmosphere. They are often the most threatening, longest term, and least apparent of environmental problems. They include: persistent biocide residues that travel—through the actions of wind, water, and living carriers—far beyond the area in which the chemicals were originally applied; the pollution of the oceans from sources on land, oil spillage, or dumping from ships on the high seas; and induced changes in global climatic patterns, such as those due to increased atmospheric carbon dioxide levels which result from deforestation and the burning of fossil fuels.

(b) Regional problems are those that arise when physical processes affect a group of countries. Typical examples are

3. For example, the use of a reservoir for irrigation, hydropower and fisheries.
the effects of river development upstream and downstream, the spread of desertification across national borders, and transnational air pollution, including acid rain.

(c) Local problems are those that exist within national boundaries, or across the boundaries of contiguous countries and their common waters. These include: accelerated erosion; the loss of animal and plant species or the natural habitats upon which they depend; the eutrophication of lakes due to fertilizer runoff or discharge of domestic sewage; the endangerment of public health through poor sanitation, water and air pollution, and water- and wasteborne diseases; the loss of a resource base necessary for subsistence, such as the contamination of a fishery by industrial waste or biocides; occupational and health hazards resulting from poor working conditions, such as the increased risks of lung disease and cancer in asbestos mining and the productions of certain chemicals; and the creation of aesthetic blight. Included in this category are locally occurring problems that have a global impact.4

5. Global, regional, and local problems often are related to population pressures, which are covered in OMS 3.74.

6. The Bank has found that projects in most economic sectors may have significant environmental implications, which are the rule rather than the exception in agriculture (including livestock, forestry and fisheries), energy, transportation, industry and urban development. Only in a few sectors does development create relatively few, minor or no environmental effects, for example, telecommunications, health delivery or primary education.

The Bank's Environmental Policies

7. Some environmental effects take a long time before they become identifiable.5 Therefore, the Bank considers environmental

4. For example, the extinction of animal or plant species occurring in only one country may deprive people living in other countries of those species' present or future benefits.

5. For example, pneumoconiosis or asbestosis may become apparent only after several decades of inhaling coal-dust or asbestos fiber, whereas biocides can kill exposed persons within hours.
aspects of projects in a longer time frame (for example, 25–50 years and more) than is relevant for most other aspects of cost-benefit analysis. The more time it takes for a causal relationship to become apparent and understood, the greater the uncertainty as to its impact. In environmental work, prevention is preferable and generally less costly than remedial actions which may not always be possible. In view of such uncertainties, Bank policy emphasizes the need for prudence when assessing environmental effects, especially when these are potentially irreversible (for example, if they are likely to include the extinction of species or ecosystems).

8. Rather than adopting environmental standards, the Bank’s approach is tailored to local circumstances and respects the vast differences among its developing member countries. The Bank’s policy is to consider each project unique with respect to its total setting and to the ability of the authorities concerned to manage the environment. The Bank periodically publishes environmental guidelines distilled from a wide range of national and international recommendations and standards. The guidelines suggest acceptable ranges to be followed in Bank operations unless the borrowing country’s standards are stricter.

9. The principles behind the guidelines may be summarized as follows. The Bank:

(a) endeavors to ensure that each project affecting renewable natural resources (e.g., as a sink for residues or as a source of raw material) does not exceed the regenerative capacities of the environment;

(b) will not finance projects that cause severe or irreversible environmental deterioration, including species extinctions without mitigatory measures acceptable to the Bank;

(c) will not finance projects that unduly compromise the public’s health and safety;

6. For example, the current large and increasing production of carbon dioxide from the burning of fossil fuels presages major but uncertain effects on the global climate.

7. A list of guidelines and related documents is available on request from the Environment, Science and Technology Unit, Projects Policy Department (PF/DES).

8. For example, fisheries projects should seek to prevent overfishing, livestock projects should prevent overgrazing, forestry projects should prevent overcutting, and agricultural projects should prevent unsustainable rates of soil erosion.
(d) will not finance projects that displace people or seriously disadvantage certain vulnerable groups without undertaking mitigatory measures acceptable to the Bank (see OMS 2.33 on involuntary resettlement and 2.34 on tribal peoples);-
(e) will not finance projects that contravene any international environmental agreement to which the member country concerned is a party;
(f) will not finance projects that could significantly harm the environment or a neighboring country without the consent of that country. The Bank is willing to assist neighboring members to find an appropriate solution in cases where such harm could result;
(g) will not finance projects which would significantly modify natural areas designated by international conventions as World Heritage sites or Biosphere Reserves, by national legislation as national parks, wildlife refugees, or other protected areas; and
(h) endeavors to ensure that projects with unavoidable adverse consequences for the environment are sited in areas where the environmental damage is minimized, even at somewhat greater initial costs.

10. Responsibility for all aspects—including the environmental dimensions—of a Bank project, sector and economic work, lies with regional staff.9 The Environmental, Science and Technology Unit, Projects Policy Department, advises and assists regional staff on environmental matters.

Environmental Responsibility in the Bank

11. While regional staff are responsible for all aspects—including the environmental dimensions—of Bank-financed projects and related technical assistance, as well as for sector and economic work, the Environment, Science and Technology Unit reviews the environmental aspects of project, sector and economic work, including its adherence to Bank policy and its conformity with environmental standards; provides training, advice and operational assistance on environmental matters; and enhances the environment quality of projects. The Unit:

9. See OMSs 2.13, 2.20, 3.02 and 3.73.
(a) is the Bank's designated focal point for relations with the United Nations Environment Programme;
(b) interacts with a broad spectrum of inter-and nongovernmental organizations and institutions concerned with the environment;
(c) provides technical guidelines, handbooks, checklists, and criteria dealing with environmental issues, for the use of Bank staff, or other development assistance institutions, member governments, borrowers, and others;
(d) serves as a repository for technical and scientific information and data bearing on environmental questions that are made available to Bank staff and other eligible users;
(e) assists in providing environmental training and related educational activities for Bank staff and other eligible users; and
(f) assists in the Bank's information and public affairs undertakings.

12. At the request of projects staff, or through its own initiative in cooperation with projects staff, the Unit assists in identifying environmental problems or opportunities to enhance the environmental aspects of projects, and in preparing terms of reference for necessary environmental work, and reviews results of analyses and decisions having environmental implications. This assignment of responsibility is intended to ensure that all required environmental measures will be routinely incorporated into sector work and project design.

13. If a Borrower so requests, the Unit, in cooperation with projects staff, is available to help prepare terms of reference for environmental work, help select consultants, oversee the technical elements of the consultants' work, review their findings and recommendations, and encourage training to develop local capabilities. Projects staff in cooperation with the Unit then are responsible for ensuring that the environmental measures agreed upon are incorporated into project design and execution.

Economic and Sector Work

14. Member countries are increasingly experiencing serious environment-related problems that threaten their ability to meet the needs of their growing populations. The Bank recognizes that the
long-term economic development of its member countries requires the careful consideration of environmental consequences. This concern should be appropriately reflected in country economic and sector work, and in Country Program Papers and Sector Policy Papers. The Unit will assist and otherwise advise on the environmental aspects of such work and papers.

15. The Bank seeks to avoid unnecessary and, particularly, irreversible damage to the natural resource base on which development depends. In particular, short-term development gains must often be balanced against the creation of longer-term environmental or resource impairment. Where appropriate, country economic and sector work should assess the ability of environmental systems and the natural resource base to sustain present and proposed patterns of economic development. As experience with such assessments accumulates, they should increasingly be incorporated in Country Program and Sector Papers and their results should be made available to officials of the country concerned. These assessments should be undertaken first in those countries which are most clearly experiencing major specific environmental degradation which may constrain sustainable economic development. Through these assessments, Bank lending and technical assistance should enable member countries to pursue an environmentally sound development strategy. Most environmental improvements currently stem from project work; these improvements may also stimulate governments to set out broad regional and national environmental priorities.

Environmental Projects

16. Since 1975 the Bank has endeavored to identify, and prepare for financing, projects that aim to restore, rehabilitate, protect, and improve the management of the natural environmental and human settlements. Such projects include reforestation, afforestation, forest and soil conservation; management of rangelands, wildlands, and watersheds, water resources and fisheries; preservation of genetic diversity; the establishment of sites and services for urban housing; slum upgrading and related improvements; solid wastes management; the development of renewable energy resources; control of pollution from urban vehicles and from industry; control of water pollution; prevention of desertification; and projects in public health and related fields that promote sustainable development. The Bank
encourages and promotes such projects, depending on the country's development strategy and priorities, and on its requirements for Bank financing.

Environmental Components of Projects

17. In addition to supporting environmental projects, the Bank includes environmental components in other types of projects. These components protect project investments, for example by ensuring a reliable supply of the natural or human resources upon which the project depends, by providing an early warning system, or by strengthening the capabilities of the project agency for managing the environment. Such strengthening may take the form of financing an environmental unit in the implementing ministry or strengthening the environmental ministry. Pre-investment environmental studies increase the range of choices for project design. Projects with unavoidable adverse effects on the environment should contain a compensatory component adequate to mitigate these effects. This type of compensation has been institutionalized in projects where people are involuntarily resettled (see OMS 2.33). In other situations—as in projects to convert natural forests or other natural ecosystems to agriculture—a compensatory component would set aside a managed area of habitat similar to the original.

The Project Cycle

18. Environmental considerations are generally introduced during the early stages of identification and preparation, but may be added or modified in varying degrees during appraisal, negotiations, and supervision and even during operation.

19. Identification: Projects being proposed or considered for Bank financing are reviewed by regional staff in conjunction with the Unit to identify as early as possible those which, if carried out, would probably have significant environmental effects. This review determines, first, what investigations are needed to ensure that appropriate measures will prevent or mitigate any serious adverse effects attributable to the project; and second, whether the project environmental costs or risks can be either prevented entirely or at least mitigated and exceeded, by the project's benefits.
20. **Preparation:** Although the Borrower is responsible for project preparation, project staff may assist the Borrower or project sponsor in carrying out the necessary environmental inquiries. At the completion of the studies, the Project Brief (see OMS 2.13) outlines the measures needed to avoid or mitigate serious environmental risks or enhance environmental benefits, and points out any problems that merit attention but do not require further work. Environmental aspects of the project that require further study may also be identified at this stage.

21. **Appraisal:** As part of the appraisal phase, projects staff assess the environmental findings, evaluate the future magnitude and timing of adverse effects, and assess whether the preventive, mitigatory, or remedial measures recommended will be adequate, as specified by OMS 2.20, "Project Appraisal." The Staff Appraisal Report should describe the environmental measures being provided; if none are required, this should also be noted in the Appraisal Report. On the basis of the appraisal, environmental measures are agreed upon that will be incorporated into the overall design and operation of the project. While the Unit is available for consultation and assistance at any stage of the cycle, it is also responsible for reviewing projects at the Yellow Cover stage (see OMS 2.00). The President's Report (see OMS 3.02) notes any significant environmental effects and the measures proposed to deal with them.

22. **Loan Negotiation:** The Bank prefers to settle important project issues with borrowers prior to negotiations and Board presentation. Where necessary, however, environmental requirements are discussed during loan negotiations between the Bank and Borrower, and the loan agreement may contain covenants or other provisions concerned with the environmental aspects of the project. Since the Bank seeks to ensure that that project's operation will not unnecessarily harm the environment, and vice versa, satisfactory evidence to this effect may be required as a condition for loan effectiveness or disbursement.

23. **Implementation:** Environmental measures are often implemented during the construction or operation of a project or, in the case of Development Finance Companies, a subproject. Supervision missions should routinely review environmental aspects with the Borrower and must ensure that the measures agreed upon are adequate and responsibly administered. Any additional or modified
measures found necessary during supervision should be noted and arrangements made for their implementation.

24. Environmental Post-Audits: The Project Completion Report (PCR) describes the result of the environmental measures provided in the project, and comments on their appropriateness, costs, adequacy, and administration, and any problems arising or changes made in the course of the project. A list of forthcoming PCRs is presented to the Unit by the Operations Evaluation Department (OED) every month. On the basis of this list, the Unit identifies projects which have significant environmental issues to be reviewed in the PCR or, later, in the Project Performance Audit Report. OED undertakes at its discretion such reviews through its own staff or in collaboration with the Unit, or by hiring suitable consultants to work with OED staff. Such audits provide a basis for assessing at least the shorter-term efficacy of the environmental measures and thereby serve to improve similar future projects. Should the need arise, OED and the Unit may undertake a more comprehensive environmental audit, similar to or as part of a Project Performance Audit Report, at some appropriate time in the future.
October 3, 1991

Operational Directive 4.01: Environmental Assessment*

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* This directive applies to projects for which Initial Executive Project Summaries (IEPSs) were issued after October 1, 1991. Projects for which IEPSs were issued before that date are subject to OD4.00, Annex A, reprinted at infra p. 179.
Annex A  Checklist of Potential Issues for an EA
Annex B  Outline of a Project-Specific EA Report
Annex C  Environmental Mitigation or
          Environmental Management Plan
Annex D  EA Procedures: Internal
Annex E  Environmental Screening
Annex F  Environmental Data Sheet for Projects
          in the IBRD/IDA Lending Program
Environmental Assessment

(revised to reflect new senior management structure that took effect on 01/01/93)

Introduction

1. This directive outlines Bank policy and procedures for the environmental assessment (EA) of Bank lending operations, and related types of environmental analysis. EA is a flexible procedure, which should vary in breadth, depth, and type of analysis depending on the project. It may be performed at one point in time or in discrete stages. EA is carried out during project preparation, before appraisal, and is closely linked to the feasibility study. For the purpose of this directive, EA covers project-specific and other environmental impacts in the area of influence of a project. EAs use the findings of country environmental studies and action plans that cover nationwide issues, the overall policy framework, national legislation, and institutional capabilities in the country.

1. Unless the context otherwise requires, “EA” means the environmental assessment process required by this directive. “Bank” includes IDA; “loans” include credits; “operations” and “investments” include sector loans, rehabilitation loans, loans through financial intermediaries, and the investment components of hybrid loans. Global Environment Facility (GEF) projects, or GEF components of Bank projects, are subject to the provisions of this directive. IFC follows its own environmental review procedure. In addition, IFC ensures that its projects comply with all relevant Bank environmental policies and guidelines, adapted to its special needs. Bearing in mind its special circumstances, MIGA will ensure, to the extent possible, that the objectives of this directive are met in its operations.

2. The World Bank, Environmental Assessment Sourcebook, Technical Paper No. 139 (Washington, D.C., 1991) (EA Sourcebook) provides guidance on the subjects covered in this directive. The EA Sourcebook should be used for guidance throughout the EA process. For the Bank's definition of "area of influence of a project," see para. 3 and Annex B2 of OD 4.00, Annex B, Environmental Policy for Dam and Reservoir Projects (to be reissued as OD 4.05). For a checklist of potential issues for an EA and related Bank policies, see Annex A.
Purpose and Nature of EA

2. The purpose of EA is to improve decision making and to ensure that the project options under consideration are environmentally sound and sustainable. All environmental consequences should be recognized early in the project cycle and taken into account in project selection, siting, planning, and design. EAs identify ways of improving projects environmentally, by preventing, minimizing, mitigating, or compensating for adverse impacts. These steps help avoid costly remedial measures after the fact. By calling attention to environmental issues early, EAs (a) allow project designers, implementing agencies, and borrower and Bank staff to address environmental issues in a timely and cost-effective fashion; (b) reduce the need for project conditionality because appropriate steps can be taken in advance or incorporated into project design, or alternatives to the proposed project can be considered; and (c) help avoid costs and delays in implementation due to unanticipated environmental problems. EAs also provide a formal mechanism for interagency coordination on environmental issues and for addressing the concerns of affected groups and local nongovernmental organizations (NGOs). In addition, the EA process plays an important role in building environmental management capability in the country.

3. Like economic, financial, institutional, and engineering analyses, EA is part of project preparation and is, therefore, the borrower's responsibility. Close integration of EA with these aspects of project preparation ensures that (a) environmental considerations are given adequate weight in project selection, siting, and design decisions; and (b) EAs do not delay project processing.

Types of Environmental Analysis

Project-Specific EAs

4. Project-specific EAs or other analyses are used to examine specific investment projects (e.g., dams, factories, irrigation systems). The detail and sophistication of an analysis should be commensurate with the expected impacts. Project-specific EAs should normally cover (a) existing environmental baseline conditions; (b) potential

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3. Guidance on sustainability is provided in OMS 2.36, Environmental Aspects of Bank Work (to be reissued as OD 4.00, Environmental Policies).
environmental impacts, direct and indirect, including opportunities for environmental enhancement; (c) systematic environmental comparison of alternative investments, sites, technologies, and designs; (d) preventive, mitigatory, and compensatory measures, generally in the form of an environmental mitigation or management plan; (e) environmental management and training; and (f) environmental monitoring. To the extent possible, the following items are quantified: capital and recurrent costs, environmental staffing, training, monitoring requirements, and the benefits of proposed alternatives and mitigation measures. Annex A sets out a checklist of potential issues for an EA, and Annex B provides the outline of a project-specific EA report. Annex C describes the set of measures that should be included in an environmental mitigation or environmental management plan. Annex D outlines the Bank’s internal procedures, Annex E provides illustrative lists of projects classified in categories A through C, and Annex F sets out the format for an environmental data sheet for projects in the IBRD/IDA lending program. The data sheet for each category A project is included in a quarterly annex to the Monthly Operational Summary of Bank and IDA Proposed Projects (MOS).

Regional and Sectoral EAs

5. Regional EAs may be used where a number of similar but significant development activities with potentially cumulative impacts are planned for a reasonably localized area. In such cases, regional EAs are generally more efficient than a series of project-specific EAs. They may identify issues that the latter might overlook (e.g., interaction among effluents or competition for natural resources). Regional EAs compare alternative development scenarios and recommend environmentally sustainable development and land use patterns and policies. Impacts may sometimes extend across national boundaries. However, regional EAs with an institutional focus might follow administrative boundaries. Regional EAs are particularly useful when they precede the first in a series of projects or development interventions in an undeveloped region, where a region is slated for major developments, where cumulative impacts are anticipated, or in regional planning or agroecological zoning.

6. Sectoral EAs are used for the design of sector investment programs. They are particularly suitable for reviewing (a) sector investment alternatives; (b) the effect of sector policy changes; (c)
institutional capacities and requirements for environmental review, implementation, and monitoring at the sectoral level; and (d) the cumulative impacts of many relatively small, similar investments that do not merit individual project-specific EAs. Sectoral EAs should also have the objective of strengthening the environmental management capability of the sectoral or other relevant agencies. Sectoral EAs may overlap with regional EAs.

7. Though in some cases regional or sectoral EAs cover some of the requirements of project-specific EAs, the latter are still needed for major investments. Nevertheless, the regional or sectoral EAs will have identified relevant issues, collected much of the data, and, in general, greatly reduced the work needed in subsequent project-specific EAs.

Alternatives to EAs

8. Many specific investment projects do not need a full EA. Typically, these projects are smaller, are not in environmentally sensitive areas, and present issues that are narrow in scope, well-defined, and well-understood. Alternative approaches may, therefore, be more effective in integrating environmental concerns into the borrower's planning process, and in focusing on the environmental work needed. Such alternative approaches include, for example,

(a) specific environmental design criteria and pollution standards, acceptable to the Bank, for small-scale industrial plants;
(b) specific environmental design criteria and construction supervision programs for small-scale rural works projects; and
(c) specific environmental siting criteria, construction standards, and inspection procedures for housing projects.

Sector and Financial Intermediary Lending

9. For sector investment loans and loans through financial intermediaries, for which subproject details are not known at the time of

4. In some cases, adherence to other existing directives is an acceptable alternative to an EA (e.g., OPN 11.01, Guidelines for the Selection and Use of Pesticides in Bank-Financed Projects and their Procurement When Financed by the Bank, to be re-issued as OD 4.03, Agricultural Pest Management).
project appraisal, the borrower may not be able to prepare an EA as part of project preparation. Further, such projects usually consist of many small investments, which seldom require full EAs. In such cases, the project implementing institutions need to screen proposed subprojects and carry out appropriate environmental analyses consistent with this directive, prior to subloan approval. To ensure that this can be done, the Bank should appraise and strengthen, where necessary, the implementing agency's environmental capabilities to (a) screen subprojects along the lines of this directive (see para. 17 and Annex E), (b) obtain the necessary expertise for EA preparation, (c) review EA reports, (d) implement mitigation plans, and (e) monitor environmental conditions during project implementation. The aim should be to help establish satisfactory environmental review systems in the appropriate agencies, rather than to focus only on those investments against which the Bank happens to disburse.

Emergency Recovery Projects

10. Because emergency recovery projects need to be processed rapidly, and seek mainly to restore existing facilities, they would not normally require a full EA. However, the extent to which an emergency was precipitated or exacerbated by inappropriate environmental practices should be determined. Based on this finding, corrective measures should be built into either the emergency project or a future lending operation.

Global Issues

11. A number of agencies—inside and outside the United Nations (UN) system—carry out scientific investigations on global environ-

5. The appraisal mission develops clear arrangements with the borrower for carrying out these functions during project implementation, indicating the sources of required expertise and the proper division of responsibilities among the ultimate borrower, the financial intermediary or sector agency, and the agencies responsible for environmental management and regulation. These arrangements ensure that subprojects that do not comply with accepted environmental standards are not financed under the project. In cases where subprojects are known prior to appraisal, they are subject to the normal procedures described in this directive. The EA Sourcebook provides further guidance on appraising the environmental aspects of sector and financial intermediary lending.

mental issues (ozone depletion, global warming, sea level rise, ocean dumping, pollution of international waters, transport of hazardous wastes, biodiversity, etc.). While it keeps abreast of the findings of these agencies, the Bank is developing its own guidelines in these areas. The Bank also draws upon prevailing views in its own environmental, economic, sectoral, and investment policies and programs, with a view to minimizing possible adverse impacts on global environmental quality. The Bank encourages such issues to be considered in EAs where relevant and feasible.7

Institutional Aspects

Strengthening Environmental Capabilities

12. The ultimate success of EA depends upon the capability and understanding of environmental matters of the government agencies concerned. Therefore, as part of the EA process, it is necessary to identify relevant environmental agencies and their capability for carrying out required EA activities. Projects with potentially major impacts normally require the strengthening of several environmental functions (e.g., environmental monitoring, inspection, management of mitigatory measures, EA scientific and technical review, and cross-sectoral coordination). In addition, policy strengthening is often needed through the development of legal or regulatory measures (including incentives) that ensure adequate environmental performance standards. These functions may be located in one or more units and at one or more administrative levels, depending on the country and project.8 Early focus on institutional involvement in the EA process (a) helps ensure that the executing agency's and central policy entity's knowledge and perspectives are taken into account, (b) provides on-the-job training for staff, and (c) provides continuity for implementing the EA's recommendations. In addition, to help develop EA capability in the country, the Bank encourages

7. Guidance will be prepared on global environmental issues by the Environment Department (ENV) in cooperation with the Regional environment divisions (REDS).

8. The first level of environmental involvement is on-site; a second, at the level of the implementing or executing agency, such as a Department of Agriculture, or Health; and a third at a central policy level, such as an environmental agency or other central policy-making body that oversees and coordinates intersectoral aspects.
the use of local expertise and promotes EA training for local staff and consultants.9

Environmental Advisory Panels

13. For major, highly risky, or contentious projects with serious and multidimensional environmental concerns, the borrower should normally engage an advisory panel of independent, internationally recognized, environmental specialists to advise on (a) the terms of reference (TORs) for the EA, (b) key issues and methods for preparing the EA, (c) recommendations and findings of the EA, (d) implementation of the EA's recommendations, and (e) development of environmental management capacity in the implementing agency.10

EA Procedures

14. Since project and country conditions, national legislation, and institutional experience vary among borrowers, both the borrower and the Bank must exercise judgment in using the EA process to design and implement projects that are both environmentally and economically sound, and that are consistent with the environmental laws, policies, and procedures of the borrower. The Environment Department (ENV), the Legal Department, and the Regional environment divisions (REDS) maintain information on these requirements.

EA Preparation

15. Though EA preparation is the responsibility of the borrower, the Bank's task manager (TM) assists and monitors the EA process, with support from the RED.11 The borrower and the Bank should agree as early as possible after issuance of the Initial Executive Project Summary (IEPS) on the terms of reference (TORs) for the EA, and on the EA procedures, schedule, and outline. This is because (a) EA preparation should form part of the overall feasibility study or preparation work for the project, so that the EA's findings can be directly

9. Guidance on institutional strengthening is in the EA Sourcebook.
10. For more detail on the selection and functions of the panel, see para. 18 of OD 4.00, Annex B, Environmental Policy for Dam and Reservoir Projects (to be reissued as OD 4.05).
11. See OD 9.00, Processing of Investment Lending, for the context of loan processing into which decisions on the environment category and the EA fit.
integrated into project design; (b) some EAs require substantial time for preparation (see Annex D, paras. 6-7); and (c) completion of the EA report is a prerequisite for the departure of the appraisal mission. Major steps in the EA process are outlined in Annex D. The steps include (a) screening (see para. 17 and Annex E), (b) taking decisions based on the IEPS, (c) notifying the Board through the MOS, (d) preparing TORs for the EA, (e) preparing the EA, (f) reviewing the EA and incorporating environmental measures into the project, (g) supervising the project, and (h) evaluating the project ex post.

16. Borrowers may request Bank assistance for financing EAs through a Project Preparation Facility (PPF) advance, from the Technical Assistance Grant Program for the Environment, or from trust funds. When the EA is prepared by specialists separately from the overall feasibility study for the project, the specialists should liaise closely with the project preparation or feasibility teams. For projects with potentially major adverse environmental impacts, such as large dams or projects involving large-scale resettlement, the borrower should retain independent EA experts not affiliated with the project.

Environmental Screening

17. The TM should screen projects/components at identification to determine the nature and extent of the environmental work required. As a result of the screening, the TM, with the concurrence of the RED, assigns the project to one of the following categories, in accordance with Annex E:

Category A: A full EA is required.
Category B: Although a full EA is not required, environmental analysis is required.
Category C: No EA or environmental analysis is required.

Interagency Coordination

18. Because environmental issues generally involve national, provincial, and local government agencies and cover a broad range of

12. See OD 8.00, Project Preparation Facility.
13. See footnote 11.
Responsibilities (wildlife, health, water and land use, tourism, etc.), coordination among government agencies is crucial. Coordination is best achieved through interagency meetings convened by the proponent agency at key points, i.e., once the decision has been reached to carry out a full EA, and once the draft EA report has been completed. The meetings provide an opportunity to identify the issues, types of analysis required, sources of relevant expertise, responsibilities and schedule for the EA, mitigatory measures to be considered, and other recommendations.

Involvement of Affected Groups and Nongovernmental Organizations

19. The Bank expects the borrower to take the views of affected groups and local NGOs fully into account in project design and implementation, and in particular in the preparation of EAs. This process is important in order to understand both the nature and extent of any social or environmental impact and the acceptability of proposed mitigatory measures, particularly to affected groups. Consultations do not reduce the decision authority of the borrower, but are a valuable way to improve decision making, to obtain feedback on the EA process and draft report, and to increase community cooperation in implementing the recommendations of the EA.

20. Such consultations should occur at least at the following two stages of the EA process: (a) shortly after the EA category has been assigned, and (b) once a draft EA has been prepared. In projects with major social components, which require consultations pursuant to other Bank Operational Directives, the consultations on social issues and on EA may be linked.

14. For the Bank's overall approach to NGOs, see OD 14.70, Involving Nongovernmental Organizations in Bank-Supported Activities.

15. Further consultations are encouraged at other appropriate points during EA preparation, after EA finalization, and throughout project implementation. Updates and information feedback between meetings are best when they are systematic and routine. One approach that has been effectively used by many countries is to follow the first interagency meeting with an initial consultation session with affected groups and local NGOs.

Disclosure of Information

21. In order for meaningful consultations to take place between the borrower and affected groups and local NGOs, it is necessary that the borrower provide relevant information prior to consultations. The information should be provided in a timely manner and in a form that is meaningful for, and accessible to, the groups being consulted. Such information normally includes (a) for the initial consultation, a summary of the project description and objectives, and potential adverse effects of the proposed project; and (b) once the EA report has been prepared, a summary of its conclusions in a form and language meaningful to the groups being consulted. Any consultation should pay particular attention to those issues most likely to affect the people being consulted. In addition, the borrower should make the EA report available at some public place accessible to affected groups and local NGOs for their review and comment.

22. Bank policy is to request the borrower's advance permission to release the EA report to the executive directors (EDs) because the report is the borrower's property. When the need for an EA and the TORs for the EA are discussed with the borrower, the TM should seek the borrower's permission, in principle, for the release of the report to the EDs. Once the Bank has received a copy of the EA report from the borrower with the necessary permission for release, the country department (CD) should transmit the borrower's English-language summary of the EA to the Secretary's Department for distribution to the EDs. Further, because an important purpose of the EA process is informed decision making, the TM should deposit a copy of the EA report (without Bank endorsement) in the project file. If the borrower indicates at any time that it is not in a position to release such a report to the EDs, the Bank should not proceed with further work on the project, unless the Managing Director concerned decides otherwise on the recommendation of the Regional vice president concerned, and for objective reasons unrelated to the environmental soundness of the project. In either case, the Vice President, Environmentally Sustainable Development, should be informed of the decision, and the Director, Operations Policy Department (in the Human Resources Development and Operations Policy vice presidency) notified.
Checklist of Potential Issues for an EA

Where applicable, EAs should address the following issues, which are subject to the Bank policies and guidelines identified here:

(a) Agrochemicals. The Bank promotes the use of integrated pest management (IPM) and the careful selection, application, and disposal of pesticides (see OPN 11.01, *Guidelines for the Selection and Use of Pesticides in Bank-Financed Projects and Their Procurement When Financed by the Bank*, to be reissued as OD 4.03, *Agricultural Pest Management*). Due to their impacts on surface and groundwater quality, the use of fertilizers must also be carefully assessed.

(b) Biological Diversity. The Bank promotes conservation of endangered plant and animal species, critical habitats, and protected areas (see para. 9b of OMS 2.36, *Environmental Aspects of Bank Work*, to be reissued as OD 4.00, *Environmental Policies*, and OPN 11.02, *Wildlands: Their Protection and Management in Economic Development*, to be reissued as OD 4.04, *Wildlands*).

(c) Coastal and Marine Resources Management. Guidelines are available from the Environment Department (ENV) on the planning and management of coastal marine resources, including coral reefs, mangroves, and wetlands.

(d) Cultural Properties. OPN 11.03, *Management of Cultural Property in Bank-Financed Projects* (to be reissued as OD 4.25, *Cultural Property*), confirms the Bank’s commitment to protect archaeological sites, historic monuments, and historic settlements.

(e) Dams and Reservoirs. OD 4.00, Annex B, *Environmental Policy for Dam and Reservoir Projects* (to be reissued as OD 4.05), provides specific guidance for addressing envi-
ronmental issues in the planning, implementation, and operation of dam and reservoir projects.

(f) Hazardous and Toxic Materials. Guidelines are available from ENV on the safe manufacture, use, transport, storage, and disposal of hazardous and toxic materials.

(g) Indigenous Peoples. OD 4.20, Indigenous Peoples (formerly OMS 2.34, Tribal People in Bank-Financed Projects), provides specific guidance for addressing the rights of indigenous peoples, including traditional land and water rights.

(h) Induced Development and Other Socio-cultural Aspects. Secondary growth of settlements and infrastructure, often referred to as "induced development" or "boomtown" effects, can have major indirect environmental impacts, which relatively weak local governments may have difficulty addressing.

(i) Industrial Hazards. All energy and industry projects should include a formal plan to prevent and manage industrial hazards (see Technica, Ltd., and World Bank, Techniques of Assessing Industrial Hazards: A Manual, Technical Paper No. 55, Washington, D.C., 1988).

(j) International Treaties and Agreements on the Environment and Natural Resources. The EA should review the status and application of such current and pending treaties and agreements, including their notification requirements. The Legal Department, which maintains a list of international treaties, could obtain the information required on applicable laws in individual countries.

(k) International Waterways. OD 7.50, Projects on International Waterways, provides guidance. This OD exempts from notification requirements any rehabilitation projects that will not affect the quality or quantity of water flows.


(m) Land Settlement. Due to the complex physical, biological, socioeconomic, and cultural impacts, land settlement should generally be carefully reviewed (see OD 4.31, Land Settlement, to be issued).

(n) Natural Hazards. The EA should review whether the project may be affected by natural hazards (e.g., earthquakes, floods, volcanic activity) and should propose spe-
cific measures to address these concerns when appropriate (see OD 8.50, Emergency Recovery Assistance).

(o) Occupational Health and Safety. All industry and energy projects, and projects in other sectors where relevant, should include formal plans to promote occupational health and safety (see World Bank, Occupational Health and Safety Guidelines, Washington, D.C., 1988).


(q) Tropical Forests. The Bank's "Forest Policy" paper of July 1991 should be followed. OPN 11.02, Wildlands: Their Protection and Management in Economic Development (to be reissued as OD 4.04, Wildlands), also addresses issues relating to tropical forests.

(r) Watersheds. Bank policy promotes the protection and management of watersheds as an element of lending operations for dams, reservoirs, and irrigation systems (see para. 6 of OD 4.00, Annex B, Environmental Policy for Dam and Reservoir Projects, to be reissued as OD 4.05).

(s) Wetlands. The Bank promotes conservation and management of wetlands (e.g., estuaries, lakes, mangroves, marshes, and swamps). This subject is covered by OPN 11.02 (see (t) below).

(t) Wildlands. The Bank is committed to protect wildlands and provides for compensatory measures when lending results in adverse impacts (see OPN 11.02, Wildlands: Their Protection and Management in Economic Development, to be reissued as OD 4.04, Wildlands).
Outline of a Project-Specific EA Report

1. A full EA report should be concise and should focus on the significant environmental issues. The report's level of detail and sophistication should be commensurate with the potential impacts. The target audience should be project designers, implementing agencies, and borrower and Bank staff. The report submitted to the Bank should be prepared in English, French, or Spanish.

2. The EA report should include the following items:

   (a) *Executive Summary.* Concise discussion, in English, of significant findings and recommended actions.

   (b) *Policy, Legal, and Administrative Framework.* Discussion of the policy, legal, and administrative framework within which the EA is prepared. The environmental requirements of any cofinanciers should be explained.

   (c) *Project Description.* Concise description of the project's geographic, ecological, social, and temporal context, including any off-site investments that may be required by the project (e.g., dedicated pipelines, access roads, power plants, water supply, housing, and raw material and product storage facilities).

   (d) *Baseline Data.* Assessment of the dimensions of the study area and description of relevant physical, biological, and socioeconomic conditions, including any changes anticipated before the project commences. Current and proposed development activities within the project area (but not directly connected to the project) should also be taken into account.

   (e) *Environmental Impacts.* Identification and assessment of the positive and negative impacts likely to result from the proposed project. Mitigation measures, and any residual negative impacts that cannot be mitigated, should be iden-
tified. Opportunities for environmental enhancement should be explored. The extent and quality of available data, key data gaps, and uncertainties associated with predictions should be identified/estimated. Topics that do not require further attention should be specified.

(f) Analysis of Alternatives. Systematic comparison of the proposed investment design, site, technology, and operational alternatives in terms of their potential environmental impacts; capital and recurrent costs; suitability under local conditions; and institutional, training, and monitoring requirements. For each of the alternatives, the environmental costs and benefits should be quantified to the extent possible, and economic values should be attached where feasible. The basis for the selection of the alternative proposed for the project design must be stated.

(g) Mitigation Plan. Identification of feasible and cost-effective measures that may reduce potentially significant adverse environmental impacts to acceptable levels, and estimation of the potential environmental impacts; capital and recurrent costs; and institutional, training, and monitoring requirements of those measures. The plan (sometimes known as “action plan,” or “environmental mitigation or management plan,” outlined in Annex C) should provide details on proposed work programs and schedules. Such details help ensure that the proposed environmental actions are in phase with engineering and other project activities throughout implementation. The plan should consider compensatory measures if mitigation measures are not feasible or cost-effective.

(h) Environmental Management and Training. Assessment of the existence, role, and capability of environmental units on-site, or at the agency and ministry level. Based on these findings, recommendations should be made concerning the establishment and/or expansion of such units, and the training of staff, to the point that EA recommendations can be implemented.

(i) Environmental Monitoring Plan. Specification of the type of monitoring, who would do it, how much it would cost, and what other inputs (e.g., training) are necessary.

(j) Appendices
(i) *List of EA Preparers*—individuals and organizations.
(ii) *References*—written materials used in study preparation. This list is especially important given the large amount of unpublished documentation often used.
(iii) *Record of Interagency/Forum/Consultation Meetings*—including lists of both invitees and attendees. The record of consultations for obtaining the informed views of the affected people and local NGOs should be included. The record should specify any means other than consultations that were used to obtain the views of affected groups and local NGOs.
Environmental Mitigation or Environmental Management Plan

1. A project’s mitigation or environmental management plan consists of the set of measures to be taken during implementation and operation to eliminate, offset, or reduce adverse environmental impacts to acceptable levels. Also included in the plan are the actions needed to implement them. Mitigation plans are essential elements of category A projects (see Annex E). Mitigation plans alone suffice for many category B projects. During the preparation of a mitigation plan, project sponsors and their EA design team (a) identify the set of responses to potentially adverse impacts, (b) determine requirements for ensuring that those responses are made effectively and in a timely manner, and (c) describe the means for meeting those requirements.

2. A mitigation or management plan should include the following items:

   (a) identification and summary of all the significant adverse environmental impacts that are anticipated;
   (b) description and technical details for each mitigation measure, including the type of impact to which it relates and the conditions under which it is required (e.g., continuously or in the event of contingencies), together with designs, equipment descriptions, and operating procedures, as appropriate;
   (c) institutional arrangements—the assignment of the various responsibilities for carrying out the mitigatory measures (e.g., responsibilities which involve operation, supervision, enforcement, monitoring of implementation, remedial action, financing, reporting, and staff training);
   (d) implementation schedule for measures that must be carried out as part of the project, showing phasing and coordination with overall project implementation plans;
(e) monitoring and reporting procedures to (i) ensure early
detection of conditions that necessitate particular mitiga-
tion measures, and (ii) provide information on the progress
and results of mitigation; and
(f) integration into the total project cost tables of the cost esti-
mates and sources of funds for both the initial investment
and the recurring expenses for implementing the mitigati-
ion plan.

3. To strengthen environmental management capability in the
agencies responsible for implementation, most mitigation plans
cover one or more of the additional topics identified below:

(a) technical assistance programs,
(b) staff development,
(c) procurement of equipment and supplies, and
(d) organizational changes.

4. The borrower's decision to proceed with a project, and the
Bank's decision to support it, will be in part predicated on the
expectation that the mitigation plan will be executed effectively.
Consequently, it is important to integrate the plan into the project's
overall planning, design, budget, and implementation. Such integra-
tion should be achieved by establishing the mitigation plan as a com-
ponent of the project. This precaution ensures that the plan will
receive funding and supervision along with the other investment
components.

5. Specific links should exist for (a) funding, (b) management and
training (strengthening local capabilities), and (c) monitoring. The
purpose of the first link is to ensure that the proposed actions are
adequately financed. The second link helps embed in the overall
management plan the training, technical assistance, staffing, and other
institutional strengthening needed to implement the mitigatory mea-
sures. The third link is necessary to provide a critical path for imple-
mentation and to enable the sponsors and the Bank to evaluate the
success of mitigation as a part of project supervision and as a means
for improving future projects. These linkages may be part of the con-
ditionality in Loan Agreements or in the Minutes of Negotiations.
EA Procedures: Internal

Initial Executive Project Summary (IEPS)

1. After consulting with the Regional environment division (RED), the task manager (TM) indicates in the Initial Executive Project Summary (IEPS) (a) the key environmental issues, (b) the project category (see Annex E) and the type of environmental work needed, and (c) a preliminary EA schedule. In exceptional cases, if it is anticipated that an EA cannot be available prior to appraisal, the IEPS should propose special procedures to address the situation. The IEPS meeting should confirm the type, timing, and issues of environmental analysis.

Monthly Operational Summary

2. The TM ensures that the Monthly Operational Summary of Bank and IDA Proposed Projects (MOS), which is used to alert the executive directors to forthcoming projects, contains the EA category assigned to a project. He also prepares and updates as needed an environmental data sheet for all projects in the IBRD/IDA lending program (see Annex F). For category A projects, the environmental data sheet will be included in a quarterly annex to the MOS.

Preparation of Terms of Reference for the EA

3. Following the IEPS meeting, the Bank discusses with the borrower the scope of the EA, and assists the borrower, as necessary, in preparing the terms of reference (TORs) for the EA. Normally, a field visit for this purpose is conducted by Bank environmental staff or environmental consultants. The Bank should ensure that the TORs provide for adequate interagency coordination and consultation with affected groups and local nongovernmental organizations (NGOs). For category A projects, it is advisable for Bank staff to attend scoping and EA review meetings.
4. To help ensure a full EA report, the borrower should be (a) pro-
vided with the "Outline of a Project-Specific EA Report" (see Annex 
B) at the time the TORs for the EA are reviewed by the Bank and 
(b) informed of the need to have the report submitted to the Bank 
written in English, French, or Spanish. The requirement in Annex B 
for an executive summary, to be prepared in English, should specif-
ically be called to the borrower's attention.

EA Preparation

5. The EA should form part of the overall feasibility study or 
project preparation, so that the EA's findings are directly integrated 
into project design. When the EA is prepared separately by special-
ists, the specialists should liaise closely with the project preparation 
or feasibility teams. For projects with potentially major adverse envi-
ronmental impacts, such as large dams or projects involving large-
scale resettlement, the borrower should retain independent EA 
experts not affiliated with the project. Borrowers may request Bank 
assistance for financing EAs through a Project Preparation Facility 
(PPF) advance, from the Technical Assistance Grant Program for the 
Environment, or from trust funds.

6. An EA for a major project typically takes 6–18 months to pre-
pare and review. The EA report should be received by the Bank 
prior to the departure of the appraisal mission, and a summary 
should be circulated with the Final Executive Project Summary 
(FEPS)/white cover Staff Appraisal Report (SAR) to minimize the risk 
of project changes and delays at a later stage.

7. For some projects, a full year of baseline data is essential to cap-
ture seasonal effects of certain environmental phenomena, such as 
rainy and dry seasons or species migrations. In contrast, other 
effects (e.g., hydroclimatic variation) may require multiyear data. To 
avoid delay in critical project decisions in these cases, short-term 
monitoring should be used to provide conservative estimates of 
environmental impacts. In such instances, such short-term data can 
be a surrogate for annual data while longer-term data are being col-
lected. Since special care in designing the baseline monitoring pro-
gram is warranted, the borrower should be encouraged to discuss 
the matter with the Bank.
EA Review and Project Appraisal

8. For category A projects, the borrower submits the EA report to the Bank prior to the departure of the Bank's appraisal mission. This report follows (to the extent relevant) the outline for project-specific EA reports provided in Annex B and includes a separate English summary. The TM, with the advice of the RED, assesses the EA, taking into account the TORs agreed upon with the borrower. In addition, in view of the need for the borrower to take the views of affected groups and local NGOs into account, the TM ascertains the nature of the consultations undertaken with such groups and assesses the extent to which their views have been considered.

9. The FEPS summarizes the EA's status and describes how major environmental issues have been resolved or are to be addressed, noting any proposed conditionality. Prior to the FEPS meeting, the RED reviews and comments on the EA and on the EA annex in the white cover SAR. If the RED is not satisfied with the EA, it may recommend to the country department that (a) the appraisal mission be postponed, (b) the mission be considered a preappraisal mission, or (c) certain issues be reexamined during the appraisal mission. The appraisal mission reviews both the procedural and substantive elements of the EA with the borrower, resolves any issues, assesses the adequacy of the institutions responsible for environmental management in light of the EA's findings, ensures that the mitigation plan is adequately budgeted, and determines if the EA's recommendations are properly addressed in project design and economic analysis.

Distribution to Executive Directors

10. When an EA report is received from a borrower, the country department should ensure that the English-language summary is sent to the Adviser and Board Operations, Secretary's Department, for distribution to the executive directors, and that the full EA report is placed in the project file. The EA summary's transmittal memorandum, for signature by the country department director, should state that the EA summary, and the full report filed,

(a) have been prepared by the borrower and have not been evaluated or endorsed by the Bank; and
(b) are subject to review and possible change during the appraisal process.
11. The TM should also ensure that the next quarterly issue of the MOS, Annex B, contains an entry indicating the date on which the EA report was received. The receipt of the EA report should also be noted on the environmental data sheet (see Annex F).

Board Documents

12. The findings of the EA process and the procedures used in its preparation are summarized in the text of the SAR and in the Memorandum and Recommendation of the President. A SAR annex summarizes the EA of category A projects more fully. The summary covers, inter alia, environmental baseline conditions; the alternatives considered; preventive, mitigatory, and compensatory actions; the capability of environmental units and measures to strengthen them; environmental monitoring arrangements; revisions to the EA required as a result of the appraisal; and the borrower’s consultations with affected groups and NGOs. These factors provide the basis for the RED’s formal environmental clearance, prior to the authorization of negotiations by the Regional vice president. The EA annex should also indicate if a revised EA report has been prepared and included in the project file. Measures critical to sound project implementation may require specific loan conditionality.

Supervision

13. EA recommendations provide the basis for supervising the environmental aspects of the project during implementation. Compliance with environmental commitments, the status of mitigatory measures, and the findings of monitoring programs are part of borrower reporting requirements and project supervision. When major issues arise, special supervision missions with adequate environmental expertise are programmed and budgeted in advance, where possible.

Ex Post Evaluation

14. The project completion report\textsuperscript{17} submitted to the Operations Evaluation Department evaluates (a) environmental impacts, noting

\textsuperscript{17} See the OPNSV memorandum Guidelines for Preparing Project Completion Reports (PCRs), June 7, 1989, and OMS 358, General Guidelines for Preparing Project Completion Reports, which are to be combined and reissued as OD 13.55, Project Completion Reports.
whether they were anticipated in the EA report; (b) the effectiveness of the mitigatory measures taken; and (c) institutional development and training.

Role of the Environment Department

15. Responsibility for all projects, including their EAs, is vested in the Regions. The role of the Environment Department (ENV) in the EA process is to support the Operations complex throughout. This EA support focuses on training, dissemination of best practices, reviews, guidelines, and other operational support as requested. To enable it to fulfill this role, ENV should be kept systematically informed of key decisions at relevant stages of the EA process, such as screening, public participation, EA schedules, and EA reviews. The REDs share with ENV copies of EA reports that are submitted by borrowers to the Bank prior to appraisal. ENV should be consulted as needed in special cases. ENV is available, when deemed necessary, to discuss or assist with all aspects of the EA process at any stage. ENV will share with the other Regions the EAs, related materials, precedents, and experience originating in one Region. ENV will conduct post hoc EA reviews selectively with the REDs in order to ascertain best practice and the development of policies in this area.
Environmental Screening

Determination of EA Category

1. The purpose of screening is to decide the nature and extent of the EA or environmental analysis to be carried out. The classification of each proposed project depends on the type, location, sensitivity, and scale of the proposed project, as well as the nature and magnitude of its potential impacts. At identification and prior to the issuance of the Initial Executive Project Summary (IEPS), projects should be screened for environmental issues and assigned to one of three categories: A, B, or C. The selection of the category should be based upon the expected environmental impacts. Best professional judgment is essential throughout this procedure.

Category A: A full EA is required.
Category B: Although a full EA is not required, environmental analysis is required.
Category C: No EA or environmental analysis is required.

2. The EA category should be assigned by the task manager (TM), with the concurrence of the Regional environment division (RED). An EA normally deals with the whole project, but it focuses most time and attention on the components with the potentially greatest negative impacts and their links with the rest of the project. Any project may contain environmentally benign components; however, in projects with

18. "Location" refers to proximity to or encroachment on environmentally fragile areas, such as mangroves, wetlands, and rain forests. "Scale" needs to be judged by the task manager (TM) in the country context; if large, the project is likely to be a category A project. "Sensitivity" refers to issues such as impacts that are irreversible, affect vulnerable ethnic minorities, or involve involuntary resettlement.

19. Projects classified in category D before this directive was issued should be reclassified, where practicable, by the TM with the concurrence of the Regional environmental division. An environment project formerly classified as category D may fall into any of the three categories.

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several components, those components with the most serious environmental issues should receive the principal focus. Projects are categorized according to the component with the potentially most serious adverse impact. Dual categories (e.g., A/C) should not be used. For instance, a relatively benign project with a single category A component is a category A project. The results of the screening should be reported in the Monthly Operational Summary of Bank and IDA Proposed Projects (MOS) and indicated on the environmental data sheet (see Annex F).

Revision of EA Categories

3. The EA category assigned to the project as part of the screening is based on the best judgment and information available at that early stage. If the project is modified or new information becomes available to justify reclassification, the TM should reclassify a proposed project. The reclassification should be done with the concurrence of the RED. The new classification that appears in the MOS should be followed by “(R)” to indicate a revision. The reasons for any reclassification should be recorded on the environmental data sheet (see Annex F).

Illustrative Lists

4. Bank and international experience shows that projects in certain sectors or of certain types are normally best classified as illustrated below. These examples are only illustrative; they are by no means exhaustive.20

Category A Projects/Components

5. A full EA is required if a project is likely to have significant adverse impacts that may be sensitive, irreversible, and diverse. The impacts are likely to be comprehensive, broad, sector-wide, or precedent-setting. Impacts generally result from a major component of the project and affect the area as a whole or an entire sector.

(a) Dams and reservoirs;
(b) Forestry production projects;

20. For example, highway and rural road projects and major urban water or sanitation projects, while normally category A, are not listed below because there are exceptions; hence they are not clear examples.
(c) Industrial plants (large-scale) and industrial estates;
(d) Irrigation, drainage, and flood control (large-scale);
(e) Land clearance and leveling;
(f) Mineral development (including oil and gas);
(g) Port and harbor development;
(h) Reclamation and new land development;
(i) Resettlement and all projects with potentially major impacts on people;
(j) River basin development;
(k) Thermal and hydropower development; and
(l) Manufacture, transportation, and use of pesticides or other hazardous and/or toxic materials.

Category B Projects/Components

6. The project may have adverse environmental impacts that are less significant than category A impacts. Few if any of these impacts are irreversible. The impacts are not as sensitive, numerous, major, or diverse as category A impacts; remedial measures can be more easily designed. Preparation of a mitigation plan (see Annex C) suffices for many category B projects. Few category B projects would have a separate environmental report; most may be discussed in a separate chapter of the project preparation or feasibility study.

(a) Agro-industries (small-scale);
(b) Electrical transmission;
(c) Aquaculture and mariculture;
(d) Irrigation and drainage (small-scale);
(e) Renewable energy;
(f) Rural electrification;
(g) Tourism;
(h) Rural water supply and sanitation;
(i) Watershed projects (management or rehabilitation); and
(j) Rehabilitation, maintenance, and upgrading projects (small-scale).

Category C Projects/Components

7. An EA or environmental analysis is normally not required in this category because the project is unlikely to have adverse impacts. Professional judgment finds the project to have negligible, insignificant, or minimal environmental impacts.
(a) Education,
(b) Family planning,
(c) Health,
(d) Nutrition,
(e) Institutional development,
(f) Technical assistance, and
(g) Most human resource projects.
Country: 
Project Name: 
Project ID. No.: 
Total Project Cost: 
Appraisal Date: 
Board Date: 
Managing Division: 
Lending Instruments: 
Sector: 
Date (est.) for receipt of EA by Bank: 
EA Category: A/B/C (circle one); date assigned: 

Major project components: (presents description of project components)

Major Environmental Issues: (describes major environmental issues identified or suspected in project)

Other Environmental Issues: (describes environmental issues of lesser scope associated with project)

Proposed Actions: (describes actions proposed to mitigate environmental issues described above)
Justification/Rationale for Environmental Category: (presents reasons for environmental category selected and explanations of any changes from initial classification)

Status of Category A Environmental Assessment: (presents EA start-up date, EA first draft, and current status)

Remarks: (gives status of any other environmental studies, lists local groups and local NGOs consulted, tells whether borrower has given permission to release EA, etc.)

Signed by: _________________________
Operations Division Chief

Signed by: _________________________
Regional Environment Division Chief
Operational Directive 4.00, Annex A: Environmental Assessment*

Introduction

1. This annex outlines Bank policy and procedures for the environmental assessment of Bank investment lending operations,\(^1\) and related types of environmental analysis. Environmental assessment is a flexible procedure, which can vary in breadth, depth, and type of analysis, depending on the project. It may be carried out at one point in time, stretched over a year to account for seasonal variations, or done in discrete stages.

2. For the purpose of this annex, environmental assessment covers also project impacts on health, cultural property, and tribal people, and the environmental impact of project-induced resettlement.\(^2\)

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*This directive applies to projects which reach the Initial Executive Project Summary (IEPS) stage after October 15, 1989. OD. 4.01, reprinted at supra p. 147, applies to projects for which IEPSs were issued after October 1, 1991.*
Environmental assessments utilize the findings of country environmental studies and action plans which cover nationwide issues, the overall policy framework, legislation, and institutional capabilities in the country.

**Purpose and Nature of Environmental Assessment**

3. The purpose of environmental assessment is to ensure that the development options under consideration are environmentally sound and sustainable, and that any environmental consequences are recognized early in the project cycle and taken into account in project design. Environmental assessments identify ways of improving projects environmentally, and minimizing, mitigating, or compensating for adverse impacts. By alerting project designers, implementing agencies, and borrower and Bank staff to issues early, environmental assessments (a) enable them to address environmental issues in a timely and practical fashion, (b) reduce the need for project conditionality, because appropriate steps can be taken in advance or incorporated into project design, and (c) help avoid costs and delays in implementation due to unanticipated environmental problems. Environmental assessments also provide a formal mechanism for inter-agency coordination and for addressing the concerns of affected groups and local nongovernmental organizations (NGOs). In addition, they can play a major role in building environmental capability in the country.

4. Like economic, financial, institutional, and engineering analyses, environmental assessment is part of project preparation, and is therefore the borrower's responsibility. Close integration of environmental assessment with these other aspects of project preparation ensures that (a) environmental considerations are given due weight in project selection, siting, and design decisions, and (b) carrying out environmental assessments does not unduly delay project processing.

**Types of Environmental Analysis**

**Project-Specific Environmental Assessments**

5. Project-specific environmental assessments are used to analyze specific investment projects (e.g., dams, factories, irrigation systems)
with significant environmental issues. The detail and sophistication of analysis should be commensurate with the expected impacts. A project-specific environmental assessment should normally cover:
(a) existing environmental "baseline" conditions; (b) potential environmental impacts, direct and indirect, including opportunities for environmental enhancement; (c) systematic environmental comparison of alternative investments, sites, technologies, and designs; (d) preventive, mitigatory, and compensatory measures, generally in the form of an action plan; (e) environmental management and training, and (f) monitoring. To the extent possible, capital and recurrent costs, environmental staffing, training, and monitoring requirements, and the benefits of proposed alternatives and mitigation measures, should be quantified. Annex A1 gives a sample outline for a project-specific environmental assessment, and Annex A2 is a checklist of specific issues to be covered where relevant.

Regional and Sectoral Environmental Assessments

6. Regional environmental assessments are used where a number of significant development activities with potentially cumulative impacts are planned for a reasonably localized area. In such cases, they are generally more efficient than a series of project-specific environmental assessments, and may identify issues that the latter might overlook (e.g., interaction among effluents, or competition for water or land). Regional environmental assessments compare alternative development scenarios, and recommend environmentally sustainable growth rates and land use patterns and policies. The study area is normally defined on a physical and/or biological basis (e.g., airshed, habitat type, river basin), and may sometimes extend across national boundaries; however, regional environmental assessments with an institutional focus might follow administrative boundaries instead.

7. Sectoral environmental assessments are used for the design of sector investment programs. They are particularly suitable for reviewing (a) sector investment alternatives; (b) the effect of sector policy changes; (c) institutional capacities and requirements for

3. Indirect impacts are the induced consequences of the project which occur later or in another part of the environment, e.g., if a river is channelled or dammed, its capacity for self-purification may be reduced and the original aquatic ecosystem damaged or destroyed.
environmental review, implementation, and monitoring at the sectoral level; and (d) the cumulative impacts of many relatively small, similar investments which do not merit individual project-specific environmental assessments.

8. In some cases, regional or sectoral environmental assessments cover all the normal requirements of project-specific environmental assessments. More often, the latter are still needed for major investments (see para. 14 concerning sector investment loans), but the regional or sectoral environmental assessments will have identified the relevant issues, collected much of the data, and, in general, greatly reduced the work needed in the project-specific environmental assessments.

Alternatives to Environmental Assessments

9. Alternative approaches that focus on a narrower range of issues are acceptable for many types of projects, especially smaller ones and those not in environmentally sensitive areas. These approaches may be more effective in integrating environmental concerns into the borrower's planning process. Such alternative approaches include:

(a) integrated pest management programs for many agricultural projects which do not involve major irrigation or land development;

(b) specific environmental design criteria and pollution standards for small- or medium-scale industrial plants; and

(c) specific environmental design criteria and construction supervision programs for small-scale rural works projects.

Other examples of projects for which alternative approaches are generally acceptable are listed in Annex A3, para. 3, under “Category B.”

Consideration of Global Issues

10. A number of specialized agencies—inside and outside the UN system—carry out scientific investigations of global environmental issues (ozone depletion, global warming, hazardous wastes, etc.). The Bank keeps fully abreast of findings, primarily through its Principal Adviser, Science and Technology, and draws upon prevailing views in developing its own environmental, economic, and sectoral policies, with a view to minimizing possible adverse impacts on global systems such as the atmosphere and oceans. While environmen-
tal assessments should collect or refer to the relevant data, the Bank does not normally expect global environmental issues to require separate analysis in project-specific environmental assessments. Such issues should, however, be addressed where relevant in policy and sector work.

Institutional Aspects of Projects

Inter-Agency Coordination

11. Because environmental issues generally involve national, regional, and local government agencies, and cover a broad range of responsibilities (wildlife, health, water and land use, tourism, etc.), coordination among government agencies is crucial. This is best achieved through inter-agency meetings at key points in the environmental assessment cycle. The first meeting, normally held soon after the decision to prepare an environmental assessment, identifies the issues, types of analysis required, sources of relevant expertise, responsibilities and schedule for the environmental assessment, and mitigating measures to be considered. Another meeting should normally be held when the environmental assessment report is completed and submitted for final government review.

Involvement of Affected Groups and Nongovernmental Organizations

12. The Bank expects the borrower to take the views of affected groups and local NGOs fully into account in project design and implementation, and in particular in the preparation of environmental assessments. This is important in order to understand both the nature and extent of any social or environmental impact, and the acceptability of proposed mitigation measures. An approach which has proven effective in many countries is to expand the initial inter-agency meeting (para. 11) into a “forum” or “scoping session” with representatives of affected groups and relevant NGOs. Similar consultations after the environmental assessment report is completed are also a valuable way to obtain feedback on the report and to increase community cooperation in implementing the recommendations.

4. See OD 14.70, Involving Nongovernmental Organizations in Bank-Supported Activities for the Bank's overall approach to NGOs.
Strengthening Environmental Capabilities

13. The ultimate success of environmental assessment depends upon the development of environmental capability and understanding in the agencies concerned. Projects with major potential impacts normally require the establishment or strengthening of in-house environmental units for the project (located or represented on site), the implementing agency and the ministry. Involvement of these units throughout the environmental assessment process (a) ensures that the agency's/ministry's knowledge and perspective are taken into account in the environmental assessment; (b) provides on-the-job training for the staff; and (c) provides continuity for the implementation of the environmental assessment's recommendations. Such projects normally need to include an institutional development and training component for such units. In addition, to help develop environmental assessment capability in the country, the Bank should (a) encourage the use of local expertise in environmental assessment preparation (in association with international consultants, where appropriate), and (b) help arrange environmental assessment training courses for local specialist staff and consultants.

Sector and Financial Intermediary Lending

14. For sector investment loans and loans through financial intermediaries, subproject details may not be known at the time of project appraisal. In such cases, the project implementing institutions will need to screen subprojects (see para. 18) and carry out environmental analyses consistent with this directive. To ensure that this can be done, the Bank should appraise the implementing agencies' capabilities for environmental assessment, and strengthen them where necessary. The appraisal mission should also indicate the proper division of responsibility for preparing and reviewing environmental assessments between the ultimate borrower, the financial intermediary or sector agency, and the agencies responsible for environmental regulation.

Environmental Advisory Panels

15. For major projects with serious and multi-dimensional environmental concerns, the Bank should explore with the borrower whether the latter needs to engage an advisory panel of independent, internationally recognized, environmental specialists, to
review and advise on, inter alia, the Terms of Reference (TOR) and findings of the environmental assessment, the implementation of its recommendations, and the development of environmental capacity in the implementing agency/ministry. Such a panel should meet at least once a year until the project is operating routinely and environmental issues have been addressed satisfactorily.5

Environmental Assessment Procedures

Overview

16. Though environmental assessment preparation is the responsibility of the borrower, the task manager (TM) in the Bank assists and monitors the environmental assessment process, with support mainly from the Regional environment division (RED). The borrower and the Bank should agree as early as possible on the selection of consultants or borrower staff to prepare the environmental assessment, and the environmental assessment procedures, schedule, and outline. Major steps in the environmental assessment process normally include: (a) screening, (b) decisions based on the Initial Executive Project Summary (IEPS), (c) notification to the Board through the Monthly Operational Summary (MOS), (d) preparation of TORs for the environmental assessment, (e) environmental assessment preparation, (f) environmental assessment review and incorporation of environmental measures into the project, (g) supervision, and (h) ex post evaluation.

17. Since project and country conditions, national legislation, and institutional experience vary among borrowers, both the borrower and the Bank must exercise judgement in using these procedures to design and implement projects which are both environmentally and economically sound, and consistent with the environmental laws, policies, and procedures of the borrower. The Environment Department (ENV), Legal Department, and the REDs maintain information on these requirements.

Screening

18. Projects/components should be screened at identification by the TM, with advice from the RED, and assigned to one of the following

5. See OD 4.00, Annex B, *Environmental Policy for Dam and Reservoir Projects*, para. 18, for more details on the selection and functions of the panel.
categories based upon the nature, magnitude, and sensitivity of environmental issues:

Category A  Environmental assessment is normally required as the project may have diverse and significant environmental impacts.

Category B  More limited environmental analysis is appropriate, as the project may have specific environmental impacts.

Category C  Environmental analysis is normally unnecessary.

Category D  Environmental projects, for which separate environmental assessments may not be required, as environment would be a major focus of project preparation.

Annex 3 gives illustrative lists, to be applied flexibly, of the type of project/component in each category.

Initial Executive Project Summary

19. In the IEPS, the TM, in consultation with the RED, should (a) identify key environmental issues, (b) indicate the category (A-D) and the type of environmental analysis recommended, and (c) provide a preliminary environmental assessment schedule. If an environmental assessment is not likely to be available prior to appraisal, the IEPS should propose special procedures to address the situation. The IEPS meeting would confirm the type, timing, and issues of environmental analysis (although in the event of inadequate information, the decision may be deferred).

Monthly Operational Summary

20. The TM should ensure that the MOS, which is used to alert the executive directors to forthcoming projects, contains the following information as soon as available: (a) the category assigned (A-D); (b) the main issues to be examined; (c) whether agreement with the borrower has been reached on environmental assessment preparation; and (d) the environmental assessment schedule. The MOS entry should be updated whenever appropriate to reflect the progress of the environmental assessment, and the related Bank and borrower decisions.
Preparation of TORs for the Environmental Assessment

21. Following the IEPS meeting, the Bank should discuss with the borrower the scope of the environmental assessment, and assist the borrower, as necessary, in preparing TORs for the environmental assessment. For this purpose, a field visit by Bank environmental staff is generally desirable. The Bank should ensure that the TORs provide for adequate inter-agency coordination (para. 11) and consultation with affected groups and local NGOs (para. 12).

Environmental Assessment Preparation

22. An environmental assessment for a major project typically takes 6-18 months to prepare and review. Environmental assessment drafts should be available at key points in the project cycle. The final environmental assessment should be available prior to appraisal, to minimize the risk of project design changes and resultant delays at a late stage.

23. In most cases, the environmental assessment should form part of the overall feasibility study, so that the environmental assessment's findings are directly integrated into project design. However, the environmental assessment is normally prepared separately by specialists. For projects which would have major impacts, such as large dams or projects involving large scale resettlement, it is recommended that the borrower retain independent experts not affiliated with the project. Borrowers may request Bank assistance for financing environmental assessments through a Project Preparation Facility (PPF) advance, or from the Technical Assistance Grant Program for the Environment. Environmental assessments generally account for 5-10 percent of the cost of project preparation.

24. For some projects, a full year of baseline data is desirable to capture the seasonal effects of certain environmental phenomena; however, so as not to delay critical project decisions, short-term monitoring should be used to provide conservative estimates of environmental impacts, while longer-term data collection is being undertaken. Since special care in designing the baseline monitoring program is warranted, the borrower should be encouraged to discuss the matter with the Bank.

6. See OMS 2.15, Project Preparation Facility, to be reissued as OD 8.00.
Environmental Assessment Review and Project Appraisal

25. The borrower should submit the final environmental assessment report to the Bank prior to Bank appraisal. The environmental assessment report is the borrower’s property, but the Bank encourages the borrower to release relevant information to appropriate interested parties. The Final Executive Project Summary should summarize the environmental assessment’s status and describe how major environmental issues have been resolved or are to be addressed, noting any proposed conditionality. The appraisal mission should review both the procedural and substantive elements of the environmental assessment with the borrower, resolve any issues, assess the adequacy of the institutions responsible for environmental management in light of the environmental assessment’s findings, and determine if the environmental assessment’s recommendations are properly addressed in project design and economic analysis.

Loan Documents

26. The environmental assessment procedures followed and the environmental assessment’s main findings should be explained briefly in the text of the Staff Appraisal Report (SAR) and the Memorandum and Recommendation of the President. An SAR annex should summarize the environmental assessment more fully, covering, inter alia, environmental baseline conditions, alternatives considered, mitigating and compensatory actions, capability of environmental units and measures to strengthen them, environmental monitoring arrangements, and the borrower’s consultations with affected groups and NGOs. These factors will provide the basis for the RED’s formal environmental clearance prior to the authorization of negotiations by the Regional vice president. Measures critical to sound project implementation may require specific loan conditionality.

Supervision

27. Environmental assessment recommendations provide the basis for supervising the environmental aspects of project implementation. Compliance with environmental conditionality, the status of mitigating measures, and the findings of monitoring programs should be part of borrower reporting requirements and project
supervision. When major issues arise, special supervision missions with adequate environmental expertise may be needed.

Ex Post Evaluation

28. The project completion report\(^7\) submitted to the Operations Evaluation Department should evaluate (a) environmental impacts, noting whether they were anticipated in the environmental assessment report, and (b) the effectiveness of mitigating measures taken and of institutional development and training.

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7. See the OPNSV memoranda, *Guidelines for Preparing Project Completion Reports*, June 7, 1989, and OMS 3.58, *General Guidelines for Preparing Project Completion Reports*, which are to be combined and reissued as OD 13.55, *Project Completion Reports*. 
Sample Outline of a Project-Specific Environmental Assessment Report

1. Environmental assessment reports should be concise and limited to significant environmental issues. The detail and sophistication of analysis should be commensurate with the potential impacts. The target audience should be project designers, implementing agencies, and borrower and Bank staff.

2. The environmental assessment report should include:

   (a) *Executive Summary.* Concise discussion of significant findings and recommended actions.
   (b) *Policy, legal, and administrative framework* within which the environmental assessment is prepared. The environmental requirements of any cofinanciers should be explained.
   (c) *Project description* in a geographic, ecological, social, and temporal context, including any off-site investments that may be required by the project (e.g. dedicated pipelines, access roads, power plants, water supply, housing, and raw material and product storage facilities).
   (d) *Baseline Data.* Dimensions of the study area and description of relevant physical, biological, and socioeconomic conditions, including any changes anticipated before the project commences. Current and proposed development activities within the project area (but not directly connected to the project) should also be taken into account.
   (e) *Environmental Impacts.* The positive and negative impacts likely to result from the proposed project should be identified and assessed. Mitigation measures and the residual impacts that cannot be mitigated should be identified. Opportunities for environmental enhancement should be
explored. The extent and quality of available data, key data gaps, and uncertainties associated with predictions should be identified/estimated. Topics that do not require further attention should be specified.

(f) **Analysis of Alternatives.** Proposed investment design, site, technology, and operational alternatives should be compared systematically in terms of their potential environmental impacts; capital and recurrent costs; suitability under local conditions; and institutional, training, and monitoring requirements. To the extent possible, for each of the alternatives, the environmental costs and benefits should be quantified, and economic values attached where feasible.

(g) **Mitigation Plan.** Feasible and cost-effective measures which may reduce potentially significant adverse environmental impacts to acceptable levels should be proposed, and the potential environmental impacts, capital and recurrent costs, and institutional and training requirements of those measures estimated. The plan (sometimes known as an “action plan” or “environmental management plan”) should provide details on proposed work programs and schedules, to ensure that the proposed environmental actions are in phase with engineering activities throughout preparation. The plan should consider compensatory measures if mitigation measures are not feasible or cost-effective.

(h) **Environmental Management and Training.** The existence, role, and capability of environmental units at the on-site, agency, and ministry level should be assessed, and recommendations made concerning the establishment and/or expansion of such units, and the training of staff, to the point that environmental assessment recommendations can be implemented.

(i) **Monitoring Plan.** Regarding environmental impacts and performance. The plan should specify the type of monitoring, who would do it, how much it would cost, and what other inputs (e.g., training) are necessary.

**Appendices**

(i) **List of Environmental Assessment Preparers**—individuals and organizations.
(ii) References—written materials used in study preparation. This is especially important given the large amount of unpublished documentation often used.

(iii) Record of Inter-Agency/Forum Meeting, including list of both invitees and attendees. Where the views of affected groups and local NGOs were obtained by other means, these should be specified.
Checklist of Potential Issues for an Environmental Assessment

Where applicable, environmental assessments should address the following issues, which are subject to the Bank policies and guidelines identified below.

(a) **Agrochemicals.** The Bank promotes the use of integrated pest management (IPM) and the careful selection, application, and disposal of pesticides (see OPN 11.01, *Guidelines for the Selection and Use of Pesticides in Bank-Financed Projects and their Procurement when Financed by the Bank*, to be reissued as OD 4.00, Annex C, *Agricultural Pest Management, and Selection and Use of Pesticides*). The use of fertilizers, due to their impacts on surface and groundwater quality, must also be carefully assessed.

(b) **Biological Diversity.** The Bank promotes conservation of endangered plant and animal species, critical habitats, and protected areas (para. 9b, OMS 2.36, *Environmental Aspects of Bank Work*, and OPN 11.02, *Wildlands: Their Protection and Management in Economic Development*, to be reissued as OD 4.00, Annex D, *Wildlands: Their Protection and Management*).

(c) **Coastal and Marine Resources Management.** Guidelines are available from the Environmental Department (ENV) on the planning and management of coastal marine resources including coral reefs, mangroves, and wetlands.

(d) **Cultural Properties.** OPN 11.03, *Management of Cultural Property in Bank-Financed Projects* (to be reissued as OD 4.50, *Cultural Property*), confirms the Bank's commitment to actively protect archaeological sites, historic monuments, and historic settlements.

(e) **Dams and Reservoirs.** OD 4.00, Annex B, *Environmental Policy for Dam and Reservoir Projects*, provides specific
guidance for addressing environmental issues in the planning, implementation, and operation of dam and reservoir projects.

(f) **Hazardous and Toxic Materials.** Guidelines are available from ENV on the safe manufacture, use, transport, storage, and disposal of hazardous and toxic materials.

(g) **Induced Development and Other Socio-Cultural Aspects.** Secondary growth of settlements and infrastructure, often referred to as "induced development" or "boomtown" effects, can have major indirect environmental impacts, which relatively weak local governments may have difficulty addressing.

(h) **Industrial Hazards.** All energy and industry projects should include a formal plan to prevent and manage industrial hazards. (See *Techniques of Assessing Industrial Hazards—A Manual*, World Bank Technical Paper No. 55.)

(i) **International Treaties and Agreements on the Environment and Natural Resources.** Environmental assessments should review the status and application of such current and pending treaties and agreements, including their notification requirements. The Legal Department maintains a list of international treaties, and could obtain, whenever required, information on applicable law in individual countries.

(j) **International Waterways.** OD 7.50, *Projects on International Waterways*, provides guidance. This OD exempts from notification requirements rehabilitation projects which will not affect the quality or quantity of water flows.


(l) **Land Settlement.** Due to the complex physical, biological, socioeconomic, and cultural impacts, land settlement should generally be carefully reviewed (see OD 4.31, *Land Settlement*, to be issued).

(m) **Natural Hazards.** Environmental assessments should review whether the project may be affected by natural hazards (e.g., earthquakes, floods, volcanic activity), and
should propose specific measures to address these concerns when appropriate (see OD 8.50, *Emergency Recovery Assistance*, to be issued).

(n) *Occupational Health and Safety.* All industry and energy projects, and projects in other sectors where relevant, should include a formal plan to promote occupational health and safety (*Occupational Health and Safety Guidelines*, World Bank, 1988).

(o) *Tribal Peoples.* OMS 2.34, *Tribal People in Bank-Financed Projects* (to be reissued as OD 4.40, *Tribal People*), provides specific guidance for addressing the rights of tribal peoples, including traditional land and water rights.

(p) *Tropical Forests.* The Bank co-authored the Tropical Forest Action Plan (published in 1984); up-to-date information is available from ENV. OPN 11.02, *Wildlands: Their Protection and Management in Economic Development* (to be reissued as OD 4.00, Annex D), also addresses issues relating to tropical forests.

(q) *Watersheds.* Bank policy is to promote protection and management of watersheds as an element of lending operations for dams, reservoirs, and irrigation systems (OD 4.00, Annex B, *Environmental Policy for Dam and Reservoir Projects*, para. 6).

(r) *Wetlands.* The Bank promotes conservation and management of wetlands (e.g., estuaries, lakes, mangroves, marshes, and swamps). This is covered by OPN 11.02 on wildlands (see (s) below).

(s) *Wildlands.* The Bank is committed to protect wildlands, including through compensatory measures when lending could result in adverse impacts (see OPN 11.02, *Wildlands: Their Protection and Management in Economic Development*, to be reissued as OD 4.00, Annex D, *Wildlands: Their Protection and Management*).
Environmental Screening

Introduction

1. The task manager, in consultation with the Regional environment division, is responsible for screening a proposed project to determine the appropriate type of environmental analysis, based on the nature, potential magnitude, and sensitivity of the issues. The categories below, based upon prior Bank staff experience, are strictly illustrative. Alternatives to environmental assessment are acceptable where they are expected to result in an environmentally sound project.

2. **Category A: Projects/Components Which May Have Diverse and Significant Environmental Impacts—Normally Require Environmental Assessment**

   (i) Aquaculture/Mariculture (large scale);
   (ii) Dams and Reservoirs;
   (iii) Electrical Transmission (large scale);
   (iv) Forestry;
   (v) Industrial Plants (large scale) and Industrial Estates;
   (vi) Irrigation and Drainage (large scale);
   (vii) Land Clearance and Leveling;
   (viii) Mineral Development (including oil and gas);
   (ix) Pipelines (oil, gas, and water);
   (x) Port and Harbor Development;
   (xi) Reclamation and New Land Development;
   (xii) Resettlement;¹⁰
   (xiii) River Basin Development;

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8. Except generally for projects directed to rehabilitation, improved operation and maintenance, and limited upgrading of facilities.


10. While OMS2.33, *Social Issues Associated with Involuntary Resettlement in Bank-Financed Projects* (to be reissued as OD 4.30, *Involuntary Resettlement*), covers the social aspects of resettlement, the environmental implications of the resettlement itself can be major.
(xiv) Rural Roads;  
(xv) Thermal and Hydropower Development;  
(xvi) Tourism (large scale);  
(xvii) Transportation (airports, railways, roads, waterways);  
(xviii) Urban Development (large scale);  
(xix) Urban Water Supply and Sanitation (large scale);  
(xx) Manufacture, Transportation, and Use of Pesticides or other Hazardous and/or Toxic Materials;11 and  
(xxi) Projects which Pose Serious Accident Risks.12

3. **Category B: Projects/Components which may Have Specific Environmental Impacts—More Limited Environmental Analysis Appropriate**  

Projects in this category normally require more limited environmental analysis than an environmental assessment. A wide range of environmental guidelines, developed by a number of organizations, are applicable. In addition, specific environmental pollution standards or design criteria can be developed for individual projects.

(i) Agroindustries (small scale);  
(ii) Aquaculture and Mariculture (small scale);  
(iii) Electrical Transmission (small scale);  
(iv) Industries (small scale);  
(v) Irrigation and Drainage (small scale);  
(vi) Mini Hydro-Power;  
(vii) Public Facilities (hospitals, housing, schools, etc.);  
(viii) Renewable Energy;  
(ix) Rural Electrification;  
(x) Telecommunications;  
(xi) Tourism (small scale);  
(xii) Urban Development (small scale); and  
(xiii) Rural Water Supply and Sanitation.

11. In some cases, adherence to existing directives is an acceptable alternative to an environmental assessment (e.g., OPN 11.01, *Guidelines for the Selection and Use of Pesticides in Bank-Financed Projects and their Procurement when Financed by the Bank*, to be reissued as OD 4.00 Annex C, *Agricultural Pest Management, and Selection and Use of Pesticides*). Certain materials (e.g. PCBs) are not to be used in Bank projects and other materials (e.g. asbestos) are to be used only under extremely restricted conditions. A Restricted Toxic Materials List (RTML) will be available from ENV and updated periodically.

4. **Category C: Projects/Components which Normally Do Not Result in Significant Environmental Impact—Environmental Analysis Normally Unnecessary**

   Opportunities to enhance environmental benefits should be sought in these projects.

   (i) Education (except school construction);
   (ii) Family Planning;
   (iii) Health (except hospital construction);
   (iv) Nutrition;
   (v) Institutional Development; and
   (vi) Technical Assistance.

5. **Category D: Environmental Projects**

   Projects with a major environmental focus may not require a separate environmental assessment, as environment would be a major part of the project preparation.

6. **Emergency Recovery Projects**

   Because emergency recovery projects (a) need to be processed rapidly, and (b) seek mainly to restore existing facilities, they normally would not require a full environmental assessment. However, the extent to which the emergency was precipitated and/or exacerbated by inappropriate environmental practices should be determined, and corrective measures built into either the emergency project or a future lending operation.\(^{13}\)

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\(^{13}\) See OD 8.50, *Emergency Recovery Assistance*, to be issued.
Operational Directive 4.00,
Annex B: Environmental Policy
for Dam and Reservoir Projects

Introduction

1. Dam and reservoir projects improve water supply for irrigation
and households, provide power, control floods, and reduce fossil
fuel depletion and the environmental effects of fossil fuel burning.
However, as with many other projects, particularly in the tropics,
there may be adverse as well as beneficial environmental impacts
(see Annex B1). With careful planning, such adverse effects can be
minimized or mitigated, and the beneficial effects enhanced. This
annex sets out the Bank's environmental policies for dam and reser-
voir projects. The Bank will normally finance projects only in com-
pliance with this annex.

Policies

2. Governments need to have environmentally and economically
sound macroeconomic and sector policies on matters which affect
dam and reservoir projects. In the context of individual investment

1. The Bank's general guidelines on environmental policy are in OMS 2.36, En-
vironmental Aspects of Bank Work (to be reissued as OD 4.00, Environmental Poli-
cies). Issues relevant to many dam and reservoir projects include involuntary
resettlement of people (OMS 2.33, Social Issues Associated with Involuntary Resettle-
ment in Bank-Financed Projects, to be reissued as OD 4.30, Involuntary Resettlement),
tribal people (OMS 2.34, Tribal People in Bank-Financed Projects, to be reissued as
OD 4.40, Tribal People), wildlands (OPN 11.02, Wildlands: Their Protection and Man-
agement in Economic Development, to be reissued as OD 4.00, Annex D), cultural
property (OPN 11.03, Management of Cultural Property in Bank Financed Projects, to
be reissued as OD 4.50, Cultural Property), international riparian rights (OMS 2.32,
Projects on International Waterways, to be replaced by OD 7.50), and dam safety
(OMS 3.80, Safety of Dams, to be reissued as OD 7.70). Guidance on sedimentation
and induced seismicity can be obtained from AGR and ENV.
projects, the Bank should review these policies and seek to improve them where necessary.

Basic Planning Principles

Area of Influence

3. Dam and reservoir projects often affect a very large area (see Annex B2), which should be determined at an early stage with the advice of environmental specialists.

Costs and Benefits

4. Adverse environmental impacts should be avoided, minimized, or compensated for wherever possible during project design (e.g., by modification of dam location or height), and by measures implemented as part of the project, bearing in mind the need to balance environmental, economic, social, and other concerns. Opportunities to increase benefits should be sought in the design of the project, such as by using reservoirs for waterfowl, tourism, and fisheries. Cost-benefit analyses should explicitly include estimates for all necessary mitigatory measures, as well as for quantifiable environmental losses and enhancements due to the project. Special attention is necessary if the proposed project depends on another future project to attain its full economic potential.

Design Alternatives

5. Design of investment programs for supplying water or energy should consider demand management as well as supply options (e.g., conservation of water and energy, efficiency improvements, system integration, cogeneration, and fuel substitution). Environmental analysis is essential in decisions on the need for a project, its type (e.g., thermal versus hydro), size, location, and area of influence. Where viable alternatives exist, careful dam siting is critical to minimize the inundation of forest or other wildland areas, and the dislocation of people. The creation/protection of compensatory forest or other wildland areas should be promoted. The feasibility of preparing the reservoir area prior to inundation should be determined.

Removal of vegetation will improve the water quality of the reservoir and reduce growing conditions for aquatic weeds, while removal of timber and other obstacles will improve the possibility for net fishing and enhance water circulation, important for oxygen distribution.

River Basin Planning

6. Benefits from dam and reservoir projects increase when they become regional development projects which integrate, for instance, power generation, irrigation, and municipal water supply, with catchment area management and rural development. Designing water projects in the context of overall river basin and regional development plans normally reduces the potential for unanticipated cumulative adverse environmental effects and intersectoral problems. The need for catchment area management and improved land use (e.g., discouraging settlement in flood-prone areas) should also be systematically considered.

Environmental Effects of Involuntary Resettlement

7. The lands inundated by a dam typically are more productive than neighboring uplands, and are therefore more densely populated by people and livestock. Displacement of the lowland population to the uplands often endangers the environment, as more people and livestock have to survive on a reduced resource base. Demand for arable land, fuel, fodder, potable water, building materials, and other resources may increase dramatically, and the carrying capacity of the uplands may be quickly exceeded unless development assistance increases the productivity of the remaining resource base. The Bank's resettlement policy (OMS 2.33, to be reissued as OD 4.30, _Involuntary Resettlement_) emphasizes maintenance/restoration of the social and economic production systems and income levels of both the displaced population and the host population among whom they are relocated.

Project Cycle

Environmental Reconnaissance

8. During identification, an environmental reconnaissance (draft terms of reference [TOR] in Annex B3), by independent, recognized
experts or firms—selected by the borrower and approved by the Bank—is essential to

(a) ensure that potential environmental effects are identified,
(b) ascertain the scope of further environmental studies and actions needed,
(c) assess the ability of the borrower to undertake them, and
(d) advise on the need for an environmental panel (para. 18).

Information collected would be documented and provided to the Bank and government agencies concerned, to ensure that environmental factors are fully considered in project design, including determination of the final dam site and height, and should comprise part of the baseline data against which subsequent changes can be measured. The Project Preparation Facility (PPF) (OMS 2.15, *Project Preparation Facility*, to be reissued as OD 8.00), may finance such reconnaissance.

Environmental Assessment

9. During preparation, the Bank should review the draft TOR for the environmental assessment part of the feasibility study, the short list of consultants, and their technical proposals. The environmental assessment should be consistent with country legislation on procedures and requirements. Broad intersectoral cooperation should be ensured—such as with agricultural, fisheries, forestry, health, wildlife, tourism, municipal, and industrial agencies—both at policy and field levels. Biotic, cadstral, social, and cultural property surveys should be started early.

Appraisal

10. The appraisal mission should include environmental specialists to assess the environmental analysis, the design of measures to minimize or mitigate adverse environmental impacts, and the capacity of the borrower's staff to implement them. The environmental panel, where required (para. 18), should be convened during project appraisal, and future activities of the panel reviewed. The Staff Appraisal Report should describe the environmental issues and their resolution, as well as the institutional arrangements.

3. A directive on Environmental Assessment is to be issued as OD 4.00, Annex A.
Sector Investment Loans

11. Sector investment operations (as distinguished from specific investment projects) in sectors that include major dam and reservoir projects should proceed only when the environmental capabilities of the sector are adequate, or provisions to establish adequate environmental protective measures have been agreed upon during appraisal.

Bidding Documents

12. The Bank should ensure that bidding documents and contracts incorporate appropriate measures to protect the environment. (Annex B4 outlines the clauses to be included.)

Supervision

13. The environmental monitoring system, dam construction contractors’ performance, adequacy of the environmental measures, institutional arrangements, training and performance of the in-house environment unit (para. 17), and reports of the environmental panel should be reviewed with the borrower during supervision, and any necessary corrective actions identified and agreed upon.

Completion and Post-Audit

14. Completion reports should review environmental problems and progress. In addition, as some environmental effects become apparent only after a decade or more of operation, the Bank should encourage the borrower to contract an independent environmental post-audit a decade or so after impoundment.

Institutional Aspects

Environmental Capacity of National and Sectoral Institutions

15. Major dam and reservoir projects should be used to help build environmental capacity (analytical, regulatory, and enforcement) in institutions at the national and sectoral levels through training, consultancy, and policy dialogue, and to foster coverage of dams and reservoirs by environmental legislation.
Interagency Coordination

16. Environmental benefits can be maximized and costs reduced by improved intersectoral planning. Potential environmental implications are often better anticipated by involving the agencies responsible for environment, health, tourism, social affairs, municipal and industrial water supply, agriculture, livestock, fisheries, and navigation—plus state and provincial authorities. Environmental agencies should be consulted in project planning and preparation to ensure that relevant line ministries and other decision-makers are made aware of potential environmental impacts and recommended mitigatory measures.

In-House Environmental Unit

17. Each project involving large dams or having significant environmental implications requires an in-house environmental unit with adequate budget and professional staffing strong in expertise relevant to the project (usually physical and biological science and sociology). It should normally be established within the implementing ministry/agency (such as that for irrigation or energy) or in a river basin authority, be located or well-represented at the project site, and work in conjunction with existing central agencies. Strengthening of any existing agency-wide unit may be better than creating a new one. The unit should be established as early as possible to help ensure that preproject baseline data are collected and environmental problems anticipated at an early stage. It should exist during project implementation plus an additional period to be agreed with the Bank. The unit should ensure that monitoring and evaluation anticipate environmental problems, and that mitigatory measures are implemented. Early and extensive training of unit staff is a priority.

Environmental Panel

18. For projects involving large dams, or having major environmental implications, the borrower should normally engage an advisory panel of independent, internationally recognized, environmental specialists, the composition of which should be determined by the environmental reconnaissance (para. 8). However, in certain cases,

4. As defined in para. 4(6), OMS 3.80, Safety of Dams, to be reissued as OD 7.70.
the reconnaissance study may advise, based on the significance of
the environmental issues and the borrower's (including consultants')
capacity to deal with them, that the panel is not needed. The costs
of the panel could be financed from the loan/credit. Its TOR, and
the short lists of individual experts from which the panel is to be
selected, should be acceptable to the Bank. The panel should advise
the borrower periodically on environmental aspects of the project,
including:

(a) analysis of the findings of the environmental reconnais-
sance;
(b) the TOR and findings of the environmental assessment;
(c) environmental plans, procedures, budgets, and progress
throughout the life of the project; and
(d) the in-house environmental unit's staff, training, functions,
and relations with the ministry of environment.

Depending on circumstances, panel reviews would normally be
held once or twice a year during preparation and implementation,
or when the in-house environmental unit requests. The advisory
panel should continue to function after completion of the project for
a few years (as agreed with the Bank), and could be convened on
an ad hoc basis thereafter.

Consultation with Nongovernmental Organizations (NGOs)
and Affected Groups

19. Community organizations, research centers, environmental
advocates, and other NGOs can often provide valuable perspectives
on improving both project design and implementation (see OMS
5.30, Collaboration with Nongovernmental Organizations, to be
issued as OD 14.70). To tap these perspectives, the Bank encour-
ages consultations by project authorities (including consultants pre-
paring the project) with appropriate NGOs, particularly local NGOs.
Various mechanisms for consultation may be appropriate, including
sponsored public hearings or national workshops. Bank staff, too,
should consult with NGOs as appropriate, bearing in mind the
capacity of NGOs to offer important perspectives on project design,
and the need to protect the confidentiality of information shared
between the Bank and the borrower (see AMS 1.10, Directive on
Disclosure of Information). In addition, the Bank encourages con-
sultation between project executing agencies and the population
affected by the project, as part of the project design process (OMS 2.12, *Project Generation and Design*, to be reissued as OD 10.00, and OMS 2.20, *Project Appraisal*, to be reissued as OD 10.10). This includes tribal people (OMS 2.34, *Tribal People*, to be reissued as OD 4.40) and those who have to be resettled under the project (OMS 2.33, to be reissued as OD 4.30, *Involuntary Resettlement*). The Staff Appraisal Report should describe and assess the consultations which took place.
Typical Environmental Effects of Dams and Reservoirs

1. Land Losses
Large tracts of agricultural lands, forests, or other wildlands may be inundated. Careful siting can minimize such losses (e.g., by selecting reservoirs with high Kwh-generated/ha land area inundated). The value of lost timber and other resources, and foregone use of inundated land should be estimated in the economic analysis.

2. Health
Some water-related diseases (e.g., schistosomiasis, malaria, onchocerciasis, and Japanese B encephalitis) may increase unless precautions or mitigatory measures are implemented. Vector control, environmental modifications, and education of residents may need to be incorporated into the project (see OPN 11.01, Guidelines for the Selection and Use of Pesticides in Bank-Financed Projects and their Procurement When Financed by the Bank, to be reissued as OD 4.00, Annex C, Selection and Use of Pesticides).

3. Plant and Animal Life
Biotic surveys normally are essential; plant and animal extinction can be prevented or minimized by careful project siting. Loss of wildlife may be mitigated by including elsewhere in the country a wildlands management area equivalent to the inundated tract (OPN 11.02, Wildlands: Their Protection and Management in Economic Development, to be reissued as OD 4.00, Annex D). Animal rescue, replenishment, and relocation can be useful. Canal and other crossing facilities are often essential.

5. Issues relating to resettlement, tribal people, cultural property, and dam safety are not discussed here as they are covered in other ODs (see footnote 1 to Annex B).
4. Fish and Other Aquatic Life
Fish migrations (if any) will be impaired even with passage facilities. Fish propagation in the reservoir can mitigate losses and produce more fish protein than before the project. Spawning areas, aquaculture, improved fishing methods, and marketing may need special attention. A reduced supply of nutrients downstream and to estuaries can impair fishery productivity. Interbasin transfers may threaten aquatic species by introducing new predators or competitors. A socioeconomic survey can determine the importance of fish to the society.

5. Water Weeds
Proliferation of floating weeds (e.g., water hyacinth [Eichhornia] and water lettuce [Pistia]) can impair water quality and increase disease vectors and water loss (through evapo-transpiration). Clogging impairs navigation, recreation, fisheries, and irrigation. The potential to use weeds for compost, biogas, or fodder should be investigated.

6. Water Quality
Suitability of water quality for drinking, irrigation, fisheries, or other uses—both within reservoirs and downstream—should be addressed. Issues include saline intrusions, water retention time (i.e., flow/volume), loss of flushing, increased nutrients in reservoir, pollution (e.g., agricultural leachates, pathogens, industrial effluents), raising or contamination of water table, and salinization.

7. Anaerobic Decomposition
Inundated vegetation on the bottom of reservoirs decomposes, consuming large amounts of oxygen. If thermal stratification occurs, mixing of surface and bottom water is impeded, and the bottom water may become anaerobic. Anaerobic decomposition of organic material produces noxious gases toxic to aquatic life and harmful to machinery. If discharged by the dam, downstream fish could be killed. Multiple-level outlets in the dam can avoid the discharge of anaerobic water. Inexpensive models are available to predict thermal stratification.

8. Erosion
Erosion upstream in the catchment area leads to sedimentation or land slips which can impair storage; catchment area management should be encouraged where appropriate. Increased erosivity of the riverbed and structures below the dam—including deltaic and coastal changes—should be considered during preparation.
9. Downstream Hydrology
Changes in downstream hydrology can impair ecosystems dependent on seasonal flooding, including areas that may be important for fisheries (e.g., flood plains, lagoons, marshes, mangroves) or for traditional flood-recession agriculture. Sometimes management of downstream water releases can minimize such damage by partially replicating natural flooding regimes.

10. Intact Rivers
Hydroelectric and other developments should preferably be concentrated on the same rivers if hydrological risks and other circumstances permit, in order to preserve elsewhere a representative sample of rivers in the natural state. This should be considered part of the trade-offs.

11. Multiple Use
Multiple use should be addressed through tourism, irrigation, fisheries, bird and other biotic sanctuaries, and recreation. Water flow regulation can convert seasonal rivers into perennial waterways, reduce flooding, and improve drinking and irrigation. Communal access should be perpetuated.
The Area of Influence of Dam and Reservoir Projects

The area of influence of dam and reservoir projects includes the following:

(a) the watersheds contributing to the reservoir (or project area), and the area below the dam down to the estuary, coastal zone, and offshore;
(b) all ancillary aspects of the project such as power transmission corridors, pipelines, canals, tunnels, relocation and access roads, borrow and disposal areas, and construction camps, as well as unplanned developments arising from the project (e.g., logging or shifting agriculture along access roads);
(c) off-site areas required for resettlement or compensatory tracts;
(d) the airshed, such as where airborne pollution (smoke, dust) may enter or leave the area of influence; and
(e) migratory routes of humans, wildlife, or fish—particularly where they relate to public health, economics, or environmental conservation.
Sample Terms of Reference: Environmental Reconnaissance of Dam and Reservoir Projects

1. The objective of an environmental reconnaissance of a dam and reservoir project is to determine in a preliminary way the possible impact on the environment. The study should include, as a minimum, the following aspects:

   (a) The nature and extent of plant and animal life within the area of influence, and the impact on it of the construction, presence, or operation of the project. Special attention should be given to plants and animals that are ecologically unique, endangered, or economically or aesthetically desirable.

   (b) The scenic and aesthetic qualities of the area, including tourism values that may be created, enhanced, or injured.

   (c) The effects on the agricultural and forestry potential of riparian lands.

   (d) The potential for the influx of aquatic vegetation, its effects on the impoundment, and the purposes of the project; other biophysical changes (permanent or transient, but recurring) to be expected in the impoundment area and downstream.

   (e) The risks and effects on the pattern and distribution of diseases, disease-bearing vectors and nuisance organisms.

   (f) The potential for fishery and squatter settlement, and other unplanned land-use activities in the catchment area (especially those which might cause erosion and pollution); and plans for the protection and management of the catchment area.

   (g) The likely environmental impact of any resettlement due to the project.
(h) The presence of any artifacts or sites of archaeologic or historic significance, and the plans for protecting or salvaging those declared valuable.

(i) The possible effect on the multiple-use capabilities of the area, particularly with regard to any future resource-use options which might be foreclosed by virtue of the project's presence or operation.

(j) The multiple-use possibilities afforded by the project, such as the establishment of commercial or sport fisheries, tourist facilities, and recreation.

(k) The elevation above reservoir levels of any special features in the area to be inundated, such as cultural property, in order to explore the possibility of safeguarding these by adjusting such levels.

2. If the project is one of several that are planned or already exist on the river system, a general assessment of the combined impact is important.

3. Institutions responsible for environmental aspects should be evaluated, and recommendations made for any necessary strengthening.

4. The need for an environmental panel and the specific expertise required should be examined.

5. Upon completion of the reconnaissance, a full report of the findings should be prepared, including the nature, scope, costs, and timing of any additional studies required (e.g., studies extending beyond the original time estimate, such as two or more seasons of species monitoring). The nature, dimensions, and timing of any serious problems should be highlighted, along with recommendations, with priorities identified, as to how they can be prevented or mitigated. Likewise, opportunities for environmental or human ecological enhancement should be stressed, with recommendations for achieving their implementation.
Sample Clauses for Inclusion in the Bidding Documents Related to the Construction of Dam and Reservoir Projects

1. Consistent with economy and efficiency in the execution of the project, the contractor must prevent, minimize, or mitigate environmental damage during all construction activities. In particular, the construction specifications should include the following conditions:

(a) The natural landscape should be preserved to the extent possible by conducting operations in a manner that will prevent unnecessary destruction or scarring of the natural surroundings. Except where required for permanent works, quarries, borrow pits, staging and processing areas, dumps and camps, all trees, saplings, and shrubbery should be protected from unnecessary damage by contractor operations. After unavoidable damage, reseeding, replanting, or restoration are required promptly to prevent further damage (e.g., erosion), and to restore quasi-original conditions where appropriate.

(b) The contractor's facilities, such as warehouses, labor camps, and storage areas, should be planned in advance to decide what the area will look like upon completion of construction. These facilities should be located so as to preserve the natural environment (such as trees and other vegetation) to the maximum extent possible. After project construction, camps and buildings should either serve as permanent residences and form future communities, if such use can be foreseen, or be torn down and the area restored to its quasi-original condition in order to avoid deterioration into shantytowns.
(c) Temporary buildings, quarries, borrow areas, and borrow pits should be located, where possible, in areas to be flooded by the reservoir. Otherwise, borrow pits should be landscaped and planted according to an ecological design to provide some substitute area for lost natural habitats.

(d) The contractor's operations should be so performed as to prevent accidental spillage of contaminants, debris, or other pollutants, especially into streams or underground water sources. Such pollutants include untreated sewage and sanitary waste, tailings, petroleum products, chemicals, biocides, mineral salts, and thermal pollution. Wastewaters, including those from aggregate processing and concrete batching, must not enter streams without using settling ponds, gravel filters, or other processes, so as not to impair water quality or harm aquatic life.

(e) The contractor should minimize air pollution emissions. Dust from the handling or transporting of aggregates, cement, pozzolana, etc., should be minimized by sprinkling or other methods. Materials, brush, or trees should only be burned when the owner permits, under favorable weather conditions.

(f) The contractor should ensure proper disposal of waste materials and rubbish. Disposal of waste by burial should not contaminate groundwater supplies.

2. In major projects in sensitive areas, specific plans are needed to control erosion and sedimentation, prevent spills, etc.

3. The borrower's right to inspect compliance throughout construction should be specified in the contract.

4. The Bank's policy on involuntary resettlement (OMS 2.33, to be reissued as OD 4.30, Involuntary Resettlement) encourages both the borrower and contractor to give preference, consistent with other requirements, to training and employing persons affected by the project or displaced by the construction work.
Operational Manual Statement
No. 3.80: Safety of Dams

Introduction

1. When the Bank makes a loan for a hydroelectric, water supply, irrigation or multipurpose project which includes the construction of a dam, the Bank normally requires that experienced and competent engineers, acceptable to it, be responsible for the design of the dam and the supervision of its construction. Because a failure of the dam, as a result of attack by natural phenomena or of inadequate design, can have disastrous consequences, there is reason to be concerned for their safety and to consider taking two precautions in addition to those normally required:

   (a) A review of the concept and design by a separate panel of experts at an early stage of design and during final engineering and construction;

   (b) Periodic inspections of the dam after construction by suitably qualified independent experts.

It is the responsibility of projects staff to determine, in accordance with the guidance given below, whether the circumstances warrant either or both of these measures.

2. A review of the concept and design would normally be required, (i) when failure could result in significant damage to human life or economic loss downstream, or (ii) where optimization of design could offer significant savings. Periodic inspections after construction are normally required under circumstances described in (i) above. Staff are expected to assess these factors before or dur-

1. The engineers usually have been, as a matter of practice, from consulting firms but they could be borrower's own staff or from some public entity if their experience, competence, and professional independence are satisfactory to the Bank.
ing appraisal and recommend appropriate arrangements to be reflected in the loan covenants.

3. The staff recommendation should indicate whether these arrangements are merely desirable or whether they are essential and, therefore, non-negotiable. Staff should seek specialized assistance in important or critical areas where they have insufficient expertise themselves, either in a general review of the design concept or in more specific areas, such as, rainfall and runoff analyses, soils investigations, spillway design, etc. Staff are encouraged to consult with CPS engineering advisers on these matters.

Review of the Design

4. When a dam or embankment is proposed (i) which exceeds 10 meters (35 feet) in height above stream bed or creates a reservoir with a gross storage volume of more than 2.5 million m³ (2,000 acre feet) or (ii) which presents unusual design features, involves difficult geological conditions or is situated so as to be significantly destructive in the event of failure the Bank should normally require the borrower to employ a panel or experts, acceptable to the Bank, to review the concept of the dam and its associated structures and the adequacy of their design. The Bank should normally also require the borrower to have the panel conduct periodic reviews during final engineering and construction to examine whether any new grounds for making changes in the design of the dam have become apparent.

5. The timing and extent of any such reviews should be determined by the circumstances of each case. Provision should normally be made in the legal documents for any subsequent views to be carried out during implementation of the project. Normally, the character of the work and the type and breadth of experience required make a panel of individual experts more suitable for the purpose than a consulting engineering firm, and borrowers should be encouraged to use such a panel rather than a firm. The terms of reference for the panel and the short list of individual experts from which the panel is to be selected should be acceptable to the Bank. Appointment of and payment for the panel should normally be the responsibility of the borrower, subject to the Bank's approval of its

2. Including appropriate instrumentation for monitoring the dam after construction.
qualifications and terms of reference as noted above. Costs of the panel are a part of the costs of design or construction supervision and may therefore be considered for financing under the loan for the project. In appropriate cases, retroactive financing or the Project Preparation Facility may be used.

Maintenance and Inspection after Construction

6. During the appraisal of any project involving construction of a dam, the capability of the borrower's staff to prepare, initiate, and carry out a proper maintenance program should be ascertained. It is considered that they will need assistance in this area, the borrower should be required to obtain such assistance, normally from the engineers responsible for the design and supervision of the construction of the project. This assistance should usually take the form of preparing a specific maintenance program and of training staff to carry it out. The maintenance program should include an inspection program.

7. In addition, where the dam has characteristics of the kind described in paragraph 4(i) or (ii), the Bank may require periodic inspections, after the completion of construction, of the dam and of the waterways, earthworks, reservoir banks and other structures associated with it by independent experts. This work could be done by (i) the design panel, (ii) the consultants responsible for the design and supervision of construction, (iii) other outside consultants, either a firm or individuals, or (iv) an official authority or agency with the requisite expertise. The need for such inspections, their timing and extent, and the choice of who is to carry them out depend on the circumstances, including, *inter alia*, the size and type of structure and its situation, the strength of the borrower's own maintenance program, and consideration of the trade-offs between economy and sound engineering practice. Normally, inspections should be made annually during the first few years after construction and at least every 5 years thereafter.

8. The Bank will wish to be satisfied that suitable maintenance and inspection programs are established, by either a normal program (paragraph 6) or, in addition, an exceptional one (paragraph 7). To this end, there should be a covenant in the Loan Agreement requiring the borrower to have a suitable maintenance and inspection program and to advise the Bank in writing, at least one year before
completion of the project, as to how it proposes to meet this obligation. The proposal from the borrower to the Bank should include a description and scheduling of the maintenance program and inspections to be made, the designation of the experts, if any, to be employed, and, if applicable, a copy of their terms of reference. The Bank should be given the opportunity to comment on the proposals before they are adopted.

9. The covenant in the Loan Agreement should be linked to and follow the general maintenance covenant and should be similar in form to the following:

Without limiting the generality of Section_______, the borrower shall under arrangements satisfactory to the Bank cause the dams and (describe the related structures) constructed under the project to be periodically inspected in accordance with sound engineering practice in order to determine whether there are any deficiencies in the condition of such structures, or in the quality and adequacy of maintenance or methods of operations of the same, which may endanger their safety. To this end, the borrower shall propose to the Bank appropriate arrangements for the Bank's review no later than one year before the expected completion of such structures.

Projects under Construction or Completed

10. There may be cases of dams in projects financed by the Bank, either under construction or already completed, that have characteristics which would normally lead the Bank to require periodic inspections under the criteria described above but where the Loan Agreements do not so provide. This would be particularly the case for projects approved before the later 1960s when the policies described above were being generally articulated by the Bank. Regardless of the provisions (or lack thereof) in the Loan Agreement, it would be desirable to determine (in cases where the loan has not been fully repaid) whether periodic inspections are being carried out and what is being done to maintain such structures. The appropriate Projects Division Chiefs should, over time, undertake a review of the dams financed by the Bank in their sectors and countries with this objective in mind, starting with projects still under construction and, for completed projects, with borrowers with
whom the Bank continues to be in close contact, for example because of repeater projects.

11. If he finds periodic inspections are not being carried out or maintenance is not satisfactory, the Division Chief should inform the borrower accordingly and strongly recommend that such inspections be carried out. He should point out that it is in the borrower’s own interest that proper inspections and maintenance be carried out and do his best to persuade the borrower to meet the Bank’s usual requirements in these matters, but if there are no covenants in past Loan Agreements covering these matters, the borrower cannot be required to do so. A repeater loan to the same borrower, however, may provide the opportunity for getting him to meet these requirements.

12. In some cases the Bank finances a project, usually an agricultural project, within the command area of a dam already built without Bank financing. Further, there may be hydraulic structures not forming part of a project but which is essential to it. In such cases, if the dam or other structures have characteristics which would have led the Bank to require periodic inspections if the Bank had financed them, the Bank should require such inspections as part of its project.
July 1992

Operational Directive 4.02:
Environmental Action Plans

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Annex A Description and Sample Outline of an Environmental Action Plan
Environmental Action Plans

(revised to reflect new senior management structure that took effect on 01/01/93)

Introduction

1. This directive outlines Bank policy and procedures relating to the preparation of a country Environmental Action Plan (EAP) by IDA and IBRD borrowing governments. An EAP describes the major environmental concerns of a country, identifies the principal causes of problems, and formulates policies and concrete actions to deal with the problems. In some cases, the term “EAP” refers to a specific document formally designated as an EAP. In other cases, the term refers to a plan set forth in comparable reports, such as a report of a task force, a conservation strategy, or an overall development strategy that treats environmental issues. In this directive, EAP refers to both usages, regardless of the title of the final document or documents, since the Bank’s overall objective is to elicit an environmental policy and investment strategy. (See Annex A, “Description and Sample Outline of an Environmental Action Plan”.)

2. The Bank’s contribution to formal environmental planning varies; however, responsibility for EAP preparation and implementation rests with the government, and the EAP is the country’s plan. To encourage awareness of and commitment to the central role of the government, no Bank documents should be entitled “Environmental Action Plan” in a context that implies that the country’s EAP is the Bank’s plan. Any Bank document supporting environmental planning should explicitly state that it is a contribution made jointly with other agencies, to the extent possible, to the preparation, adoption, and implementation of the country’s EAP.
Policy

3. Bank policy is to foster preparation and implementation of an appropriate EAP in each country, reflect the findings and strategies of the country's EAP in Bank work, and promote revision of the EAP as often as necessary. In this context, the Bank works with each government to ensure that information from the EAP is integrated into Bank planning and development assistance documents (see para. 9).

Purpose and Nature of an EAP

4. The EAP identifies key environmental problems, sets priorities for dealing with them, and leads to a comprehensive national environmental policy and programs to implement the policy. For a given country, the EAP provides the essential preparation work for integrating environmental considerations into the overall economic and social development strategy. The EAP is a living document that is expected to contribute to the continuing process by which the government plans and implements environmental management. This process should form an integral part of overall national development policy and decision making. For the Bank, the EAP is an essential source of base environmental information and analysis for assistance planning that lays out development policy and investment priorities with appropriate attention to environmental considerations.

5. The content and format of an EAP are designed by each country. The reports vary according to the country's size, range of environmental problems, economic complexity, and government capability to respond to environmental issues. The reports also vary according to the actual process of preparing an EAP. Smaller countries may find it feasible to prepare a comprehensive and formal EAP covering all sectors, while larger countries may find it useful to focus separately on several high-priority sectors. The EAP describes and establishes priorities among several areas of environmental concern: (a) environmental issues; (b) plans for specific environment-related policy, legal, and institutional change; and (c) types of environmentally sustaining investment to be undertaken. It also describes the financial and technical assistance the country needs to address priority environmental problems. Each country's EAP is as detailed and action-oriented as feasible and is updated and revised as conditions change. (A sample EAP outline is given in Annex A. EAP preparers should receive a copy of the annex.)
Responsibilities and Procedures

Preparation

6. Implementation of the EAP will be successful only if it is supported by government agencies and by the general public. Ideally, therefore, the EAP originates with and is prepared by a multidisciplinary team from appropriate agencies within the government. The EAP also takes into account the views of interested parties (including local nongovernmental organizations [NGOs]), obtained through means that induce broad local participation.

7. The Bank's role in the preparation and implementation of an EAP is primarily to provide advice and help arrange technical assistance if requested by the government. The degree of Bank involvement depends on the capacity of the government to design and manage the process: it may be substantial in some countries but light in others. Within the Bank, the responsibility for assisting and monitoring the preparation of an EAP rests primarily with the concerned country department (CD), supported by the Regional environment division (RED). If needed, additional support should be requested from other Bank units with particular expertise, such as the Environment Department (ENV), other departments in Human Resources Development and Operations Policy, Finance and Private Sector Development, and Environmentally Sustainable Development, and the Legal Department.

Review

8. At a minimum, Bank staff review the draft EAP—whether it is a single document or a compilation of several reports or working papers—as early as possible and indicate to the government the Bank's view of how suitable the draft is in scope and content as a policy and investment planning document. Bank staff also determine whether the EAP has the support and endorsement of the government agencies that need to approve the EAP formally. The country operations division, the relevant sector operations divisions (SODs), and the RED review the completed EAP to ensure that it addresses the country's environmental concerns as an integral part.

1. See OD 14.70, "Involving Nongovernmental Organizations in Bank-Supported Activities."
of the country’s policy and investment strategy, in a manner satisfac-
tory to the Bank. The government is encouraged to correct major
deficiencies in the draft EAP. Subsequently, the Bank periodically
monitors and evaluates progress in implementing the action pro-
gram, discusses its findings with the government, and identifies and
promotes any necessary corrective actions. The Bank encourages
each country to update its EAP to reflect emerging issues and needs.
If requested by the government, the Bank assists in identifying
financial resources and expertise to correct major deficiencies, and
Bank staff liaise with the government during revision of the EAP.

Integration into Country Development
Planning and Bank Work

9. The Bank seeks to have each government integrate its EAP into
sectoral and national development plans. Program- and project-level
details are developed as dialogue progresses in a continuing pro-
cess of environ-mental planning. To integrate EAP findings into the
Bank’s country assistance strategies, the appropriate country and
sector operations divisions ensure that country economic and sector
work, Country Economic Memoranda, Country Strategy Papers, and
Policy Framework Papers integrate and properly reflect the findings
of the EAP. Areas in which environmental questions remain are
identified. As relevant, the Staff Appraisal Report, the Memorandum
and Recommendation of the President, and the President’s Report
for project and adjustment lending operations also integrate EAP
information. The REDs review the appropriate Bank documents to
ensure that environmental actions identified and recommended in
the EAP have been adequately incorporated or taken into account.

To the extent possible, the CD estimates the period of time after
which the EAP, or selected portions, will need monitoring, review,
and updating for inclusion in the Bank’s country assistance strategy.
The CD also identifies any particular needs that may arise in coordi-
nating aid.

2. See OD 2.00, Country Economic and Sector Work. See also OD 2.10, Country
Strategy Papers, and OD 2.20, Policy Framework Papers.
3. See OD 9.00, Procedures of Investment Lending, for procedures on investment
lending.
Funding

10. The Bank recognizes that the preparation of an EAP by the government, and the periodic review and updating of the EAP, may often require funds additional to the amounts normally budgeted. Staff should be mindful that mobilization of funds requires considerable lead time, a problem that is compounded in the Bank and in borrower countries by a lack of human and financial resources to cover the broad range of specialties involved with EAP preparation, review, and updating. Furthermore, coordination of the aid agencies participating in the process itself may require additional staff time and travel. Information on external funding for country work is available from the Official Cofinancing and Trust Funds Group, 4 Cofinancing and Financial Advisory Services. As part of regular country assistance management, staff identify potential country and Bank requirements for EAP preparation, monitoring, and updating, and for aid coordination.

Status Reports and Release of the EAP

11. The executive directors are informed of the status of EAP preparation and implementation in each country through a section in the Country Brief and through the IDA Annual Report to the Board. Since the EAP belongs to the government, its release must be authorized by the appropriate government agency or agencies. The EAP is subject to normal Bank rules for disclosure of information. 5 Notice of the receipt of the EAP is included in the next issue of the Bank's "Report to the Executive Directors on Bank and IDA Operations." Also, when the government permits, copies are made available to the executive directors on request. While the EAP is being prepared and before it becomes final, the Bank encourages the government to make it available to local parties who will be affected by its implementation, those who have participated in preparing it, and other interested groups, including local NGOs. Such distribution ensures that the views of interested groups are taken into account and helps obtain popular support for the plan. When the EAP is completed, the Bank encourages the government to issue it to aid agencies and the public.

Description and Sample Outline of an Environmental Action Plan

Definition and Objectives

1. An Environmental Action Plan (EAP) analyzes a country's environmental issues in a comprehensive, multisectoral framework and sets forth a long-term strategy for maintaining the country's natural environment, the health and safety of its population, and its cultural heritage as economic development occurs. In proposing practical measures to forestall or remedy environmental problems, the analysis considers cross-sectoral links that affect renewable and nonrenewable resources and human activity. Although the term EAP often refers to a specific document formally designated as such, many other approaches (e.g., the findings and recommendations of task forces set up to deal with important national or regional problems) can achieve the same objective of setting forth a long-term national environmental policy and investment strategy based on comprehensive environmental analysis. The documentation of an initial EAP contributes to the larger and long-term process of environmental planning that will require reformulation over time through revised EAPs or other documentation.

2. The EAP examines the quality of the environment; biodiversity; and the use of natural resources, including air, land, water, forest, minerals, and wildlife. It assesses how the economic and institutional issues associated with the management of these resources are affecting development and human health and well-being. On the basis of this analysis, the EAP report sets forth priorities and related policy recommendations in the following areas: (a) government and public awareness of environmental issues; (b) a national strategy for environmental protection; (c) specific legislative actions, programs, and investment projects to address priority problems; (d) an information system for monitoring the state of the environment; (e) the management of natural resources, particularly endangered
species and habitats; (f) the reversal of environmental degradation; and (g) protection of the public from environmental pollution and hazards.

Preparation and Release

3. It is important that the country's EAP be prepared by a multidisciplinary team comprising specialists in a wide range of areas: agriculture, forestry, marine and coastal zone management, public health, sanitary and environmental engineering, sociology and anthropology, urban management, water resources, wildlife, law, economics, finance, and other fields required for analyzing environmental problems and proposing remedies. Preparation of the EAP also takes into account the views of interested parties through adequate consultative mechanisms (including public discussion of early EAP drafts) that ensure broad public input. The team that prepares the EAP identifies procedures required to obtain formal clearance and release from the relevant government agencies. The government then officially provides the EAP to the Bank, aid agencies, local governments, and other appropriate audiences (e.g., NGOs).

Contents

4. Depending on each country's approach, EAPs may vary widely in their coverage. An extensive treatment of probable topics appears in the Environmental Assessment Sourcebook. The Sourcebook discusses general and sector-specific situations and analyzes recurring difficult issues that may require special attention. A comprehensive EAP normally covers a broad range of topics similar to those listed below. The weight accorded to each item covered depends on local circumstances.

(a) A summary of the country's overall environmental situation relative to its development strategy. The EAP identifies the policies and legislation that provide the current framework for addressing environmental issues.

(b) An analysis of major cross-sectoral issues (e.g., demography, public health and safety, cultural and natural heritage) and socioeconomic factors important to the

environment and resource use. Basic information required for the cross-sectoral analysis includes the following:

(i) Demography: Information on the rate of growth and composition of population; percentage of population dependent on agriculture, forestry, and other resource-related industries; and the growth, migration patterns, and characteristics of urban and rural populations.

(ii) Public health and safety: Data on the threats of pollution; deficiencies of basic infrastructure and of standards and regulatory measures; risks of occupation of hazardous land and of extreme events (e.g., floods, storms, earthquakes); transport, storage, use, and disposal of hazardous materials; widespread industrial hazards; and road safety.

(iii) Cultural and natural heritage: Data on environmental or human-induced risks to the preservation of specific major sites, structures, and remains of archeological, historical, cultural, religious, or aesthetic value; identification of natural resources of particular importance for biological, ecological, medical, or touristic value.

(iv) Socioeconomic factors: The location and occupation of indigenous peoples; identification of high-risk groups, key groups of resource users, and patterns of social organization at the grass roots; resettlement; land tenure systems; traditional farming and grazing practices; and access to and use of forests, water, wildlife, lands, basic infrastructure, and so forth.

(c) An analysis of the legal and institutional framework. The discussion of legal and institutional factors for dealing with the priority problems listed in para. 4(b) addresses key strengths and weaknesses in such areas as (i) the government's regulatory and administrative framework, (ii) the government's commitment to environmental conservation, (iii) the government's enforcement capability, (iv) the training and experience of civil servants, (v) the availability of technical specialists and of education and training opportunities within the country, (vi) the competence and range of activities of national NGOs, and (vii) the level of environmental awareness by private business (including foreign investors) and the general public.
(d) **Analysis of major development activity, and trends in economic growth, resource use, and conservation.** This analysis covers major sectors—agriculture, forestry, industry, transportation, energy, housing, infrastructure, education, health and social services, mining, parks, and tourism—with special reference to the environment in all cases. The analysis also identifies specific constraints on future economic growth, for example (i) shortages of arable land and water; (ii) limitations in numbers of skilled personnel; (iii) reductions in human capital caused by environment-related disease; (iv) restrictions on land and water use caused by pollution; (v) degradation and depletion of coastal zones, forests, soils, energy, and other natural resources; and (vi) the effects of urbanization and population growth.

(e) **Analysis of key environmental and natural resource issues that threaten public health, social welfare, biological diversity, and sustainable development.** For each issue, such causal factors as the following are analyzed: (i) population pressure; (ii) improper farming or waste disposal methods; (iii) forced and voluntary resettlement; (iv) improper management of land, water, and other resources; (v) price distortions or other market failures; (vi) technical insufficiencies; (vii) inadequate information, education, and training; and (viii) failure to have or enforce pollution control measures. The relative importance of each issue is determined in terms of its impact on sustainable development, based on quantitative analysis wherever possible. The groups facing the highest risk from, or most affected by, pollution and resource degradation are identified.

(f) **Identification of environmental information needs.** The EAP indicates the basic information required for the analysis of cross-sectoral problems and solutions and recommends specific types of data to be systematically gathered, maintained, updated, analyzed, and disseminated. The data encompass a wide variety of information from many fields: legal and fiscal cadastral systems; environmental indicators (e.g., population density and health status, pollution levels, or land-use patterns); geographic indicators (including topographic detail and resource-related data such as soil fertility, distribution of wetlands and rangelands, and rainfall patterns); and
the location of key areas (e.g., urban, industrial, environmentally fragile, or hazardous areas). The data, which have a wide range of applications—from food security and preparedness for responding to natural disasters to erosion control and the monitoring of endangered species—are essential to efficient natural resource management. The data are generated by a broad spectrum of techniques, ranging from door-to-door surveys to satellite imagery. The availability of data, difficulty of access and compilation, frequency of updating, and cost of compilation and maintenance are all important concerns for the EAP.

(g) Strategy and recommendations for specific actions (macro-economic, sectoral, project investment) for dealing with each of the issues identified. Specific recommendations may be required for legislation and other regulatory measures on management of land and other natural resources; economic policies that affect incentives for the private sector; pollution control policies and administration; population and migration policies; pertinent urban, rural, regional, or city-specific strategies; and sectoral investment priorities.

(h) Recommendation of an overall strategy. This statement indicates how environmental policy and investment strategies will affect the priority issues defined in the rest of the EAP and in the country’s overall development plans. The strategy recommendations are closely integrated with the specific recommendations for environmental protection and improvement. They also complement the recommendations for resource management that the government believes will put the country on a path of sustainable development.

(i) A work plan and implementation budget. The EAP indicates the specific steps, timetable, and financial arrangements for carrying out recommended actions, with detail for each action proportionate to its priority; for medium- to long-term actions, detailed planning is a part of the periodic EAP updating process. The EAP also identifies a number of programs and projects for Bank and other donor financing that will support these actions.

(j) Summary of EAP preparation. The summary describes how the EAP was prepared, explains its parameters, and lists contributions and participants.
September 17, 1991

Operational Directive 4.20: Indigenous Peoples

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Indigenous Peoples

Introduction

1. This directive describes Bank policies and processing procedures for projects that affect indigenous peoples. It sets out basic definitions, policy objectives, guidelines for the design and implementation of project provisions or components for indigenous peoples, and processing and documentation requirements.

2. The directive provides policy guidance to (a) ensure that indigenous people benefit from development projects, and (b) avoid or mitigate potentially adverse effects on indigenous people caused by Bank-assisted activities. Special action is required where Bank investments affect indigenous peoples, tribes, ethnic minorities, or other groups whose social and economic status restricts their capacity to assert their interests and rights in land and other productive resources.

Definitions

3. The terms “indigenous peoples,” “indigenous ethnic minorities,” “tribal groups,” and “scheduled tribes” describe social groups with a social and cultural identity distinct from the dominant society that makes them vulnerable to being disadvantaged in the development process. For the purposes of this directive, “indigenous peoples” is the term that will be used to refer to these groups.

4. Within their national constitutions, statutes, and relevant legislation, many of the Bank’s borrower countries include specific definitional clauses and legal frameworks that provide a preliminary basis for identifying indigenous peoples.

1. “Bank” includes IDA, and “loans” include credits.
5. Because of the varied and changing contexts in which indigenous peoples are found, no single definition can capture their diversity. Indigenous people are commonly among the poorest segments of a population. They engage in economic activities that range from shifting agriculture in or near forests to wage labor or even small-scale market-oriented activities. Indigenous peoples can be identified in particular geographical areas by the presence in varying degrees of the following characteristics:

(a) a close attachment to ancestral territories and to the natural resources in these areas;
(b) self-identification and identification by others as members of a distinct cultural group;
(c) an indigenous language, often different from the national language;
(d) presence of customary social and political institutions; and
(e) primarily subsistence-oriented production.

Task managers (TMs) must exercise judgment in determining the populations to which this directive applies and should make use of specialized anthropological and sociological experts throughout the project cycle.

Objective and Policy

6. The Bank's broad objective towards indigenous people, as for all the people in its member countries, is to ensure that the development process fosters full respect for their dignity, human rights, and cultural uniqueness. More specifically, the objective at the center of this directive is to ensure that indigenous peoples do not suffer adverse effects during the development process, particularly from Bank-financed projects, and that they receive culturally compatible social and economic benefits.

7. How to approach indigenous peoples affected by development projects is a controversial issue. Debate is often phrased as a choice between two opposed positions. One pole is to insulate indigenous populations whose cultural and economic practices make it difficult for them to deal with powerful outside groups. The advantages of this approach are the special protections that are provided and the preservation of cultural distinctiveness; the costs are the benefits foregone from development programs. The other pole argues that
indigenous people must be acculturated to dominant society values and economic activities so that they can participate in national development. Here the benefits can include improved social and economic opportunities, but the cost is often the gradual loss of cultural differences.

8. The Bank's policy is that the strategy for addressing the issues pertaining to indigenous peoples must be based on the informed participation of the indigenous people themselves. Thus, identifying local preferences through direct consultation, incorporation of indigenous knowledge into project approaches, and appropriate early use of experienced specialists are core activities for any project that affects indigenous peoples and their rights to natural and economic resources.

9. Cases will occur, especially when dealing with the most isolated groups, where adverse impacts are unavoidable and adequate mitigation plans have not been developed. In such situations, the Bank will not appraise projects until suitable plans are developed by the borrower and reviewed by the Bank. In other cases, indigenous people may wish to be and can be incorporated into the development process. In sum, a full range of positive actions by the borrower must ensure that indigenous people benefit from development investments.

Bank Role

10. The Bank addresses issues on indigenous peoples through (a) country economic and sector work, (b) technical assistance, and (c) investment project components or provisions. Issues concerning indigenous peoples can arise in a variety of sectors that concern the Bank; those involving, for example, agriculture, road construction, forestry, hydropower, mining, tourism, education, and the environment should be carefully screened. Issues related to indigenous peoples are commonly identified through the environmental assessment or social impact assessment processes, and appropriate measures should be taken under environmental mitigation actions (see OD 4.01, Environmental Assessment, to be issued).

2. Displacement of indigenous people can be particularly damaging, and special efforts should be made to avoid it. See OD 4.30, Involuntary Resettlement, for additional policy guidance on resettlement issues involving indigenous people.
11. Country Economic and Sector Work. Country departments should maintain information on trends in government policies and institutions that deal with indigenous peoples. Issues concerning indigenous peoples should be addressed explicitly in sector and subsector work and brought into the Bank-country dialogue. National development policy frameworks and institutions for indigenous peoples often need to be strengthened in order to create a stronger basis for designing and processing projects with components dealing with indigenous peoples.

12. Technical Assistance. Technical assistance to develop the borrower’s abilities to address issues on indigenous peoples can be provided by the Bank. Technical assistance is normally given within the context of project preparation, but technical assistance may also be needed to strengthen the relevant government institutions or to support development initiatives taken by indigenous people themselves.

13. Investment Projects. For an investment project that affects indigenous peoples, the borrower should prepare an indigenous peoples development plan that is consistent with the Bank’s policy. Any project that affects indigenous peoples is expected to include components or provisions that incorporate such a plan. When the bulk of the direct project beneficiaries are indigenous people, the Bank’s concerns would be addressed by the project itself and the provisions of this OD would thus apply to the project in its entirety.

Indigenous Peoples Development Plan

Prerequisites

14. Prerequisites of a successful development plan for indigenous peoples are as follows:

(a) The key step in project design is the preparation of a culturally appropriate development plan based on full consideration of the options preferred by the indigenous people affected by the project.

3. Regionally specific technical guidelines for preparing indigenous peoples components, and case studies of best practices, are available from the Regional environment divisions (REs).
(b) Studies should make all efforts to *anticipate adverse trends* likely to be induced by the project and develop the means to avoid or mitigate harm.4

(c) The institutions responsible for government interaction with indigenous peoples should possess the social, technical, and legal skills needed for carrying out the proposed development activities. Implementation arrangements should be kept simple. They should normally involve appropriate existing institutions, local organizations, and nongovernmental organizations (NGOs) with expertise in matters relating to indigenous peoples.

(d) Local patterns of social organization, religious beliefs, and resource use should be taken into account in the plan's design.

(e) Development activities should support production systems that are well adapted to the needs and environment of indigenous peoples, and should help production systems under stress to attain sustainable levels.

(f) The plan should avoid creating or aggravating the dependency of indigenous people on project entities. Planning should encourage early handover of project management to local people. As needed, the plan should include general education and training in management skills for indigenous people from the onset of the project.

(g) Successful planning for indigenous peoples frequently requires long lead times, as well as arrangements for extended follow-up. Remote or neglected areas where little previous experience is available often require additional research and pilot programs to fine-tune development proposals.

(h) Where effective programs are already functioning, Bank support can take the form of incremental funding to strengthen them rather than the development of entirely new programs.

15. The development plan should be prepared in tandem with the preparation of the main investment. In many cases, proper protec-

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tion of the rights of indigenous people will require the implementation of special project components that may lie outside the primary project's objectives. These components can include activities related to health and nutrition, productive infrastructure, linguistic and cultural preservation, entitlement to natural resources, and education. The project component for indigenous peoples development should include the following elements, as needed:

(a) **Legal Framework.** The plan should contain an assessment of (i) the legal status of the groups covered by this OD, as reflected in the country's constitution, legislation, and subsidiary legislation (regulations, administrative orders, etc.); and (ii) the ability of such groups to obtain access to and effectively use the legal system to defend their rights. Particular attention should be given to the rights of indigenous peoples to use and develop the lands that they occupy, to be protected against illegal intruders, and to have access to natural resources (such as forests, wildlife, and water) vital to their subsistence and reproduction.

(b) **Baseline Data.** Baseline data should include (i) accurate, up-to-date maps and aerial photographs of the area of project influence and the areas inhabited by indigenous peoples; (ii) analysis of the social structure and income sources of the population; (iii) inventories of the resources that indigenous people use and technical data on their production systems; and (iv) the relationship of indigenous peoples to other local and national groups. It is particularly important that baseline studies capture the full range of production and marketing activities in which indigenous people are engaged. Site visits by qualified social and technical experts should verify and update secondary sources.

(c) **Land Tenure.** When local legislation needs strengthening, the Bank should offer to advise and assist the borrower in establishing legal recognition of the customary or traditional land tenure systems of indigenous peoples. Where the traditional lands of indigenous peoples have been brought by law into the domain of the state and where it is inappropriate to convert traditional rights into those of legal ownership, alternative arrangements should be implemented to grant long-term, renewable rights of custodianship and use to indigenous peoples. These steps should be
taken before the initiation of other planning steps that may be contingent on recognized land titles.

(d) **Strategy for Local Participation.** Mechanisms should be devised and maintained for participation by indigenous people in decision making throughout project planning, implementation, and evaluation. Many of the larger groups of indigenous people have their own representative organizations that provide effective channels for communicating local preferences. Traditional leaders occupy pivotal positions for mobilizing people and should be brought into the planning process, with due concern for ensuring genuine representation of the indigenous population. No foolproof methods exist, however, to guarantee full local-level participation. Sociological and technical advice provided through the Regional environment divisions (REDs) is often needed to develop mechanisms appropriate for the project area.

(e) **Technical Identification of Development or Mitigation Activities.** Technical proposals should proceed from on-site research by qualified professionals acceptable to the Bank. Detailed descriptions should be prepared and appraised for such proposed services as education, training, health, credit, and legal assistance. Technical descriptions should be included for the planned investments in productive infrastructure. Plans that draw upon indigenous knowledge are often more successful than those introducing entirely new principles and institutions. For example, the potential contribution of traditional health providers should be considered in planning delivery systems for health care.

(f) **Institutional Capacity.** The government institutions assigned responsibility for indigenous peoples are often weak. Assessing the track record, capabilities, and needs of those institutions is a fundamental requirement. Organizational issues that need to be addressed through Bank assistance are the (i) availability of funds for investments and field operations; (ii) adequacy of experienced professional staff; (iii) ability of indigenous peoples' own organizations,

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local administration authorities, and local NGOs to interact with specialized government institutions; (iv) ability of the executing agency to mobilize other agencies involved in the plan's implementation; and (v) adequacy of field presence.

(g) Implementation Schedule. Components should include an implementation schedule with benchmarks by which progress can be measured at appropriate intervals. Pilot programs are often needed to provide planning information for phasing the project component for indigenous peoples with the main investment. The plan should pursue the long-term sustainability of project activities subsequent to completion of disbursement.

(h) Monitoring and Evaluation. Independent monitoring capacities are usually needed when the institutions responsible for indigenous populations have weak management histories. Monitoring by representatives of indigenous peoples' own organizations can be an efficient way for the project management to absorb the perspectives of indigenous beneficiaries and is encouraged by the Bank. Monitoring units should be staffed by experienced social science professionals, and reporting formats and schedules appropriate to the project's needs should be established. Monitoring and evaluation reports should be reviewed jointly by the senior management of the implementing agency and by the Bank. The evaluation reports should be made available to the public.

(i) Cost Estimates and Financing Plan. The plan should include detailed cost estimates for planned activities and investments. The estimates should be broken down into unit costs by project year and linked to a financing plan. Such programs as revolving credit funds that provide indigenous people with investment pools should indicate their accounting procedures and mechanisms for financial transfer and replenishment. It is usually helpful to have as high a share as possible of direct financial participation by the Bank in project components dealing with indigenous peoples.

Project Processing and Documentation

Identification

16. During project identification, the borrower should be informed of the Bank's policy for indigenous peoples. The approximate number of potentially affected people and their location should be determined and shown on maps of the project area. The legal status of any affected groups should also be discussed. TMs should ascertain the relevant government agencies, and their policies, procedures, programs, and plans for indigenous peoples affected by the proposed project (see paras. 11 and 15(a)). TMs should also initiate anthropological studies necessary to identify local needs and preferences (see para. 15(b)). TMs, in consultation with the REDs, should signal indigenous peoples issues and the overall project strategy in the Initial Executive Project Summary (IEPS).

Preparation

17. If it is agreed in the IEPS meeting that special action is needed, the indigenous peoples development plan or project component should be developed during project preparation. As necessary, the Bank should assist the borrower in preparing terms of reference and should provide specialized technical assistance (see para. 12). Early involvement of anthropologists and local NGOs with expertise in matters related to indigenous peoples is a useful way to identify mechanisms for effective participation and local development opportunities. In a project that involves the land rights of indigenous peoples, the Bank should work with the borrower to clarify the steps needed for putting land tenure on a regular footing as early as possible, since land disputes frequently lead to delays in executing measures that are contingent on proper land titles (see para. 15(c)).

Appraisal

18. The plan for the development component for indigenous peoples should be submitted to the Bank along with the project's overall feasibility report, prior to project appraisal. Appraisal should assess the adequacy of the plan, the suitability of policies and legal frameworks, the capabilities of the agencies charged with implementing the plan, and the adequacy of the allocated technical,
financial, and social resources. Appraisal teams should be satisfied that indigenous people have participated meaningfully in the development of the plan as described in para. 14(a) (also see para. 15(d)). It is particularly important to appraise proposals for regularizing land access and use.

Implementation and Supervision

19. Supervision planning should make provisions for including the appropriate anthropological, legal, and technical skills in Bank supervision missions during project implementation (see para. 15(g) and (h), and OD 13.05, Project Supervision). Site visits by TMs and specialists are essential. Midterm and final evaluations should assess progress and recommend corrective actions when necessary.

Documentation

20. The borrower's commitments for implementing the indigenous peoples development plan should be reflected in the loan documents; legal provisions should provide Bank staff with clear benchmarks that can be monitored during supervision. The Staff Appraisal Report and the Memorandum and Recommendation of the President should summarize the plan or project provisions.
June 1990

**Operational Directive 4.30: Involuntary Resettlement**

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Involuntary Resettlement

Introduction

1. This directive describes Bank\(^1\) policy and procedures on involuntary resettlement, as well as the conditions that borrowers are expected to meet in operations involving involuntary resettlement.\(^2\) Planning and financing resettlement components or free-standing projects are an integral part of preparation for projects that cause involuntary displacement. Any operation that involves land acquisition or is screened as a Category A or B project for environmental assessment purposes\(^3\) should be reviewed for potential resettlement requirements early in the project cycle (para. 20).

2. Development projects that displace people involuntarily\(^4\) generally give rise to severe economic, social, and environmental problems: production systems are dismantled; productive assets and income sources are lost; people are relocated to environments where their productive skills may be less applicable and the competition for resources greater; community structures and social networks are weakened; kin groups are dispersed; and cultural identity, traditional authority, and the potential for mutual help are diminished. Involuntary resettlement may cause severe long-term hardship, impoverishment, and environmental damage unless appropriate measures are carefully planned and carried out.\(^5\)

1. "Bank" includes IDA, and "loans" includes credits.
3. OD 4.00, Annex A, Environmental Assessment, para. 18.
4. Such projects may include construction or establishment of (a) dams, (b) new towns or ports, (c) housing and urban infrastructure, (d) mines, (e) large industrial plants, (f) railways or highways, (g) irrigation canals, and (h) national parks or protected areas. Refugees from natural disasters, war, or civil strife are also involuntary resettlers, but they are not discussed in this directive (see OD 8.50, Emergency Recovery Assistance).
Policy Objectives

3. The objective of the Bank's resettlement policy is to ensure that the population displaced by a project receives benefits from it. Involuntary resettlement is an integral part of project design and should be dealt with from the earliest stages of project preparation (para. 28), taking into account the following policy considerations:

(a) Involuntary resettlement should be avoided or minimized where feasible, exploring all viable alternative project designs. For example, realignment of roads or reductions in dam height may significantly reduce resettlement needs.

(b) Where displacement is unavoidable, resettlement plans should be developed. All involuntary resettlement should be conceived and executed as development programs, with resettlers provided sufficient investment resources and opportunities to share in project benefits. Displaced persons should be (i) compensated for their losses at full replacement cost prior to the actual move; (ii) assisted with the move and supported during the transition period in the resettlement site; and (iii) assisted in their efforts to improve their former living standards, income earning capacity, and production levels, or at least to restore them. Particular attention should be paid to the needs of the poorest groups to be resettled.

(c) Community participation in planning and implementing resettlement should be encouraged. Appropriate patterns of social organization should be established, and existing social and cultural institutions of resettlers and their hosts should be supported and used to the greatest extent possible.

(d) Resettlers should be integrated socially and economically into host communities so that adverse impacts on host communities are minimized. The best way of achieving this integration is for resettlement to be planned in areas benefiting from the project and through consultation with the future hosts.

(e) Land, housing, infrastructure, and other compensation should be provided to the adversely affected population,

6. Host communities are those receiving resettlers.
indigenous groups,\textsuperscript{7} ethnic minorities, and pastoralists who may have usufruct or customary rights to the land or other resources taken for the project. The absence of legal title to land by such groups should not be a bar to compensation.

Resettlement Planning

4. Where large-scale\textsuperscript{8} population displacement is unavoidable, a detailed resettlement plan, timetable, and budget are required. Resettlement plans should be built around a development strategy and package aimed at improving or at least restoring the economic base for those relocated. Experience indicates that cash compensation alone is normally inadequate. Voluntary settlement may form part of a resettlement plan, provided measures to address the special circumstances of involuntary resettlers are included. Preference should be given to land-based resettlement strategies for people dislocated from agricultural settings. If suitable land is unavailable, nonland-based strategies built around opportunities for employment or self-employment may be used.

Plan Content

5. The content and level of detail of resettlement plans, which will vary with circumstances, especially the magnitude of resettlement, should normally include a statement of objectives and policies, an executive summary, and provision for the following:

(a) organizational responsibilities (para. 6);
(b) community participation and integration with host populations ( paras. 7–10);
(c) socioeconomic survey (para. 11);
(d) legal framework (para. 12);
(e) alternative sites and selection (para. 13);
(f) valuation of and compensation for lost assets ( paras. 14–16);

7. See OMS 2.34, \textit{Tribal People in Bank-Financed Projects}, to be reissued as OD 4.40, \textit{Tribal People}.

8. Where only a few people (e.g., less than 100–200 individuals) are to be relocated, appropriate compensation for assets, logistical support for moving, and a relocation grant may be the only requirements. However, the principles on which compensation is to be based are the same as for larger groups.
(g) land tenure, acquisition, and transfer (para. 17);
(h) access to training, employment, and credit (para. 18);
(i) shelter, infrastructure, and social services (para. 19);
(j) environmental protection and management (para. 20); and
(k) implementation schedule, monitoring, and evaluation
(paras. 21–22).

Cost estimates should be prepared for these activities, and they
should be budgeted and scheduled in coordination with the physi-
cal works of the main investment project.

Organizational Responsibilities

6. The responsibility for resettlement rests with the borrower. The
organizational framework for managing resettlement must be devel-
oped during preparation and adequate resources provided to the
responsible institutions. The organization responsible for resettlement
should be strengthened when entities executing infrastructure
or other sector-specific projects lack the experience and outlook
needed to design and implement resettlement. One alternative is to
create a special resettlement unit within the project entity; this can
facilitate the involvement of other line agencies. Another alternative
is to entrust resettlement to the regional or town administration that
knows the population and area, can mobilize local expertise, speaks
the resettlers’ language, and will ultimately be responsible for the
integration of resettlers into the host population and area. There
also may be considerable scope for involving nongovernmental
organizations (NGOs) in planning, implementing, and monitoring
resettlement.9

Community Participation and Integration with Host Population

7. Most displaced people prefer to move as part of a preexisting
community, neighborhood, or kinship group. The acceptability of a
resettlement plan can be increased and the disruption caused by
resettlement can be cushioned by moving people in groups, reduc-
ing dispersion, sustaining existing patterns of group organization,

9. See OD 14.70, Involving Nongovernmental Organizations in Bank-Supported
Activities.
and retaining access to cultural property\textsuperscript{10} (temples, pilgrimage centers, etc.), if necessary, through the relocation of the property.

8. The involvement of involuntary resettlers and hosts in planning prior to the move is critical. Initial resistance to the idea of involuntary resettlement is to be expected. To obtain cooperation, participation, and feedback, the affected hosts and resettlers need to be systematically informed and consulted during preparation of the resettlement plan about their options and rights. They should also be able to choose from a number of acceptable resettlement alternatives. These steps can be taken directly or through formal and informal leaders and representatives. Experience has shown that local NGOs can often provide valuable assistance and ensure viable community participation. Moreover, institutionalized arrangements, such as regular meetings between project officials and communities, should be provided for resettlers and hosts to communicate their concerns about the resettlement program to project staff throughout planning and implementation.\textsuperscript{11} Particular attention must be given to ensure that vulnerable groups such as indigenous people, ethnic minorities, the landless, and women are represented adequately in such arrangements.

9. The plan should address and mitigate resettlement’s impact on host populations. Host communities and local governments should be informed and consulted. Any payment due the hosts for land or other assets provided to resettlers should be promptly rendered. Conflicts between hosts and resettlers may develop as increased demands are placed on land, water, forests, services, etc., or if the resettlers are provided services and housing superior to that of the hosts. Conditions and services in host communities should improve, or at least not deteriorate. Providing improved education, water, health, and production services to both groups fosters a better social

\textsuperscript{10} See OPN 11.03, \textit{Management of Cultural Property in Bank-Financed Projects}, to be reissued as OD 4.50, \textit{Cultural Property}.

\textsuperscript{11} Disputes of varying kinds may arise in the process of implementation of the agreed resettlement plan. These conflicts could take the form of appeals related to the compensation payable to affected persons, conflicts between the displaced persons and the host population, appeals to the agency charged with the implementation of the resettlement with regard to services promised, etc. It is therefore important to devise schemes for conflict resolution for all resettlement plans. Such schemes should, as far as possible, take into account existing procedures for settling disputes in the country or area concerned.
climate for their integration. In the long run, the extra investment will help prevent conflicts and secure the project's aims.

10. Successful resettlement requires a timely transfer of responsibility from settlement agencies to the settlers themselves. Otherwise, a dependency relationship may arise, and agency resources may become tied up in a limited number of continually supervised schemes. Local leadership must be encouraged to assume responsibility for environmental management and infrastructure maintenance.

Socioeconomic Survey

11. Resettlement plans should be based on recent information about the scale and impact of resettlement on the displaced population. In addition to describing standard household characteristics, socioeconomic surveys should describe (a) the magnitude of displacement; (b) information on the full resource base of the affected population, including income derived from informal sector and non-farm activities, and from common property; (c) the extent to which groups will experience total or partial loss of assets; (d) public infrastructure and social services that will be affected; (e) formal and informal institutions (such as community organizations, ritual groups, etc.) that can assist with designing and implementing the resettlement programs; and (f) attitudes on resettlement options. Socioeconomic surveys, recording the names of affected families, should be conducted as early as possible to prevent inflows of population ineligible for compensation.

Legal Framework

12. A clear understanding of the legal issues involved in resettlement is needed to design a feasible resettlement plan. An analysis should be made to determine the nature of the legal framework for the resettlement envisaged, including (a) the scope of the power of eminent domain, the nature of compensation associated with it, both in terms of the valuation methodology and the timing of payment; (b) the legal and administrative procedures applicable, including the appeals process and the normal time-frame for such procedures; (c) land titling and registration procedures; and (d) laws and regulations relating to the agencies responsible for implementing resettlement and those related to land compensation, consolidation, land use, environment, water use, and social welfare.
Alternative Sites and Selection

13. The identification of several possible relocation sites and the demarcation of selected sites is a critical step for both rural and urban resettlement. For land-based resettlement, the new site's productive potential and locational advantages should be at least equivalent to those of the old site. The Bank encourages "land for land" approaches, providing replacement land at least equivalent to the lost land. For rural settlers, irrigation, land reclamation, tree crop development, intensification of production, and other innovations often can provide adequate production potential on limited amounts of land to resettle agriculturalists, even in countries with high population densities. In selecting sites, attention must be paid to the availability of sources of off-farm income (fishing, gathering forest products, seasonal wage employment) to complement farm income. For urban settlers, the new site should ensure comparable access to employment, infrastructure, services, and production opportunities. For both rural and urban resettlement, the borrower needs to (a) develop institutional and technical arrangements for identifying and preparing relocation sites, e.g., pooling together small plots, wasteland reclamation, land leveling, and terracing; (b) draw up timetables and budgets for site preparation and transfer; (c) make legal arrangements for transferring titles to resettlers; and (d) consider, when necessary, a temporary freeze on land transactions within the relocation area to prevent land speculation. Though the Bank does not normally disburse against land acquisition, it can finance land improvement to accommodate resettlers.

Valuation of and Compensation for Lost Assets

14. Valuation of lost assets should be made at their replacement cost. Compensation is facilitated by (a) paying special attention to the adequacy of the legal arrangements concerning land title, registration, and site occupation; (b) publicizing among people to be displaced the laws and regulations on valuation and compensation; (c) establishing criteria for determining the resettlement eligibility of affected households, e.g., households that have only partially lost their assets but are no longer economically viable should be entitled to full resettlement; and (d) developing mechanisms to prevent illegal encroachers and squatters, including an influx of nonresidents entering to take advantage of such benefits, from participating in the compensation arrangements, by an early recording of the numbers.
and names of affected populations entitled to compensation/rehabilitation.

15. Some types of loss, such as access to (a) public services; (b) customers and suppliers; and (c) fishing, grazing, or forest areas, cannot easily be evaluated or compensated for in monetary terms. Attempts must therefore be made to establish access to equivalent and culturally acceptable resources and earning opportunities.

16. Vulnerable groups at particular risk are indigenous people, the landless and semilandless, and households headed by females who, though displaced, may not be protected through national land compensation legislation. The resettlement plan must include land allocation or culturally acceptable alternative income-earning strategies to protect the livelihood of these people.

Land Tenure, Acquisition, and Transfer

17. Resettlement plans should review the main land tenure and transfer systems, including common property and non-title-based usufruct systems governed by locally recognized land allocation mechanisms. The objective is to treat customary and formal rights as equally as possible in devising compensation rules and procedures. The plan should address the issues raised by the different tenure systems found in a project area, including (a) the compensation eligibility of land-dependent populations; (b) the valuation procedures applicable to different tenure types; and (c) the grievance procedures available for disputes over land acquisition. Plans should contain provisions for conducting land surveys and regularizing land tenure in the earliest stages of project development. Planning should also anticipate the approximate time needed to acquire and transfer land.

Access to Training, Employment, and Credit

18. Normally, general economic growth cannot be relied upon to protect the welfare of the project-affected population. Thus, alternative employment strategies are needed for nonagricultural displaced people, or where the land that can be made available is not sufficient to accommodate all the displaced farmers. The resettlement plan should, where feasible, exploit new economic activities made possible by the main investment requiring the displacement. Vocational training, employment counseling, transportation to jobs,
employment in the main investment project or in resettlement activities, establishment of industries, incentives for firms to locate in the area, credit and extension for small businesses or reservoir aquaculture, and preference in public sector employment should all be considered where appropriate.

Shelter, Infrastructure, and Social Services

19. To ensure the economic and social viability of the relocated communities, adequate resources should be allocated to provide shelter, infrastructure (e.g., water supply, feeder roads), and social services (e.g., schools, health care centers). Site development, engineering, and architectural designs should be prepared for shelter, infrastructure, and social services. Since community or self-built houses are often better accepted and more tailored to the resettlers' needs than contractor-built housing, provision of a building site with suitable infrastructure, model plans, building materials, technical assistance, and "construction allowances" (for income foregone while resettlers build their houses) is an option communities should be offered. Planning for shelter, infrastructure, and services should take into account population growth.

Environmental Protection and Management

20. The screening process for an environmental assessment (EA) normally classifies projects involving involuntary resettlement as Category A. The EA of the main investment requiring the resettlement should thus cover the potential environmental impacts of the resettlement. The resettlement plan must be developed in coordination with the EA and define the boundaries of the relocation area, and calculate incremental population density per land unit. In agricultural projects (involving, for example, relocation to the catchment surrounding a reservoir, or to a downstream command area), if the incoming resettlers, particularly for pregnant women, infants, and the elderly, may be important during and after relocation to prevent increases in morbidity and mortality due to malnutrition, the stress of being uprooted, and the usually increased risk of water-borne diseases.

12. Health care services, particularly for pregnant women, infants, and the elderly, may be important during and after relocation to prevent increases in morbidity and mortality due to malnutrition, the stress of being uprooted, and the usually increased risk of water-borne diseases.

tled population is large in relation to the host population, such envi-
ronmental issues as deforestation, overgrazing, soil erosion, sanita-
tion, and pollution are likely to become serious and plans
should either include appropriate mitigating measures, including
training of oustees, or else should allow for alternative sites to be
selected. Urban resettlement raises other density-related issues (e.g.,
transportation capacity, access to potable water, sanitation systems,
health facilities, etc.). Constructive environmental management, pro-
vided through the EA’s mitigation plan,14 may provide good opportu-
nities and benefits to resettlers and host populations alike (e.g.,
project-financed compensatory afforestation not only replaces the for-
est submerged by reservoirs but also offers gainful employment). If
the likely consequences on the environment are unacceptable, alter-
native and/or additional relocation sites must be found.

Implementation Schedule, Monitoring, and Evaluation

21. The timing of resettlement should be coordinated with the
implementation of the main investment component of the project
requiring the resettlement. All resettlement plans should include an
implementation schedule for each activity covering initial baseline
and preparation, actual relocation, and post-relocation economic
and social activities. The plan should include a target date when the
expected benefits to resettlers and hosts would be achieved.

22. Arrangements for monitoring implementation of resettlement and
evaluating its impact should be developed by the borrower during
project preparation and used during supervision.15 Monitoring pro-
vides both a warning system for project managers and a channel for
the resettlers to make known their needs and their reactions to rese-
tlement execution. Monitoring and evaluation units should be ade-
quately funded and staffed by specialists in resettlement. In-house
monitoring by the implementing agency may need to be supple-
mented by independent monitors to ensure complete and objective
information. Annual and midterm reviews are desirable for large-scale
resettlement. The borrower should be required to continue impact
evaluation for a reasonable period after all resettlement and related
development activities have been completed. The borrower should
also be required to inform the Bank about the findings.

15. See OD 10.70, Project Monitoring and Evaluation.
23. The Bank supports borrowers' efforts through (a) assistance in designing and assessing resettlement policy, strategies, laws, regulations, and specific plans; (b) financing technical assistance to strengthen the capacity of agencies responsible for resettlement; and (c) direct financing of the investment costs of resettlement. The Bank may sometimes finance resettlement even though it has not financed the main investment that made displacement and resettlement necessary (para. 26).

24. The task manager (TM) should inform the borrower of the Bank's resettlement policy. Starting early in the project cycle, the TM with the support of Bank operational, research, and legal staff should assess government policies, experiences, institutions, and the legal framework covering resettlement. In particular, the TM needs to ensure that involuntary resettlement is avoided or minimized, that laws and regulations concerning displaced people provide compensation sufficient to replace all lost assets, and that displaced persons are assisted to improve, or at least restore, their former living standards, income earning capacity, and production levels.

25. The adequacy of the resettlement plan should be reviewed by appropriate social, technical, and legal experts. Resettlement specialists should visit the possible resettlement sites and review their suitability. In the case of large-scale relocation, such experts should be included in independent technical or environmental review boards.  

26. Bank financing of resettlement can be provided as follows: (a) As a component of the main investment project causing displacement and requiring resettlement. (b) If large enough, as a freestanding resettlement project with appropriate cross-conditionalities, processed and implemented in parallel with the investment project that causes the displacement. The latter approach may better focus country and Bank attention on the effective resolution of resettlement issues. (c) As a sector investment loan.  


17. See OD 1.00, Bank Goals and Instruments, and OD 8.20, Sector Investment and Maintenance Loans, both to be issued.
resettlement needs of each subproject are not known in advance, the borrower would need to agree to resettlement policies, planning principles, institutional arrangements, and design criteria that meet Bank policy and requirements as a condition of the loan. An estimate should be provided of total population to be displaced and overall resettlement costs, as well as an evaluation of proposed resettlement sites. Subprojects in sector investment loans should be screened by the implementing agency to ensure consistency with this directive, and approved individually by the Bank. For countries with a series of operations requiring resettlement, efforts to improve the policy, institutional, and legal framework for resettlement should form part of the Bank's ongoing country and sector dialogue with the government. These efforts should be appropriately reflected in economic and sector work and in country strategy papers and briefs.

Processing and Documentation

27. The Regional Vice President (RVP) should be kept informed of major resettlement issues, and his guidance sought where necessary. The Regional Environment Division (RED), the Legal Department (LEG), and settlement specialists in Sector Policy and Research (PRS) should be consulted or included as necessary in peer reviews on involuntary resettlement issues throughout the project cycle.

Identification

28. The possibility of involuntary resettlement should be determined as early as possible and described in all project documents. The TM should (a) briefly summarize in the Initial Executive Project Summary (Initial EPS)\(^\text{18}\) the magnitude, strategy, and timing of the resettlement; (b) inform borrowers of the Bank's resettlement policy; (c) review past borrower experience with similar operations; (d) invite agencies responsible for resettlement to discuss their policies, plans, and institutional, consultative, and legal arrangements for resettlement; and (e) where appropriate, ensure that technical assistance is provided early to borrowers. Such assistance should include

\(^{18}\) See Circular Op 87/03, Procedures for Processing Investment Loans and Credits, filed as OMS 2.00, to be reissued as OD 9.00, Processing and Documentation for Investment Lending.
the use of project preparation facility (PPF) resources\textsuperscript{19} for planning resettlement and building institutional capacity.

Preparation

29. During project preparation, the feasibility of resettlement must be established, a strategy agreed upon, the resettlement plan drafted, and budget estimates prepared.\textsuperscript{20} The full costs of resettlement should be identified and included in the total cost of the main investment project, regardless of financing source. The costs of resettlement should also be treated as a charge against the economic benefits of the investment project that causes the relocation. Any net benefits to resettlers (as compared to the “without project” circumstances) should be added to the benefit stream of the main investment. While the resettlement component or free-standing project need not be economically viable on its own, it should be the least-cost approach consistent with the policies laid out above.

Appraisal and Negotiation

30. Submission to the Bank of a time-bound resettlement plan and budget that conforms to Bank policy is a condition of appraisal for projects involving resettlement, except for sector investment loans as discussed in para. 26. All final EPSs should confirm that this requirement has been met. The appraisal mission should ascertain (a) the extent that involuntary resettlement and human hardship will be minimized and whether borrowers can manage the process; (b) the adequacy of the plan, including the timetable and budget for resettlement and compensation; (c) the soundness of the economic and financial analysis; (d) the availability and adequacy of sites and funding for all resettlement activities; (e) the feasibility of the implementation arrangements; and (f) the extent of involvement of beneficiaries. At negotiations, the borrower and the Bank should agree on the resettlement plan. The resettlement plan and the borrower’s obligation to carry it out should be reflected in the legal documents.

\textsuperscript{19} See OMS 2.15, \textit{Project Preparation Facility}, to be reissued as OD 8.00, \textit{Project Preparation Facility and Special Project Preparation Facility}.

Other necessary resettlement-related actions must be covenanted. The Staff Appraisal Report and the Memorandum and Recommendation of the President should summarize the plan and state that it meets Bank policy requirements.

Implementation and Supervision

31. Resettlement components should be supervised throughout implementation. Supervision that is sporadic or left until late in implementation invariably jeopardizes the success of resettlement. Bank supervision missions should be staffed with the requisite social, economic, and technical expertise. Annual reviews of large-scale resettlement and in-depth Bank reviews of midterm progress are highly desirable. These reviews should be planned from the outset to allow the Bank and the borrower to make necessary adjustments in project implementation. Complete recovery from resettlement can be protracted and can often make it necessary to continue Bank supervision until well after populations have been relocated, sometimes even after a project has been closed.

Ex Post Evaluation

32. The project completion report submitted to the Operations Evaluation Department should evaluate resettlement and its impact on the standards of living of the resettlers and the host population.

21. See OD 13.05, Project Supervision, particularly paras. 44-47.

22. See the OPNSV memorandum, Guidelines for Preparing Project Completion Reports, June 7, 1989, and OMS 3.58, General Guidelines for Preparing Project Completion Reports, which are to be combined and reissued as OD 13.55, Project Completion Reports.
September 1993

Operational Policies
No. 4.36: Forestry

1. Bank involvement in the forestry sector aims to reduce deforestation, enhance the environmental contribution of forested areas, promote afforestation, reduce poverty, and encourage economic development. In pursuit of these objectives, the Bank applies the following policies:

   (a) The Bank does not finance commercial logging operations or the purchase of logging equipment for use in primary tropical moist forest. In borrowing countries where logging is being done in such forests, the Bank seeks the government's commitment to move toward sustainable management of those forests, as described in para. 1(d) below, and to retain as much effective forest cover as possible. Where the government has made this commitment, the Bank may finance improvements in the planning, monitoring, and field control of forestry operations to maximize the capability of responsible agencies to carry out the sustainable management of the resource.

1. "Bank" includes IDA, and "loans" includes credits. 2. Definitions are given in Annex A.

Note: This document is based on The Forest Sector: A World Bank Policy Paper, 7/18/91, and also complements the following Bank guidelines: OD 4.01, Environmental Assessment; OD 4.20, Indigenous Peoples; OD 4.30, Involuntary Resettlement; and OMS 2.36, Environmental Aspects of Bank Work. Staff should also consult OD 14.70, Involving Nongovernmental Organizations in Bank-Supported Activities; OPN 11.02, Wildlands; and OPN 11.03, Management of Cultural Property in Bank-Financed Projects. Questions may be addressed to the Director, Agriculture and Rural Development Department.
(b) The Bank uses a sectorwide approach to forestry and conservation work in order to address policy and institutional issues and to integrate forestry and forest conservation projects with initiatives in other sectors and with macroeconomic objectives.

(c) The Bank involves the private sector and local people in forestry and conservation management or in alternative income-generating activities. The Bank requires borrowers to identify and consult the interest groups involved in a particular forest area.

(d) The Bank's lending operations in the forest sector are conditional on government commitment to undertake sustainable management and conservation-oriented forestry. Such a commitment (which may be reflected in specific conditionalities; see Good Practices 4.36 for examples) requires a client country to:

(i) adopt policies and a legal and institutional framework to (a) ensure conservation and sustainable management of existing forests, and (b) promote active participation of local people and the private sector in the long-term sustainable management of natural forests (see para. 19-20 of OD 4.01, Environmental Assessment);

(ii) adopt a comprehensive and environmentally sound forestry conservation and development plan that clearly defines the roles and rights of the government, the private sector, and local people (including forest dwellers) (see OD 4.20, Indigenous Peoples);

(iii) undertake social, economic, and environmental assessments of forests being considered for commercial use;

(iv) set aside adequate compensatory preservation forests to protect and conserve biological diversity and environmental services and to safeguard the interests of forest dwellers, specifically their rights of access to and use of designated forest areas; and
(v) establish institutional capacity to implement and enforce these commitments.

(e) The Bank distinguishes investment projects that are exclusively environmentally protective (e.g., management of protected areas or reforestation of degraded watersheds) or supportive of small farmers (e.g., farm and community forestry) from all other forestry operations. Projects in this limited group may be appraised on the basis of their own social, economic, and environmental merits. However, they may be pursued only where broad sectoral reforms are in hand, or where remaining forest cover in the client country is so limited that preserving it in its entirety is the agreed course of action.

(f) In forest areas of high ecological value, the Bank finances only preservation and light, nonextractive use of forest resources. In areas where retaining the natural forest cover and the associated soil, water, biological diversity, and carbon sequestration values is the object, the Bank may finance controlled sustained-yield forest management. The Bank finances plantations only on nonforested areas (including previously planted areas) or on heavily degraded forestland.

2. The Bank will not finance projects that contravene any relevant international environmental agreement to which the member country concerned is a party.
Definitions

1. The following definitions apply in this statement:

(a) Primary forest is defined as relatively intact forest that has been essentially unmodified by human activity for the previous 60 to 80 years.

(b) Tropical moist forest is generally defined as forest in areas that receive not less than 100 mm of rain in any month for two out of three years and have an annual mean temperature of 24o/C or higher. Also included in this category, however, are some forests (especially in Africa) where dry periods are longer but high cloud cover causes reduced evapotranspiration.

(c) Carbon sequestration refers to the process whereby forested areas retain a revolving but stable store of organic carbon in their biomass. Clearing, burning, or otherwise substantially altering the forest increases the net release into the atmosphere of carbon-based gases that contribute to the greenhouse effect.

(d) The term local people describes the broad group of people living in or near a forest, with some significant level of dependence upon it. The term includes forest dwellers, indigenous forest-adjacent populations, and recent immigrants.

(e) Sustainable management of natural forests means controlled utilization of the resource to produce wood and nonwood benefits into perpetuity, with the basic objectives of long-term maintenance of forest cover and appropriate reservation of areas for biodiversity protection and other ecological purposes.

(f) A natural forest is an area in which the cover has evolved naturally so as to provide significant economic and/or ecological benefits, or one that is sufficiently advanced in regeneration and recovery from disturbance as to be judged in near-natural condition.
Operational Directive 4.03: Agricultural Pest Management

Introduction

1. This directive outlines Bank\(^1\) policy and procedures for addressing pest management issues in investment lending in the agriculture sector and the import of pesticides\(^2\) in structural adjustment and agriculture sector lending (SALs and SECALs).\(^3,4\) The Bank's policy is to promote effective and environmentally sound pest management practices in Bank-supported agricultural development. Any Bank loan that provides substantial funding for pesticide procurement or increases the use of pesticides in the project area should also include specific measures to achieve this aim and to promote safety in pesticide handling and use.

2. The directive applies to all Bank lending in the agriculture sector, whether or not the financing of pesticides is involved. Even if Bank lending for pesticides is not involved, an agricultural development project might lead to substantially increased pesticide use and subsequent environmental problems.

Background: Pest Management Issues

3. Insects, weeds, disease-causing organisms, and other pests\(^5\) can be a significant constraint to agricultural production. However, control-

1. "Bank" includes IDA, and "loans" includes credits.
2. "Pesticides" includes insecticides, acaricides, herbicides, fungicides, rodenticides, molluscicides, nematicides, and also growth regulators.
3. These guidelines deal only with agriculture, including forestry but excluding livestock. Regarding control of human disease vectors, see OPN 11.01, Guidelines for the Use, Selection, and Specifications of Pesticides in Public Health Programs.
4. If funds from an agricultural credit or sector adjustment loan are intended to finance other inputs but exclude pesticides, this exclusion should be indicated in the Loan Agreement.
5. In this document, "pests" refers to all animals, plants, and microorganisms that have a negative impact on agricultural production or cause storage losses.
ling them by relying heavily on the use of pesticides may be unwise. Where pesticides are used widely and regularly over many years, pest species, including insects that carry human and animal diseases, can become resistant to the pesticides and difficult or impossible to control. New agricultural pests may emerge in frequently sprayed areas as pesticides kill their natural enemies. Other environmental problems such as groundwater contamination can also occur.

4. In response to such agricultural production, health, and environmental problems, crop protection specialists have returned to a more diversified and sustainable approach, generally called integrated pest management (IPM). IPM has been defined as "the farmer's best mix of control tactics, taking into account yields, profits, and safety." Following an IPM approach means applying three basic principles:

(a) managing pests (keeping them below economically damaging levels) rather than seeking to eradicate them;
(b) relying, to the extent possible, on nonchemical measures to keep pest populations low; and
(c) selecting and applying pesticides, when they have to be used, in a way that minimizes adverse effects on beneficial organisms, humans, and the environment.

An IPM approach does not mandate the adoption of a specific technology. By a variety of practices it seeks to avoid excessive use of potentially toxic and hazardous chemicals, particularly by those not fully trained or equipped to handle them safely.

Bank Policy

5. World Bank policy on pest management supports (a) applying an IPM approach in the Bank's lending operations, (b) reducing

6. For details on IPM, see the Agricultural Pest Management Handbook (the APM Handbook), Part I.


8. Eradication may occasionally be the most desirable strategy, particularly to prevent species from becoming established in new territory (e.g., the New World Screwworm Campaign in Libya in 1991–92).
environmental and human health impacts through careful selection and use of pesticides procured under Bank financing, and (c) developing borrowers' capabilities to develop and implement IPM programs and to regulate and monitor pesticide use. Application of this policy is based on (a) economic and technical analysis (e.g., identifying which pests should be controlled; identifying feasible, cost-effective, and sustainable management methods), and (b) environmental assessment or environmental analysis.

Relationship to the Operational Directive on Environmental Assessment

6. Annex E to OD 4.01, "Environmental Assessment," identifies pesticide use as one of the potential issues to be addressed in an environmental assessment or environmental analysis (EA). As the EA directive describes, initial screening of an agricultural project at the identification stage determines whether an examination of pest management aspects is needed, either an environmental analysis (Category B projects) or an environmental assessment (Category A projects, involving "manufacture, transportation, and use of pesticides or other hazardous and/or toxic materials"). When substantial quantities of highly toxic pesticide materials are stored, their presence may call for a major hazard assessment.

7. An EA examines the potential environmental impacts of a project and proposes measures (a mitigation plan) to avoid, reduce, or compensate for negative consequences. Environmental impacts associated with agricultural pest management generally relate to the use of pesticides. The EA evaluates the conditions of pesticide use and regulation with respect to protection of human health and the environment. It also examines pest management practices in general to determine whether they are consistent with an IPM approach (see para. 4). If a project includes a comprehensive IPM program, prepa-

9. Hereafter EA refers to either a full environmental assessment or an environmental analysis, as described in OD 4.01, Environmental Assessment, para. 17.


11. For a description of categories, see para. 17 and Annex E, Environmental Screening, in OD 4.01, Environmental Assessment.

ration of this component can serve as an alternative to a formal EA\(^\text{13}\) (see paras. 14 and 15 and the "Agricultural Pest Management Handbook" [the APM Handbook]). However, the inclusion of components that will not actually govern pest management practices adopted in the project (e.g., IPM-related research or demonstrations) does not eliminate the need for an EA.

8. An EA may also be required for sector lending operations and regional programs. For agricultural sector lending, environmental issues relating to pest management include (a) IPM orientation in research and extension; (b) the legal and institutional framework for pesticide importation, storage, handling, and use (particularly with respect to screening and registration requirements for pesticides; limiting accessibility of highly hazardous materials to trained users; and disposal of excess pesticide, its containers, and material used in its application); (c) the existence of hazardous stocks of obsolete pesticides; and (d) economic and other policies that affect farmers' interest in adopting an approach to pest control that does not rely heavily or solely on the use of pesticides. If a series of projects contributes significantly to the quantity of pesticides coming into an area, a regional EA may be appropriate to (a) evaluate potential cumulative environmental contamination and (b) identify major activities required to upgrade local facilities and capabilities for handling pesticide.

**Bank Operations**

9. While the Bank's policy applies to all Bank agricultural lending, the required level of review of pest management issues and interventions varies, depending on the nature of the operation involved. In sector or other national level operations, the emphasis is on strengthening overall country capacity to address pest and pesticide problems, while in specific investment projects (especially geographically limited projects), the emphasis is on measures to mitigate the problems identified in the EA.

**Sectoral Level**

10. When an EA is required for a sector operation, it evaluates the borrower's capacity to regulate pesticide distribution and use, to

\(^{13}\) See the section on "Alternatives to EAs" and Annex E, *Environmental Screening*, in OD 4.01, *Environmental Assessment*.
monitor the impact of pesticide use, and to develop and implement pest management programs. Gaps in data, technology, infrastructure, institutional capacity, human resources, or economic incentives that constrain the development or implementation of IPM or the safe handling of pesticides should be addressed through Bank support for research, training, extension, institutional strengthening, and policy reform. If a lending program finances significant procurement of pesticides, the Bank should consider making pesticide financing contingent upon the development and implementation of IPM programs (see the APM Handbook, Part I). In adjustment or agriculture sector lending, or in projects that provide credit to farmers for the procurement of agricultural inputs, the main objectives should be to (a) strengthen the legal and institutional framework for control of pesticide selection and use to minimize environmental and human health hazards; (b) direct agricultural research toward developing appropriate pest management plans for various cropping and farming systems in the country; and (c) promote the adoption of IPM methods by providing appropriate extension support, training, and educational materials and inputs. Furthermore, even where pesticide registration schemes and legislation are adequate, countries may need support for strengthening the related implementing institutions (see the APM Handbook, Part II).

Project Level

11. The EA indicates whether pest management problems are anticipated and, if so, whether a pest management program should be developed either before project appraisal or as a component of the project itself. If the project aims simply to provide incremental inputs for an already well-established intensive farming system, the emphasis should be on measures to improve current methods of pesticide use; if the project aims to support new agricultural development or to intensify currently low-technology systems, the emphasis should be on developing a pest management plan that, from the beginning, could be an integral element of the more intensive farming system. Depending on the issues identified, the EA provides a mitigation plan, which could be as simple as pesticide screening or could involve the development of pesticide management or pest management plans.

12. Pesticide Screening. This minimal type of mitigation plan is appropriate when (a) proposed financing for pesticide procurement
(directly or through a credit scheme) represents only a minor project component; (b) the project will not introduce pesticide use into an area for the first time, or greatly increase the level of pesticide use; (c) no specific pesticide-related environmental or health concerns can be identified at the Initial Executive Project Summary (IEPS) stage; and (d) there will be no financing of hazardous products, as indicated in the APM Handbook, Part II, and PTN 4.3.1, "Guidelines for the Procurement of Pesticides" (to be issued). In these cases, an authorized list of pesticide products approved for financing is to be developed, along with a description of mechanisms designed to ensure that only the specified products will be procured with Bank funds.

13. Pesticide Management Plan. More detailed attention to pest management practices and pesticide handling is needed for projects in which (a) proposed pesticide financing represents a large component; (b) procurement of relatively hazardous pesticides is proposed; or (c) specific environmental or health concerns have been raised (e.g., proximity of protected areas or important aquatic resources). In such cases, the EA proposes a pesticide management plan (as described in the APM Handbook, Part II) to reduce the potential adverse impacts on human health and the environment.

14. Pest Management Plan. A comprehensive pest management plan is developed when the project is designed to support (a) new agricultural development in an area, (b) significant expansion into new areas, (c) diversification into new crops, or (d) intensification of existing low-technology systems. It may be most effective to develop the pest management plan in two phases: (a) an initial reconnaissance to identify the main pest problems and the contexts (ecological, agricultural, economic, and institutional) and to define broad parameters; and (b) the development of specific operational plans to address the pest problems identified. The first phase should be carried out as part of project preparation and evaluated at appraisal. The second phase requires considerably more time; it

14. Includes projects containing pesticides listed in Class Ia or Ib of the World Health Organization (WHO) Classification of Pesticides by Hazard, as well as other materials that are banned or severely restricted in many countries because of environmental or health hazards. See OD 4.01, Environmental Assessment.

15. Particularly such crops as cotton, vegetables, and rice, which are often associated with heavy use of pesticides.
may be best carried out as a component of the project itself. In fact, this dynamic and long-term process is not usually completed under any one project. However, the project should steer the pest management approaches toward the basic principles outlined in para. 4 and ensure that they are an integral element of the agricultural development program from the beginning. (For details, see the APM Handbook, Part I).

Processing and Documentation

Identification and Preparation

15. When the IEPS indicates that a project requires an environmental assessment, it also identifies pest management issues (including pesticide handling and use) as aspects that the EA will address. The EA is carried out as part of project preparation and is reviewed by the task manager and staff of the Regional environment division; it then serves as the main document detailing environmental issues and project changes or components proposed to address them. For Category A projects, the “Monthly Operational Summary for Bank and IDA Proposed Projects” (MOS) indicates whether the project (a) will finance pesticide procurement directly or will provide agricultural credit that may be used to purchase pesticides (if pesticides are to be specifically excluded, this should be indicated), or (b) includes components aimed at reducing environmental and health hazards associated with pesticide use (including support for development and implementation of IPM programs).  

Appraisal

16. The Staff Appraisal Report (SAR) identifies the need for Bank assistance in relation to pest management if the EA indicates that such assistance is appropriate. Furthermore, the SAR evaluates how well the proposed project has incorporated the findings and recommendations of the EA.

17. The SAR indicates how implementation and the effects on health and the environment are to be supervised and monitored. In general, although the coverage and the degree of detail required depend on the information available and on the overall importance

16. See para. 4 and Annex F, OD 4.01, Environmental Assessment.
of specific elements to the project, the SAR covers (in the text or an appendix) the following elements:

(a) existing or anticipated pest problems relevant to the project's activities (including information on large-scale public health programs for pest control, which can influence the options for managing agricultural pests);
(b) a list of pesticide products authorized for procurement, or an indication of when and how this list will be developed and agreed upon;
(c) existing pesticide management practices, pesticide use, and the legal, policy, and institutional framework for regulating and managing pesticides, as well as the extent to which all these are consistent with this directive;
(d) proposed project activities (or ongoing parallel activities, including other projects supported by the Bank or other donors) aimed at improving the shortcomings identified;
(e) proposed mechanisms for implementing, monitoring, and supervising components relating to pest management or pesticide use, including any role envisaged for local nongovernmental organizations (NGOs); and
(f) a discussion of the overall sectoral context and other issues that will not be directly addressed under the project but that should be addressed as long-term objectives.

The SAR also includes an evaluation of the capability of responsible institutions to carry out these activities. Depending on the complexity of the issues and the risk of impact on human health or the environment, a technical specialist may be needed on the appraisal mission.

18. It is normally best to use up-front actions and project components to ensure that the policy and institutional environment is appropriate to promote proper management of pesticides, and that legal and other mechanisms needed to implement the project are in place. However, the review of the EA at appraisal may indicate the need for loan conditionality to ensure that actions or agreements required to address specific hazards or to ensure effective implementation of project components are in place, for example, (a) enacting pesticide control legislation, (b) establishing or strengthening pesticide regulatory and monitoring capabilities, (c) constructing pesticide storage or disposal facilities, (d) agreeing on a time-bound
program to phase out use of an undesirable pesticide, or (e) initiating research or extension programs aimed at providing alternatives to undesirable pesticide use.

Supervision

19. Indicators that may be used to supervise progress on components relating to pest management and pesticides are given in Parts I and II, respectively, of the APM Handbook. Depending on the nature and complexity of the pest management and pesticide-related issues identified at appraisal, technical specialists may need to accompany supervision missions.

Ex Post Evaluation

20. For projects for which an EA has been carried out, the project completion report evaluates the environmental impacts of pest management practices and pesticide use supported or promoted by the project. The report also discusses whether or not the project has resulted in improved local pest management practices according to the criteria that define the IPM approach.

Responsibilities

21. In accordance with OD 4.01, at the IEPS stage the task manager (TM), in consultation with the Regional environment division (RED), decides whether separate EA work on pesticide and pest management issues is required as part of project preparation and, if so, what it should cover (drawing upon the “Environmental Assessment Sourcebook”). If such work is needed, the TM advises the borrower regarding the EA requirements. The TM also ensures that the MOS indicates whether the loan will finance procurement of pesticides and whether it will include components to promote improved pesticide handling and the IPM approach.

22. The TM, in consultation with the RED, determines whether a technical specialist is needed during appraisal to evaluate pesticide and pest management aspects of the proposed project and prepares appropriate terms of reference. With or without assistance from a technical specialist, the TM appraises the EA or the IPM program component of the project to determine whether the proposed measures are appropriate and feasible in the local context. The RED
reviews the EA and the appraisal report to determine whether the proposed measures adequately address the environmental issues raised by the pest management elements of the project. The TM may also seek expert legal advice on the adequacy of relevant domestic laws and regulations.

23. With respect to pesticide procurement, the TM establishes an authorized list of pesticides in agreement with the borrower. The list should be based on Part II of the APM Handbook and PTN 4.3.1, "Guidelines for the Procurement of Pesticides" (to be issued). The TM consults the RED or technical specialists for guidance as needed. The TM also advises the borrower of other aspects of Bank policy relating to pesticide procurement, as outlined in these documents (e.g., specifications for packaging and labeling, and requirements for inviting and evaluating bids), and ensures that procurement documents are consistent with these requirements. The proposed authorized list is evaluated by the RED as part of the overall environmental review and clearance process for which the RED is responsible. Once agreed upon by both the Bank and the borrower, the authorized list is included by reference in legal documents relating to the project, with provisions for addition or deletion of materials.

24. The TM, in consultation with the PED, also determines whether and when technical specialists are needed to help supervise progress on implementation of project components related to pesticides and pest management. In accordance with OD 14.70, "Involving Nongovernmental Organizations in Bank-Supported Activities," the TM explores possibilities for drawing upon local NGOs to help evaluate the impacts and progress of the pesticide and pest management aspects of the project.
Operational Policy Note 11.01: Guidelines for the Selection and Use of Pesticides in Bank Financed Projects and Their Procurement When Financed by the Bank

Introduction

1. Pest control is widely recognized as an essential element in improving human welfare in all areas of the world. A wide range of insects, weeds, disease microorganisms, nematodes and rodents reduce food and fiber yields by attacking livestock, forests, crop plants and stored agricultural products in addition to directly damaging human health. Throughout the history of agriculture a variety of techniques have been used to combat this threat; control of pests has traditionally been accomplished through a combination of cultural practices, selection and breeding of resistant plant varieties, encouragement of natural enemies and the introduction of biological control agents, as well as the application of chemical control materials (including insecticides, acaricides, molluscicides, nematicides, fungicides, bactericides and herbicides as well as poison baits for rodent control). Properly used, chemical pesticides are essential elements in a pest management program. However, there is now great concern over the ever greater reliance on chemical pesticides throughout the world. The problem is particularly significant in the developing world where exclusive reliance on chemical control is a common response to the increased levels of infestation by pests, diseases and weeds which have accompanied recent increases in the intensity of crop and livestock production and human settle-
ment. This approach is frequently taken without adequate safeguards for those who handle or may be exposed to the pesticides or for the environment, and with little regard to pest-induced crop losses or the cost-effectiveness of chemical control.

2. It is becoming increasingly evident that the unilateral chemical approach, in addition to posing potential threats to human health and to the environment, does not lead to sustainable and profitable agricultural production. The rapidly increasing cost of pesticides as well as the development of secondary pest species and the growing incidence of insecticide-resistance in pest populations limit the effectiveness of chemical pest control. For this reason and in line with Bank policy to promote sound technologies which do not carry with them excessive environmental costs, it is important that use of pesticides in Bank projects should be consistent with sound pest management practices and accompanied by safeguards to protect the users, the general public and the environment. Sound pest management should aim to reduce dependence on chemical pesticides through the establishment of economic control thresholds and through the use, wherever possible, of agronomic or related practices which reduce the severity of pest attack. The Integrated Pest Management (IPM) approach, which includes the prudent use of pesticides when damage reaches unacceptable levels, should be the objective of Bank strategy in agricultural development. In addition, it is important that appropriate attention be paid to technical suitability, safety and efficient procurement during the preparation, appraisal and supervision of all Bank projects which promote or increase the use of pesticides and particularly those which would finance the procurement of pesticides (either explicitly or through short term credit for production inputs).

3. The following sections provide guidance on the use of pesticides and their selection and purchases. Section A outlines the present state of the art in Pest Management Practices within the context of which a pest control program should be assessed. Section B concerns handling, storage and application safety. Section C discusses particular considerations in the selection of pesticides for a particular situation. Section D treats pesticide procurement. These sections may from time to time require more detailed treatment than is appropriate in this OPN. In such cases Supplementary Technical Notes, will be issued jointly by the Agriculture Department (AGR)
and the Environment Unit (PPDES) and will have the authority of this OPN with which they should be filed.

4. During appraisal and supervision of Bank lending operations in which financing is being provided for pesticides, it is the responsibility of Bank missions to ascertain whether pest management is or will be appropriate and safe, and if necessary, to make appropriate recommendations to correct the situation.

A. Pest and Pesticide Management Practices

5. Effective pest management involves maintaining quantity and quality of production or improving health by the least costly means and the maximization of net benefits should be the guiding principle of all pest management. While pesticides will continue to play an important part in pest management, an integrated approach combining the use of resistant varieties, biological control techniques and modified cultural practices where appropriate, together with judicious use of chemical pesticides, can offer better prospects for long term control and reduced environmental damage while increasing the margin between benefits and the costs of control measures.

6. The costs of pest control can be direct such as those for the purchase, distribution and application of pesticides and the increased costs of changing cropping practices, or indirect such as the harmful effects on human health and the environment which can arise from inappropriate and unsafe pesticide use. They can be short or long term, the latter including the cost of changing chemical control materials to combat increased pest resistance. Some costs are straightforward while others are difficult to quantify. Use of pesticides as well as other control measures should always be the result of a considered evaluation that the benefits to be gained outweigh the direct and indirect costs, in-so-far as these can be assessed.

7. Every effort should be made to promote the Integrated Pest Management concept within Bank agricultural projects by selecting pesticides and pesticide use patterns which are compatible with an IPM approach. Three major points should be considered:

(a) pesticides should be viewed as a short-term response to the build-up of a particular pest species to threshold levels which have been found as a result of field trials and past experience to be economically damaging. The overall con-
Control of pest populations should be attempted by other methods such as the use of crop varieties which are resistant or tolerant to the pest, biological control, and cultural practices including crop rotation, timing of planting to avoid the coincidence of particularly susceptible growth stages of the crop with peaks in pest populations or disease incidence, and timing of irrigation to discourage susceptibility of the plants to fungal infection.

(b) wherever possible, narrow-spectrum pesticide materials should be selected which are effective against the pest species but cause minimum harm to other useful insects (especially the important predators and parasites of the pest species). This approach requires that one or more key target pest species and, if possible, their principal natural enemies first be properly identified.

(c) application methods and timing also should be aimed at minimizing the risk of harming these natural enemies.

8. The build-up of pesticide resistance, particularly in insect populations, is a serious constraint on chemical pest control. Measures to reduce the rate of this build-up and thereby prolong the usefulness of effective materials include:

(a) using as few chemical pesticide applications as possible and delaying application until pest populations reach preset economic thresholds and susceptible life stages,

(b) refraining from using for agricultural pest control chemicals which are also in use in the same vicinity for human disease vector control,

(c) using application methods which minimize the area of pesticide exposure.

It has also been suggested that using combinations of chemicals which differ in mode of action may prevent or delay the development of resistance to any one material. This may involve changing chemicals from one season to another or using mixtures of chemicals, each at a relatively low concentration. However, the effectiveness of this approach remains uncertain.

B. Handling, Storage and Application Safety

9. Correct and careful handling and application of chemical pesticides is essential for safe and effective pesticide use. To reduce the
risk of accidents and damage to health or environment resulting from misuse of pesticides and to maximize the effectiveness of their application, it is essential that proper precautions be taken in the packaging, transport, storage and disposal of pesticides and surplus pesticide containers and that necessary equipment and proper training in application techniques be provided to the users.

10. Standards of packaging of pesticides should be specified in tenders and should be adequate to withstand the considerable abuse which can occur during transport and storage. Clear and durable labelling of all packages to depict the hazardous nature of the contents should always be required. The labels should be in an appropriate language and should be consistent with internationally accepted standards such as those specified in the FAO Guidelines on good labelling practices for Pesticides. The distribution of pesticides in single dose packages or small containers should be encouraged to reduce the need for measuring out concentrates and alleviate some of the problems of on-farm storage of open pesticide containers. Repackaging should only be permitted in properly licensed and inspected facilities meeting acceptable safety standards and preferably under the control of the bulk supplier who should be fully responsible for the suitability of the new package including labelling and use instructions, the quality of the repackaged product and the safety of the repackaging process.

11. While all empty containers should be destroyed, it would be unrealistic to expect adherence to this rule in countries where empty containers suitable for storing liquids are in short supply. To avoid this hazard, manufacturers should be encouraged to design containers which discourage such re-use and to adopt this type of container where a suitable design already exists. When such containers are available, the borrower should be required to specify them in tender documents. The Bank does not approve of re-use of pesticide containers and strongly recommends that all possible deterrent measures be taken but, in instances where the only available and suitable packaging offered by suppliers is a non-returnable drum and where destruction of all sound empty containers cannot be ensured, their thorough washing with an appropriate solvent and numerous water rinses should be required to minimize the risk in the event of re-use. Flammable containers should be incinerated in

a site where fumes will not be carried into occupied areas by prevailing winds.

12. Stores should protect containers and their contents from the elements, be fenced to discourage unlawful entry, have a nearby water supply and be adequately ventilated. Containers should be stacked on a hard standing with a sill to contain spills and containers should not be stacked beyond the recommended stacking height. Drainage from the storage area should outfall into an evaporation pond to eliminate contamination of streams, canals or groundwater. Where substantial quantities of highly toxic pesticide materials are stored, their presence may require a Serious Hazard Assessment to be undertaken. This involves the consideration of the kinds of accidents which may occur, endangering the staff, people nearby and the surrounding environment. For such a situation the assessment would determine the adequacy of:

(a) the warning systems installed which would alert staff and the public to an emergency;
(b) the established procedures to deal with such an emergency including evacuation of people if it should be necessary;
(c) the availability and working order of emergency equipment; and
(d) the training of staff and their regular practice of emergency drills.

Guidance on this should be sought from PPDES.

13. To prevent contamination in the process of pesticide distribution, food materials should never be transported simultaneously with pesticides. Vehicles used regularly to transport pesticides should be clearly marked and should not be used to transport food products. When other, general purpose vehicles are used to transport pesticides they should be thoroughly decontaminated by washing immediately forwards. When offloading containers into store, a ramp should be provided in the absence of fork lift equipment to avoid rupture and damage to containers resulting from dropping to the ground. Any damaged containers should be set aside and the contents transferred to sound containers under supervision.

14. Persons handling concentrated materials should have protective face shields or goggles, gloves, aprons and footwear and should be adequately supervised. It is unrealistic to expect workers to wear
more complete protection and respirators in hot conditions but selection of pesticides should take into account the minimal protection which handlers will practice. Materials which are likely to become widely distributed should be made available only in relatively low-toxicity formulations. Arrangements should be made for the washing and decontamination of clothing and particular care should be taken to avoid workers contaminating their home environment. All spills should be promptly washed down.

15. Where pesticides are applied by contractors they should be required to take all necessary precautions to protect the public and the environment from damage due to spray drift or other accidental contamination. Licensing of operators on completion of an appropriate course of training is recommended when particularly hazardous materials are to be used. Operators and supervisory staff engaged in regular spraying operations should be trained in the specific first aid procedures for poisoning relating to the material being used. Medical services should be familiar with symptoms and treatment for such poisoning cases and specific antidotes should be readily available. With particularly toxic materials it may be expedient to require the supplier to supervise the correct handling and application of the materials in accordance with accepted safety standards.

16. Where pesticides are being supplied to farmers it is essential that materials are selected which can be applied safely and effectively without close supervision and that the extension services are adequately supported and trained in the use of the materials so that they may demonstrate the correct techniques and give appropriate advice, including advice for on-farm storage of concentrates and eventual disposal of surplus pesticides and empty containers and calling on specialists in pest control when problems arise. Training should include the storage and handling of concentrates, dilution and mixing, application techniques and suitable application equipment, cleansing and maintaining spray equipment and precautions to avoid environmental damage through spray drift or leaching into streams or groundwater. Equipment and clothing needed for the safe and effective use of pesticides should be easily available and all reasonable measures should be taken to promote its proper use and maintenance. Farmers should be instructed on safety precautions, wearing of suitable protective clothing, the importance of decontamination and of avoiding introduction of pesticides into the
household environment. They should also be able to recognize possible early symptoms of poisoning and be aware of the need to seek medical assistance quickly.

C. Selection of Pesticide Materials and Pesticide Formulations

17. The selection of chemical pesticides for use in agriculture should take account of the safety and effectiveness of alternatives under local climatic and environmental conditions, their compatibility with Integrated Pest Management, the existence of national or international regulations or recommendations regarding use of particular materials for particular crops and the reliability of potential suppliers to deliver products of a high quality, appropriately packaged and backed by well qualified technical advice and support. In addition the indigenous capability for handling toxic materials and regulating their distribution should be taken into account.

18. The World Health Organization periodically revises and reissues, its Classification of Pesticides by Hazard. This lists technical products by their generic names, tabulating them in categories ranging from Extremely Hazardous to unlikely to present acute hazard in normal use. Guidance is given on use of the tables to assess the hazard of particular formulations. Materials listed in Categories la Extremely Hazardous or lb Highly Hazardous are unsuitable for use by small farmers and should only be considered for use in large scale operations if all necessary training, protection and supervision can be assured.2

19. Certain products, notably many of the chlorinated hydrocarbon insecticides have characteristics of excessive persistence in the environment, bioaccumulation in tissues, biomagnification in food chains and in some cases carcinogenicity or cause genetic abnormalities. They should not be used for agricultural purposes but some which have environmental hazards but low health risk may be considered for other purposes such as disease vector control where the risks are minimized and satisfactory alternatives do not exist. Compounds containing Mercury, Thallium, Lead, Cadmium or Selenium are all unsuitable for agricultural use. Fumigant products having high vapor pressures and relatively high toxicities are too

2. A current copy of the Classification is available for reference in the Sectoral Library.
hazardous for use by small farmers who do not have sealed storage compartments for grain.  

20. Not only active ingredients but contaminants in the formulation may also be harmful. Suppliers should be required, in appropriate instances, to provide analyses by an independent and reputable laboratory showing the formulation to be free of such a contaminant or that the content of such a contaminant meets internationally accepted limits for use of the formulation for specific purposes under close supervision.

21. Preference should be given to products which are registered in the country of proposed use, if such regulatory authority exists, or which are already registered for an identical use in a country where capability exists to evaluate their efficiency, toxicity and long term effects. Products which do not meet this requirement should be considered only if their use for the same purpose has been reviewed by the FAO/WHO Joint Meeting on Pesticide Residues\(^4\) and acceptable daily intake and maximum residue levels subsequently recommended to the Codex Committee on Pesticide Residues\(^5\) or if the material has been registered or reviewed for a similar rather than identical application. In both these latter cases special provisions must be made to monitor crop residue levels and the manufacturer may be required to submit information regarding residue decline rates and tolerances and an analytical method suitable for monitoring residues of the pesticide and significant metabolites and degradation products.

22. When pesticides are to be used on food crops it should be ensured as far as possible that FAO/WHO maximum residue limit recommendations will not be exceeded. In the case of crops which make a significant contribution to the diet, maximum residue levels must be viewed in the light of the need to ensure that acceptable daily intake levels are not exceeded. Where such materials are to be used on food crops for export, compliance with such accepted resi-

3. AGR and PPDES intend issuing and periodically updating a Supplementary Technical Note listing specific materials and formulations, the use of which should be avoided or strictly limited.

4. FAO publishes periodically reports and supplements recommending maximum residue limits in food and livestock feeds.

5. The Codex Committee is responsible for development of international limits for residues in food within the Codex Alimentarius Commission which is a Joint FAO/WHO food standards program.
due limits or tolerances established by the importing country must be assured. If a pesticide is being considered for which registration in developed countries precludes its use for treating forages and crop residues subsequently to be fed to animals, provision should be made to prevent such feeding of treated materials to animals.

23. If a proposed pesticide is not registered in the country of proposed use but a pesticide regulation authority exists, the necessary steps to assure registration should be taken before it is introduced into the country. Such registration should establish labelling requirements for the product and require the provision by the manufacturer of particular information on the material's toxicity and persistence and the movement of the material and possibly harmful breakdown products in the environment if it is not readily available in published literature.

24. Selection of pesticides should be based on a careful evaluation of possible hazard to the environment and to important natural resources. For example, materials having high acute toxicity to fish or aquatic invertebrates should not be used where there are aquatic resources which could be adversely affected by runoff, drift or soil erosion and those highly toxic to honeybees should not be used when they will present a threat to important pollinators. Information on toxicity to non-target organisms should be available from the manufacturer if it is not in the published literature. Any use of pesticides should be designed to minimize the area of exposure, but when materials known to present a significant environmental risk are used an environmental monitoring program should also be implemented.

D. Procurement of Pesticides

25. Wherever possible competitive tenders should be sought for the supply of pesticides. In order to evaluate tenders from different sources offering different materials for control of the same pest, prior comparison of the different materials in field tests is necessary to evaluate their relative efficiencies. Where adequate information is available, efficiency weightings may be given to different materials and used in the evaluation of bids but to do so, the weights must be made public in the documents supplied to potential bidders so that in making offers they are aware of the conditions under which their product will be evaluated. Such weights may be used to reflect
the advantage a particular material might offer by controlling other pests besides the one for which the spray is intended, by being less harmful to predators, or by being less dangerous to handle and apply. Where data is insufficient to apply such efficiency factors, materials are compared on the basis of their cost per unit area when applied, in accordance with the local recommended practices in the country and taking account of the manufacturers recommendations, at the rate and frequency to control the pest concerned. Where one material has been shown in trials and in practice to offer a longer period of control than another, so requiring fewer applications, the saving in application costs needs to be taken into account in evaluating bids.

26. To enable different suppliers, each formulating a particular active ingredient under one or more different trade names to compete, the invitation to bid and tender documents should use the accepted generic name or names of the material or materials which would be considered. The specification should define all the critical characteristics in the formulation covering such aspects as solvents, emulsifiers, and surfactants in the case of emulsifiable concentrates, or particle size in the case of dusts or suspensions, which may affect the performance of the pesticide. The manufacturer should certify that the product is exactly the same (in terms of physical and chemical properties, formulating ingredients and manufacturing process) as that marketed and registered in the country of origin, or be willing to state any deviations and provide an acceptable rationale for them. Materials to be used for seed treatments should be formulated with warning colorants or dyes which will persist under anticipated storage and handling conditions.

27. The specification should indicate any special features of packaging and labelling which are necessary for product protection during handling and storage and to ensure effective use. It should require packaging and labelling to be consistent with accepted standards. Reference may be made to internationally accepted packaging and labelling standards such as those described in FAO Plant Protection Bulletin No. 2 1983 Vol. 13. In the case of products which are not water soluble, the manufacturer should be required to recommend and provide a suitable solvent for washing application equipment and containers. Where available, containers which discourage re-use for storing liquids should be specified.
28. Where only a single product from a single manufacturer is effective in controlling a particular pest or where a single product has such outstanding advantages over other products on the market that it would not be technically justified to use anything else, direct purchase may be resorted to following negotiations with the supplier. In such cases prudent enquiries should be made to determine the prices paid by other recent purchasers of the product in order to ascertain whether the price being quoted is a fair one, taking account of the quantity being ordered and delivery requirements.

29. Where quantities being purchased are small so that competitive bidding would not be an efficient means of procurement local shopping may be resorted to, obtaining quotations from at least three different suppliers.

Shahid Husain
Vice President, Operations Policy

March 1985

JCCollins/DKing:js
Checklist of Pesticides Not Recommended for Use in Agriculture or Suitable Only for Restricted Use

All pesticides are hazardous when not correctly used. Materials not included in this list should always be handled with caution and users should comply fully with all safety recommendations of the manufacturer.

June 1985
Checklist of Pesticides Not Recommended for Use in Agriculture or Suitable Only for Restricted Use

1. **Does the product contain Chlorinated Hydrocarbon Chemicals?**

   The undesirable properties of these materials render them unsuitable for agricultural purposes.

   - Aldrin
   - BHC (except the pure isomer Lindane)
   - Chlordane
   - DDT
   - Dieldrin
   - Endrin
   - Heptachlor
   - Hexachlorobenzene
   - Isobenzan
   - Isodrin (an Aldrin isomer)
   - Kepone
   - Mirex
   - Strobane

   Materials other than Lindane should not be used for application where alternative materials with less harmful and persistent environmental effects are available. When no alternatives exist, use of materials should be accepted only if all possible measures are taken to counteract environmental hazards and it can be shown that no health hazard will be present for operators and the general public. Materials such as aldrin and dieldrin having demonstrated carcinogenicity should on no account be used under any circumstances.

2. **Does the product contain 2,4,5-T?**

   This material is usually contaminated with TCDD (Dioxin), one of the most poisonous substances known.

   2,4,5-T should not be used when alternatives are available at reasonable cost.

   If 2,4,5-T is selected for use, the supplier should be required to provide proof from a reputable analyst that the Dioxin content does not exceed 0.01 ppm (0.01 mg/kg) active ingredient. It should only be used for stump treatment where it will not be widely distributed in the environment, operators will be adequately protected and use will at all times be under strict supervision.
3. **Does the product contain compounds of Mercury, Lead, Thallium, Cadmium or Selenium?**  

These materials accumulate in the body, are very persistent and are no longer considered suitable for agricultural use. They include:

- Organic and Inorganic Mercury compounds once used as fungicides and seed dressings
- Lead arsenate used as an insecticide
- Thallium sulphates used as a rodenticide
- Cadmium compounds used as fungicides

4. **Does the product contain an ingredient from this list of miscellaneous materials some of which are discontinued in the USA?**

<table>
<thead>
<tr>
<th>Ingredient</th>
<th>Satisfactory alternatives exist and should be used.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aramite - acaricide</td>
<td></td>
</tr>
<tr>
<td>Dibromochloropropane - soil fumigant</td>
<td></td>
</tr>
<tr>
<td>Gophacide - rodenticide</td>
<td></td>
</tr>
<tr>
<td>Leptophos - insecticide</td>
<td></td>
</tr>
<tr>
<td>Monuron - herbicide</td>
<td></td>
</tr>
<tr>
<td>Naphyl thiourea (ANTU) - rodenticide</td>
<td></td>
</tr>
<tr>
<td>Perthane - insecticide</td>
<td></td>
</tr>
<tr>
<td>Safrole - insecticide</td>
<td></td>
</tr>
<tr>
<td>Sodium fluoroacetate</td>
<td></td>
</tr>
<tr>
<td>Ethylene oxide</td>
<td></td>
</tr>
</tbody>
</table>

5. **Does the product consist of or include any of the listed fumigant materials?**

<table>
<thead>
<tr>
<th>Material</th>
<th>Satisfactory alternatives exist and should be used.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Carbon disulfide</td>
<td></td>
</tr>
<tr>
<td>Carbon tetrachloride</td>
<td></td>
</tr>
<tr>
<td>Chloroform</td>
<td></td>
</tr>
<tr>
<td>Ethylene disulfide</td>
<td></td>
</tr>
<tr>
<td>Ethylene oxide</td>
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</tbody>
</table>

These materials have a high vapour pressure and being relatively toxic are hazardous except where sealed storage facilities are available. They are not suitable for small on-farm stores.
6. **Does the product contain compounds listed as Extremely Hazardous or “Highly Hazardous” (Category 1a or 1b) in the W.H.O. Classification?**

These materials in general have a low acute oral or dermal LD50 or can produce irreversible damage to vital organs, have marked cumulative effects or have been observed to be particularly hazardous or significantly allergic to man. The classification is of the pure technical compound. Formulation may reduce LD50 values below the critical levels for inclusion in this list. For liquids these are Oral LD50 of 200 or Dermal LD50 of 400. For solids the equivalent values are 50 and 100 respectively. Whenever possible precise toxicological information should be obtained from the manufacturer.

**Insecticide larvicides and nematicides materials include**

<table>
<thead>
<tr>
<th>Aldicarb</th>
<th>Endothion</th>
<th>Parathion</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aldrin</td>
<td>Endrin</td>
<td>Parathion-methyl</td>
</tr>
<tr>
<td>Aminocarb</td>
<td>EPN</td>
<td>Paris Green</td>
</tr>
<tr>
<td>Azinphos ethyl</td>
<td>ESP</td>
<td>Pentachlorophenol</td>
</tr>
<tr>
<td>Azinphos methyl</td>
<td>Ethoprophos</td>
<td>Phorate</td>
</tr>
<tr>
<td>Azocyclotin</td>
<td>Fenamiphos</td>
<td>Phosfolan</td>
</tr>
<tr>
<td>Bromophos ethyl</td>
<td>Fensulfothion</td>
<td>Phosphamidon</td>
</tr>
<tr>
<td>Butocarboxim</td>
<td>Fenithion</td>
<td>Pirimiphos-ethyl</td>
</tr>
<tr>
<td>Butoxycarboxim</td>
<td>Flucythrinate</td>
<td>Propaphos</td>
</tr>
<tr>
<td>Calcium arsenate</td>
<td>Fonofo</td>
<td>Propetamphos</td>
</tr>
<tr>
<td>Carbofuran</td>
<td>Formetanate</td>
<td>Prothoate</td>
</tr>
<tr>
<td>Carbofuran</td>
<td>Formetanate</td>
<td>Salithion</td>
</tr>
<tr>
<td>Carbofuron</td>
<td>Formetanate</td>
<td>Schradan</td>
</tr>
<tr>
<td>Carbofuron</td>
<td>Formetanate</td>
<td>Salithion</td>
</tr>
<tr>
<td>Carbotiophos</td>
<td>Fosthietan</td>
<td>Schradan</td>
</tr>
<tr>
<td>Carbofuron methyl</td>
<td>Fosthietan</td>
<td>Schradan</td>
</tr>
<tr>
<td>Chlordecone</td>
<td>IFSP</td>
<td>Sulfotep</td>
</tr>
<tr>
<td>Chlorphenamphos</td>
<td>Isazophos</td>
<td>TEPP</td>
</tr>
<tr>
<td>Chlormephos</td>
<td>Isofenphos</td>
<td>Terbufos</td>
</tr>
<tr>
<td>Chemical Name</td>
<td>Molecular Formula</td>
<td>Synonyms</td>
</tr>
<tr>
<td>-------------------------------</td>
<td>-------------------</td>
<td>---------------------------</td>
</tr>
<tr>
<td>Chloethiophos</td>
<td>Isothiophos</td>
<td>Thiofanox</td>
</tr>
<tr>
<td>Crotoxynphos</td>
<td>Isoxathan</td>
<td>Thionazin</td>
</tr>
<tr>
<td>Coumaphos</td>
<td>Lead arsenate</td>
<td>Thiophos</td>
</tr>
<tr>
<td>Cyanothioate</td>
<td>Leptophos</td>
<td>Thiometon</td>
</tr>
<tr>
<td>Dimidafos</td>
<td>Mecarbam</td>
<td>Thiazophos</td>
</tr>
<tr>
<td>Demephion-O and -S</td>
<td>Mephosolan</td>
<td>Trichloronat</td>
</tr>
<tr>
<td>Demeton-O and -S</td>
<td>Methamidophos</td>
<td>Vanidothion</td>
</tr>
<tr>
<td>Demeton-S-methyl</td>
<td>Methidathion</td>
<td></td>
</tr>
<tr>
<td>Demeton-S-methylsulfon</td>
<td>Methomyl</td>
<td></td>
</tr>
<tr>
<td>Dichlorvos</td>
<td>Mevinophos</td>
<td></td>
</tr>
<tr>
<td>Dicrotophos</td>
<td>Monocrotophos</td>
<td></td>
</tr>
<tr>
<td>Dieldrin</td>
<td>Nicotine</td>
<td></td>
</tr>
<tr>
<td>Dimefox</td>
<td>Nitricarb</td>
<td></td>
</tr>
<tr>
<td>Dimetilan</td>
<td>Omeothoate</td>
<td></td>
</tr>
<tr>
<td>Disulfoton</td>
<td>Oxamyl</td>
<td></td>
</tr>
<tr>
<td>Dioxathion</td>
<td>Oxydemeton-methyl</td>
<td></td>
</tr>
<tr>
<td>DNOS</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Fungicides and Seed Treatments include:

- Bis (tri butyltin) oxide
- Blasticidin
- Cyclohexamide
- Dibromochloropropane
- Edifenphos
- Hexachlorobenzene
- Mercuric chloride
- 2-Methoxy methyl mercury chloride
- Methyl mercury dicyandiamide
- Phenyl mercury acetate
- Phenyl mercury nitrate
- Triamiphos

Herbicide materials include:

- Acrolein
- Allyl alcohol
- Dinoeb
- Dinoeb acetate
- Dinoterb
- DNOC
- Medinoterb acetate
- Pentachlorophenol

Fumigant materials include:

- Calcium cyanide

Rodenticides include:

- Arsenous Oxide
- Carbide
- Fluroacetamide
- Napthyl Thiourea (Antu)
- Red Squibl
- Sciloricide
- Sodium arsenite
- Sodium cyanide
- Sodium fluoro acetate
- Strychnine
- Zinc phosphide

7. Does the product contain any material demonstrated to have a health risk and on which regulatory action may be pending. The herbicide Alachlor has been widely used but has recently been shown to carry a cancer risk if exposure is prolonged. It is not therefore recommended for use for contact spraying or on large farms where operators may risk such exposure. Use of such materials should preferably be discontinued until recommendations and regulations regarding their further use have become final. If no satisfactory alternative exists, their continued use should be contemplated only if user safety can be absolutely assured.
Operational Policy Note No. 11.02: Wildlands: Their Protection and Management in Economic Development

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Annexes

- Categories of Wildland Management
- Some Tropical Wildlands of Special Concern
- The Project Cycle
- Physical Inputs Required in Most WMAs
- Wildland Survey and Management Form
Introduction

1. The maintenance of specific natural land and water areas in a state virtually unmodified by human activity, hereafter termed wildland management, is an important subset of the broad environmental concerns addressed in OMS 2.36, "Environmental Aspects of Bank Work". The conversion of wildlands to more intensive land and water uses (through land clearing, inundation, plantations, or other means) continues to meet important development objectives, and is an element of certain World Bank-supported projects. At the same time, wildlands are rapidly diminishing in many Bank member countries. The remaining wildlands can often contribute significantly to economic development, particularly in the longer term, when maintained in their natural state. The Bank's policy therefore is to seek a balance between preserving the environmental values of the world's more important remaining wildlands, and converting some of them to more intensive, shorter term human uses.

2. The Bank already has considerable experience of wildland management in Bank-supported projects. This OPN codifies existing practices and provides operational guidance concerning conservation of wildlands. For a more detailed discussion of wildland management, see the Bank's-Technical Paper: *Wildlands: Their Protection and Management in Economic Development* which amplifies each section of this OPN. The Office of Environmental and Scientific Affairs in the Projects Policy Department (PPDES) is available to advise and assist staff on issues of wildland management.

Justification

3. There are two principal justifications for wildland management. First, wildlands serve to maintain biological diversity (i.e., the full

1. Conversion here applies to permanent fundamental alteration of the natural ecosystem. Temporary modification by such means as highly selective, long rotation logging usually creates fewer relevant effects.

2. Other conversion activities (designed to protect the environment, but not necessarily to preserve biological diversity) are discussed elsewhere, e.g., in the 1978 Forestry Sector Policy Paper.

3. Available from the Office of Environmental and Scientific Affairs.
range of the world's biota). Second, wildlands provide environmental services important to society. In addition, certain wildlands are essential for maintaining the livelihood of tribal peoples, discussed in OMS 2.34.

Biological Diversity

4. Wildland management is necessary to prevent the untimely and often irreversible loss of a large proportion of the world's remaining biota, including the more visible plant and animal species. Because their wildland habitats are today rapidly disappearing, a large and growing number of biotic forms face extinction. Appropriate, low-cost wildland management measures can greatly reduce current extinction rates to much lower (perhaps almost "natural") levels, without slowing the pace of economic progress. By preserving the integrity of the biotic community and its plant and animal species, wildlands are important for the replenishment of surrounding degraded or abandoned areas.

5. Preserving biological diversity is important to development because of the economic potential of species that are currently undiscovered, undervalued, or underutilized. Many previously unknown or obscure, and often threatened, species have turned out to have major economic benefits. But less than 20 percent of the world's plant and animal (largely invertebrate) species have ever been inventoried, and even fewer screened for possible human uses. They therefore present valuable development opportunities if they are not irreversibly destroyed. In addition, there are important scientific, aesthetic, ethical, and practical reasons to avoid or minimize the extinction of the remaining biotic stock. While some species can be conserved *ex situ* (such as in zoos or seed banks), wildland management is the only technically and economically feasible means of preserving most of the world's existing biological diversity.

Environmental Services

6. In addition to maintaining biological diversity, many wildlands also perform important "environmental services", such as improving water availability for irrigated agriculture, industry, or human consumption: reducing sedimentation of reservoirs, harbors, and irrigation works; minimizing floods, landslides, and coastal erosion (and
possibly droughts in some regions); improving water quality; and providing essential habitat for economically important fishery species. Despite their economic value and importance in meeting human needs, such environmental services are not always accorded adequate attention because they are usually public goods that tend to be poorly understood, undervalued, or even overlooked. When environmental services are lost due to wildland elimination, remedial measures are almost always far more expensive than prior maintenance. While many environmental services can also be maintained by establishing more intensive water and/or land use systems (e.g., bio-oxidation sewage treatment, tree plantations), wildland management is frequently more cost-effective.

Wildlands of Special Concern

7. Wildlands of special concern are areas that are recognized to be exceptionally important in conserving biological diversity or perpetuating environmental services. They can be classified into two types. First are wildlands officially designated as protected areas by governments, sometimes in collaboration with the United Nations or the international scientific community. These are National Parks, Biosphere Reserves, World Heritage Natural Sites, Wetlands of International Importance, areas designated for protected status in national conservation strategies or master plans, and similar "wildland management areas" (WMAs), i.e., areas where wildlands are protected and managed to retain a relatively unmodified state (Annex 1).

8. Second are wildlands as yet unprotected by legislation, but recognized by the national and/or international scientific and conservation communities, often in collaboration with the United Nations, as exceptionally endangered ecosystems, known sites of rare or endangered species, or important wildlife breeding, feeding, or staging areas. These include certain types of wildlands that are threatened throughout much of the world, yet are biologically unique, ecologically fragile, or of special importance for local people and environmental services. Wildlands of special concern often occur in tropical forests, Mediterranean-type brushlands, mangrove swamps, coastal marshes, estuaries, sea grass beds, coral reefs, small oceanic islands, and certain tropical freshwater lakes and riverine areas. Within the spectrum of tropical forests, lowland moist or wet forests are the most species-rich and often the most vulnerable. Wildlands
of special concern also occur in certain geographical regions (Annex 2) that have been reduced to comparatively small patches and continue to undergo rapid attrition. As a result, these regions harbor some of the most threatened species in the world.

The Bank’s Involvement to Date

Existing Record

9. During the last 15 years, the World Bank Group\(^4\) has assisted with financing of upwards of 40 projects with significant wildland management components. Most of them have involved establishment or strengthening of WMAs. Bank-supported WMAs include national parks, nature reserves, wildlife sanctuaries, and those forest reserves managed primarily for their watershed or biological values, rather than for wood harvest. Other wildland management components of Bank projects have involved management of wildlife and the humans that utilize it, including anti-poaching measures, management of water flows from reservoirs to maintain wildlife habitat, and relocation of certain species. In still other cases, the location of projects has been changed to avoid important wildland areas.

10. Wildland management components have two principal objectives: first, to prevent, minimize, or partially compensate for wildland elimination, thereby conserving biological diversity; second, to preserve or improve the environmental services provided by wildlands, thereby enhancing the project’s economic or social benefits. Most Bank-supported projects emphasize one or the other objective, however some Bank projects have wildland components seeking both objectives.\(^5\)

11. Costs of wildland management components in Bank projects have typically been low. They have normally accounted for less than three percent of total project costs, and in half of the cases for less than one percent. In many instances, it is difficult to separate

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4. Includes the International Development Association (IDA) and the International Finance Corporation (IFC).
5. For example, the establishment of the Dumoga-Bone National Park in the Indonesia Irrigation XV project helps ensure a more reliable water supply while reducing sedimentation of valuable irrigation works; at the same time, it helps ensure that a significant portion of the project area remains in its natural state, despite surrounding developments.
out the cost of the wildland component because of its integration with other components.

12. In one case, wildland management was the sole objective, so accounts for 100 percent of project costs. At the other extreme, a large number of Bank projects have achieved significant wildland management objectives at zero additional cost. For example, manipulation of a hydroelectric project's water release schedule costs little or nothing, even though it provides major downstream benefits for wildlife, as well as for people and cattle.

13. Wildland management components require additional Bank staff time and can increase project complexity, but they have rarely caused significant delays at any stage of the project cycle. Moreover, the failure to incorporate adequate wildland components can result in much greater delays and complexity later on. Furthermore, the failure to incorporate adequate wildland components can substantially reduce project benefits and might result in project failure. As wildland management components within Bank-supported projects become more routine, the additional staff effort required to manage them successfully is expected to decrease further.

14. The Bank's track record in implementing wildland management components is encouraging. According to project completion reports or environmental post-audits, implementation of only three out of 43 wildland components has been markedly slower than for most other project components. In at least four cases, the wildland component has been implemented with less difficulty than other project components.

Lessons Learned

15 A number of important lessons have emerged from the Bank's experience with wildland management to date. First, wildland management components should be routinely and systematically incorporated into certain types of Bank projects (outlined in Section 4.1). Up to now, this has not always been done, and some projects which would have benefitted from wildland components have not included them.

16. Second, wildland components should be incorporated as early as possible within the project cycle (Annex 3) to minimize costs and facilitate implementation. While inclusion of wildland components
in later stages of the project cycle may at times be necessary because of unforeseen circumstances, it is more effective and less costly to incorporate them as early as possible in the project cycle.

17. Third, meeting wildland management goals requires effective management "on the ground," not simply on paper. Colonists and resource extractive companies have rapidly moved into such "paper parks" (parks existing only on a legal document or map, rather than on the ground) unless they were inaccessible for other reasons. The wildland management objectives have to be translated into specific measures with a budget for their implementation. These measures include hiring and training of personnel, provision of necessary infrastructure and equipment, development of a scientifically sound management plan for each particular wildland, and a policy environment—legal, economic and institutional—which supports the wildland preservation objective. The mere declaration of intent to protect wildlands or wildlife, or even the designation of WMAs on a map, does not ensure effective management unless specific supporting measures are implemented.

18. Fourth, the multiple objectives of wildland management are most successfully attained if the WMA is carefully designed. For example, a WMA cannot preserve biological and genetic diversity, evolutionary processes, and environmental services if it is too small. While some Bank-supported WMAs clearly appear sufficiently large to accomplish most or all of their objectives, others are so small that their ability to conserve biological diversity or provide environmental services or other benefits is questionable. Besides size, the specific location and shape of a WMA can be important factors in determining its success. Appropriate WMA design features are best determined for each case by a conservation specialist.

19. Finally, the success of a WMA, as of other project components, is contingent upon government commitment. This, in turn, often depends upon the degree of financial support provided by the Bank. Most of the Bank-supported wildland components have provided some direct support to establishing or strengthening WMAs. However, in some cases, the costs of the WMA establishment were assumed entirely by the Government, and the Bank took no specific measures to ensure the continued availability of such financing. By taking measures to ensure counterpart financing, or by providing the financing itself, the Bank can help ensure the availability of the relatively modest sums necessary for WMA establishment and continuation.
20. Financial support is usually not sufficient, however. It is often also necessary to maintain dialogue with governments, affected local people, and environmental advocates about the importance of conservation and the benefits of WMAs (tourism, watershed protection, etc.) and to include local people in the planning and benefits. Government commitment to the WMA is fostered by such dialogue, by supervision, by monitoring of national legal provisions, and by loan conditionality. In addition, two complementary and parallel activities contribute to WMA success: (1) rural development investments that provide farmers and villagers in the vicinity of the WMA an alternative to further encroachment, and (2) coherent national and sectoral planning and policies that promote wildland conservation.

Policy Guidance

21. The Bank's general policy regarding wildlands is to seek to avoid their elimination and rather to assist in their preservation. Specifically, (1) the Bank normally declines to finance projects involving conversion of wildlands of special concern (as defined in Section 2.3), even if this conversion occurred prior to the Bank being invited to consider financing. (2) When wildlands other than those of special concern may become involved, the Bank prefers to site projects on lands already converted (e.g., logged over, abandoned, degraded, or already cultivated areas) sometime in the past, rather than in anticipation of a Bank project. Deviations from this policy must be explicitly justified. (3) Where development of wildlands is justified, then less valuable wildlands should be converted rather than more valuable ones. (4) When significant conversion (e.g., 100 sq. kms., or a significant proportion of the remaining wildland area of a specific ecosystem, if smaller) of wildlands is justified, the loss should be compensated by inclusion of wildland management components (see Section 4.2 below) in the project concerned, rather than in some future project. This component should directly support preservation of an ecologically similar area. This policy pertains to any project in

6. The policy in the 1978 Forestry Sector Policy Paper states "...in countries where there are no adequate natural resources conservation programs, the Bank will not support projects that might result in disintegration of a habitat not elsewhere represented in the country and not under suitable protection (as in national parks and wildlife reserves)."
The success of projects that do not eliminate any wildland often depends on the environmental services provided by wildlands. In such cases, the Bank's policy is to include a project component to conserve the relevant wildland in a WMA, rather than leaving its preservation to chance. In areas without remaining wildlands, alternative conservation measures may be needed to provide similar project benefits. In other cases, where the wildlands do not directly benefit or serve the objectives of the project, the project may be improved by supporting management of wildlands to provide socioeconomic benefits in the general project area (see paragraph 6). Projects with wildland management as the sole objective should also be encouraged.

Types of Projects Needing Wildland Management Components

23. Based upon these criteria, projects with the following aspects should normally contain wildland components:

   a. *Agriculture and livestock projects* involving: wildland clearing, wetland elimination, wildland inundation for irrigation storage reservoirs; watershed protection for irrigation; displacement of wildlife by fences or domestic livestock; *fishery* projects involving: elimination of important fish nursery, breeding, or feeding sites; overfishing or introduction of ecologically risky exotic species within aquatic wildlands; *forestry projects* involving: access roads, clear-felling or other intensive logging of wildlands, wildland eliminations.

   b. *Transportation projects* involving: construction of highways, rural roads, railways, or canals which penetrate wildlands, thus easing access and facilitating spontaneous

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7. Wetlands (such as ponds, marshes, swamps, floodplain forests, estuaries, mangroves) can be eliminated inadvertently through water diversions upstream or deliberately through drainage, diking, or filling.

8. Plantations of fast-growing tree species are often an important complement to more direct wildland management activities by reducing the economic pressures for cutting the remaining forest wildland. They should be sited preferentially on already deforested land. Reforestation and land rehabilitation are covered in the 1978 Forestry Sector Policy Paper.
settlement; channelization of rivers for fluvial navigation; dredging and filling of coastal wetlands for ports projects.

c. **Hydro projects** involving: large-scale water development, including reservoir, power, and water diversion schemes; inundation or other major transformation of aquatic or terrestrial wildlands; watershed protection for enhanced power output; constriction of power transmission corridors.  
d. **Industry projects** involving: chemical and thermal pollution which may damage wildlands; wildland loss from large-scale mining; wildland conversion for industrial fuels or feedstocks.

Types of Wildland Management Components

24. The most effective type of wildland management component is support for the conservation of ecologically similar wildlands in one or more WMAs. In cases where a WMA already exists in the same type of ecosystem that is to be converted by a Bank-supported project, it may be preferable, for administrative or biological conservation reasons, to enlarge the existing WMA, rather than to establish a new one. The government's wildland agencies, local university wildlife departments, and various international organizations can often advise in such judgements.

25. A wildland management component could also involve the creation of wildlife habitat, in addition to or rather than preservation of already existing habitat. For example, marginal land on the fringes of irrigation projects could be converted to wildlife reserves by taking advantage of the water supply created by the projects. Natural depressions or seasonal swamps could be exploited by diverting water from the canal systems (probably a very small part of the total supply). Such reserves attract significant numbers of migratory and residential waterfowl with minimal additional project costs and land.

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9. Industrial pollution control is discussed in the Bank's Environmental Guidelines available from PPDES.
10. See Section 5 for technical guidance on establishing a WMA.
11. Biological conservation is usually more effective in one large WMA than in several small ones comprising the same total size and encompassing the same types of natural habitats.
12. The Wildfowl Trust, Slimbridge, England, has set up such reserves on 5–8 sq. km.
26. A useful option is to improve the quality of management of existing WMAs. Many WMAs in Bank member countries receive insufficient on-the-ground management, due to lack of adequately paid staff, training, staff housing, other infrastructure, equipment, spare parts, fuel, or a well-developed management plan through which efficient resource allocation decisions can be made. Small components can often help correct these deficiencies. In countries where effective management is clearly lacking, it is generally preferable to improve the management of existing WMAs than to create new units “on paper”, thereby further overextending the limited capabilities of the responsible agencies. Whenever a new WMA is established as a project component, provisions are needed to ensure effective management. Since many wildland agencies (e.g., departments of national parks or wildlife) are not as operationally effective as necessary, institutional strengthening (particularly support for training) should be an important element of Bank-supported wildland management components.

27. The establishment or strengthening of WMAs is particularly effective when the Government includes these wildland areas in a national conservation or land use plan. A growing number of Bank member governments have undertaken some type of systematic land use planning for wildland management. Such planning can take various forms, ranging from “master plans” for a system of national parks and other WMAS, to “National Conservation Strategies” which address wildland management as only one component of a broad range of natural resource planning concerns, and in which policy intervention such as economic incentives are used to influence resource utilization. Bank assistance with such planning efforts greatly strengthens wildland management at the national level. When member governments agree to develop appropriate land use plans, it is important for the Bank to refrain from supporting projects which involve eliminating wildlands and run counter to these plans.

28. In those relatively few Borrower countries in which wildland elimination pressures are still minor, the requirement of a com-

13. Wildland elimination pressures may still be minor because of low human population densities and growth rates, little economic demand for agricultural land, timber, or other resources, or because a substantial proportion of each remaining wildland ecosystem in a country has been set aside in WMAs which receive good on-the-ground protection and have strong policy support from the Government.
pensatory wildland component can be interpreted more flexibly to involve measures other than the establishment or strengthening of one or more WMAS. Such alternative options include careful project siting to avoid converting the more environmentally sensitive wildlands, support for research on and management of particularly sensitive species, support for land use planning efforts, or institutional strengthening of the government's wildland management agency, and training in ecology, biological conservation, and wildland management.

**Design of Wildland Management Areas**

**Design Considerations**

29. WMA design features include size, shape, and siting. Because an optimal design may vary greatly in different ecosystems, it is best determined in each case by a conservation specialist.

30. The size of a compensatory WMA should be sufficient to maintain the biological diversity or other important values present in the area to be converted. A WMA which is large enough to encompass a viable population of the largest local predator (e.g., eagle, tiger), or the seasonal territories and migration routes of the largest local herbivore, will most likely preserve all other pertinent ecological values. These objectives would most likely be achieved in a WMA larger than 1,000 sq. kIns. Many values are conserved in moist forest WMAs of 500 sq. kIns. although possibly not all in perpetuity. Interim WMAs of less than 100 sq. kIns. can be useful short-term expedients for subsequent expansion into surrounding degraded areas. In general, the larger the WMA, the greater the number of ecological interdependencies and gene pools that will be preserved. Both are necessary to a healthy and self-perpetuating ecosystem. It is recognized that conflicting pressures for more intensive land use often make the establishment of large WMAs difficult. In any case, compensatory WMAs should be no smaller than the wildland area converted by the project.

31. The optimal shape of a WMA will depend upon its objectives. A more circular shape may preserve more biological diversity than other shapes of the same area. Shape is also determined by the location of centers of endemism and other wildlife resources.
Boundaries are more effective when they coincide with natural surficial features, such as a river or watershed.

32. To ensure that the compensatory WMA is ecologically similar to the area to be converted, it is obviously necessary to site the WMA in the same ecosystem as the area to be converted. Moreover, siting the WMA some distance away from the converted area (separated by a managed buffer zone for example) helps reduce pressures for encroachment upon the WMA from people living in the converted area.

Management Categories

33. A variety of different use related categories can be used in establishing WMAs. The choice of category depends upon the particular objectives being accorded priority for management. The categories listed in Annex 1 indicate the variety of WMAs appropriate under different circumstances.

Personnel and Training Needs

34. The need for well-trained personnel in the proper management of WMAs cannot be overemphasized. Without adequate numbers of such trained people, WMAs cannot effectively serve their intended national or societal functions. Bank-supported wildland project components should therefore provide for staffing levels and training activities that ensure competent management of WMAs. The appropriate number and types of WMA personnel depend upon the category of WMA, its size, and its intensity of management. The minimum adequate permanent staff size for a "modest to average" WMA is usually about eight.

Equipment, Infrastructure, and Budgetary Needs

35. Designation of WMAs on a map in no way ensures that they will be managed to provide their greatest possible benefits to society. Effective on-the-ground management requires a variety of physical inputs. In Bank-supported WMAs, efforts should be made to ensure that these inputs are provided as a project component in adequate supply and on a timely basis. Annex 4 contains a basic checklist of the physical inputs that are typically needed for effective WMA management. Some types of WMAs will require a variety of additional inputs, according to specific management objectives.
36. The budgetary requirements for establishing and operating WMAs will vary according to size and the amounts of needed infrastructure, equipment, and personnel. The comparatively large (3,200 sq. kms.) Dumoga-Bone National Park, financed by the Indonesia Irrigation XV Project, cost roughly US$1 million for establishment and initial operating costs; most smaller WMAs can be expected to cost considerably less.

37. In some instances, establishment or enlargement of WMAs may require additional funds for purchasing land from private or tribal owners. It may at times also be necessary to resettle and compensate people living within the boundaries of a newly-established WMA. Usually, however, WMAs are established on wholly government-owned properties on which people have not settled.

38. The largest recurrent cost of WMAs is usually staff salaries. It is important to maintain salaries at levels that encourage high productivity and a degree of permanence, and discourage corruption. Spare parts for machinery, while usually a relatively small budget item, are also a vital recurrent expenditure. Without a reliable supply of spare parts for often remote WMA areas, necessary equipment will often lie idle or may become cannibalized to provide spare parts. In some cases, salaries, spare parts, fuel, and other recurrent costs can be fully or partly met by fees collected from tourists, persons engaged in some form of harvesting, or scientific researchers. Otherwise, small annual outlays from the national or other government budget will be needed.

14. See OMS 2.33 for guidelines regarding involuntary resettlement and OHS 2.34 for guidelines regarding tribal people in Bank-financed projects. In many cases, indigenous hunter-gatherer societies are as much a part of the "natural" environment as the wildlife, and can safely remain in the park as caretakers as long as traditional ways of life are continued.

15. High productivity also depends upon these important components: 1) environmental education for an understanding of the importance of the WMA; 2) pride in the WMA and the role of those who protect and support it; and 3) self-interest through some direct accrual of benefits of the WMA (aesthetic, recreational, moral, etc., as well as economic).

16. The proportion of recurrent costs that can be recovered in this manner varies greatly in different WMAs, from 0 to 100 percent.
Management Plans

39. Wildland management areas typically need well-developed management plans to ensure efficient allocation of the scarce financial and skilled human resources devoted to their management. A management plan is a written document which guides and controls the use of the resources of a WMA and directs the design of subsequent programs of management and development. A thorough management plan will:

(a) Describe the physical, biological, social, and cultural features of the WMA within a national, regional, and local context;
(b) Identify those items of particular concern from which the objectives for managing specific areas of the WMA are derived;
(c) Describe appropriate uses of the entire WMA through zoning; and
(d) List in chronological order the activities to be carried out to realize the proposed management programs.

40. Preparation and implementation of management plans are carried out by the government wildland agency. Project staff should ensure that Bank-supported WMAs either have adequate management plans or will develop them early in the project. Some parts of a management plan can be completed in a few days, while others may take years to refine. While a longer-term management plan is being developed as soon as possible after loan signing, an “interim management plan” or “operational plan” may be used. PPDES can be of assistance in these matters.

Legal Considerations

41. The success of a WMA may depend upon how its design fits into an overall national legal framework concerning natural resources management in general and wildland management in particular. To maintain their legitimacy in the eyes of policy-makers and local populations, WMAs must have a firm legal foundation. National legislation, sometimes accompanied by a specific Presidential designation, is often needed to establish a WMA. Depending upon the particular situation, such legislation needs to establish precise WMA boundaries; specific management zones within the WMA, including buffer zones; a central management authority (at the
national or sub-national level) with unambiguous responsibilities; and a mechanism to channel local participation in WMA management decisions. Bank staff should ensure that Bank-supported WMAs are established and managed within a compatible legal and policy context.
Categories of Wildland Management

1. *Scientific or Strict Nature Reserves* represent the most restrictive WMA category, intended to maintain representative samples of natural ecosystems in an undisturbed state for scientific research, environmental monitoring, education, and preservation of biological diversity. Tourism, recreation, and most other human uses are usually not permitted.

2. *National Parks* are usually relatively large areas where native plant and animal species (and often outstanding geological or other scenic features) are of special interest. Controlled tourism and scientific research are permitted; more intensive human uses usually are not.

3. *Natural Monuments* are often smaller WMAs intended to protect highly localized species, ecosystems, or geological formations. Tourism and scientific research are permitted to the extent that they are compatible with preservation of the unique natural features.

4. *Managed Nature Reserves* or *Wildlife Sanctuaries* protect rare plant or animal species, or large concentrations of resident or migratory wildlife. Manipulation of vegetation and other intensive management may be done to improve the habitat for species of special concern. Tourism, research, and occasionally limited livestock grazing or fuelwood collection are permitted, when these activities are compatible with wildlife management objectives.

17. Recognizing that different countries use different names for various types of WMAs, the standardized system of WMA nomenclature developed by the International Union for Conservation of Nature and Natural Resources (IUCN) is used here to facilitate comparisons and reduce confusion.
5. *Tribal Peoples Reserves* are relatively unmodified natural areas in which indigenous tribal peoples or vulnerable ethnic minorities (see OMS 2.34) continue to practice traditional, low-intensity forms of land use such as hunting and gathering or nomadic pastoralism. Settlement or potentially disruptive resource utilization by outsiders is not permitted.

6. *Protected Landscapes* are areas which have often been significantly modified by people, but which still contain important wildland resources. Traditional land uses, including fishing, grazing, and some agriculture, are often permitted to accommodate the needs and interests of local populations. Land use control is often at the local government level.

7. *Resource Reserves* are “interim” WMAs. They are typically fairly extensive areas which are not yet heavily settled, but which may be under relatively recent pressure-for colonization, timber or mineral extraction, or other intensive uses. This WMA category is designed to restrict such uses until a land use plan or other management guide is issued to channel further development in an environmentally suitable manner.

8. *Multiple Use Management Areas* are intended to allow sustainable production of such economic goods as water for downstream uses; timber (obtained through low-intensity logging); fuelwood; wild fruits, herbs, gums, or other plant products; wildlife; fish; grazing; and outdoor recreation. Included in this category are most "forest reserves" and "protection forests," including those established largely for watershed catchment protection. Within these WMAs, management is primarily oriented to the sustaining of these economic activities, although special zones may also be designated within these areas to achieve more specific conservation objectives, such as preservation of biological diversity. These WMAs are generally large and capable of sustaining these types of economic activities without degradation or elimination of the wildland resource. Generally, these wildland areas do not possess nationally unique or exceptional natural features.
Some Tropical Wildlands of Special Concern

EASTERN AFRICA

1. Madagascar: significant proportions of the northern and eastern moist forests.
2. Ethiopia: much of the remaining highland forest.
3. Tanzania: Usambara, Pare, and Uluguru Mountains.
4. Rwanda: mountain forests along the Zaire and Uganda borders.

WESTERN AFRICA

6. Cameroon: particularly Cameroon Mountain and the moist forested area extending into Gabon, and to the vicinity of the Cross River in southeastern Nigeria, including the Oban Hills.
7. Ivory Coast: southwestern forests (including the Tai forest), and adjacent parts of Liberia and Sierra Leone.

EAST ASIA AND PACIFIC

8. The Malay Peninsula (including parts of Thailand): Lowland forests, especially along the northwestern and eastern coasts.
9. Indonesia: much of the remaining lowland forests of Kalimantan, Sumatra, Sulawesi (especially the two southern peninsulas), and many smaller islands (e.g., Siberut).
10. Philippines: much lowland forest on all larger islands.

18. This list is by no means to be interpreted as comprehensive.
SOUTH ASIA

11. Sri Lanka: the coastal hills of the southwest and the Sinharaja forest of the "wet zone."
12. India: most of the forests remaining on the Western Ghats.

LATIN AMERICA AND CARIBBEAN

15. Mexico: Lacandou forest in Chiapas.
17. Panama: Darien province.
18. Colombia: the Choco region adjacent to Darien province.
19. Brazil: coastal forests of the "Cocoa Region" in the southeastern extension of Bahia between the coast and 41030' W longitude, and between 130' and 18015'S latitude, and an outlier near Linhares, Espiritu Santo.
20. Brazil: parts of the eastern and southern Amazon region.

TROPICAL AQUATIC AREAS

1. Amazon River and associated wetlands (including varzea forests) (Brazil, Peru, Colombia, Ecuador, and Bolivia.)
2. Orinoco River and Delta (Venezuela and Colombia).
4. Musi River (Sumatra, Indonesia).
5. Lake Malawi (Malawi), and other Rift Valley Lakes.
6. Lake Toba (Sumatra, Indonesia).
7. Sudd Swamp (Sudan)
8. Pantanal Swamp (Mato Grosso, Brazil).
9. Lake Atitlan (Guatemala).
The Project Cycle

Responsibility for implementing wildland management projects or components rests primarily with regional operations staff, with advice and operational support provided by PPDES, as detailed for all environmental work in OMS 2.36. At identification, projects being considered are reviewed by regional staff in conjunction with PPDES to identify, as early as possible, the need to avoid converting a wildland tract or to preserve such a tract as part of the project. To determine whether a proposed project will develop or be in close proximity to environmentally important wildlands, Bank staff can consult those government agencies with jurisdiction over wildland management authority. PPDES maintains contacts with such agencies and will assist upon request. Additional sources of information on ecologically important wildlands are computerized data bases maintained by some non-governmental organizations (NGOs) and several published directories, available from PPDES. In this manner, it will often be possible to learn quickly whether a proposed project site contains existing or proposed WMAs; known endangered species; major wildlife or fish breeding, feeding, or staging areas; important watershed catchments; or living resources of major importance to local people. If none of these mechanisms reveal the existence of ecologically important wildlands in the project area, a brief pre-project field survey is necessary since many important wildlands are not yet identified. This field survey should be undertaken by relevant specialists from the government’s environmental ministry, wildlife agency, national university, or similar institution. This brief survey indicates the nature and extent of impacts on critical wildlands that would result from the implementation of the project and puts the information in a national context. The results should be recorded on the form provided in Annex 5.

During preparation, project staff (or their consultants) may assist the Borrower or project sponsor in carrying out the necessary environmental studies, including those pertaining to wildlands. PPDES can recommend consultants or other experts who can identify...
important wildland areas, carry out necessary field surveys, or help
design appropriate wildland management project components. At
the completion of any necessary studies, the Project Brief (see OMS
2.13) should highlight whether the project involves the conversion
or disintegration of a relatively unmodified ecosystem and include
alternative suggestions for achieving the goals of the government. If
conversion is justified, the Brief should outline why, together with
the wildland management components needed.

As part of appraisal, project staff assess the planned wildland
management and other environmental measures, as specified by
OMS 2.20. The Staff Appraisal Report specifically describes any
planned wildland management measures, including budgets and
agency responsibilities. While PPDES is available for consultation
and assistance at any stage of the project cycle, it is also responsible
for reviewing projects at the Yellow Cover stage (see OMS 2.00). In
addition to the Staff Appraisal Report, the President's Report (see
OMS 3.02) also notes any significant environmental—including
wildland management—issues and mitigatory measures. Once wild-
land measures are identified as necessary, timely action should be
ensured by conditionality such as loan effectiveness or disburse-
ment. Since wildland management must be done in perpetuity to be
effective, the loan agreement should specify long-term measures
which the Borrower has agreed to implement.

Supervision missions should routinely review implementation of
the wildland component with the Borrower. Such aspects are han-
dled as for environmental issues in general (see OMS 2.36). Imple-
mentation of important wildland components should, as a general
principle, be well underway before a project's major land clearing
or construction works are allowed to proceed.
Physical Inputs Required in Most Wildland Management Areas

a. Headquarters building and guard posts at entry points.
b. Staff housing.
c. Visitor information center, including educational and interpretive exhibits where appropriate.
d. Research facilities, including laboratory and housing for scientists.
e. Roads and trails (amount will vary according to intensity of management desired).
f. Fencing and signs, adequate to ensure proper demarcation and to control access.
g. Communications, internal and external to the WMA: radio, walkie-talkies, mail, and telephone (where appropriate).
h. Electricity, gas, or other energy systems.
i. Sewage and waste systems.
j. Four-wheel drive, motor bikes, or other vehicles.
k. Boats, outboard motors, and docking facilities, where needed.
l. Appropriate tools, maintenance equipment, and spare parts.
m. Fuel.
n. Management-oriented publications: maps, species lists, pamphlets for visitors, etc.
Wildland Survey and Management Form\textsuperscript{19}

(Sample only)

Name of Project:

Expected Appraisal (or other) Date:

Date of this Survey:

Surveyor:

Affiliation:

Methodology(ies) (circle one):
- Site inspection / Library research / Both
- Other(specify)

1. Specific subcategory(ies) of ecosystem that proposed project will affect: (e.g., tropical semi-evergreen moist forest, salt-marsh, wet savanna)

\textsuperscript{19} This type of information is expected as part of identification, and can be used for the project brief. This form can be completed by the government's environmental ministry or wildlife agency, or by the project pre-feasibility team's wildlands specialist.
2. Important environmental and biological features of ecosystems: (e.g., water catchment area for large agricultural valley and habitat for the endangered mountain gorilla)

3. Projected general impact type on ecosystems of proposed project: (e.g., deforestation, flooding, draining)

4. Proportion (%) of the region’s remaining ecosystems (as in #1 above) to be converted (and/or impacted, if different): (e.g., This project will flood about 10% of this country’s remaining lowland riparian swamp forest.)

5. Estimated annual rates of attrition of affected ecosystems in this country and historical trend of this rate: e.g., The current annual rate of attrition of [semi-montane forest] is 3% a year. This rate was 0.5% in 1975 and 1% in 1980.)

Maps and more complete reports used or available can be appended or cited.
Operational Policy Notes No. 11.03: Management of Cultural Property in Bank-Financed Projects

Introduction

1. The United Nations term "cultural property" includes sites having archeological (prehistoric), paleontological, historical, religious, and unique natural values. Cultural property, therefore, encompasses both remains left by previous human inhabitants (for example, middens, shrines, and battlegrounds) and unique natural environmental features such as canyons and waterfalls. The rapid loss of cultural property in many countries is irreversible and often unnecessary. Detailed background information on all aspects of this note are contained in the technical paper of the same title, available from the Office of Environmental and Scientific Affairs, Projects Policy Department, which is ready to provide assistance on request.

Policy Guidance

2. The World Bank's general policy regarding cultural properties is to assist in their preservation, and to seek to avoid their elimination. Specifically:
   (a) The Bank normally declines to finance projects that will significantly damage non-replicable cultural property, and will assist only those projects that are sited or designed so as to prevent such damage.
   (b) The Bank will assist in the protection and enhancement of cultural properties encountered in Bank-financed projects, rather than leaving that protection to chance. In some
cases, the project is best relocated in order that sites and structures can be preserved, studied, and restored intact in situ. In other cases, structures can be relocated, preserved, studied, and restored on alternate sites. Often, scientific study, selective salvage, and museum preservation before destruction is all that is necessary. Most such projects should include the training and strengthening of institutions entrusted with safeguarding a nation's cultural patrimony. Such activities should be directly included in the scope of the project, rather than being postponed for some possible future action, and the costs are to be internalized in computing overall project costs.

(c) Deviations from this policy may be justified only where expected project benefits are great, and the loss of or damage to cultural property is judged by competent authorities to be unavoidable, minor, or otherwise acceptable. Specific details of the justification should be discussed in project documents.

(d) This policy pertains to any project in which the Bank is involved, irrespective of whether the Bank is itself financing the part of the project that may affect cultural property.

Procedural Guidance

3. The management of cultural property of a country is the responsibility of the government. Before proceeding with a project, however, which prima facie entails the risk of damaging cultural property (e.g., any project that includes large scale excavations, movement of earth, surficial environmental changes or demolition), Bank staff must (1) determine what is known about the cultural property aspects of the proposed project site. The government's attention should be drawn specifically to that aspect and appropriate agencies, NGOs or university departments should be consulted. (2) If there is any question of cultural property in the area, a brief reconnaissance survey should be undertaken in the field by a specialist. Procedures to be followed upon positive surveys are detailed in Chapter 6 of the technical paper.
Notes

a. The World Bank includes the International Bank for Reconstruction and Development (IBRD), the International Development Association (IDA) and the International Finance Corporation (IFC).

b. A survey form is attached to the technical paper.

September 1986
Operational Policies 4.07: Water Resources Management

1. Bank involvement in water resources management entails support for providing potable water, sanitation facilities, flood control, and water for productive activities in a manner that is economically viable, environmentally sustainable, and socially equitable.

2. The Bank assists borrowers in the following priority areas:

   (a) Developing a comprehensive framework for designing water resource investments, policies, and institutions. Within this framework, when the borrower develops and allocates water resources, it considers cross-sectoral impacts in a regional setting (e.g., a river basin).

   (b) Adopting pricing and incentive policies that achieve cost recovery, water conservation, and better allocation of water resources.

   (c) Decentralizing water service delivery, involving users in planning and managing water projects, and encouraging stakeholders to contribute to policy formulation. The Bank recognizes that a variety of organizations—private firms, financially autonomous entities, and community organizations—may contribute to decentralizing water delivery functions. Thus it supports projects that introduce different forms of decentralized management, focusing on the division of responsibilities among the public and private entities involved.

   (d) Restoring and preserving aquatic ecosystems and guarding against overexploitation of groundwater resources, giving priority to the provision of adequate water and sanitation services for the poor.

1. "Bank" includes IDA, and "loans" includes credits.
(e) Avoiding the waterlogging and salinity problems associated with irrigation investments by (i) monitoring water tables and implementing drainage networks where necessary, and (ii) adopting best management practices to control water pollution.

(f) Establishing strong legal and regulatory frameworks to ensure that social concerns are met, environmental resources are protected, and monopoly pricing is prevented. The Bank requires legislation or other appropriate arrangements to establish effective coordination and allocation procedures for interstate water resources.

These issues are discussed in the project documents.

3. Individual water lending operations are explicitly linked to the country's priorities for reform and investment and to the Bank's program of support.

4. If inadequate progress by borrowers in these priority areas leads to serious resource misuse and hampers the viability of water-related investments, Bank lending is limited to operations that provide potable water for poor households or conserve water and protect its quality without additionally drawing on a country's water resources.

Central Projects Note No. 2.10
Irrigation Water Charges,
Benefit Taxes and Cost
Recovery Policies

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Irrigation Water Charges, Benefit Taxes and Cost Recovery Policies

Introduction

1. Irrigation water is not a free good and is becoming an increasingly costly input for raising agricultural output. The development costs and recurrent costs of operation and maintenance (O&M) of irrigation projects tend to be high, on a per hectare or per project beneficiary basis, compared with many other forms of agricultural investment and other agricultural inputs. Hence the charges made for irrigation water in relation to the investment and O&M costs to the public sector of supplying water is an important issue in the formulation and operation of irrigation projects and the irrigation components of rural development or other multi-purpose projects.

2. Three basic objectives are involved:

(a) economic efficiency—the extent to which scarce water resources are optimally allocated among different uses;

(b) income distribution—the manner in which the benefits flowing from irrigation are shared among project beneficiaries; and

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1. The principles set forth in this CPN apply equally to kindred projects, such as drainage, flood control, settlement and other kinds of land development projects. Indeed, they have general application to all kinds of public sector projects. See World Bank Staff Working Paper No. 206: Cost Recovery Policies in Public Sector Projects; by Anandarup Ray, and Operational Manual Statement No. 2.25: “Cost Recovery Policies for Public Sector Projects: General Aspects”.

(c) public savings—the extent to which government captures part of the increased net benefits for funding future investment in agriculture and elsewhere.

3. The analysis and treatment of the above issues, therefore, are significant aspects of project appraisal, and advising on programs for the imposition and collection of charges/taxes that reflect reasonable economic efficiency, income distribution and public savings objectives is an important and often difficult and controversial ingredient of project design, preparation and appraisal, loan negotiation and project supervision. Within the Borrower's country changing water charges can be a complex and politically sensitive process, and often involves the need to change laws and customs. Bank recommendations on these matters must be based on sound principles and be adapted to the particular circumstances of each country and project. It is the purpose of this memorandum to provide an appropriate framework for determining Bank recommendations in this regard.

Principles

Economic Efficiency

4. The first of the principal issues requiring analysis is concerned with the level and structure of the prices to be charged for supplying the irrigation water input so as to minimize waste and to allocate it optimally or, to put it another way, to maximize the project's net benefit to the economy. How feasible is it to charge such "economic efficiency" prices? True efficiency pricing is rarely encountered in existing irrigation projects, since it normally requires accurate measuring of supplies by metering the volume of water delivered (or close volumetric estimates) plus a sales mechanism to obtain market-clearing prices for the water. There are both technical and political problems in meeting such requirements. However, even a nominal price for water would offer users an incentive to eliminate at least some of the conspicuous waste and overwatering that often results in drainage and salinization problems which occur when water is treated as a free good. Volumetric pricing of water, whether through the actual installation of meters or through other means of estimating water allocation, are used in several countries, such as Israel, Morocco and the United States. It is desirable, therefore, to investigate seriously the possibilities of pricing based on
volume metering (or approximations thereto) in Bank-supported irrigation projects, rather than automatically to rule out such possibilities.

5. Even if it were possible to charge economic efficiency prices, such prices may not be compatible with income distribution and public savings/investment goals. Hence other methods of assessing charges may also have to be considered to ensure an equitable income impact of the project and an adequate recovery of project costs, with charges that are within the capacity of beneficiaries to pay and leave them with adequate incentives to participate. Some recovery of benefits and costs will normally result from existing general taxes, say, an export tax, or income tax. But this recovery is not geared to the circumstances of the particular project and is often unsatisfactory from the point of view of either income distribution or public savings. Moreover, capturing a larger part of the benefits and recovering more of the costs of a project through an increase in general taxation impinges also on those who do not directly benefit from the project, or vice versa. Changes in general taxation should be decided on broader fiscal grounds, and not just in the context of the particular project. Hence any recovery of costs and benefits considered necessary beyond those through efficiency pricing, if any, or existing general taxes should be selective and affect as much as possible the project beneficiaries only. Such measures are here designated as “benefit taxes.”

Income Distribution

6. Specific taxes designed to capture part of the benefits of a project should take into account the ability of project beneficiaries to pay such taxes. This means that benefit taxes should allow for differences in net benefits generated by the project as well as for differences in income levels: in short, benefit taxes should be progressive, while taking into account disincentives, tax evasion and problems of cost collection; these will be discussed later.

7. To serve as an indicator of benefits received, the increase in income induced by the project clearly must be net of a number of factors. Instead of income we use then the concepts of “project rent,” the “rent of individual farmers” and the “rent of income groups.” Rent, in this context, is defined as follows: we start with the incremental gross value of farm production, and to arrive at
"rent" we deduct the value of all incremental cash payments, incremental depreciation of farm assets, the imputed values for incremental family labor and management, a return on incremental own capital, incremental general taxes, and an allowance for additional risk/uncertainty; incremental water charges or special benefit taxes related to the project are not deducted. In practice, estimates of rent can only be approximate, since several of these elements are difficult to determine.

8. Whether or not distribution weights are used in project appraisal, it is desirable to identify the target income group, preferably classified into a number of sub-groups. One such classification uses the critical consumption level (CCL) as the reference point, with the CCL being defined as the (consumption) level at which the social value of a unit of extra consumption equals the social value of a unit of extra public revenue. In principle, those who remain below the CCL are judged to be so poor that no additional tax burden should be imposed on them, while those who remain above the CCL should be taxed progressively by a proportion of their incremental rent. The CCL varies considerably from country to country: a rough guide, it is likely to range between two-thirds and one-third of the national average level of income. Some guidance with respect to the likely level of the CCL may be given by the "absolute poverty level" for which estimates are available under the "Project Information Brief" (PIB) system for agriculture and rural development projects; the absolute poverty level refers to a "basic needs level of income/consumption" that takes into account minimum nutritional and non-food (clothing, shelter, etc.) needs. While this need not necessarily be the level at which governments regard a unit of extra consumption as having the same social value as a unit of additional public revenue, such estimates of absolute poverty may be an important consideration in determining the CCL.

Public Savings

9. Most governments in developing countries are short of fiscal resources for development, and such resources are therefore at a premium by comparison with additional consumption, at least that of relatively more affluent citizens. Consequently, it may be desirable for the government to collect more revenues than would result solely from efficiency pricing (which, in any case, is frequently impractical). This would help make projects financially self support-
ing and enable governments to undertake additional rural development projects that would reach a larger number of the rural poor. On the other hand, as suggested in the previous paragraph, the project beneficiaries may be so poor, i.e. below the CCL, that it would be undesirable to recover costs greater than would result from efficiency pricing of water, and it may be desirable to recover less. The trade-offs between these considerations will determine the appropriate level of cost recovery.

Policies and Guidelines

Policies

10. Bank policies for irrigation water charges and benefit taxes are based on the principles of economic efficiency, income distribution and public savings stated in Part II of this Paper.2 These policies are:

Sector-wide Setting

11. Benefit taxes and cost recovery policies for a particular project should be related to nationwide cost recovery policies in the irrigation sector, both to ensure consistency of principles and because in practice it is often difficult to change policies through a single project. Changes in these sector policies are often desirable and could be a topic for a special study, possibly funded in the project about to be financed, or could be included in the terms of reference of Economic and Agricultural Sector missions. The consistency referred to above does not mean uniformity of water charges or benefit taxes. Volumetric water charges should reflect marginal supply costs, which may differ from project to project and between different areas within countries, and benefit taxes should differentiate between income classes, preferably on a progressive basis (see para. 27).

Volumetric Pricing

12. To meet the goal of efficiency, volumetric pricing of water is desirable in all irrigation schemes, but is likely to be most easily

2. A further discussion of these principles and their application to irrigation projects is contained in World Bank Staff Working Paper No. 218, A Policy Framework for Irrigation Water Charges, by Paul Duane.
adopted in public tubewell and pumping schemes where deliveries are relatively easily metered. Where metering is too difficult or costly to allow volumetric pricing it may sometimes be feasible to use alternative charging schemes that have similar efficiency effects. However, unless such proxies for volumetric pricing, for example differential taxes on crop production related to the water consumption of the crops, are carefully constructed, they may induce distortions to cropping patterns and water use.

*Benefit Taxes*

13. Efficiency pricing of irrigation water is usually not feasible, and at any rate efficiency pricing, or some form of volumetric pricing, together with the effects of general taxation are unlikely to meet fully the other objectives of income distribution and public savings. It is then necessary to consider the possibility of levying a benefit tax. The most robust form of benefit tax is a land betterment tax spread over, say, the life of the project. As long as the tax base is an accurate measure of the benefits conveyed, which implies careful revaluation of land values at reasonably frequent intervals, it should meet the test of user acceptability. Land taxes offer scope for a progressive rate structure and thus achievement of distributional objectives.

*Selectivity of Benefit Taxes*

14. In order to achieve income distribution and public sector savings objectives, recovery policy in the context of a specific project should concentrate on selective benefit taxes that are to be paid by beneficiaries of the project and not by others. The effects of a project on revenues from general taxation should be taken into consideration, i.e. they are deducted in the computation of the available rent on which water charges and benefit taxes may be levied, but adjusting such general taxation to achieve the cost recovery objectives of a particular project is generally difficult as this involves much wider fiscal considerations.

*Progressivity of Taxes*

15. The level of benefit taxes should preferably incorporate a degree of progressivity, subject to the constraints of disincentives to work and tax evasion propensities. Thus, it may be desirable to charge very poor farmers, i.e. those with incomes below the Critical
Consumption Level (CCL) at a low rate, while those beneficiaries whose incomes are above the CCL might be taxed progressively up to the limit of their rent. Imparting a degree of progressivity into benefit taxes should tend to increase the level of cost recovery from that experienced in past Bank supported projects.

**Extent of Cost Recovery**

16. There is no *prima facie* reason why any particular share of costs, such as O&M costs, should normally be recovered. The most desirable level of recovery could exceed the total financial costs incurred by the government for a project if most of the beneficiaries have incomes well above the CCL; usually though there are economic, social or political reasons why full financial cost recovery has seldom been attained in irrigation projects. On the other hand, if all or most beneficiaries have levels of income below or near the CCL the desirable cost recovery may well be close to zero. It is for this reason that the level of O&M costs is a poor yardstick by which to measure the adequacy of water charges and benefit taxes. Nevertheless, it is important for irrigation authorities which are not autonomous and depend upon their governments for annual subventions, that these subventions be fully adequate to cover O&M costs and other financial obligations, if any, of the irrigation authorities. Where irrigation authorities are autonomous and do not receive annual budget subventions, it is important that they receive revenues from charges sufficient to cover not only O&M costs and other financial obligations but also as much of the costs of their justified future investments as is possible when farmers are charged an adequate proportion of their rent.

**Land Redistribution**

17. In some instances it may be desirable for the Bank and Borrower to consider the feasibility of land redistribution within command areas. To the extent that such redistribution is effected, the need for progressivity in benefit taxes would be reduced.

**Need for Grace Periods**

18. When establishing water charges and benefit taxes it is often desirable to include a grace period in the early project years, during

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3. See paragraph 8.
which project beneficiaries would be required to pay substantially less than at full development. A grace period of about five years is often appropriate, but a longer period may be justified in some cases. During the grace period a schedule of gradually increasing rates should be adopted.

19. The general approach given above is proposed as the basic rationale for the Bank's policy with respect to rent and cost recovery, although the relative emphasis given to the different aspects will vary in practice, depending on the circumstances in each country and of each project.

Guidelines

20. In implementing the above Bank policies, staff appraisal reports should always fully discuss the appropriateness of the proposed water charges and benefit taxes. The following are guidelines with respect to the design of benefit taxes, measures of cost and rent recovery, the norms of recovery and the presentation of these matters in staff appraisal reports.

**Design of Benefit Taxes**

21. The requirements for designing benefit taxes are:

   a. to identify the project beneficiaries and classify them into a number of income groups, using total farm incomes in the “with” project situation at full development;\(^4\)

   b. to estimate the distribution of the “rent” by these income groups; as defined earlier (para. 7), the “rent” accruing to an individual indicates the maximum amount he can pay and still benefit from the project;

   c. to design a benefit tax system which, as discussed in paras. 13–15, is selective, progressive, and acceptable to the beneficiaries, taking into account administrative problems and the disincentive effects of such taxation, if any;

   d. it should be recognized that decisions on cost and benefit recovery necessarily involve judgments on the appropriate “social” weights for valuing gains to different income groups, both relative to each other and relative to the

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4. If feasible, the classification should be according to the total farm plus non-farm income.
needs for additional revenues of the government. The
design of benefit taxes will, of course, be greatly facilitated
if explicit judgments on these weights are available. How-
ever, when such judgments are not available, it will be
advisable to check for consistency in the sense indicated in
para. 11.

22. It was stated earlier that, for reasons of efficiency and equity,
recovery of costs and benefits should be project-specific (see paras.
4 and 5). The question arises: what position should be taken in
regard to governments which argue that costs of development are to
be recovered only or largely through general taxes? Discussions
with such governments may convince them of the rationale for hav-
ing specific benefit taxes (see para. 36). A fully articulated position
on the part of the Bank, along the lines set out in this memoran-
dum, should greatly aid such discussions. However, it has to be
recognized that the design and implementation of desirable benefit
taxes are in practice often constrained by various administrative and
political factors, and the full implementation of such taxes may thus
be a prolonged process. Two common difficulties, for example,
relate to the measurement of income and the problems of control-
ing tax evasion. First, accurate monitoring of the incomes of
project beneficiaries may be very difficult, especially when the ben-
eficiaries also have nonagricultural sources of income. Even apart
from this, the land ownership pattern, and changes in the pattern,
need to be taken into consideration, as progressivity implies that,
say, a person owning 10 hectares should pay more than 10 times
the tax payable by another owning only 1 hectare. Second, partly
because of the income measurement problem, it is difficult to avoid
tax evasion, especially if the tax structure is made too progressive:
the higher the progressivity, the higher is likely to be the incentive
to evade and also the greater may be the political problems of
implementing benefit taxes.

23. Benefit taxes should be chosen and designed so as to minimize
any adverse effects that these taxes may have on production and
consumption decisions of the farmers and of others in the economy.
For example, in some cases it may be possible to recover costs by
selling farm inputs to the project beneficiaries at prices higher than
those paid by others. However, such discriminatory pricing of farm
inputs, even if feasible, could induce the farmers to adopt the
wrong production techniques. Similarly, discriminatory taxes on
farm outputs (or monopolistic "marketing margins") may induce the choice of wrong crops by the farmers. Although it may be impossible in practice to avoid such adverse effects completely, project-specific betterment levies on land holdings are generally the best of the available options.

**Measuring Cost and Rent Recovery**

24. The determination of appropriate pricing and taxation policies may be facilitated if cost and rent recovery indices are computed, as discussed below. However, the design of satisfactory policies should not be reduced to mechanical computation of these ratios. They may be convenient ways of summarizing a proposed policy but they may also hide more than they reveal. The ratios are descriptive only; higher or lower ratios do not by themselves indicate that recovery is satisfactory. Use of the ratios, therefore, should only supplement but not substitute for the analysis of the proposed prices and charges as they bear on efficiency, income distribution and public sector savings, and of the allowances being made for the incremental imputed values of family labor and management costs, and such factors as the return on capital, uncertainty, tax disincentives, costs of tax collection and political difficulties, where relevant. The indices are defined as follows:

a. The *Cost Recovery Index* is the: Ratio of (incremental revenues from water sales, if any, and from benefit taxes) to (incremental public sector project outlays at market prices).

b. The *Rent Recovery Index* is the: Ratio of (incremental revenues from water sales, if any, and from benefit taxes) to (incremental rent accruing to project beneficiaries, before payment of water charges, if any, and benefit taxes, but net of their incremental payments for general taxes)—with rent being defined as in para. 7.

25. These ratios focus on the policy instruments that may be adjusted to achieve the desirable level and pattern of cost and benefit recovery in the context of a particular project. It may also be helpful when discussing recovery issues to define these ratios on a gross basis. In that case the ratios are calculated by including certain increases in general tax payments that affect benefits received, such as export taxes, income taxes and general (non-project specific) betterment levies, in the recovery payments made by the ben-
eficiary and by not excluding those payments from the gross "rent" he receives from the project. Betterment levies may, in fact, apply to a district or river basin rather than a particular project area and it may be a moot question in such cases whether they should be treated as general taxes or benefit taxes.

26. The above indices should always be computed in real (constant price level) terms and in present value terms. The discount rate used should represent the best estimate of the economic opportunity cost of capital, or 10% if no estimate is available. The grace period, and the period over which recovery is expected to take place should be specified. Appropriate arrangements should be made for adjusting charges in light of actual developments during the course of the project.

27. To facilitate evaluation of the recommended water charges and benefit taxes, rent recovery indices should be presented separately for beneficiaries in different income classes. It is suggested that, where feasible and relevant, the following income classes be distinguished:

(a) those with incomes below the CCL (see para. 8);
(b) those with incomes between the CCL and the national average;
(c) those with incomes between the national average and twice the national average;
(d) those with incomes above twice the national average.

Where available data on the distribution of income cannot be fitted into these suggested classes, other income classes may be used, or it may be necessary to use different farm sizes as proxies for income groups.

28. The significance of the manner in which the cost and rent recovery ratios have been defined above (paras. 24 and 25) may be illustrated with a comparison with some alternative definitions. Two other measures of cost recovery may be defined for contrast as follows:

a. The "Fiscal" Ratio: In this definition all incremental revenues that accrue to the public sector as a result of the project are considered "recoveries," whether such revenues stem from general or specific taxes, beneficiaries or non-

beneficiaries. Such a comprehensive fiscal measure may have some relevance in economic or social analysis of projects, but is not recommended for use in the context of cost recovery.

b. A “Comprehensive” Ratio for Beneficiaries: In this ratio all incremental payments due to the project that are made by beneficiaries only are counted as “recoveries.” In principle, all sources of revenues will be eligible, e.g., the tax component of the incremental consumption expenditures of the beneficiaries will be an eligible source. Such a comprehensive ratio is also not recommended.

29. It should be emphasized here that judgments on the appropriateness of the level of cost recovery in any particular project would not be affected by whatever definition of the cost recovery ratio has been adopted. Suppose, for example, that in a particular case the fiscal ratio is estimated to be, say, 200%, the comprehensive recovery ratio for beneficiaries only as, say, 120%, and the more restricted cost recovery ratio defined in para. 24 as, say, 50%. In each case the same set of issues will need to be examined to judge whether it is desirable to increase or decrease the amount of additional revenues that will accrue to the government. The desirable (and feasible) amount of additional revenues, and the project-specific instruments that may be available for collecting any additional revenues, are the same in any event, whatever cost or rent recovery ratio is used to describe the situation.

30. The derivation of the recovery indices defined in paras. 24 and 25 might be conveniently presented in the following format:

Rent and Cost Recovery Indices

<table>
<thead>
<tr>
<th>Income Group</th>
<th>for</th>
<th>Beneficiaries</th>
<th>d_1</th>
<th>d_2</th>
<th>d_3</th>
<th>d_4</th>
<th>Total</th>
<th>Project</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Gross value of farm production at farm gate ex sales taxes</td>
<td></td>
<td></td>
<td></td>
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<td></td>
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<tr>
<td>2. less production (cash) costs</td>
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<td></td>
<td></td>
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<td></td>
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</tbody>
</table>

6. Items 1 through 17 are incremental, discounted values at constant year-prices, or ratios derived from them.
3. equals net cash income \[1-2\]
4. less—depreciation
5. —imputed value of family labor
6. —imputed value of management services
7. —imputed return on own capital
8. —allowance for risk/uncertainty
9. —general taxes
10. equals rent/surplus
11. rent as a percentage of net cash income \[10+3\]
12. volumetric water charges
13. benefit taxes
14. total direct charges/taxes \[12+13\]
15. rent recovery index \(14+10\)^8
16. public sector outlays (capital + O&M)
17. cost recovery index \(14+16\)^3
18. farmers' income per capita, in project year __, at full development
19. estimated critical consumption level (CCL), same project year
20. estimated national per capita income, same project year

31. It is not easy to estimate project rent or the rent, as defined here, of different income groups because of difficulty in determining various non-cash or imputed values of costs; however, using benefits gross of these costs does not solve this problem because the judgment whether a sufficient proportion of benefits is being recovered involves necessarily an estimation of the very same cost.

7. If feasible and relevant, income groups should preferably be:

\(d_1\) = below the CCL.
\(d_2\) = between the CCL and c, where c is the national per capita income.
\(d_3\) = between c and 2c.
\(d_4\) = above 2c.

Whatever income groups are used, the income groups should refer to total farm and non-farm income at full development. Individual farmers may, of course, move from one income category to another, over time.

8. If the ratios are defined on a gross basis, as in para. 25, item 9 (general taxes) should be included in item 20 (rent), as well as in item 14 (total charges).
elements which are deducted from gross farm income to arrive at project rent. Still less can one fall back on some principle of cost recovery because whether one should recover more or less than the full project costs (investment plus O&M costs), while an important issue for public savings, depends also on the ability to pay and considerations of equity.

32. How are the imputed costs of family labor, management services, return on capital and risk/uncertainty to be determined? In principle, the value of family labor should be determined by its supply price. Where this is difficult to estimate in practice, it is suggested that a weighted average of seasonal market wages be used as a proxy for the supply price. An allowance of 5% to 10% of the net value of incremental farm output\(^9\) would probably be sufficient for incremental management costs. The imputed return on the farmer's own capital should be based on the incremental net value of assets financed by farmers out of their own savings and should reflect the rate of return that their funds could earn elsewhere. In principle, allowances for uncertainty should be built into the value of incremental gross farm output, i.e., the value of gross farm output should be its expected value, derived from the estimated probabilities of a range of outcomes. In addition, however, some farmers may prefer a lower but more certain income to a higher but riskier income; a risk allowance, not to exceed 10 percent of the value of net farm output, may be in order.

_Norms of Recovery_

33. What can reasonably be expected with respect to capturing part of the benefits and recovering the costs of projects? The amount of revenue which could be collected from water charges and benefit taxes will always be less than total project rent, as defined here, for several reasons. Leaving aside questions of equity for the moment, if each farmer were charged 100 percent of the rent that remains after making adequate allowances for depreciation, imputed farm family labor, management costs, return on own capital, increase in general taxes, and a realistic allowance for risk, he should still have sufficient incentives to participate in the project. Taking equity considerations into account, however, it is clear that 100 percent of project rent should be regarded as the upper limit that cannot be reached if

\(^9\) Net cash income, e.g., item 3 in table in para. 30.
allowances are made for income distribution. For example, if project beneficiaries below the CCL are to be charged water charges and benefit taxes only to the extent necessary to discourage wasteful use, and if the benefit tax system is to be progressive, recovery of 100 percent of total project rent could be achieved only by charging the richer farmers more than 100 percent of their rent. This is obviously both undesirable and impractical. Thus, the extent to which project rent can be recovered will depend upon the distribution of incomes in the project area and upon the degree of tax progressivity deemed desirable and feasible. In addition an allowance may have to be made for political acceptability and administrative constraints. It should be noted that if appropriate recovery is determined by ability to pay of beneficiaries, as measured by their “rents” and income levels, then the extent of cost recovery becomes a residual. While cost recovery is important for its impact on public revenue and savings, these aspects are implicitly taken into account when determining the CCL (see para. 8).

34. Project rent adjusted for income distribution is the desirable amount of benefit tax each farmer should pay. What is the practical significance of this rule for cost and rent recovery? To put it another way, is there any lower limit of the recovery ratios which can be set as a guideline? Since judgments are involved in estimating many of the items which have to be deducted from incremental net farm income to arrive at a measure of incremental rent, and since judgments are also involved in making allowances for income distribution, as well as political and practical problems, clearly it is difficult to set a precise lower limit to the norm of capturing part of the project benefits. There is need to gain experience in applying the principles, policies and guidelines set forth in this paper but, as a start, staff appraisal reports should attempt to compare the proposed level of recoveries with the level that would be desirable in principle.

35. Past experience suggests that recoveries as a percentage of net cash income (item 3 in table in para. 30) have rarely exceeded 30–35%. However, the new and more differentiated approach outlined here may be expected in many cases to raise the recovery rates that are considered appropriate. Since the rent, as defined in this memorandum, will often be no more than say, 60% of net cash income, the desired rent recovery ratio will frequently exceed 50%.

The desired rent recovery ratio may, of course, be less than 50%; for example, when beneficiaries have incomes below the CCL, the appropriate ratio will be much less, or even zero. Actual experience with the recovery policy and the rent recovery ratio described above will be monitored closely and may permit firmer quantitative guidance in due course.

Implementation and Procedures

Sector-wide Dialogues with Governments

36. Countries seeking Bank Group financial assistance for irrigation projects or facilities should be made aware of Bank policies on water charges and benefit taxes as early as possible during the project cycle. Since it may be difficult to change policies and practices within the context of a single project, it is necessary to enter into a sector-wide dialogue with the government. The importance of a sector-wide dialogue, however, does not mean that attempts to obtain appropriate water charges or benefit taxes for individual projects should be discontinued. In some cases, this dialogue could be initiated through a special study or as part of Bank economic or agricultural sector mission activities. Project feasibility studies should include government recommendations in these matters; they should be available to the Bank prior to the time of appraisal so that the mission can discuss with the Borrower the adequacy of the proposed water charges and taxes and details of implementation. The staff appraisal report should present the detailed results of the mission's final analysis, indicating the general magnitude and composition of the estimated costs and benefits of the project and the proposed levels of water charges and benefit taxes. This analysis and the proposed charges will be discussed with the Borrower during negotiations, with a view to reaching agreement on the level of these charges, or at least on the principles and procedures to be followed in establishing them. In some cases, this will involve changing laws and customs.

Research into Appropriate Water Charges and Benefit Taxes

37. Development of a schedule of water charges, taxes and assessments for a project is a complex task which must be performed by the Borrower. It is not necessary that this be accomplished before
project execution commences, although it is preferable that it should be. Sometimes the Borrower already has an established system of charges. In other instances, research is required, using sample income-expenditure-farm budget surveys, to provide a basis for such charges. Such studies can properly be a project component, eligible for Bank financing. In any event, it is important that the Bank be permitted to review proposed schedules and the rationale on which they are based, and to make comments on them. Provision should also be made for periodic review and possible adjustment (at intervals not exceeding three to five years) by the Borrower and the Bank during the first 20 years of project life or until loan (or credit) repayment, if shorter, of the cost recovery mechanism and level of charges in the light of experience with the outcome of the project and inflation.

Importance of Evaluation/Monitoring

38. Projects should include institutional and administrative arrangements for, *inter alia*, monitoring the flow of project benefits to different income groups and for comparing the actual with projected water charges and benefit taxes. Staff appraisal reports should suggest the key parameters which need to be measured and evaluated on a regular basis.

Provisions in Loan/Credit Documents

39. The staff project report is not a legal document, and it is necessary that certain basic agreements on water charges and cost recovery be included in the loan or credit documents. Since it would be difficult to incorporate quantitative provisions with respect to project rent into legal documents, we have to fall back for this purpose on the more easily measured concept of cost recovery. Hence provisions in the documents should be made for the following:

a. general principles to be followed in determining the appropriate levels and structure of water charges and benefit taxes;

b. the extent to which total (capital and O&M) public sector costs would be recovered, whether interest on the capital would be charged and, if so, the interest rate to be charged;

c. the cost recovery period and the grace period;
d. the submission to the Bank, for review and comment by a specified date, of the proposed schedule of water charges, benefit taxes or other assessments to be imposed and collected, based, if necessary, on an agreed study;

e. the appropriate institutional and administrative arrangements for monitoring progress of the project, the flow of benefits and the extent of water charges and benefit taxes;

f. the periodic review (at intervals not exceeding three to five years) by the Borrower and the Bank of the levels and nature of the schedule elements for cost recovery, taking account of changing price levels;

g. the separate accounting for the costs recovered by water charges, benefit taxes and other assessments from project beneficiaries, with annual reports on project costs and revenues to be submitted to the Bank for a period of 20 years or until the loan or credit is fully repaid, whichever is shorter.

40. Supervision missions should review with the Borrower and report regularly on the implementation of the provisions for water charges and benefit taxes.

Warren C. Baum
Vice President, Projects Staff

June 6, 1980
Operational Directive 7.50: Projects on International Waterways

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Annex A Technical Advice of Independent Experts
Projects on International Waterways

(revised to reflect new senior management structure that took effect on 01/01/93)

Basic Policy

1. Projects on international waterways require special handling as they may affect relations not only between the Bank\(^1\) and its borrowers\(^2\) but also between states, whether members of the Bank or not. The Bank recognizes that the cooperation and goodwill of riparians is essential to the most efficient utilization and exploitation of international waterways for development purposes. The Bank, therefore, attaches the utmost importance to riparians entering into appropriate agreements or arrangements for the efficient utilization of the entire waterway system or any part of it, and stands ready to assist in achieving this end. In cases where differences remain unresolved, the Bank, prior to financing the project, will normally urge the state proposing the project to offer to negotiate in good faith with other riparians to reach appropriate agreements or arrangements.

Applicability

2. This directive covers the following:

(a) types of international waterways:
   (i) river, canal, lake, or any similar body of water which forms a boundary between, or any river or body of surface

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1. “Bank” includes IDA, and “loans” include credits.
2. The term “borrower” refers to the member country in whose territories the project is carried out, whether this be the borrower or the guarantor.
water which flows through two or more states, whether members of the Bank or not;
(ii) any tributary or any other body of surface water which is a part or a component of any waterway described in (i) above; and
(iii) bays, gulfs, straits, or channels—bounded by two or more states or, if within one state, recognized as necessary channels of communication between the open sea and other states—and any river flowing into such waters.

(b) types of projects:
(i) hydroelectric, irrigation, flood control, navigation, drainage, water and sewerage, industrial, or similar projects which involve the use or pollution of international waterways as described above; and
(ii) detailed design and engineering studies of projects under (b)(i) above, including those to be carried out by the Bank as executing agency.

General Guidelines

3. The procedures described in the following paragraphs are intended to ensure that the international aspects of a project on an international waterway are brought to the fore and dealt with at the earliest possible opportunity.

4. The presence of any potential international water rights issue should be ascertained as early as possible during project preparation, and described in all project documents starting with the Initial Executive Project Summary. The Managing Director (MD) concerned should be kept informed throughout the project cycle by the country department (CD) director, through the Regional vice president (RVP) and in consultation with the Legal Department, of such water rights issues and significant related events. Before an appraisal is undertaken for a project on an international waterway, the transmittal memorandum for the Final Executive Project Summary, addressed to the RVP and copied to the Vice President and General Counsel, should be prepared in close collaboration with the Legal Department, and convey all relevant information on the international aspects of the project.
Notification

5. As early as possible during the identification stage of the project cycle (see Circular Op 87/03, filed as OMS 2.00, Procedures for Processing Investment Loans and Credits, to be reissued as OD 9.00, Processing and Documentation for Investment Lending), the Bank should advise the state proposing the project on an international waterway (the beneficiary state) that, if it has not already done so, it should formally notify the other riparians of the proposed project. However, if the beneficiary state indicates to the Bank that it does not wish to give notification, the Bank will normally give such notification to the other riparians. If the beneficiary state does not wish to give notification and objects to notification by the Bank, the Bank will discontinue further processing of the project. The executive directors concerned should be informed of these developments and of any further steps taken.

6. The notification should contain, to the extent available, sufficient technical and other necessary specifications, information, and data (Project Details) to enable the other riparians to determine as accurately as possible the potential for appreciable harm by the proposed project through the deprivation of water, pollution, or otherwise. (If the Project Details are not available at the time of notification, they should be made available to the riparians as soon as possible after the notification.) Bank staff should be satisfied that the Project Details are adequate for the purpose of making such a determination. If, in exceptional circumstances, the Region proposes to go ahead with project appraisal prior to the availability of the Project Details, the CD director should bring the matter to the attention of the RVP (using the procedure described in para. 4 above), giving all the relevant facts related to the international aspects of the project and seeking RVP approval to proceed with appraisal. In making this decision, the RVP should seek the advice of the MD concerned.

7. The other riparians should be allowed a reasonable period of time, which should not normally exceed six months from the dispatch of the Project Details, to communicate their response to the beneficiary state or the Bank.

8. Notification to riparians will not be required in the following cases:
(a) Projects involving additions or alterations by way of rehabilitation, construction, or otherwise to any ongoing schemes that in the judgment of the Bank meet the following criteria:

(i) they will not adversely change the quality or quantity of water flows to other riparians; and
(ii) they will not be adversely affected by the use of water that other riparians might make.

However, if there is any agreement or arrangement between the riparians, Bank staff should make efforts to secure compliance with the requirements of the agreement or arrangement.

(b) Water resource surveys and feasibility studies on or involving international waterways. Beneficiary states should, however, be required to include in the terms of reference for such surveys and studies, an examination of any potential riparian issues.

9. The Bank should ascertain whether the riparians have established any institutional framework with respect to the waterways concerned, and if so, the scope of its activities, functions, and the status of its involvement in the proposed project, bearing in mind the possible need for notifying the institution.

Responses/Objections

10. If the beneficiary state or the Bank, after giving notice, receives from the other riparians a positive response (which may be in the form of, for example, consent, no objection, support to the project, or a confirmation that the project will not be harmful to its interests), or if the other riparians have not responded within the stipulated time limit, the CD director should, in consultation with the Legal Department and the other departments concerned, address a memorandum to the RVP, giving all the relevant facts (including Bank staff assessment of whether the project will cause appreciable harm to the interests of other riparians, or be so harmed by the use of water that other riparians might make), and seeking approval for further actions. The RVP should seek the advice of the MD concerned.
11. If the other riparians have raised objections to the proposed project, the CD director, in close collaboration with the Legal Department and in consultation with other departments concerned, should address a memorandum to the RVP and copied to the Vice President and General Counsel. The RVP should seek the advice of the MD concerned. The memorandum should address the following points:

(a) the nature of the riparian issues;
(b) Bank staff assessment of the objections raised, including the reasons for them and supporting data, as appropriate;
(c) Bank staff assessment of whether the proposed project will cause appreciable harm to the interests of other riparians, or be so harmed by the use of water that other riparians might make;
(d) whether the circumstances of the case require that the Bank should, before taking any further action, urge the parties to resolve the issues through amicable means such as consultations, negotiations, good offices, etc. (which will normally be resorted to, when objections by the other riparians are substantiated); and
(e) whether the objections are of such a nature that it would be advisable to obtain an additional opinion from independent experts in accordance with the provisions of Annex A.

12. The RVP, in consultation with the Vice President and General Counsel, will decide on whether and/or how to proceed. In cases where he considers it appropriate, he may request the Operations Committee to consider the matter before he issues his instructions. The outcome of actions taken as a result of these instructions will be reported by the CD director in a memorandum to the RVP and copied to the Vice President and General Counsel. The memorandum should be prepared in accordance with the procedures in para. 11, and should include appropriate recommendations for further project processing.

13. If independent experts are asked to give their opinion before a decision on further processing is made, their conclusions will be reviewed by the RVP and the Vice President, Environmentally Sustainable Development, in consultation with the Vice President and General Counsel.
14. Should the Bank decide to proceed with the project, despite the objections of other riparians, the Bank will inform those riparians of its decision.

**Presentation of Loans to the Executive Directors**

15. For every project on international waterways, the Staff Appraisal Report and the Memorandum and Recommendation of the President (MOP) should deal with the international aspects of the project, and should state that Bank staff have considered these aspects and are satisfied that

(a) the issues involved are covered by appropriate agreement or arrangement between the beneficiary state and other riparians; or

(b) the other riparians have given a positive response to the beneficiary state or to the Bank, in the form of consent, no objection, support to the project, or confirmation that the project will not be harmful to their interests; or

(c) in all other cases, in the assessment of Bank staff, the project would not cause appreciable harm to the other riparians, or would not be so harmed by the use of waters by other riparians. The MOP should also contain in an annex the salient features of any objection and, where applicable, the report and conclusions of the independent experts.
Technical Advice of Independent Experts

(revised to reflect new senior management structure that took effect on 12/01/91)

1. Whenever the Regional Vice President (RVP), decides to seek an additional opinion, in accordance with the provisions of this directive, the RVP will request the Vice President, Environmentally Sustainable Development (ESDVP), to seek the advice of one or more independent experts for this purpose. The Operations Policy Department is notified of this request.

2. The ESDVP will maintain, in consultation with the Regional vice presidents (RVPs) and the Legal Department, a roster of ten independent and highly qualified experts, which will be updated annually.

3. When so requested, the ESDVP will, in consultation with the RVPs concerned and the Legal Department, select the experts from the roster. The experts should not be nationals of any of the riparians of the waterways involved, and should have no conflict of interest in the matter. The experts should be engaged and terms of reference prepared jointly by the offices of the ESDVP and the RVP of the Region processing the project. The latter is responsible for financing the cost associated with the engagement of experts.

4. The experts will be provided with all necessary background information and any assistance required for the efficient completion of their work.

5. The experts shall examine the Project Details. If they deem it necessary to verify the Project Details and take any related action, the Bank will use its best efforts to facilitate this. The experts will meet on an ad hoc basis until they submit their report. Upon completion of their work, they will furnish their report and conclusions to the ESDVP and the RVP of the Region concerned. The ESDVP or the RVP concerned may ask the experts to provide an explanation or clarification of any point or aspect of their report.

6. The experts shall not have any decision-making role with respect to the processing of the project. Their technical opinion will be submitted only for the Bank's purposes, and shall not in any way determine the rights and obligations of riparians.
Operational Directive 7.60: Projects in Disputed Areas

(revised to reflect new senior management structure that took effect on 12/01/91)

Introduction

1. Projects in disputed areas may raise a number of delicate problems which (as in the case of projects on international waterways—see OMS 3.32, Projects on International Waterways, to be issued as OD 7.50) could affect relations not only between the Bank\(^1\) and its member countries, but also between the Borrower\(^2\) and one or more neighboring countries.

2. Conflicting claims to areas under dispute may eventually be settled by an agreed dispute settlement procedure. Though a Bank loan to (or with the guarantee of) country A for a project located in an area also claimed by country B, may be seen to prejudice country B’s claim, this risk may be eliminated or reduced by appropriate arrangements between the governments concerned. They may, for example, agree that pending the settlement of the dispute, the project proposed for country A should go forward without prejudice to the claims of country B.

3. In order not to prejudice either the position of the Bank or that of the countries concerned, it is essential that any dispute over an area, in which a proposed project will be located, be recognized and dealt with at the earliest possible stage. For purposes of such recognition, staff should pay particular attention to areas where boundaries are

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1. “Bank” includes IDA, and “loans” include credits.
2. The term “Borrower” refers to the member country in whose territories the project is carried out, whether this be the Borrower or the guarantor.
unclear or unsettled, as in the case of offshore areas. For example, the following would be indicative of the existence of a dispute:

(a) a dispute settlement procedure is pending;
(b) two or more countries have made public pronouncements claiming the same area;
(c) the conflicting claims are made in the domestic legislation of two or more countries; or
(d) mineral exploration or similar rights are granted in the same area by two or more countries.

Bank Procedures and Documentation

4. The presence of any dispute should be ascertained as early as possible and described in all project documents starting with the Initial Executive Project Summary. Whenever there is a dispute, the country department (CD) director, through the Regional Vice President (RVP), should bring the matter promptly to the attention of the Managing Director (MD) concerned, and keep him informed of the dispute throughout the project cycle. For this the CD director should prepare, in close collaboration with the Legal Department and in consultation with other departments concerned, a memorandum to be submitted to the Regional Vice President and copied to the Vice President and General Counsel. The memorandum should

(a) convey all pertinent information on the international aspects of the project,
(b) make recommendations for dealing with the issue, and
(c) seek approval for proceeding with further project processing and the recommended actions.

If the RVP, on the advice of the MD responsible, decides to proceed with project processing, the full details of the dispute and the basis for the decision to proceed should be included in the transmittal memorandum for the Final Executive Project Summary addressed to the RVP, and copied to the Vice President and General Counsel, before an appraisal is undertaken. This memorandum should also be prepared in close collaboration with the Legal Department and in consultation with other departments concerned.

5. For every project in a disputed area, the Staff Appraisal Report and the Memorandum and Recommendation of the President (MOP)
should discuss the nature of the dispute and state that Bank staff have considered such aspects and are satisfied that:

(a) the other claimants of the disputed area have no objection to the project; or
(b) in all other cases, the special circumstances of the case would support Bank financing of the project, notwithstanding any objection or lack of approval by other claimants. Some special circumstances to be taken into account may be that the project is not harmful to the interests of other claimants, or that a conflicting claim has not won recognition by the international community nor been actively pursued.

The MOP should, for the cases under (b), include a disclaimer to the effect that, by supporting the project, the Bank does not intend to prejudice the final determination of the claims of the parties. In view of the rather complex legal questions which may arise in regard to these issues, the relevant portion of the MOP should be prepared in close collaboration with the Legal Department.

6. For the delineation of boundaries on maps concerned, the provisions of Annex A to Administrative Manual Statement 7.10, Cartographic Services, March 1988, and OD 17.00, Operational Reports in Standard Series (to be issued) are applicable.
Bank Procedures 17.50: Disclosure of Operational Information


2. The Bank's policy on disclosure of information applies also to the disclosure of documents prepared for projects financed or cofinanced from trust funds under the Global Environment Facility (GEF), including Montreal Protocol projects financed through the Ozone Projects Trust Fund. Specific procedures are set out in BP 17.50, Annex A.

Project Information Document

3. In tandem with the Initial Executive Project Summary (IEPS) for an investment operation or the Initiating Memorandum (IM) for an adjustment operation, Bank staff prepare the Project Information Document (PID), a brief (two-page) factual summary of the main elements of the evolving project. The PID clearly indicates that its contents are subject to change and that the components described may not necessarily be included in the final project. Once the PID

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1. "Bank" includes IDA, and "loans" includes credits.
3. See GP 17.50 for sample PIDs.
is reviewed and approved at the country department level with the IIEPS or draft IM, a copy is sent to the Public Information Center (PIC), through which interested parties may obtain Bank documents.  

4. As an investment project develops, Bank staff update the PID and send the update to the PIC, through which interested parties may obtain it. For all operations, the PID is updated before the Bank's formal project appraisal; for operations in which major changes are made after appraisal, a final revision of the PID is prepared following appraisal.  

5. If an interested party requests additional technical information about a project under preparation, the country department (CD) director releases factual technical documents, or portions of such documents, after consulting with the government to identify any sections that involve confidential material or that could compromise relations between the government and the Bank.  

Staff Appraisal Reports  

6. Each Invitation to Negotiate includes a statement that it is the Bank's policy to release the Staff Appraisal Report (SAR) after the Board approves the project. The Invitation to Negotiate also requests that the prospective borrower's negotiating team be prepared to indicate, during negotiations, any section of the SAR that is confidential or sensitive, or that could adversely affect relations between the Bank and the government. The Bank and the prospective borrower discuss these sections during negotiations. Following negotiations, Bank staff take into account the government's comments in preparing the final SAR. They incorporate into the Memorandum and Recommendation of the President any information removed from the SAR that may be of interest to the Board in its decision-making process. In exceptional cases, if extensive issues of confidentiality arise, the option of restricting the release of an

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4. For these procedures, see OD 9.00, Processing of Investment Lending, and Circular Op 87/06, Guidelines for Preparing and Processing Adjustment Loans and Credits.  

5. The PIC deals only with requests for specific documents, not blanket requests for information. The PIC is described further in Annex B.  

6. See GP 17.50 for a sample updated PID for an investment project.  

appraisal report may be justified on a project-specific basis by the CD director concerned; the Regional vice president (RVP) and the Operations Policy Department (OPR) are informed. The cover of such a report carries a note indicating that release is restricted.

7. After Board approval, a copy of the SAR is transmitted, as part of the normal distribution, to the PIC, through which interested parties may obtain it. If any substantial changes to a project that is being implemented are approved by the Board, Bank staff prepare and transmit to the PIC a summary document (typically two pages long) that explains the changes.

Gray Cover Country Economic and Sector Work Reports

8. Before Bank staff conduct the final review of each green cover country economic and sector work (CESW) report with the government concerned, they advise the government that the Bank's policy is to make gray cover CESW reports available at the PIC, through which interested parties may obtain them. They also ask the government to identify all confidential information in the CESW report. Bank staff then review the issues raised by the government and modify the report as appropriate. Any deletions or changes in information or analysis that may be of interest to the executive directors are presented in a covering note to the gray cover report. In exceptional cases, if extensive issues of confidentiality arise, exceptions to the policy of releasing reports may be authorized on a case-by-case basis by the CD director responsible; the RVP and OPR are informed. The cover of such a report carries a note indicating that release is restricted.

9. A copy of the gray cover CESW report is transmitted, as part of the normal distribution, to the PIC, through which interested parties may obtain it.

8. See OD 13.05, Project Supervision, para. 34.
9. These reports include Country Economic Memoranda, country sector reports, country reports (such as poverty and private sector assessments), and public expenditure reports.
10. Annex C contains sample language.
Sectoral Policy Papers

10. In preparing sectoral policy papers, Bank staff may consult with, and make drafts available to, interested individuals and groups outside the Bank. When a Board seminar is scheduled to discuss a draft policy paper, the executive directors may make the draft available to outside interested parties for review and comment. However, the final paper submitted to the executive directors for approval may not be released. Sectoral policy papers approved by the Board are transmitted by the originating unit to the PIC, through which interested parties may obtain them.

Environment-Related Documents

Environmental Data Sheets

11. The environmental data sheets prepared as quarterly updates in the Monthly Operational Summary for all projects in the IBRD/IDA lending program are transmitted to the PIC, through which interested parties may obtain them.

12. For all Bank-funded Category A projects, the Bank advises the borrower in writing that, in addition to other requirements set forth in OD 4.01, (a) the borrower is responsible for the environmental assessment (EA); (b) before the Bank proceeds to appraisal, the EA must be made available in the borrowing country at some public place accessible to affected groups and local NGOs and must be submitted to the Bank; and (c) once the EA is released locally and officially received by the Bank, it will also be made available at the PIC. Once the EA has been released locally and officially submitted to the Bank, the CD sends a copy to the PIC, through which interested parties may obtain it. If, in an exceptional case, the government objects to broader release of the EA, staff should not continue with project processing. For an IBRD project, the issue of

13. See OD 4.01, Environmental Assessment.
14. This provision for IDA projects reflects para. 21 of Addition to IDA Resources: Tenth Replenishment, approved by the Board on January 12, 1993, and adopted by the IDA Board of Governors (Resolution No. 174, March 31, 1993).
further processing is submitted to the executive directors for consideration.

Environmental Analyses

13. For a Category B project, the environmental analysis\textsuperscript{15} is summarized in an annex to the PID and documented in the SAR. If the environmental analysis for an IDA-funded Category B project results in a separate report, (a) before the Bank proceeds to appraisal, the separate report must be made available in the borrowing country at some public place accessible to affected groups and local NGOs and must be submitted to the Bank; and (b) once the separate report is released locally and officially received by the Bank, it is sent to the PIC, through which interested parties may obtain it.

Environmental Action Plans

14. Bank staff encourage governments to make their environmental action plans (EAPs)\textsuperscript{16} available to the public. Once the Bank has officially received the EAP and has obtained the government's consent, the country department transmits a copy of the EAP to the PIC, through which interested parties may obtain it.

Effectiveness

15. These procedures take effect on the dates shown in BP 17.50, Annex D.\textsuperscript{17} Requests for SARs, CESW and environment-related reports, and sectoral policy papers produced before those dates are handled individually by the responsible director in consultation with the government concerned, under the policy in force at the time the documents were approved by the Bank or officially received from a government.

Other Documents

16. Procedures governing the release of any documents not referred to in this statement are provided for in the Disclosure Directive.

\textsuperscript{15} See OD 4.01, \textit{Environmental Assessment}.

\textsuperscript{16} See OD 4.02, \textit{Environmental Action Plans}.

\textsuperscript{17} Annex D also sets out arrangements for handling requests before the PIC begins operation.
Note: This statement supersedes the Operational Memorandum New Directive on Disclosure of Information (9/1/93), which may be discarded. Questions may be addressed to the Senior Manager, Operations Policy Group, OPR. These procedures were prepared for the guidance of World Bank staff. They are not necessarily a complete treatment of the subjects covered. Additional copies of this document are available on a self-serve basis in the Institutional Information Services Center (IISC), in E 3200.
Application of the Bank's Disclosure Policy to Projects under the Global Environment Facility

1. The States participating (the Participants) in the Global Environment Facility (GEF) have indicated that activities under the GEF should be carried out in a transparent manner, with full information available promptly. As the trustee of the Global Environment Trust Fund and as an implementing agency of the GEF, the Bank is accountable to the Participants, and its policy of openness about projects and other GEF-related activity is consistent with their wishes. This annex sets out how the Bank's policy on and procedures for disclosing operational information apply to projects financed or cofinanced from GEF trust funds, including Montreal Protocol projects financed through the Ozone Projects Trust Fund.

Disclosure and the Project Cycle

2. A GEF Project Information Document (GEF-PID) is prepared for projects financed or cofinanced from GEF trust funds. The GEF-PID, a factual summary of the main elements of the evolving project, gives particular attention to the environmental issues and concerns the project will address. The GEF-PID serves both as the Bank's

18. "Bank" includes IDA, the United Nations Development Programme (UNDP) and the United Nations Environment Programme (UNEP), which together with the Bank are the implementing agencies under the GEF, have their own policies on disclosure of information.

19. Processing of GEF projects is described in OD 9.01, Procedures for Investment Operations under the Global Environment Facility.

20. See GP 17.50 for a sample GEF-PID.
decision-making document for GEF-funded projects and as the information document that interested parties may obtain through the Bank's Public Information Center (PIC).  

3. When the GEF Implementation Committee includes a project in a work program for the GEF Participants' review, it provides the following documentation for the Participants' meeting: the GEF-PID, with the associated reference sheet of project selection criteria and reviewers' opinions; and the Report of the GEF Chairman, which includes (a) a summary of the status of the projects in each work program reviewed by the Participants at earlier meetings, (b) minutes of the Implementation Committee meeting for the work program under consideration, (c) financial reports, and (d) a statement by nongovernmental organizations (NGOs) to the Participants. All the documents for the Participants' meeting are made available to the Bank's executive directors, recipient countries, other development institutions, and NGOs. The Bank also sends these documents to the PIC, through which interested parties may obtain them.  

4. Following the Participants' meeting, any updates to the GEF-PID and any technical annexes to the Memorandum of the Director (MOD) are sent to the PIC, through which interested parties may obtain them.  

5. The Invitation to Negotiate includes a statement that it is the Bank's policy to release the MOD after the project is approved. The Invitation to Negotiate also requests that the prospective GEF grant recipient's negotiating team be prepared to indicate, during negotiations, any section of the MOD that may be confidential or sensitive, or that could adversely affect relations with the prospective recipient. The Bank and the prospective recipient discuss these sections during negotiations. Following negotiations, Bank staff take into account the prospective recipient's comments in preparing the final document. After approval of the GEF project, the final blue cover MOD (excluding the introductory paragraph and the paragraph pursuant to which the Regional vice president's approval is sought by the director of the country department concerned) is merged with the technical annexes and sent to the PIC, through which interested parties may obtain the document.  

21. The PIC is described in BP 17.50, Annex B.  
Cofinanced Projects

6. GEF-Bank cofinanced projects follow the same cycle as free-standing GEF projects, with the addition that the GEF-PID for cofinanced projects includes all relevant information on the Bank-financed aspects of the project. As the GEF-funded segment of the project advances through its cycle, any significant changes in the Bank-financed part of the project are reflected in the GEF-PID and the final blue cover MOD.

Evaluation Reports

7. Two kinds of evaluation reports are sent to the Bank's PIC, through which interested parties may obtain them: (a) the annual Project Implementation Performance Report on GEF projects, and (b) the GEF Project Evaluation Report, which is prepared upon project completion.

Effectiveness

8. These procedures take effect on October 1, 1993. Requests for GEF project documents produced before that date are handled individually by the Global Environment Coordination Division.

Other Documents


23. The PID for the Bank-financed portion of the project is available separately to interested parties on request through the PIC.
Sample Notice to Prospective Recipients of Grants under the Global Environment Facility

Paragraph for Invitation to Negotiate

With regard to GEF projects, it is the Bank’s policy to release the Memorandum of the Director (MOD) to interested parties on request through the Public Information Center after the project is approved for financing. Before releasing this report, the Bank takes into account any comments made by the prospective grant recipient. Therefore, your delegation for the forthcoming negotiations should be prepared to indicate any text or data in the MOD that may be confidential or sensitive, or that may adversely affect the relations between the Bank and the government. The Bank will review your delegation’s comments during negotiations.
The Public Information Center

1. As of January 1, 1994, the Bank maintains at its headquarters a Public Information Center (PIC), which serves as the central contact for those who wish to obtain information about the Bank’s activities. The public may visit the PIC (which includes a reading room); requests to the facility may also be submitted through the Bank’s Paris, London, and Tokyo offices and through other field offices.

2. The PIC offers through the Internet network a complete set of Project Information Documents (PIDs) and a catalog of the Bank documents that are available to the public. Users of Internet worldwide may select and request the documents they need. PIDs are provided free of charge to users, either in electronic form or in hard copy.

3. All documents available in Washington are also available to interested parties through the Paris office. Users who request documents through the Tokyo office will be served through the PIC in Washington. The PIC provides to the other field offices only the documents specific to their country, plus policy papers. In Washington, Paris, London, and Tokyo, users pay a standard charge for all hard-copy documents (except PIDs). At other field offices, documents on the country where the field office is located are provided free of charge to users in that country; documents on other countries are obtained from the PIC at the standard charge. Nationals of a country that has no field office may obtain documents on their country free of charge through the PIC; documents on other countries carry the standard charge.

4. The PIC deals only with requests for specific documents, not blanket requests for information.

24 As of January 1, 1994, the standard charge is US$15.00, or the equivalent. This charge may be revised from time to time.
5. PIC staff may direct individuals to other materials that are available to the public. They assist operational staff in handling requests for information. The Global Environment Coordination Division may also respond to requests for documents pertaining to projects financed or cofinanced from trust funds under the Global Environment Facility.
Sample Notices to Prospective Borrowers

Paragraph for Invitation to Negotiate

It is the Bank's policy to release the project's appraisal report to interested parties on request through the Public Information Center after the Board approves the project for Bank financing. Before releasing such a report, the Bank takes into account any comments made by the prospective borrower concerned. Therefore, your delegation for the forthcoming negotiations should be prepared to indicate any text or data in the appraisal report that may be confidential or sensitive, or that may adversely affect the relations between the Bank and the government. The Bank will review your delegation's comments during negotiations.

Paragraph on Economic and Sector Work Report

This is to advise you that the Bank's policy is to make available to interested parties on request through the Public Information Center gray cover country economic and sector reports. The gray cover version of the [name] report will be released after the forthcoming final review of the report. Therefore, during that review, you should identify any parts of the report that, in your view, contain confidential or sensitive information. The Bank will take your comments into account in preparing the gray cover version of the report.

Paragraphs on Environmental Assessment or Analysis

*Category A Project*

This is to advise you that [name of project] has been classified as Category A for purposes of environmental assessment. This is also to advise you that, in addition to other requirements specified in the Bank's OD 4.01, Environmental Assessment, (a) the borrower is
responsible for the environmental assessment (EA); (b) before the Bank proceeds to appraisal, the EA must be made available in [name of country] at some public place accessible to affected groups and local NGOs and must be submitted to the Bank; and (c) once the EA is released locally and officially received by the Bank, it will also be made available at the Bank's Public Information Center.

**Category B Project**

This is to advise you that [name of project] has been classified as Category B for purposes of environmental assessment. This is also to advise you that, in addition to other requirements specified in the Bank's OD 4.01, Environmental Assessment, the borrower is responsible for the environmental analysis. The environmental analysis is summarized in the Project Information Document, which is made available to interested parties. For an IDA-funded project, if the analysis results in a separate report, (a) before the Bank proceeds to appraisal, the separate report must be made available in [name of country] at some public place accessible to affected groups and local NGOs and must be submitted to the Bank; and (b) once the separate environmental analysis is released locally and officially received by the Bank, it will also be made available at the Bank's Public Information Center.
Disclosure Policy: Effectiveness and Interim Arrangements

1. The Bank's expanded policy on disclosure of information was approved on August 26, 1993. The individual provisions of the policy will take effect according to the following schedule:

   (a) A Project Information Document (PID) will be produced at the same time as the Initial Executive Project Summary (IEPS) for each new project that reaches the IEPS stage after October 1, 1993. For the remainder of the portfolio not yet approved (i.e., projects beyond the IEPS stage but not presented to the Board), a PID will be completed by January 1, 1994. For projects financed or cofinanced from trust funds under the Global Environment Facility (GEF), a GEF-PID will be produced for each project submitted to the GEF Implementation Committee after October 1, 1993.

   (b) Consultation with the government on, and subsequent release of, Staff Appraisal Reports (SARs) and (for GEF projects) Memoranda of the Director (MODs) will take place for all projects for which Invitations to Negotiate are issued after October 1, 1993.

   (c) Release of country economic and sector work (CESW) reports (following consultation with the government) will take place for all such reports that go to gray cover after January 1, 1994.

   (d) Release of sectoral policy papers will take place for all such papers approved by the Board after January 1, 1994.

   (e) Environmental assessments for IDA-funded Category A projects and environmental analyses for IDA-funded Category B projects (when there are separate reports) have been made available to the public since July 1, 1993. The expansion of the disclosure policy for environment-related
documents to cover all Bank-financed projects will take effect on January 1, 1994.

2. The Public Information Center will be open to the public from January 1, 1994. In the interim, requests for documents will be handled as follows:

(a) The Internal Documents Unit will handle requests for printed copies of PIDs, GEF-PIDs, and MODs.

(b) Country departments will handle requests for SARs and gray cover CESW reports; when the requests are approved, the Internal Documents Unit will provide printed copies.

(c) Requests for sectoral policy papers will be handled by the responsible department director in the central vice presidential units.

(d) The Environment Department will handle requests for environment-related documents.
ANNEX III

Postscript

As this book was going to press, the inspection Panel had been established and on August 19, 1994 adopted a set of Operating Procedures. These procedures are reprinted here as Annex III.
The Inspection Panel

for the
International Bank for
Reconstruction and Development

International Development
Association

Operating Procedures
as adopted by the Panel
on August 19, 1994

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INTRODUCTION

The Inspection Panel (the "Panel") is an independent forum established by the Executive Directors of the International Bank for Reconstruction and Development ("IBRD") and the International Development Association ("IDA") by IBRD Resolution No. 93-10 and the identical IDA Resolution No. 93-6 both adopted by the Executive Directors of the respective institutions on September 22, 1993 (collectively the "Resolution"). The text of the Resolution is in Annex 1. References in these procedures to the "Bank" includes the IBRD and IDA.

The Panel's authority is dictated by the Resolution: within that framework, these Operating Procedures are adopted by the Panel to provide detail to the operational provisions. The text is based on the Resolution and takes into account suggestions from outside sources.

In view of the unprecedented nature of the new inspection function the current procedures are provisional: the Panel will review them within 12 months, and in light of experience and comments received, will revise them if necessary and will recommend to the Bank's Executive Directors ("Executive Directors") amendments to the Resolution that would allow a more effective role for the Panel.

Composition

The Panel consists of three Inspectors. At the outset one Inspector, the Chairperson, will work on a full-time basis: the other two will work part-time. This arrangement is provisional. The Panel's workload will be dictated by the number and nature of requests received. If necessary, the Panel will recommend alternative arrangements to the Executive Directors.

Purpose

The Panel has been established for the purpose of providing people directly and adversely affected by a Bank-financed project with an independent forum through which they can request the Bank to act in accordance with its own policies and procedures. It follows that this forum is available when adversely affected people believe the Bank itself has failed, or has failed to require others, to comply with its poli-

cies and procedures, and only after efforts have been made to ask Bank Management ("Management") itself to deal with the problem.

Functions

The role of the Panel is to carry out independent investigations. Its function, which will be triggered when it receives a request for inspection, is to inquire and recommend: it will make a preliminary review of a request for inspection and the response of Management, independently assess the information and then recommend to the Board of Executive Directors whether or not the matters complained of should be investigated. If the Board decides that a request shall be investigated, the Panel will collect information and provide its findings, independent assessment and conclusions to the Board. On the basis of the Panel's findings and Management's recommendations, the Executive Directors will consider the actions, if any, to be taken by the Bank.

Participants

During the preliminary review period—up to the time the Panel makes a recommendation to the Board on whether or not the matter should be investigated—the Panel will accept statements or evidence from (a) the Requester, i.e. either the affected people and/or their duly appointed representative, or an Executive Director; (b) Management; and, (c) any other individual or entity invited by the Panel to present information or comments.

During an investigation, any person who is either a party to the investigation or who provides the designated Inspector(s) with satisfactory evidence that he/she has an interest, apart from any interest in common with the public, will be entitled to submit information or evidence relevant to the investigation.

Administration

The Panel has approved separate Administrative Procedures which are available from the Office of the Inspection Panel.

Please note that all headings are for ease of reference only. They do not form part of these procedures and do not constitute an interpretation thereof.
I. SUBJECT MATTER OF REQUESTS

Scope

1. The Panel is authorized to accept requests for inspection ("Request(s)") which claim that an actual or threatened material adverse effect on the affected party's rights or interests arises directly out of an action or omission of the Bank as a result of a failure by the Bank to follow its own operational policies and procedures during the design, appraisal and/or implementation of a Bank-financed project. Before submitting a Request steps must have already been taken (or efforts made) to bring the matter to the attention of Management with a result unsatisfactory to the Requester.

Limitations

2. The Panel is not authorized to deal with the following:

(a) complaints with respect to actions which are the responsibility of other parties, such as the borrower, or potential borrower, and which do not involve any action or omission on the part of the Bank;

(b) complaints against procurement decisions by Bank borrowers from suppliers of goods and services financed or expected to be financed by the Bank under a loan/credit agreement, or from losing tenderers for the supply of any such goods and services, which will continue to be addressed by Bank staff under existing procedures;

(c) Requests filed after the Closing Date of the loan/credit financing the project with respect to which the Request is filed or when 95% or more of the loan/credit proceeds have been disbursed; or

(d) Requests related to a particular matter or matters over which the Panel has already made its recommendation after having received a prior Request, unless justified by new evidence or circumstances not known at the time of the prior Request.
II. PREPARATION OF A REQUEST

3. The Panel's operational proceedings begin when a Request is received. This section of the procedures is primarily designed to give further guidance to potential Requesters on what facts and explanations they should provide.

A. Who Can File a Request

4. The Panel has authority to receive Requests which complain of a violation of the Bank's policies and procedures from the following people or entities:

(a) any group of two or more people in the country where the Bank-financed project is located who believe that as a result of the Bank's violation their rights or interests have been, or are likely to be adversely affected in a direct and material way. They may be an organization, association, society or other grouping of individuals; or

(b) a duly appointed local representative acting on explicit instructions as the agent of adversely affected people; or

(c) in the exceptional case referred to in paragraph 11 below, a foreign representative acting as agent of adversely affected people; or

(d) an Executive Director of the Bank in special cases of serious alleged violations of the Bank's policies and procedures.

B. Contents of a Request

5. In accordance with the Resolution, Requests should contain the following information:

(a) a description of the project, stating all the relevant facts including the harm suffered by or threatened to the affected party;

(b) an explanation of how Bank policies, procedures or contractual documents were seriously violated;
(c) a description of how the act or omission on the part of the Bank has led or may lead to a violation of the specific provision;

(d) a description of how the party was, or is likely to be, materially and adversely affected by the Bank's act or omission and what rights or interests of the claimant were directly affected;

(e) a description of the steps taken by the affected party to resolve the violations with Bank staff, and explanation of why the Bank's response was inadequate;

(f) in Requests relating to matters previously submitted to the Panel, a statement specifying what new evidence or changed circumstances justify the Panel revisiting the issue; and

(g) if some of the information cannot be provided, an explanation should be included.

C. Form of Request

Written

6. All Requests must be submitted in writing, dated and signed by the Requester and contain his/her name and contact address.

Format

7. No specific form is necessary: a letter will suffice. A Requester may wish to refer to the guidance and use the model form specifying required information. (Attached as Annex 2)

Language

8. The working language of the Panel is English. Requests submitted directly by affected people themselves may be in their local language if they are unable to obtain a translation. If requests are not in English, the time needed to translate and ensure an accurate and agreed translation may delay acceptance and consideration by the Panel.

Representatives

9. If the Requester is a directly affected person or entity representing affected people, written signed proof that the representative has authority to act on their behalf must be attached.
10. If the Request is submitted by a non-affected representative, he/she must provide evidence of representational authority and the names and contact address of the party must be provided. Proof of representational authority, which shall consist of the original signed copy of the affected party's explicit instructions and authorization, must be attached.

11. In addition, in cases of non-local representation, the Panel will require clear evidence that there is no adequate or appropriate representation in the country where the project is located.

Documents

12. The following documents should be attached:

(a) all correspondence with Bank staff;
(b) notes of meetings with Bank staff;
(c) a map or diagram, if relevant, showing the location of the affected party or area affected by the project; and
(d) any other evidence supporting the complaint.

13. If all the information listed cannot be provided an explanation should be included.

D. Delivery of Request

14. Requests must be sent by registered or certified mail or delivered by hand in a sealed envelope against receipt to the Office of The Inspection Panel at 1818 H Street, N.W., Washington, D.C. 20433, U.S.A. or to the Bank's resident representative in the country where the project is located. In the latter case, the resident representative shall, after issuing a receipt to the Requester, forward the Request to the Panel through the next pouch.

E. Advice on Preparation

15. People or entities seeking advice on how to prepare and submit a Request may contact the Office of The Inspection Panel, which will provide information or may meet and discuss the requirements with potential requesters.
III. PROCEDURES ON RECEIPT OF A REQUEST

16. When the Panel receives a Request the Chairperson, on the basis of the information contained in the Request, shall either promptly register the Request, or ask for additional information, or find the Request outside the Panel's mandate.

A. Register

17. If the Request, appears to contain sufficient required information the Chairperson shall register the Request in the Panel Register; promptly notify the Requester, the Executive Directors and the Bank President ("President") of the registration; and transmit to the President a copy of the Request with the accompanying documentation, if any.

Contents of Notice

18. The notice of registration shall:

(a) record that the Request is registered and indicate the date of the registration and dispatch of that notice;
(b) the notice will include the name of the project, the country where the project is located, the name of the Requester unless anonymity is requested, and a brief description of the Request;
(c) notify the Requester that all communications in connection with the Request will be sent to the address stated in the Request, unless another address is indicated to the Panel Secretariat; and
(d) request Management to provide the Panel, within 21 days after receipt of the notice and Request, with written evidence that it has complied, or intends to comply with the Bank's relevant policies and procedures. The notice shall specify the due date of the response.

B. Request Additional Information

19. If the Chairperson finds the contents of the Request or documentation on representation insufficient, he/she may ask the Requester to supply further information.
20. Upon receipt of a Request, the Chairperson shall send a written acknowledgement to the Requester, and will specify what additional information is required.

21. The Chairperson may refuse to register a Request until all necessary information and documentation is filed.

C. Outside Scope

22. If the Chairperson finds that the matter is without doubt manifestly outside the Panel's mandate, he/she will notify the Requesters of his/her refusal to register the Request and of the reasons therefor; this will include but not be limited to the following types of communications:

(a) Requests which are clearly outside the Panel's mandate including those listed above at paragraph 2;
(b) Requests which do not show the steps taken or effort made to resolve the matter with Management;
(c) Requests from an individual or from a non-authorized representative of an affected party;
(d) any correspondence, including but not limited to letters, memoranda, opinions, submissions or requests on any matter within the Panel's mandate which are not requests for an inspection; and
(e) Requests that are manifestly frivolous, absurd or anonymous.

Records

23. The number of such Requests and communications received shall be noted in the Register on a quarterly basis and the yearly total included in the Annual Report.

D. Need for Review

24. In cases where additional information is required, or where it is not clear whether a Request is manifestly outside the Panel's mandate, the Chairperson shall designate a Panel member to review the Request.
E. Revised Request

25. If the Requester receives significant new evidence or information at any time after the initial Request was submitted, he/she may consider whether or not it is serious enough to justify the submission of a revised Request.

26. If a revised Request is submitted, the time periods for Management's response and the Panel recommendation will begin again from the time such Request is registered.

IV. MANAGEMENT'S RESPONSE

27. Within 21 days after being notified of a Request, Management shall provide the Panel with evidence that it has complied, or intends to comply with the Bank's relevant policies and procedures. After the Panel receives Management's response, it shall promptly enter the date of receipt in the Panel Register.

28. If there is no response from Management within 21 days, the Panel shall notify the President and the Executive Directors and send a copy to the Requester.

Clarification

29. In order to make an informed recommendation, the Panel may request clarification from Management; in the light of Management's response, request more information from the Requester; and provide relevant portions of Management's response for comment. A time limit for receipt of the information requested shall be specified; and

(a) whether or not such clarification or information is received within the time limit, make its recommendation to the Executive Directors within 21 days after receipt of Management's response; or

(b) in the event it is not possible for the Requester to provide the information quickly, the Panel may advise the Requester to submit an amended Request; the Executive Directors and Bank management will be notified that the process will begin again when the amended Request is received.
V. PANEL RECOMMENDATION

30. Within 21 days after receiving Management's response, the Panel shall make a recommendation to the Executive Directors as to whether the matter should be investigated.

A. Basis

31. The Panel shall prepare its recommendation on the basis of the information contained in:

(a) the Request;
(b) Management's response;
(c) any further information the Panel may have requested and received from the Requester and/or Management and/or third parties; and
(d) any findings of the Panel during this stage.

B. Required Criteria

32. If, on the basis of the information contained in the Request, it has not already been established that the Request meets the following three conditions required by the Resolution, the Chairperson, in consultation with the other Panel members may, if necessary, designate a Panel member to conduct a preliminary review to determine whether the Request:

(a) was filed by an eligible party;
(b) is not time-barred; and
(c) relates to a matter falling within the Panel's mandate.

Criteria for Satisfactory Response

33. The Panel may proceed to recommend that there should not be an investigation, if, on the basis of the information contained in the Request and Management's response, the Panel is satisfied that Management has done the following:

(a) dealt appropriately with the subject matter of the Request; and
(b) demonstrated clearly that it has followed the required policies and procedures; or
(c) admitted that it has failed to follow the required policies and procedures but has provided a statement of specific remedial actions and a time-table for implementing them, which will, in the judgement of the Panel, adequately correct the failure and any adverse effects such failure has already caused.

Preliminary Review

34. If, on the basis of the information contained in Management's response and any clarifications provided, the Panel is satisfied that Management has failed to demonstrate that it has followed, or is taking adequate steps to follow the Bank's policies and procedures, the Panel will conduct a preliminary review in order to determine whether conditions required by provisions of the Resolution exist.

35. Although it may not investigate Management's actions in depth at this stage, it will determine whether Management's failure to comply with the Bank's policies and procedures meets the following three conditions:

(a) whether such failure has had, or threatens to have, a material adverse effect;
(b) whether, the alleged violation of the Bank's policies and procedures are, in the judgment of the Panel, of a serious character; and
(c) whether remedial actions proposed by Management do not appear adequate to meet the concerns of the Requester as to the application of the Bank's policies and procedures.

Initial Study

36. If the Chairperson considers, after the preliminary review and consultation with the other Panel members, that more factual data not already provided by the Requester, Management or any other source is required to make an informed recommendation to the Executive Directors, he/she may designate a Panel member to undertake a preliminary study. The study may include, but need not be limited to, a desk study and/or a visit to the project site.
C. Contents

37. On the basis of the review, the Panel shall make its recommendation to the Board as to whether the matter should be investigated. Every recommendation shall include a clear explanation setting forth reasons for the recommendation and be accompanied by:

(a) the text of the Request and, where applicable, any other relevant information provided by the Requester;
(b) the text of Management's response and, where applicable, any clarifications provided;
(c) the text of any advice received from the Bank's Legal Department;
(d) any other relevant documents or information received; and
(e) statements of the majority and minority views in the absence of a consensus by the Panel.

D. Submission

38. The recommendation shall be circulated by the Executive Secretary of the Panel to the Executive Directors for decision. The Panel will notify the Requester that a recommendation has been sent to the Executive Directors.

VI. BOARD DECISION AND PUBLIC RELEASE

39. The Board decides whether or not to accept or reject the Panel's recommendation; and, if the Requester is a non-local representative, whether exceptional circumstances exist and suitable local representation is not available.

Notification

40. The Panel shall promptly inform the Requester of the Board's decision on whether or not to investigate the Request and shall send the Requester a copy of the Panel's recommendation.

Public Information

41. After the Executive Directors have considered a Request the Bank shall make such Request publicly available together with the
recommendation Panel's on whether to proceed with the inspection and the decision of the Executive Directors in this respect.

VII. AN INVESTIGATION

A. Initial Procedures

42. When a decision to investigate a Request is made by the Board, or the Board itself requests an investigation, the Chairperson shall promptly:

(a) designate one or more of the Panel's members (Inspector(s)) to take primary responsibility for the investigation;
(b) arrange for all Panel members to consult, taking into account the nature of the particular Request, on:
   (i) the methods of investigation that at the outset appear the most appropriate;
   (ii) an initial schedule for the conduct of the investigation;
   (iii) when the Inspector(s) shall report his/her (their) findings to the Panel, including any interim findings; and
   (iv) any additional procedures for the conduct of the investigation.

43. The designated Inspector(s) shall, as needed, arrange for a meeting with the Requester and schedule discussions with directly affected people.

44. The name of the Inspector(s) and an initial work plan shall be made public as soon as possible.

B. Methods of Investigation

45. The Panel may, taking into account the nature of the particular Request, use a variety of investigatory methods, including but not limited to:

(a) meetings with the Requester, affected people, Bank staff, government officials and project authorities of the country where the project is located, and representatives of local and international non-governmental organizations;
(b) holding public hearings in the project area;
(c) visiting project sites;
(d) requesting written or oral submissions on specific issues from the Requester, affected people, independent experts, government or project officials, Bank staff, or local or international non-governmental organizations;
(e) hiring independent consultants to research specific issues relating to the Request;
(f) researching Bank files; and
(g) any other reasonable methods the Inspector(s) consider appropriate to the specific investigation.

Consent Required

46. In accordance with the Resolution, physical inspection in the country where the project is located will be carried out with prior consent. The Chairperson shall request the Executive Director representing such country to provide written consent.

C. Participation of Requester

47. During the course of the investigation, in addition to any information requested by the Inspector(s), the Requester (and affected people if the Requester is a non-affected Representative or an Executive Director) or Bank staff may provide the Inspector(s) either directly or through the Executive Secretary with supplemental information that they believe is relevant to evaluating the Request.

48. The Inspector(s) may notify the Requester of any new material facts provided by Bank staff or by the Executive Director for, or authorities in, the country where the project is located.

49. To facilitate understanding of specific points, the Panel may discuss its preliminary findings of fact with the Requester.

D. Participation of Third Parties

50. During the course of the investigation, in addition to any information requested by the Inspector(s), any member of the public may provide the Inspector(s), either directly or through the Execu-
tive Secretary, with supplemental information that they believe is relevant to evaluating the Request.

51. Information should not exceed ten pages and include a one-page summary. Supporting documentation may be listed and attached. The Inspector(s) may request more details if necessary.

VIII. PANEL REPORT

Contents

52. The report of the Panel (the "Report") shall include the following:

(a) a summary discussion of the relevant facts and of the steps taken to conduct the investigation;
(b) a conclusion showing the Panel's findings on whether the Bank has complied with relevant Bank policies and procedures;
(c) a list of supporting documents which will be available on request from the Office of the Inspection Panel; and
(d) statements of the majority and minority views in the absence of a consensus by the Panel.

Submission

53. Upon its completion, the Panel shall submit the Report to:

(a) the Executive Directors: accompanied by notification that the Report is being submitted to the President on the same date; and
(b) the President: accompanied by a notice against receipt that within 6 weeks of receipt of the Report, Management must submit to the Executive Directors for their consideration a report indicating Management's recommendations in response to the Panel's findings.

IX. MANAGEMENT'S RECOMMENDATIONS

54. Within 6 weeks after receiving the Panel's findings, Management will submit to the Executive Directors for their consideration a
report indicating its recommendations in response to the Panel's findings. Upon receipt of a copy of the report, the Panel will notify the Requester.

X. BOARD DECISION AND PUBLIC RELEASE

55. Within 2 weeks after the Executive Directors consider the Panel's Report and the Management's response, the Bank shall inform the Requester of the results of the investigation and the action decided by the Executive Directors, if any.

56. After the Bank has informed the Requester, the Bank shall make publicly available:

(a) the Panel's Report;
(b) Management's recommendations; and
(c) the Board's decision.

These documents will also be available at the Office of The Inspection Panel.

57. The Panel will seek to enhance public awareness of the results of investigations through all available information sources.

XI. GENERAL

Business Days

58. "Days" under these procedures means days on which the Bank is open for business in Washington, D.C.

Copies

59. Consideration of Requests and other documents submitted throughout the process will be expedited if an original and two copies are filed. When any document contains extensive supporting documentation the Panel may ask for additional copies.

Consultations

60. The borrower and the Executive Director representing the borrowing (or guaranteeing) country shall be consulted on the
subject matter before the Panel’s recommendation and during an investigation.

Access to Bank Staff and Information

61. Pursuant to the Resolution and in discharge of their functions, the members of the Panel shall have access to all Bank staff who may contribute information and to all pertinent Bank records and shall consult as needed with the Director General, Operations Evaluation Department and the Internal Auditor.

Legal Advice

62. The Panel shall seek, through the Vice President and General Counsel of the Bank, the written advice of the Bank’s Legal Department on matters related to the Bank’s rights and obligations with respect to the Request under consideration. Any such advice will be included as an attachment to the Panel’s recommendation and/or Report to the Executive Directors.

Confidentiality

63. Documents, or portions of documents of a confidential nature will not be released by the Panel without the express written consent of the party concerned.

Information to Requester and Public

64. The Executive Secretary shall record in the Register all actions taken in connection with the processing of the Request, the dates thereof, and the dates on which any document or notification under these procedures is received in or sent from the Office of The Inspection Panel. The Requester shall be informed promptly. The Register will be publicly available.

65. A notice that a Request has been registered and all other notices or documents issued by the Panel will be available to the public through the Bank’s PIC in Washington, D.C.; at the Bank’s Resident Mission in the country where the project is located or at the relevant regional office; at the Bank’s Paris, London and Tokyo offices; or on request from the Executive Secretary of the Panel.
Annex 1

[The Resolution establishing the Inspection Panel is reprinted supra at p. 127.]
Annex 2

Guidance on How to Prepare a Request for Inspection

The Inspection Panel needs some basic information in order to process a Request for Inspection:

1. Name, contact address and telephone number of the group or people making the request.

2. Name and description of the Bank project.

3. Adverse effects of the Bank project.

4. If you are a representative of affected people attach explicit written instructions from them authorizing you to act on their behalf.

These key questions must be answered:

1. Can you elaborate on the nature and importance of the damage caused by the project to you or those you represent?

2. Do you know that the Bank is responsible for the aspects of the project that has or may affect you adversely? How did you determine this?

3. Are you familiar with Bank policies and procedures that apply to this type of project? How do you believe the Bank may have violated them?

4. Have you contacted or attempted to contact Bank staff about the project? Please provide information about all contacts, and the responses, if any, you received from the Bank. You must have done this before you can file a request.
5. Have you tried to resolve your problem through any other means?

6. If you know that the Panel has dealt with this matter before, do you have new facts or evidence to submit?

Please provide a summary of the information in no more than a few pages. Attach as much other information as you think necessary as separate documents. Please note and identify attachments in your summary.

You may wish to use the attached model form.
MODEL FORM:

REQUEST FOR INSPECTION

TO: THE INSPECTION PANEL: 1818 H St., N.W., Washington, D.C. 20433, U.S.A.

We, ___________, and ___________, and other persons whose names and addresses are attached live/represent others, living in the area known as: ______________________ (and shown in the attached map or diagram) claim the following:

1. The Bank is financing the design/appraisal or implementation of a project [name and brief description]

2. We understand that the Bank has the following policies and/or procedures [list or describe]:

3. Our rights/interests are [describe]:

4. The Bank has violated its own policies/procedures in this way:

5. We believe our rights/interests have been/are likely to be adversely affected as a direct result of the Bank's violation. This is causing us, or is likely to cause us, to suffer [describe harm]:

6. We believe the action/omission is the responsibility of the Bank.
7. We have complained/made an effort to complain to Bank staff by [describe]:

Please attach evidence or explanation.

8. We received no response; or
We believe that the response(s) attached is unsatisfactory because [describe why]:

9. In addition we have taken the following steps to resolve our problem:

We therefore believe that the above actions/omissions which are contrary to the above policies or procedures have materially and adversely affected our rights/interests and request the Panel to recommend to the Bank's Executive Directors that an investigation of these matters be carried out in order to resolve the problem.

As advised in your Operating Procedures, this Request for Inspection is brief. We can provide you with more particulars.

DATE: ____________________________
SIGNATURES: ______________________
CONTACT ADDRESS: __________________

Attachments: [Yes][No]

We authorize you to make this Request public [Yes][No]
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