

51372

ACCOUNTABILITY AT THE WORLD BANK

# THE INSPECTION PANEL AT 15 YEARS









ACCOUNTABILITY AT THE WORLD BANK

THE INSPECTION PANEL AT

15 YEARS



The Inspection Panel 

International Bank for Reconstruction and Development  
International Development Association

© 2009 The International Bank for Reconstruction and Development /  
The World Bank  
1818 H Street, NW  
Washington, DC 20433  
Telephone: 202-473-1000  
Internet: [www.inspectionpanel.org](http://www.inspectionpanel.org) or [www.worldbank.org](http://www.worldbank.org)  
E-mail: [ipanel@worldbank.org](mailto:ipanel@worldbank.org)

All rights reserved.

The findings, interpretations, and conclusions expressed herein are those of the author(s) and do not necessarily reflect the views of the Board of Executive Directors of the World Bank or the governments they represent.

The World Bank does not guarantee the accuracy of the data included in this work. The boundaries, colors, denominations, and other information shown on any map in this work do not imply any judgment on the part of the World Bank concerning the legal status of any territory or the endorsement or acceptance of such boundaries.

#### **Rights and Permissions**

The material in this work is copyrighted. Copying and/or transmitting portions or all of this work without permission may be a violation of applicable law. The World Bank encourages dissemination of its work and will normally grant permission promptly.

For permission to photocopy or reprint any part of this work, please send a request with complete information to the Copyright Clearance Center, Inc., 222 Rosewood Drive, Danvers, MA 01923, USA, telephone 978-750-8400, fax 978-750-4470, [www.copyright.com](http://www.copyright.com).

All other queries on rights and licenses, including subsidiary rights, should be addressed to the Office of the Publisher, World Bank, 1818 H Street NW, Washington, DC 20433, USA, fax 202-522-2422, e-mail [pubrights@worldbank.org](mailto:pubrights@worldbank.org).

A FREE PUBLICATION



# TABLE OF CONTENTS

---

<b>Foreword</b>		<b>v</b>
<b>Acknowledgments</b>		<b>vii</b>
<b>An Introduction from the Panel Chair</b>		<b>ix</b>
<b>Abbreviations and Acronyms</b>		<b>xv</b>
<b>Chapter 1</b>	<b>The Inspection Panel: Its Foundation and Mandate</b>	<b>2</b>
<b>Chapter 2</b>	<b>The Basic Characteristics and Core Principles of the Panel</b>	<b>15</b>
<b>Chapter 3</b>	<b>The Phases of the Panel Process: Eligibility, Investigation, Report Writing, and Board Discussion</b>	<b>23</b>
<b>Chapter 4</b>	<b>Breaking New Ground, Continuing Challenges</b>	<b>47</b>
<b>Chapter 5</b>	<b>Outcomes and Effects of the Panel Process</b>	<b>79</b>
<b>Chapter 6</b>	<b>Perspectives on the Panel at 15 Years</b>	<b>94</b>
<b>Appendix I</b>	<b>Panel Activities in Fiscal Year 2009</b>	<b>115</b>
<b>Appendix II</b>	<b>Biographies of the Panel Members and the Executive Secretary</b>	<b>184</b>
<b>Appendix III</b>	<b>Geographical Distribution of Requests for Inspection</b>	<b>186</b>
<b>Appendix IV</b>	<b>Tables</b>	<b>188</b>
<b>Appendix V</b>	<b>Figures</b>	<b>200</b>
<b>Appendix VI</b>	<b>The Resolution Establishing the Inspection Panel</b>	<b>202</b>
<b>Appendix VII</b>	<b>First Review of the Resolution Establishing the Inspection Panel</b>	<b>207</b>
<b>Appendix VIII</b>	<b>Second Review of the Resolution Establishing the Inspection Panel</b>	<b>209</b>
<b>Appendix IX</b>	<b>Joint Statement on the Use of Country Systems</b>	<b>213</b>
<b>Appendix X</b>	<b>Memorandum of Understanding, the World Bank Inspection Panel and the Compliance Review and Mediation Unit of the African Development Bank</b>	<b>214</b>
<b>Appendix XI</b>	<b>Guidance on the Inspection Panel</b>	<b>217</b>
<b>Appendix XII</b>	<b>Fiscal Year 2009 Budget</b>	<b>221</b>
<b>References</b>		<b>222</b>







When the Board of the World Bank created the Inspection Panel 15 years ago, the primary objective was clear and important: to strengthen our accountability to the people affected by Bank financing and to our shareholders. Today, this objective remains fundamental—and its significance is even more widely appreciated. The global financial crisis underlines the fact that trust is vital to the effective functioning of financial institutions and market economies.

The World Bank's Inspection Panel is testimony to our commitment to transparency and learning how to improve our work. The Inspection Panel helps to maintain trust in our institution and regain it where it has been lost.

It is the vision of the World Bank Group to contribute to an inclusive and sustainable globalization—and the Inspection Panel's work is inextricably linked to achieving inclusiveness and sustainability in our development efforts. The Panel provides an opportunity for stakeholders to bring their grievances to the attention of the highest authorities in the Bank, and for the Bank to learn about problems and mistakes—and to initiate corrective action. The Panel's role in addressing compliance with Bank operational policies has been instrumental in ensuring that our development work is sustainable. The Inspection Panel has proven to be an important avenue for project stakeholders and their communities to identify and resolve problems that arise when there is noncompliance with social and environmental safeguards.

Over the years, the World Bank's Inspection Panel—alongside its companion accountability mechanism in IFC and MIGA, the Compliance Advisor/Ombudsman (CAO)—has become an important model for how public and private institutions can address issues of accountability. Indeed, we are proud and pleased that many other international financial institutions have followed the Inspection Panel's lead. We foresee that private financial institutions, especially those acting internationally, will increasingly adopt some of the features pioneered by the Panel, including the possibility of recourse to those affected by their financing.

Inspections are not always comfortable for those whose decisions and actions are scrutinized. I want to thank all the staff who recognize the importance of the Panel's work, take extra time to resolve questions, and seek to learn how we can do better. It is a sign of the increasing maturity of the Panel process that Bank Management and staff are fully supportive of the independence and impartiality that have guided the Panel's work over the years. We have come to recognize that the Panel is an essential part of the Bank's performance of its mission. It is critical to our effective governance, and it is important to the people we serve.



I also want to thank those who have served on the Inspection Panel over the years, as well as those who have assisted them. They have often made extra efforts to support high standards of professionalism. The Bank is grateful for their contributions to our improvement.

This report documents the road the Inspection Panel has traveled over the past 15 years. I hope it will serve as a useful basis for further dialogue about effective and efficient structures for enhancing governance and accountability—for us and even for other financial institutions that value service, attention to safeguards, and thoughtful checks and balances in the development and grants process.

**Robert B. Zoellick**  
*President*  
*The World Bank Group*  
*Washington, DC*

## ACKNOWLEDGMENTS

---

This publication is the result of contributions received from several individuals, including my fellow Panel Members Roberto Lenton and Alf Jerve. On behalf of the Panel, I would like to thank Peter Lallas, principal author of the main text; Mishka Zaman for editing and coordinating this publication; and Serge Selwan for editing and coordinating the Annual Report. Special thanks also go to Secretariat staff Dilek Barlas, Tatiana Tassoni, Francine Coscolluela, Luis Schunk, and Robert Dickerson for their help in finalizing this document; to Eduardo Abbott, Shéhan de Sayrah, Michael Cernea, and Lori Udall for helpful contributions; and to our resourceful interns Brett Simmons, Lauren Finzer and Felix Pfeifer for their editorial assistance.

The Panel is also grateful to President Robert B. Zoellick for writing the foreword, and to former members of the Board of Executive Directors, former Panel Members, Requesters, Bank Management, and civil society members for their inputs.

**Werner Kiene**  
*Chairperson*  
*The Inspection Panel*  
*Washington, DC*





# AN INTRODUCTION FROM THE PANEL CHAIR

---

A stroke of genius! This is what one might call the creation of the Inspection Panel and its unique innovation in international governance. Traditionally, governments of member states were the ones with authority to engage in formal procedures vis-à-vis the international bodies that they had created. With the Inspection Panel a new horizon opened: the Panel makes it possible also for non-State actors—citizens and their communities—to challenge decisions of international bodies through a clear and independently administered accountability and recourse process. New doctrine in international law was established, opening up new avenues for citizen involvement in a complex world that increasingly interacts through international institutions.

## AN INNOVATION AND ITS EVOLUTION

This book shows in its first chapter how the Inspection Panel was established by the World Bank Board of Directors in 1993 in response to public pressure for increased accountability and transparency at the Bank. The Panel’s work began in 1994 and since then it has served as an independent forum for people who feel that they have been adversely affected by Bank projects as a result of the Bank’s lack of compliance with its own policies.

The Panel’s work has also set an international precedent in that the Inspection process is initiated by local and affected people. The Panel gives them additional voice in the development of their communities and helps them to shape their future. This “bottom-up” approach to governance has enabled communities to bring grievances to the highest level of the Bank and to become more engaged in their own development future.

## HELPING THE BANK TO ENFORCE ITS OWN POLICIES

Although the Bank is the object of the voiced critique and the resulting investigations, the Panel’s work is crucial to the institution’s long-term success: the Bank is governed by a set of truly avant-garde policies and procedures. These policies have been carefully designed to ensure that Bank investments, while leading to development and growth, do not do so at the expense of poor and marginalized people and the environment. Sustainable growth with justice is a key objective of the Bank and it is precisely through the Inspection Panel that a process exists to ensure that the safeguards embodied in Bank policies are adhered to and that, in the case of noncompliance, corrective measures are initiated.



Thus, the Panel’s work helps to ensure that the Bank adheres to standards of accountability that are as high as the ones it demands from its clients and partners. This accountability is key to the Bank’s relations with its stakeholders. It improves the development effectiveness of investments and it ensures that the institution lives up to its mission of poverty alleviation.

## **THE PANEL’S HALLMARK: INDEPENDENCE, INTEGRITY, IMPARTIALITY**

Chapters 2 and 3 describe key characteristics of the Panel, and how it works in practice. The Panel’s operations embrace the fundamental principles of independence, integrity, and impartiality. These cornerstone principles enable the Panel to respond to the issues raised and to provide technically sound, independent assessments to the Bank’s Board.

The Panel fulfills its mandate with the assistance of three groups of people: three Panel Members of different nationalities, the permanent Panel Secretariat that assists and advises the Panel, and expert consultants who provide technical expertise necessary for a full understanding of the social and biophysical environment within which projects are designed and implemented.

## **THE PANEL PROCESS**

Access to the Panel is intended to be an uncomplicated process: two or more people affected by a Bank-financed project may send a letter to the Panel asking for an investigation. Once the Panel has received and registered a Request, Bank Management has the opportunity to provide an initial response, which generally focuses on whether it has complied with the relevant Bank policies in that particular project. The Panel then examines the eligibility of the Request for a full investigation. If the Panel decides that the Request is eligible, it sends its recommendation for a full investigation to the Board of Executive Directors, or which traditionally has agreed with the Panel’s recommendations without interference in the Panel’s work.

## **A METHODOLOGY FOCUSED ON FACT FINDING AND REPORTING**

The Panel’s methodology for an investigation includes field work, fact finding, verification, public meetings, interviews with affected people and Bank operations staff, and review of relevant project documents and policies. Once the Panel completes its investigation it sends its final report with findings to the Board and to Bank Management. Management, in consultation with the borrower and increasingly also with Requesters and affected populations, responds to the Panel’s final report with recommendations and an action plan that lays out the process by which the project should be brought into compliance and the operational corrections that are to be initiated. The Board makes a decision regarding next steps based on both the Panel Report and Management’s Response.

## ENHANCING ACCESS, PROBLEM SOLVING, ENSURING FOLLOWUP

Chapter 4 reviews the many challenges the Panel has faced during its 15 years of existence, and areas where it has broken new ground. Two of the key challenges the Panel has confronted are making the Panel process more accessible to affected people and increasing public awareness of the Panel in the Bank's borrowing countries. While the Panel has a mandate to conduct public outreach and participates in numerous international and national meetings with civil society, Bank Management has not yet sufficiently lived up to its mandate to increase awareness about the Panel through its country work.

Another challenge for the Panel is to get a sense of the dynamics of a project and the problems faced by the complaining citizens: Is the situation going to improve or will it stay the same or get even worse? In some cases, the Panel has broken ground by promoting problem solving between Management and the Requesters to help mediate less contentious cases and lead to an earlier resolution of community concerns or policy compliance problems.

While the Requesters do not always have access to information during the Panel process because of certain limitations in the process, the Panel has developed a practice of returning to the project site, after the Board decision, to meet with Requesters and explain the outcome of the investigation, Management's response and action plan, and the Board decision. Beginning with the Inspection of the Yacyretá Hydroelectric Project in 1996, the Panel has returned to the project sites of all claims to brief Requesters and meet with other interested stakeholders. During these meetings, the stakeholders gain a better understanding of the Panel's findings and Management's proposed action plans.

Periodically, the Board has also requested that the Panel return to project sites to monitor or provide follow-up fact finding. The Panel has developed a simple tracking tool to provide greater transparency in the follow-up process.

## DEALING WITH HUMAN RIGHTS ISSUES

Another challenge is the issue of human rights in relationship to Bank policy and to Requesters. Requesters (who are often poor and marginalized and lack a voice in the political process) are often at risk of retaliation, intimidation, or even imprisonment. The Panel has been concerned that this risk may threaten the integrity of the Panel process and has sought avenues to alleviate the risks, such as developing strict provisions for maintaining the confidentiality of Requesters when needed.

The Panel felt obliged to examine the human rights situation in, for example, its Investigation Report on the Chad-Cameroon Pipeline, where it noted that human rights are implicitly embedded in various policies of the Bank. In the Chad-Cameroon Pipeline case, the Panel suggested that the Bank should study the wider consequences of human rights violations as they relate to the overall success or failure of policy compliance in Bank projects. The Panel stands ready to report to the highest authorities any instances of pressure or reprisal faced by Requesters—both to limit the negative ramifications on all people's desires to put forth claims, and as a fundamental concern for human rights.



## SYSTEMIC ISSUES THAT HELP TO EXPLAIN CAUSES OF NONCOMPLIANCE

Chapter 4 also provides highlights of Panel findings on issues of compliance over the years. One interesting feature of this discussion, addressed in a number of Panel investigation reports, is the question of why noncompliance arises despite Management's serious attempts to enforce policies and procedures.

In this regard, the discussion notes certain systemic issues that have recurred in several projects. For instance, cases have surfaced in which problems were not adequately addressed in previous projects, such as resettlement in the Bujagali Falls Dam Project. Similarly, another significant cause for noncompliance is time pressure that Bank staff may face in submitting a project to the Board, which in some cases has resulted in an underestimation of risks, such as in the Ghana Second Urban Environment Sanitation Project (UESP II) claim.

The lack of funds for supervision has in some cases led to inattention to warning signs of brewing conflict, which can be a serious impediment to project success. For example, in the Ghana UESP II case, in which the project experienced local opposition, the Panel noted inattention to crucial developments during project implementation resulting from a hands-off approach by Management and failure to ensure policy compliance. Serious shortcomings in supervision also surfaced in the West Africa Gas Pipeline Project and the Albania Integrated Coastal Zone Management and Clean-Up Project.

In public-private partnerships, supervision of projects has also surfaced as a systemic issue in cases where private sector partners' lack knowledge and expertise in Bank safeguard policies. The Panel observed that private sector companies are chosen for their technical competence in a particular field, but may not be well equipped to address the Bank's policy requirements.

The Panel has noted with concern that in certain requests (Pakistan National Drainage Program, the Democratic Republic of Congo [DRC] forest-related project, and the India Mumbai Urban Transport Project), Management failed to ascertain the impacts of projects on certain groups of people. While Management subsequently identified and proposed responsive actions to address these impacts, the fact that these affected communities were overlooked points to continuing difficulties in dealing with the notion of "Project Area of Influence."

A final systemic issue noted by the Panel is that, in some instances, Bank Management has given inadequate attention to the social and environmental impacts of projects involving institutional and regulatory reform, as compared with infrastructure projects. For example, in the DRC forest-related operations it was found that the environmental and social impact of institutional reform was often underestimated. By underscoring these systemic issues, the Panel aims to cultivate a feedback loop for lessons learned at the operational level.

## SERIOUS ISSUES OF NONCOMPLIANCE....

As described in Chapter 4, the Panel has found recurring instances of noncompliance in some of the most crucial but also most complex policy areas of Involuntary Resettlement, Indigenous Peoples, Protection of Cultural Property, and assessment of borrower capacity. Inspection Reports dealing with these issues should become an important back-

ground for devising strategies to enhance compliance with these policies, which are central to the sustainable success of the projected increase in the Bank's infrastructure portfolio.

### ...AND FINDINGS OF COMPLIANCE

Conversely, the Panel has often made positive findings of compliance and due diligence with regard to important policy revisions. In the Bujagali Falls Dam Project, for example, the Panel noted that the Bank carried out substantial work on safeguard policy issues and complied with several environmental policy provisions. Similarly, the Panel found in its investigation of the Honduras Land Administration Project that substantial efforts had been made to address safeguard policy issues, in particular the preparation of the indigenous peoples development plan. Additionally, the Panel has also reported positive responses by the Bank following submission of Requests for Inspection, including in the India Mumbai Urban Transport and Ghana UESP II projects.

### SIGNIFICANT OUTCOMES AND EFFECTS AT VARIOUS LEVELS

Chapter 5 surveys the outcomes or effects of the Panel process, which occur at multiple levels. Most directly, the Panel process is designed to lead to improvements for affected people in relation to the specific project under investigation. In addition, the work of the Panel has important influences on how the Bank addresses projects similar to those subject to Requests for Inspection, and in its overall attention to social and environmental safeguards at the institutional level. In addition, the Panel has played the important role in serving as a model for accountability and recourse mechanisms now in place at other international financial institutions.

Outcomes at the project level have included improvements in resettlement plan design and compensation, changes in approaches to certain policy frameworks in borrower countries, creation of in-country grievance mechanisms, improved information disclosure, strengthened project supervision, and increased attention to indigenous peoples' concerns and livelihoods.

Panel investigations have also led to various commitments by Bank Management with institution-wide implications. In response to the DRC forest-related projects, Bank Management made significant new commitments to scale up resources for supervision and to engage safeguard specialists in central Africa. More generally, the Panel's existence as a recourse mechanism has created incentives for Bank staff to focus more closely on the proper application of policies.

### FINALLY, A VOTE OF THANKS

As the testimonies in the book note, and as documented by voluminous research on the Panel process, the Bank is a better institution because of the Panel. Many people deserve credit for these achievements and I can thank them here only summarily.

Special recognition goes to our Board of Executive Directors and its Chairman Mr. Zoellick, and his predecessors, for their unwavering support for the independence of the

Panel throughout these years. I would also like to note the Panel's appreciation for the trust placed in it by civil society and by those who have come to seek accountability and recourse.

Also, we thank the many institutions in borrowing countries who helped us get our facts right. Of course, we could not have done our job if it were not for the professional interaction that we have enjoyed with the Bank's Management and its staff. We honor them for their superb competence, for the patience with which they have shared their knowledge with us, and above all, for the respect they have demonstrated for our requirement of independence.

The success story documented in this book is due to the strong professionalism and enthusiasm that have permeated the Panel's work each day of the past 15 years. Our special thanks go to all Panel Members, past and present; to our experts; and last but not least, to the leadership and staff of the Panel Secretariat. We thank them and salute them all. In this context, I want to pay a special tribute to Mr. Eduardo Abbott, the Panel's founding Executive Secretary, for his dedication throughout these past years.

**Werner Kiene**  
*Inspection Panel Chairperson*  
*July 2009*



# ABBREVIATIONS AND ACRONYMS

---

ACEE	Accessibility, Credibility, Effectiveness, and Efficiency
AESNP	AES Nile Power
AfDB	African Development Bank
BP	Bank Procedures
CAMV	Centre d'Accompagnement des Autochtones Pygmées et Minoritaires Vulnérables
CAO	Compliance Advisor/Ombudsman
CDP	Community Development Program
CIEL	Center for International Environmental Law
CODE	Committee on Development Effectiveness
COPIREP	Comité de Pilotage de la Réforme des Entreprises Publiques
CRMU	Compliance Review and Mediation Unit
DfID	Department for International Development
DRC	Democratic Republic of Congo
EA	Environmental Assessment
ED	Executive Director
EESRSP	Emergency Economic and Social Reunification Support Project
EIA	Environmental Impact Assessment
EIB	European Investment Bank
EIS	Environmental Impact Study
ELPS	Escravos-Lagos Pipeline System
EMP	Environmental Management Plan
ESA	Environmental and Social Assessment
ESSF	Environmental and Social Safeguards Framework
FOEI	Friends of the Earth International
GDP	Gross domestic product
GP	Good Practices
IAP	International Accountability Project
IBRD	International Bank for Reconstruction and Development
IDA	International Development Association
IFC	International Finance Corporation
IFI	International Financial Institutions
ILO	International Labour Organization
IP	Inspection Panel
MDB	Multilateral Development Bank
MIGA	Multilateral Investment Guarantee Agency
MMRDA	Mumbai Metropolitan Region Development Authority
MUTP	Mumbai Urban Transport Project
MW	Megawatt

NAPE	National Association of Professional Environmentalists
NDP	National Drainage Program
NGO	Non-Governmental Organization
NTPC	National Thermal Power Corporation
OD	Operation Directive
OMS	Operational Manual Statement
OP	Operational Policy
OPN	Operational Policy Note
PAD	Project Appraisal Document
PRONAT	Programa Nacional de Administración de Tierras
PSF	Province of Santa Fe
RAP	Resettlement Action Plan
RPF	Resettlement Policy Framework
SCDP	Southern Coastal Development Plan
TEP	Thermal Electric Power Plant
TSERO	Transitional Support for Economic Recovery Operation
UESP	Urban Environmental Sanitation Project
UESP II	Second Urban Environment Sanitation Project
UN	United Nations
U.S.	United States of America
USOA	United Shop Owners Association
VDP	Voluntary Departure Program
VDO	Voluntary Departures Operation
WAGP	West Africa Gas Pipeline
WAPCo	West Africa Gas Pipeline Company Limited
WB	World Bank
WBG	World Bank Group



---

THE INSPECTION PANEL AT

15 YEARS



## THE INSPECTION PANEL: ITS FOUNDATION AND MANDATE

The Inspection Panel was established in September 1993 by the World Bank Board of Directors as an independent accountability mechanism of the World Bank, and started operations on August 1, 1994. The Panel provides a forum for people who believe that they may be adversely affected by Bank-financed operations to bring their concerns to the highest decision-making levels of the World Bank. The Panel determines whether the Bank is complying with its own policies and procedures, which are designed to ensure that Bank-financed operations provide social and environmental benefits and avoid harm to people and the environment.

Through its work, the Panel has pioneered a new approach to achieving accountability among international financial institutions that goes beyond traditional “top-down” approaches conventionally relied on within the framework of international law. A core premise of its work, from the Panel’s founding to the present time, is to give affected people a greater voice in activities carried out by the World Bank that may affect their rights and interests. In the process, the Panel brings greater transparency and effectiveness to World Bank-financed operations.

It is no small matter that the World Bank—albeit in the spotlight of intense outside pressure—created such an independent accountability mechanism and has supported its existence over the past 15 years. Building on this example, other multilateral and regional financial institutions have established their

own similar (but also different) accountability mechanisms in support of the critical task of making such institutions more participatory and accountable to the people they serve as part of broader efforts at sustainable and equitable development.

This book provides an overview of the Inspection Panel’s work and experience over the 15 years since its establishment, including challenges it continues to face in living up to its founding principles. It complements two previous publications on the Panel that were issued after its first 4 and 10 years and thus focuses more on the last 5 years of the Panel’s work.<sup>1</sup>

“Those who designed the Panel approach deserve our admiration and gratitude. The Panel has become an invaluable institution to make sure that the concerns of people affected by Bank-financed projects are heard at the highest levels of Bank governance. As an instrument of the Board it also has enabled the Executive Directors to more effectively discharge their duties, and to better understand what is really happening on the ground.”

—**Eckhard Deutscher**, Chairman of the Development Assistance Committee (DAC) of the OECD, Paris; former Dean of the World Bank Board of Executive Directors



## EVENTS LEADING TO THE CREATION OF THE PANEL

The Inspection Panel was created at a time when the World Bank faced intense controversy and criticism from both internal and external sources. In the late 1980s and early 1990s, widespread voices of concern and protest from civil society and project-affected communities questioned the social and environmental impacts of Bank-financed operations. Citizen campaigns circulated evidence that some Bank-funded projects were “development disasters,” causing harm particularly to poor and vulnerable people unable to assert or protect their rights and livelihoods. There was also widespread frustration that the Bank operated behind closed doors and often overlooked problems facing project-affected people, thus weakening its ability to support sustainable development, prevent impoverishment, and reduce poverty. Serious debates on these issues also took place within the Bank’s member governments and, indeed, the corridors of the Bank itself (World Bank 2004; Clark 2003; Hunter and Udall 1994; Brown Weiss, Lallas, and Herken 2009).

A central element of this critique was that the Bank was not complying with its own policy commitments which it had adopted to prevent these very types of adverse social and environmental impacts. The Bank had begun developing these and other relevant operational policies and procedures in the 1980s, including policies on involuntary resettlement (1980), tribal peoples (1982), and environmental assessment (1988).

A flashpoint for these concerns was the Sardar Sarovar Dam and Canal projects on the Narmada River in India, which involved the resettlement of some 120,000 people and major environmental impacts. The World Bank approved funding for these projects in the mid-1980s, and made disbursements over several years. In response to a sustained and growing public outcry over their social and environmental impacts, however, and at the request of the Bank’s Board of Executive Directors, Bank President Barber Conable commissioned an independent review of the projects in 1991. Bradford Morse, a retired administrator of the United Nations Development Programme (UNDP), and Thomas Berger, a former justice of the Supreme Court of British Columbia, Canada, led the review. The “Morse Commission” report, published in 1992, identified serious compliance failures by the Bank, and documented “devastating human and environmental consequences of those violations” (Morse and Berger 1992, 2; Inspection Panel 2003).

“When the Inspection Panel was conceived, the idea of a citizen-based accountability mechanism that would empower local people to by-pass their national governments and seek independent review of their rights was totally radical within international financial institutions and indeed within international law more generally.”

—**David Hunter**, Associate Professor of Law, American University

“If you compare the history of the Inspection Panel to human rights bodies when they were established what the Panel has achieved in 15 years is quite impressive . . . with the Panel, decisions have been made, projects have improved, and concrete changes have actually happened on the ground.”

—**Danny Bradlow**, Professor of Law, American University

“There was definitely a need for an independent Panel and discussions about it came after the Narmada Dam discussion. After the Narmada project it became clear that giving affected people a voice was critical.”

—**E. Patrick Coady**, former World Bank Executive Director



Nepal: Arun III—  
Panel Members  
meeting villagers

“Unfortunately, in quite a few member countries the image of the Bank has been tarnished. The reaction of the public to the Wapenhans Report further accentuated this problem. Parts of the general public have the impression that there is a lack of accountability within the Bank and also vis-a-vis the shareholders. We feel, that the creation of an independent evaluation unit that has the task to look into projects, could go a long way to dispel such concerns.”

**Office Memorandum of February 10, 1993, of Executive Directors** Fritz Fisher, Nicholas Flaño, Eveline Herfkens, and Aris Othman, which contributed to the creation of the Inspection Panel

“Decades of development experience have shown us that sometimes good intentions and even strong social and environmental safeguard policies do not necessarily guarantee that the lives and livelihoods of the world’s poorest people will be protected.

In the last 15 years, the Inspection Panel has greatly enhanced transparency and public accountability at the World Bank, and the Panel’s work has contributed significantly to the Bank’s mission of poverty alleviation by giving force to the Bank’s safeguard policies that protect the most marginalized people.”

—**Congressman Barney Frank (D-MA)**, Chairman, House Committee on Financial Services, United States House of Representatives

Congressman Barney Frank held key congressional hearings in the early 1990s that examined the need for increased transparency and public accountability at the World Bank. During this time, in close cooperation with civil society, Frank played a crucial role in promoting the creation of the Inspection Panel and an enhanced information disclosure policy.

In light of this investigation and continuing concerns from both within and outside the Bank, then President Lewis Preston established an internal task force to review Bank operations. The internal report (Wapenhans 1992), completed in November 1992 under Vice President Willi Wapenhans, found that the Bank had developed a “culture of approval” driven by a promotion incentive structure that rewarded staff for moving through as many projects as possible without paying adequate attention to potential social and environmental impacts or effectiveness of implementation. This contributed to poor project design and outcomes, shortcomings in accounting for local priorities and capacity needs of borrowing countries, and corresponding failures to comply with the Bank’s basic safeguard policies.

The combination of protest movements aimed at the World Bank and the critical findings of the Morse Commission and Wapenhans Report occurred at an important moment in international cooperation. In June 1992, the international community gathered at the United Nations Conference on Environment and Development in Rio de Janeiro to chart a new cooperative approach to addressing interrelated issues of social development, economic development, and environmental protection. The Rio Summit was shaped in large part by the groundbreaking 1987 Brundtland Commission Report, *Our Common Future* (UN 1987), and reflected a new sense of urgency on these issues connected to the continuing fight against poverty worldwide.

Among other things, the Summit contained strong calls for expanded participation by civil society and the public in international law and policy decisions, and for “Strengthening the Role of Major Groups,” including women, children and youth, indigenous peoples

and their communities, nongovernmental organizations, workers, trade unions, and farmers. These and other actions reflected a gradual evolution in international law beyond the traditional doctrine in which States (but not individuals or communities) are “subjects” possessing both rights and obligations, to a new and more participatory approach in which affected citizens and people are given more formal legal recognition, or standing, to participate as “actors” on this stage.<sup>2</sup>

The blueprint for the creation of the Inspection Panel was developed in this larger context as a result of remarkable efforts at the time from civil society, governments, and members of the Bank’s Board to establish a new and independent mechanism for greater accountability, participation, and transparency at the World Bank.<sup>3</sup> By its mandate, the Panel

is intended to make the World Bank more accountable to people affected by Bank-financed projects. In a more general sense, the Panel also should be understood as a pioneering means to put into operation new principles of international law and policy to expand participation and give greater voice to people and communities affected by international decision making.

## THE ACT CREATING THE PANEL

The Panel was officially created by two resolutions of the International Bank for Reconstruction and Development (IBRD) and the International Development Agency (IDA) Board of Executive Directors on September 1, 1993 (Resolution IBRD 93–10 and Resolution IDA 93–6), referred to collectively as “the Resolution” because of their identical content. The Resolution specifies that the Panel has jurisdiction with respect to operations supported by the IBRD and the IDA.

The Resolution establishes the basic mandate and structure of the Panel. At its core, and in response to requests from affected people, the Panel has the power to carry out independent investigations of Bank-financed projects to determine whether the Bank is in compliance with its operational policies and procedures, and to make related findings of harm. The Panel reports its findings to the Bank’s Board of Executive Directors. Bank Management is required to prepare a response with recommendations and actions to address the Panel’s findings of noncompliance and harm. The Board of Executive Directors considers both the Panel’s findings and Management’s response and decides future actions (see chapter 2 for a more detailed description of the Panel process).

## THE PANEL AND THE BANK’S GOVERNANCE SYSTEM

As described in more detail in later sections, the creation of the Inspection Panel marked an important contribution to the strengthening of the World Bank’s governance system.<sup>4</sup> The Panel was established to be independent of Bank Management and report directly to the Board. In this way, when triggered by project-affected people, the Panel provides an independent means to inform the Board of whether Bank Management is acting consistently with Bank policies, including the way in which projects are implemented on the ground.

In addition, for the first time in the Bank’s history, the Panel process opened up a direct channel of communication between affected people and the Bank’s highest level of decision making, its Board of Directors. In the past, complaint letters to the Board had been routinely conveyed for response to the staff responsible for those projects, who could not be similarly independent or impartial, given their direct involvement in those projects.

“When Wolfensohn came to the Bank he invited the Panel to lunch. He was someone who really wanted to make his mark on the Bank. He said I want to give you the ten most risky projects and you should tell me what the issues are. He took his idea to the Board, but the Board said no. The Board had gone through a painful process in creating the Panel and they wanted control.”

—Alvaro Umaña, former Panel Member



Pakistan: National Drainage Program Project—Panel Team and Requesters at the Tidal Link

“The most important result from the process of the panels have been the confirmation and strengthening of organizations among the affected communities, with well informed and trustworthy leadership.”

“The main strength of the Panel process is its capability for making local voices heard at a high level of Bank management, as well as its indirect influence in strengthening local communities’ organizations.”

—Elias Díaz Peña, Yacretá Requester (1995 Request)

## THE PANEL AND CONCEPTS OF ACCOUNTABILITY

Webster’s Dictionary defines the term “accountable” as “required to render account: answerable.” While simply defined, experience and studies over the years indicate that “accountability” needs to be understood in context, and certain questions need to be answered to understand its meaning in a particular setting. These questions include accountability *by whom*, *to whom*, *against what standard*, and *for what purpose*.

A hallmark of the Inspection Panel is that it is based on community-led, or “bottom-up,” accountability. Specifically, complaints from two or more people who allege harm as the result of World Bank-

financed projects trigger action by the Panel. Accountability is by the World Bank (*by whom*) to affected people (*to whom*) on the question of whether the Bank is complying with its own operational policies and procedures (*the standard*). This type of accountability is distinct from, and complementary to, “top-down” forms of accountability, such as evaluations initiated by the organization itself.

As reflected by the mandate and work of the Panel, this type of accountability is important on several levels (*for what purpose*):

- It recognizes that the actions of institutions like the World Bank can have significant impacts on populations, and that these effects can be negative (even if not intentionally so) as well as positive.
- It gives affected people a stronger voice, enlisting and respecting their knowledge, expertise, and experience in the ongoing cooperative work to protect rights and redress implementation problems that arise.
- It expands internal checks-and-balance mechanisms so that people affected by the actions of international institutions can bring their concerns to the attention of decision makers, including concerns about noncompliance and harm.
- It creates a public record of both how well the institution is complying with its own operational policies and procedures and, importantly, how well the institution responds to the concerns of affected people when noncompliance is found.
- It can improve the credibility, and hence the legitimacy, of the institution, to the extent that the process helps the institution listen to affected people, respect its own policies, avoid harm, and take responsive measures to account for its conduct.
- In all these ways, this type of bottom-up accountability is designed to strengthen and support the ability of the Bank to achieve its mission to fight poverty and promote equitable and sustainable development.

This last point is a crucial, yet sometimes overlooked, element of the work the Inspection Panel does. As noted in more detail below, the effective operation of the Inspection Panel as an accountability mechanism is intended also to make the World Bank a better

institution, and help in its continuing work to achieve its mission, use its resources well, and support the development needs of borrowing countries.

Importantly, the Panel also provides an accountability structure *within* the Bank. By investigating Bank Management and reporting its findings to the Bank’s Board of Executive Directors, the Panel provides a check for the Board on whether actions by Bank Management are in compliance with required operational policies and procedures. Board Members have highlighted the critical role of the Panel in bringing to their attention issues of policy compliance and harm that might be present in projects financed by the Bank.

“Hearing the same refrain over and over, in different languages from poor people of different ethnic origins in widely scattered parts of the world: ‘What little we have is being taken away from us, or is about to be. We have taken our lives into our hands in coming to you. You are our only hope.’ These words stay with you and make it a privilege to serve on the Panel.”

—**Edith Brown Weiss**, former Chairperson of the Panel

## COMPLAINT AND RESPONSE MECHANISMS AS A “DIMENSION” OF ACCOUNTABILITY

One World Trust<sup>5</sup> has studied approaches to accountability used by transnational actors that play a role in global governance, including intergovernmental organizations like the World Bank, nongovernmental organizations, and transnational corporate entities. Their studies note that the decisions and actions of these organizations, including the World Bank, “can have a profound effect on people’s daily lives” and hence ask the question “but how do we hold these organisations to account for their actions?” (Lloyd, Oatham, and Hammer 2007, 6).

Reflecting the evolution of international law and policy noted above, the *2007 Global Accountability Report* considers that current “state based accountability is inadequate” and that “new tools are needed at the local, national, and global level to make transnational actors more accountable and transparent to affected individuals and communities” (Lloyd, Oatham, and Hammer 2007, 6). In this context, the report identifies four core “dimensions” of accountability in international organizations: transparency, participation, evaluation, and complaint and response mechanisms.

The Inspection Panel of the World Bank fits within the fourth dimension of this accountability matrix, as a “complaint/response mechanism.”<sup>6</sup> In its 2006 report (Blagescu and Lloyd 2006), One World Trust cited the Panel as an illustration of good practice in this area. The analysis of why such mechanisms are important is instructive to the situation of the Panel and the World Bank. The report states,

Without an effective complaint and response mechanism in place, there is little that stakeholders can do to prevent abuses of power should other accountability mechanisms fail. A rigorous complaint and response mechanism will provide an incentive for [intergovernmental organizations] to ensure that other accountability mechanisms are consistently implemented and adhered to in all areas of their work and that, should they fail, the organization will take action to address them. (Blagescu and Lloyd 2006, 50)

Commentary on the Inspection Panel (see annex A to chapter 6) further illustrates the importance of the Panel as an accountability mechanism whose influence has affected the creation of other mechanisms worldwide.



## THE PANEL'S CONTRIBUTIONS TO THE BANK'S POVERTY ALLEVIATION VISION AND MISSION

The function of the Inspection Panel as a bottom-up accountability mechanism strengthens and supports the Bank's ability to achieve project objectives as part of its broader mission to fight poverty and promote equitable and sustainable development. This element of the work of the Inspection Panel is examined below.

Conceptually, the Panel's use of this bottom-up approach can help to better incorporate grassroots logic and expertise throughout the World Bank's diverse projects. Development literature increasingly affirms that successful programs and projects to reduce poverty put people living in poverty at the center of their efforts. Far from simply being the beneficiaries of development projects, local people have crucial knowledge, information, expertise, and insights that can make a significant difference to project design. But because people living in poverty are often vulnerable and excluded, meaningful incorporation of their knowledge and expertise requires ensuring that they have the space to generate and enhance their knowledge and the voice to articulate their needs and priorities. Thus, professional top-down systems of knowledge need to be balanced by the knowledge and expertise inherent in local communities, whether rural or urban. Roles and attitudes associated with development practice need to change so that insights and knowledge contributed by affected people really do make a difference. As Robert Chambers has emphasized, this implies not a rejection of traditional professional approaches but rather a "broadening, balancing and up-ending, to give a new primacy to the realities and analyses of poor people themselves" (Chambers 1994).

Operationally, the Panel's bottom-up framework helps strengthen and support the ability of the Bank to achieve project objectives and its broader poverty alleviation agenda

in two particular ways: (i) through the use of the Bank's operational policies and procedures as its yardstick for accountability, and (ii) through the Panel's own policies and procedures used to address requests for inspection.

*Using the Bank's operational policies and procedures as the yardstick for accountability is critical because these environmental and social safeguard policies are viewed by the Bank as crucial to achieving its goal of sustainable poverty reduction. The Bank recognizes that "the effectiveness and development impact of projects and programs supported by the Bank has substantially increased as a result of attention to these policies" (World Bank 2002, 2). It further acknowledges that "safeguard policies have often provided a platform for the participation of stakeholders in project design, and have been an important instrument for building ownership among local populations" (World Bank 2002, 2).*

"As the Panel reaches fifteen years, it has clearly established itself as a preeminent accountability mechanism. From the standpoint of the World Bank Legal Department, we strongly appreciate the Inspection Panel's role in providing a voice to affected people when they suffer or are likely to suffer material adverse effects due to a serious violation of the Bank to comply with its operational policies and procedures. These policies and procedures are a key part of the Bank's role as the world's leading development institution and are key to the Bank helping countries achieve development in a sustainable manner. As Bank management and staff have a responsibility and role in ensuring compliance with these policies and procedures, to the extent that the Panel serves to help ensure compliance with these policies and procedures, the Panel also helps the institution fulfill its mandate."

—**Charles E. Di Leva**, Chief Counsel  
Environmental and International Law Unit,  
World Bank Legal Department

The appropriate implementation of the Bank’s safeguard policies plays a central role in ensuring the effectiveness and positive development impact of its projects and programs.

- The direct objective of the Bank’s safeguard policies is to “prevent and mitigate undue harm to people and their environment in the development process” (World Bank 2002, 1), so their focus is generally perceived to be on those who might lose as a result of Bank projects. The environmental assessment policy, for example, calls on Bank staff and borrowers to identify, avoid, and mitigate the potential negative environmental impacts associated with Bank lending operations. The Bank’s involuntary resettlement policy aims to avoid involuntary resettlement to the extent feasible, or minimize and mitigate its adverse social and economic impacts. The policy also assists displaced persons in their efforts to improve, or at least restore, their incomes and standards of living after displacement. The Bank’s policy on indigenous peoples aims to ensure that adverse impacts on indigenous people are avoided, or minimized when avoidance is not feasible.
- Safeguard policies also play an important role in enhancing positive outcomes—the “benefit” side of the equation. Several policies require meaningful consultation with, and participation by, affected people during the design, preparation, and implementation of Bank-financed projects—a requirement that has often been at issue in projects reviewed by the Inspection Panel. By calling for the participation of stakeholders, who bring to bear their own local knowledge and experience, the appropriate application of safeguard policies can help improve the identification, preparation, and implementation of projects by the Bank and its borrowers. Furthermore, stakeholder input ensures that project benefits are enhanced, that they reach their intended target groups, and that they can be sustained over time. For example, the environmental assessment policy aims “to improve decision making, to ensure that project options under consideration are sound and sustainable” (<http://go.worldbank.org/OSARUT0MP0>), a task that requires stakeholder feedback and contribution.
- In addition, as noted by a previous Chairperson of the Inspection Panel following an investigation, the Panel found “human rights implicitly embedded in various policies of the Bank.”<sup>7</sup>

*The Panel’s own operational procedures* also play a direct role in strengthening the ability of the Bank to achieve project objectives and its overall poverty alleviation agenda:

- Because the Panel’s investigations specifically examine whether the Bank has complied with its policies, its existence plays a strong role in increasing internal attention to these policies. That outcome enhances the effect of safeguards both to prevent and mitigate harm and to enhance the benefits to people and their environment. For instance, investigations such as the China: Western Poverty Reduction Project brought high-profile attention to the further marginalization of minority indigenous populations result-



China: Western Poverty—Panel Members and interpreters in Qinghai province

ing from the increased migration that Bank financing may have caused. Consequently, management across the Bank took better account of the often unanticipated effects on indigenous populations, whether through displacement or loss of representation.

- Although Requests for Inspection are normally worded in terms of “harm,” most requests aim ultimately to ensure that project benefits are fully realized with regard to social equity, environmental sustainability, and economic efficiency. In the Parana Biodiversity Project in Brazil, for example, the Requesters filed a complaint with the Panel because they felt that certain changes that had been made to the project design would not allow it to achieve its original objectives, and in fact submitted the Request to ensure that the project achieved these objectives. In the National Drainage Program Project in Pakistan, the Requesters were concerned that some components of the project would not be sustainable. And in the Bujagali Falls Project in Uganda, the Requesters were primarily concerned with provoking a debate on how to meet Uganda’s pressing energy needs in ways that were economically, socially, and environmentally sustainable.
- The Action Plan prepared by Management in response to the Request or the Inspection Panel’s investigation (or both) usually contains elements that improve project design and thus enhance project benefits. In the Santa Fe Road Upgrading Project in Argentina, for example, the inspection process resulted in additional studies of flood impact and road design in to better address existing and emerging hydraulic issues.
- The Panel process often yields lessons that can be embraced by Bank Management to improve the effectiveness and impact of other similar projects supported by the Bank, in the same country or elsewhere. These and other impacts at an institutional rather than a project level are discussed in more detail in chapter 5.

## HOW THE PANEL PROMOTES COMPLIANCE AND ACTIONS TO REDRESS HARM

The Panel process is designed to address two central and interrelated issues raised by Requests for Inspection: *compliance* (by the Bank with its own policies) and related issues of *harm* (to affected people or the environment).



India: Coal Sector Project

In considering how the Panel process addresses these issues, a few words of context may be useful. Studies and practice over many years point to various means to support compliance within an existing normative framework. These include systems like courts and arbitral tribunals with powers of judgment and sanctions; other types of incentive systems (positive or negative) to promote desired conduct, such as the provision of financial and technical support to help enable compliance in cases where capacity is lacking; and indepen-

dent and transparent fact-finding bodies with the power to call for responsive action and put findings on compliance and harm transparently into public view under the spotlight of public opinion (Brown Weiss and Jacobson 2000).<sup>8</sup>

The Inspection Panel operates in this last way. It is not a “court of law” with the power to issue binding and enforceable judgments. Rather, it is constituted as an independent, fact finding body with a mandate to examine, in response to Requests from affected people, whether the World Bank is complying with its operational policies and procedures, and if not, contributing to harm or potential harm. The Panel reports its findings to the Bank’s Board of Executive Directors, and Bank Management is required to prepare a response, recommendations, and actions to address Panel findings of noncompliance and harm. These findings, and the corresponding response of Bank Management, are made available to the public. In sum, the Panel process promotes compliance through the power of fact finding, independent analysis, and reporting on compliance and harm. By making these findings and the corresponding response and action plan of Bank Management publicly available, it provides a basis for requesters and civil society to independently track progress in action plan implementation.

“It doesn’t seem like those lessons get learned. The Bank is a learning institution but the learning does not take place so easy. The task managers are not the same: they move around the Bank, as a consequence no one is accountable for their mistakes, and no one ever gets fired... when you have so many changes in management, it’s difficult for lessons to stick.”

—**Alvaro Umaña**, former Panel Member

## EFFECTS AND OUTCOMES OF THE PANEL PROCESS

The Inspection Panel process is designed to produce results and outcomes at various levels. These are noted briefly below.

### *Individual Cases*

The Panel is intended to produce outcomes, first of all, in the specific case under investigation. As described through case illustrations in chapter 5,<sup>9</sup> the Panel process often leads to significant changes in projects and substantial benefits for the affected people and the environment. These types of direct impact have included the following:

- a range of remedial actions to ensure that affected people have their full rights under the Bank’s policy on involuntary resettlement (for example, avoiding and minimizing displacement, increased compensation, livelihood restoration, inclusion of all those eligible for benefits and compensation, and improved conditions and resettlement sites)<sup>10</sup>;
- strengthening of the rights and protections for indigenous peoples and traditional communities affected by Bank projects (for example, rights of full participation and representation; respect for traditional practices and means of representation of the community; and rights to land tenure, including collective title)<sup>11</sup>;
- adherence to requirements under Bank policies relating to the environment and natural habitat (for example, analysis of environmental impacts and of alternatives to proposed projects, and minimization and avoidance of adverse environmental impacts)<sup>12</sup>; and



Albania: Coastal  
Zone Management—  
A Requester at the site  
of demolitions at Jale  
Beach



“The Panel has increased Bank awareness about the Bank policy and procedures, and now management is taking the policies and the procedures more seriously. I also think there is greater sensitivity and attention to who the intended beneficiaries of the project are.”

—**Danny Bradlow**, Professor of Law,  
American University

- protection of cultural resources, including places recognized as protected by traditional local communities.<sup>13</sup>

In some cases, the Bank has suspended financing of projects, coupled with efforts by Management to achieve compliance. Such was the outcome in the case of the Albania Coastal Zone Management and Clean-Up Project and the India Mumbai Urban Transport Project (described in chapter 5). In other cases, significant changes have been made to project design, implementation, or both, and

additional resources have been used to achieve better outcomes.

However, there have also been cases where the results of the Panel process were mixed and far less substantial. This can happen if the Bank Management Action Plan developed in response to a Panel Investigation Report does not adequately address the key Panel findings on noncompliance and harm. In addition, some cases are subject to constraining factors outside the control of either the Panel or the Bank. These challenges and difficulties are described through case illustrations in chapter 5.

### *Outcomes at Other Levels*

The Panel process also has effects and implications at levels beyond those relating to the project under consideration, whether within or outside the Bank. These include (i) gener-





**Above:** Brazil: Land Reform—Panel team, Requesters and Bank staff in the interior of Bahia State

**Left:** Paraguay/Argentina: Yacyretá—Panel team and Requesters at Encarnación

ating lessons that have been applied by the Bank in *similar projects or sectors*; (ii) creating an additional *incentive for the Bank, as an institution*, to take the needed actions and to provide the needed resources to comply with its policies and procedures; (iii) creating a *public record* of Bank compliance or noncompliance over time, and identifying important areas under Bank policies where compliance may be lacking; (iv) serving as a *model for the creation of similar mechanisms* in other international financial institutions; and (v) fostering the intrinsically important policy objective to achieve *more democratic and participatory systems of governance* on the part of international institutions.

## SYSTEMIC ISSUES

The Panel process and its experiences over the past 15 years also provide a window into the World Bank’s work on development assistance. This is complex and difficult work, only one input of which is consistent and full application of Bank policies. The Panel has acknowledged, for example, that development requires taking risks, but that, in line with Bank policies, this does not mean that risks should be transferred to those who are weakest and least able to represent themselves in the system.<sup>14</sup>

In recognition of some of these complexities, and to provide better insight into issues of compliance and harm, the Panel has included in some of its recent reports a concluding section on what it calls “systemic issues.” These sections contain observations on what lies behind findings of noncompliance and harm in a particular case—the “why” of noncompliance. Chapter 4 provides a few examples of these types of issues and observations.

## NOTES

1. These publications are *The World Bank Inspection Panel: The First Four Years (1994–1998)* and “Accountability at the World Bank: The Inspection Panel 10 Years On” (Inspection Panel, 2003). They each contain information about the Panel’s enabling Resolution and subsequent Clarifications, its history and process, eligibility requirements for a Request, case studies of selected Requests, and charts and figures listing the Panel’s activities up to the date of publication. While the first book is out of print, the second is free and available upon request.
2. There have been parallel developments to give legal recognition to non-State actors in other fields, including human rights, environmental treaties, and (in the sense of obligations) international criminal tribunals (beginning with the Nuremburg Trials) and, more recently, the International Criminal Court (Sohn 1982).
3. Clark (2003), among others, provides a detailed description of the “founding” and influential figures in this story, and how it unfolded.
4. Four years after the creation of the Panel, governance and accountability were further strengthened at the World Bank Group when its private sector arms, the International Finance Corporation (IFC) and the Multilateral Investment Guarantee Agency (MIGA), established the Office of the Compliance Advisor/Ombudsman (CAO) in 1998. <http://www.cao-ombudsman.org/>.
5. One World Trust “is an independent think tank that conducts research, develops recommendations and advocates for reform to make policy and decision-making processes in global governance more accountable to the people they affect now and in the future, and to ensure that international laws are strengthened and applied equally to all.” <http://www.oneworldtrust.org>.
6. By giving a voice to affected people and citizens, and putting a public spotlight on issues of compliance and harm, the Panel process also can be seen as supporting the other dimensions of accountability relating to transparency and harm.
7. See Edward S. Ayensu, “Remarks of the Chairman of the Inspection Panel to the Board of Executive Directors on the Chad-Cameroon Pipeline Projects,” September 12, 2002. <http://web.worldbank.org/WBSITE/EXTERNAL/EXTINSPECTIONPANEL/0,,contentMDK:20227264~menuPK:64129469~pagePK:64129751~piPK:64128378~theSitePK:380794,00.html>.
8. See especially pp. 542–52 of Brown Weiss and Jacobson (2000) for the distinction between sunshine, incentives, and sanctions as compliance strategies; chapters 1 and 15 set forth the analytical framework and conclusions.
9. In addition, annex A to chapter 6 contains an in-depth review of the literature on the Panel’s process and outcomes, while annex B to chapter 6 provides a review of the Panel’s approach and efforts to address key elements and requirements of accountability work, in particular, accessibility, credibility, effectiveness, and efficiency (the ACEE criteria). These criteria were developed and presented by former Panel Chairperson and Member, Professor Edith Brown Weiss, at the 5th Meeting of International Accountability Mechanisms in London in June 2007.
10. Recent examples include the Panel investigations of an urban transport project in Mumbai, India; the proposed West Africa Gas Pipeline extending from Nigeria to Ghana; and an integrated coastal zone management and land use project in Albania (see chapter 4).
11. Recent examples include the Panel investigation of a land titling and regularization project on the north coast of Honduras and of forest-related operations in the Democratic Republic of Congo (DRC) (see chapter 4).
12. These issues were addressed directly in Panel investigations into forest-related operations in Cambodia, the National Drainage Program Project in Pakistan, and the Bujagali Falls project in Uganda.
13. These issues were addressed in the investigations of projects in Cambodia, DRC, and Uganda.
14. “Ghana: Second Environmental Sanitation Project-Investigation Report” at page xxvii, <http://www.inspectionpanel.org>.

# THE BASIC CHARACTERISTICS AND CORE PRINCIPLES OF THE PANEL

This chapter describes the basic characteristics of the Inspection Panel, its foundational principles of independence, integrity, and impartiality, and the types of Bank-financed projects and operations that the Panel has authority to investigate.

### THE THREE “CIRCLES” OF THE INSPECTION PANEL

The Inspection Panel is an independent accountability mechanism of the World Bank. The Panel’s functioning is thus completely separate from World Bank Management, which it investigates. Organizationally, the Panel operates in three distinct but related “circles.”

First, the Panel itself consists of three Members, each of a different nationality, chosen for a nonrenewable period of five years. For example, the current members are nationals of Austria, Argentina, and Norway. Members are selected and appointed based on their “ability to deal thoroughly and fairly with the requests brought to them, their integrity and their independence from Bank Management.”<sup>1</sup> Additionally, each potential Member’s exposure to and experience dealing with development issues is considered. The Panel Members elect one of their colleagues as the Chairperson on an annual basis.

The second circle consists of a permanent Executive Secretariat, established to assist and advise the Panel Members in the execution of their duties. The Secretariat is headed by an Executive Secretary, and includes a Deputy Executive Secretary and a small team of operations officers and support personnel.

Third, the Panel hires internationally recognized expert consultants to assist in its investigations, providing Panel Members the most accurate and up-to-date information on the issues outlined in Requests for Inspection. The Panel seeks the most qualified and objective experts available, and makes its selections according to the expertise needed for a particular investigation (for example, environmental topics, forests, anthropology and knowledge of indigenous peoples, hydrology, or involuntary resettlement and related social issues). Experience over the years has proven the value of these experts to the Panel process. For instance, in the Panel’s investigation of Bank loans meant to re-

constitute forest policies and concessions in the Democratic Republic of Congo, the Panel required expert assistance to understand the social circumstances of the indigenous Pygmy peoples residing in the affected area. In the Pakistan National Drainage Program Project, which attempted to address water logging and salinity in the Indus River basin, the Panel needed expert advice to fully understand the possible negative effects of the drainage routes chosen and the cultural artifacts and natural resources (lagoons, fisheries) that were at risk of being destroyed or degraded as a result of new flooding patterns.

## WHAT THE PANEL INVESTIGATES

The Panel is a fact-finding body with a mandate to investigate whether the World Bank has complied with its own operational policies and procedures in the design, appraisal, and implementation of a project. As confirmed in the Panel’s Resolution, these operational policies and procedures are not limited to the Bank’s social and environmental safeguard policies, but include other Operational Policies, Bank Procedures, and Operational Directives, as well as other Bank procedural documents. See table IV–B in appendix IV for the Bank policies and procedures reviewed by the Panel in the course of its investigations during the past 15 years.

By its mandate, the focus of the Panel’s investigations is the Bank. The Panel does not investigate the borrower. Nevertheless, as part of its fact-finding process, the Panel often needs to review and may report on contextual information relevant to its analysis of compliance and harm—even if the Panel does not pass judgment on such information. For example, although the Panel does not investigate corruption, in some cases, nor-

Chad–Cameroon:  
Oil Pipeline Project—  
Panel Member with  
area residents







mally in the context of assessing compliance with policies on supervision, the Panel may uncover the presence or possible presence of corruption, which, according to Bank policies, it must report to the Bank’s Integrity Vice Presidency.

The current Chairperson of the Panel, Werner Kiene, recently clarified this point in his statement to the Board of Directors in the context of the Panel’s investigation of the Albania Integrated Coastal Zone Management and Clean-up Project. Mr. Kiene confirmed that the Panel investigated the Bank, not the borrower, and does not pass judgment on issues of corruption (handled by another entity within the World Bank), but added

... the Panel includes these references [to allegations of corruption] as part of its [the Panel’s] responsibility to report on information surrounding a Bank-financed project. . . . It is regrettable that there has been confusion on this point in some news articles.<sup>2</sup>

Primary responsibility for many actions under Bank-financed projects, generally including project implementation, rests with the borrower. The Bank is responsible for putting into place adequate legal covenants in project documents to ensure that all relevant policy requirements will be met, to advise the borrower, and to ensure policy compliance, and in the case of project implementation, to take the necessary steps required by the Bank Policy on Supervision. The extent to which the Bank is adequately supervising projects during implementation and responding to issues of policy compliance as they arise is a recurring and major element in a number of Panel investigations (see Appendix IV & V, data and charts on Panel investigations).

Furthermore, the Panel does not investigate individual staff members within the World Bank. The focus of its investigation is on Bank Management as a whole, in line with the Panel’s objective of achieving accountability of the Bank as an institution, at the corporate decision-making level.



“Maintaining [the Panel’s] independence, impartiality, and credibility is essential to its future role, acceptance, and recognition.”

—**Tongroj Onchan**, former Panel Member

“It is essential the qualifications of the Panel members make them independent; not just from the Board and Management but also from civil society.”

—**Ad Melkert**, former World Bank Executive Director

## CORE PRINCIPLES: INDEPENDENCE, INTEGRITY, IMPARTIALITY

The Inspection Panel has identified three basic principles central to its operations and effectiveness, the so-called three I’s: **independence, impartiality, and integrity**. These characteristics are essential to all aspects of Panel operations. In establishing the Inspection Panel, the Board of Directors recognized the need for greater accountability and transparency in Bank operations to ensure that the Bank was acting in compliance with its operational policies and procedures, and recognized that this objective could only be met if

the Panel’s independence was clearly set forth and maintained—particularly its independence from Bank Management. These cornerstone principles enable the Panel to respond to issues raised by affected people and to provide technically sound, independent assessments of their concerns to the Bank’s Board of Executive Directors.

Accordingly, the Panel’s independence was established as a charter characteristic in the very first line of the Board Resolution creating it some 15 years ago, which reads “There is established an **independent** Inspection Panel . . .” [emphasis added]. To maintain that independence in the Panels’ work, the Resolution provides that reports and recommendations regarding whether to carry out full investigations be submitted directly to the Board of Directors without being reviewed by any other party, including Bank Management or even by those submitting the Request for Inspection. As indicated in the Panel’s publication “Accountability at the World Bank: The Inspection Panel 10 Years On” (Inspection Panel 2003), the Panel’s reports “are published exactly as written” (Inspection Panel 2003, 4). This has been the continuing practice of the Inspection Panel up to the present day.

The Administrative Procedures of the Panel also specify and highlight the requirement of independence, and indicate steps to be taken to remedy violations. Article 10 states “[t]he Panel is an independent forum. Any attempt to interfere with the functioning of the Panel for political or economic reasons or exert political or other influence on the Panel shall be made public” (Inspection Panel 2003, 166).

The Board emphasized that the integrity and impartiality of Panel Members must be beyond dispute, enshrining additional provisions in the original Panel Resolution to this end. In particular, any person who has worked in any capacity for the World Bank cannot be selected as a Member of the Inspection Panel for at least two years following termination of that relationship. Panel Members are selected for a nonrenewable, fixed period of five years, and cannot be removed from office except for cause. In addition, to further guarantee integrity in the process, Panel Members are expressly forbidden from ever being employed by the World Bank Group after completion of a term. Panel Members also are disqualified from participating in the deliberation about and investigation of any Request relating to a matter in which he or she has a personal interest or significant involvement in any capacity. Despite these safeguards, worry continues that the involvement of Bank Management in the selection of Panel Members may create an

impression of a conflict of interest and could weaken the Panel's independence (Bridgeman 2008).

To further preserve its core principles, the Panel also maintains complete and independent control over its budget and resource decisions in the discharge of its functions, including the conduct of investigations, hiring of staff and expert consultants, and other matters. The Board allocated an initial and sufficient budget to the Panel at its creation, which has been the basis for Panel operations (with normal upward adjustments for cost factors) since its inception. In addition, the Panel Resolution specifically provides that “[t]he Panel shall be given such budgetary resources as shall be sufficient to carry out its activities.”<sup>3</sup> In recent years, because of a particularly high workload, the Panel has requested and received supplementary contingency funding as needed to handle these requirements.

Consistent with its mandate, the Panel has on some occasions requested an opinion from the Bank's Legal Vice Presidency regarding the legal rights and obligations of the Bank with respect to third parties. These requests relate to questions such as the enforceability of a covenant in the Bank's legal agreements with borrowers, where the Bank is required to have a common legal position with outside parties. By its mandate, however, aside from seeking advice on matters related to the Bank's obligations with respect to third parties in the context of a request under consideration, the Panel neither seeks nor receives advice from the Bank's Legal Department in developing its reports, analyses, and findings. To do so would undermine the independence of the Panel's work, not least because the General Counsel of the World Bank Group<sup>4</sup> is a member of the committee responsible for certifying, on behalf of Management, that a project is in compliance with relevant operational policies and procedures. In short, the Panel's responsibility is to investigate Bank Management, of which the legal department is an integral part, and must keep strictly independent of it.

Requesters and Bank staff both see the Panel as independent from Bank Management. Independent research shows that when Requesters and other project-affected people were asked to “rate the Panel's independence from Bank Management on a scale of 1–5 (5 being completely independent),” (Bridgeman 2008, 5) the Requesters' ratings of the Panel's independence increased markedly after the 1999 Clarification to the Panel Resolution. The average rating of independence rose from 2.7 for Requests before 1999 to 4.8 for Requests between 1999 and 2004. All Bank staff interviewed rated the Panel's independence as 5 out of 5, or completely independent of Bank Management (Bridgeman 2008).

The independence of the Panel extends in all directions. Nevertheless, this independence must be constantly guarded. The Panel recognizes that it is not easy for staff that work in the World Bank to be subject to independent investigations and, where the facts so indicate, to receive criticism for failure to

“The Panel depends on trust—trust of the affected people, the Board of Executive Directors, Bank Management and staff, and civil society. They need to trust that you will be independent, impartial, act with integrity, and do top quality work.”

—**Edith Brown Weiss**, former Chairperson of the Panel

“On the one hand, one can say the Panel is now long established in the Bank. It is a given fact nobody will be able to break it down as a mechanism. We live in an era of transparency and compliance, so the Panel is the right mechanism at the right time. However, on the other hand, threats could come from the financial sector. Transparency, democracy, accessibility, compliance, etc., are considered by some as luxury goods.”

—**Maartje van Putten**, former Panel Member

Ghana: UESP II—  
Requesters and Panel  
team at Naminya



“When the Panel was established, people would sometimes discuss when the Panel would be able to go out of business. Bank management answered: when people stop making requests. Management has tried to create alternative destinations for complaints, through management and institutional changes. However, the facts show that the need for the Panel is larger than it was before, even by the Bank’s own definition. The original premise still exists. There is no reason why it will work its way out of a job for a long time.”

—**Richard Bissel**, former Panel Member

apply its own policies. The Panel also acknowledges that responding to an accountability mechanism like the Panel requires time, resources, and efforts.

However, despite those added duties, Bank Management has continuously recognized the importance of the Inspection Panel as an independent entity, and called upon staff to respect its independence. And although the Panel reports to the Board, the Board itself has continuously recognized and supported the

independence of the Panel, and has not interfered with the Panel in its discharge of its duties. Indeed, the 1999 Clarification to the Panel Resolution begins by stating, “[t]he Board reaffirms the Resolution, the importance of the Panel’s function, its independence and integrity” (1999, 1 Clarifications).

Still, Bank Management at times has proposed actions that, if adopted by the Bank, could have been interpreted as detrimental to the Panel’s authority. For instance, during the initial debates over the Bank’s adoption of a new policy and approach toward the Use of Country Systems (UCS), it was suggested that the Inspection Panel would not have jurisdiction to receive requests from countries in which UCS was in effect. The Panel reacted swiftly to this suggestion, noting that while UCS was certainly a significant and important new direction for the Bank, it need not and should not change the role and availability of the Inspection Panel as an accountability mechanism for affected people. This stance was eventually fully supported by the Board and Bank Management, an interpretation that was captured in a Joint Statement on the Use of Country Systems

between then Chairperson of the Inspection Panel Edith Brown Weiss and then Senior Vice President and General Counsel of the Bank Roberto Dañino (see appendix IX).

As new innovations and directions emerge in Bank operations, including new lending instruments and new procedures to streamline and integrate operations for efficiency and effectiveness, the need to ensure that no change dilutes the Panel's independence and effectiveness, nor limit its jurisdiction, will continue. Indeed, the loss of trust in the global financial system stemming from the global financial crisis, as well as new trends at the Bank such as decentralization, underscore the need for the Panel's independent accountability.

Impartiality is another core feature of the Inspection Panel's work. The Panel Resolution highlights this element in stating, as indicated above, that Members 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 Management. . ."<sup>5</sup>

Bridgeman, in her examination of the Panel's first 10 years asked Requesters to rate how fairly the Panel treated all parties involved. All Requesters in cases after 1999 gave the Panel a rating of 5 out of 5 for "fair treatment" (Bridgeman 2008).

The Panel is impartial in all aspects of its duties and, as a fact-finding body, is guided by the principle of following the investigation wherever it may lead. The Panel is designed to help people's voices be heard, and achieves this through an independent and impartial analysis of the issues and facts relevant to the claim, and is equally responsible to consider, in a fair and independent manner, the actions and responses of Bank Management in relation to a Request for Inspection.

As a consequence, the Panel also makes (and has made) findings, where the facts so demonstrate, that Bank Management is acting consistently with its policies and procedures, which is also important to document and put on record. During its investigation process, the Panel creates opportunities for all sides and parties to express their understandings and concerns, and affords Bank Management a full opportunity to explain and document its actions in response to claims presented in a Request for Inspection. This is a matter of both impartiality and the corollary element—integral to the Panel's work—of ensuring due process.

"... the Board should keep the organization and selection of new members entirely in their own hands, instead of leaving it up to management. Management should not be given the task to find their own 'judges.'"

—**Maartje van Putten**, former Panel Member

"The overall excellence and independence of the Panel is important and essential. This means that the selection process should be highly rigorous. The Board and CODE should make the final decisions on the selection and it should not be dominated by management. . . There should also be at least one civil society representative on the selection committee."

—**Pieter Stek**, former World Bank Executive Director



India: NTPC—Panel team in Singrauli region



## NOTES

1. See the “Resolution Establishing the Panel (September 23, 1993)” at paragraph 4 (page 1), <http://www.inspectionpanel.org>.
2. Written statement of Panel Chairperson Werner Kiene, Board meeting on “Albania: Integrated Coastal Zone Management and Clean-up Project,” February 17, 2009.
3. See the Panel Resolution at paragraph 11 (page 2), <http://www.inspectionpanel.org>.
4. The General Counsel is also a Senior Vice President of the Bank Group.
5. See the Resolution at paragraph 4 (page 1), <http://www.inspectionpanel.org>.

## CHAPTER 3

# THE PHASES OF THE PANEL PROCESS: ELIGIBILITY, INVESTIGATION, REPORT WRITING, AND BOARD DISCUSSION

This chapter describes in some detail how the Panel process works, and how it may be used by people and communities affected by World Bank–financed projects.

### INITIATING THE PANEL PROCESS: SUBMITTING A REQUEST FOR INSPECTION

Project-affected people and communities can access the Panel through a simple and straightforward process, which has remained the same since the Panel’s inception. Under the Panel procedures, any two or more individuals affected by a World Bank–financed project can send a short letter to the Panel requesting it investigate the project.<sup>1</sup>

This letter, which is formally called a Request for Inspection, can be in any language, can be hand-written, and does not need to be longer than a single page, as long as it is signed and contains the following information: (i) names and addresses of the senders, or Requesters; (ii) a concise description of the project financed by the World Bank; (iii) a description of the harm, or the likelihood of harm, that affects the people or environment concerned by this project; (iv) if known, the World Bank policies relevant to this project; (v) the attempts made to bring the matter to the attention of World Bank staff and the level of satisfaction with the response; and finally, (vi) a clear statement requesting the Inspection Panel to investigate the matters raised in the letter. If Requesters are not sure about the type of information needed, or if some information is missing, the Panel Secretariat is available to provide assistance.

In many cases, out of fear of retaliation from government or project officials, Requesters have asked the Panel to keep their names confidential. The Panel’s process allows for this measure. In the projects in Chad and Cambodia, for example, the Panel went to great lengths to meet with affected people while keeping confidential their identity and the fact that they had signed the Request.<sup>2</sup>

One important but often misunderstood point is that Panel procedures do not require the Request to cite specific Bank policies. The Panel is aware that locally affected people and Requesters may not have access to information about Bank policies. As a result, the



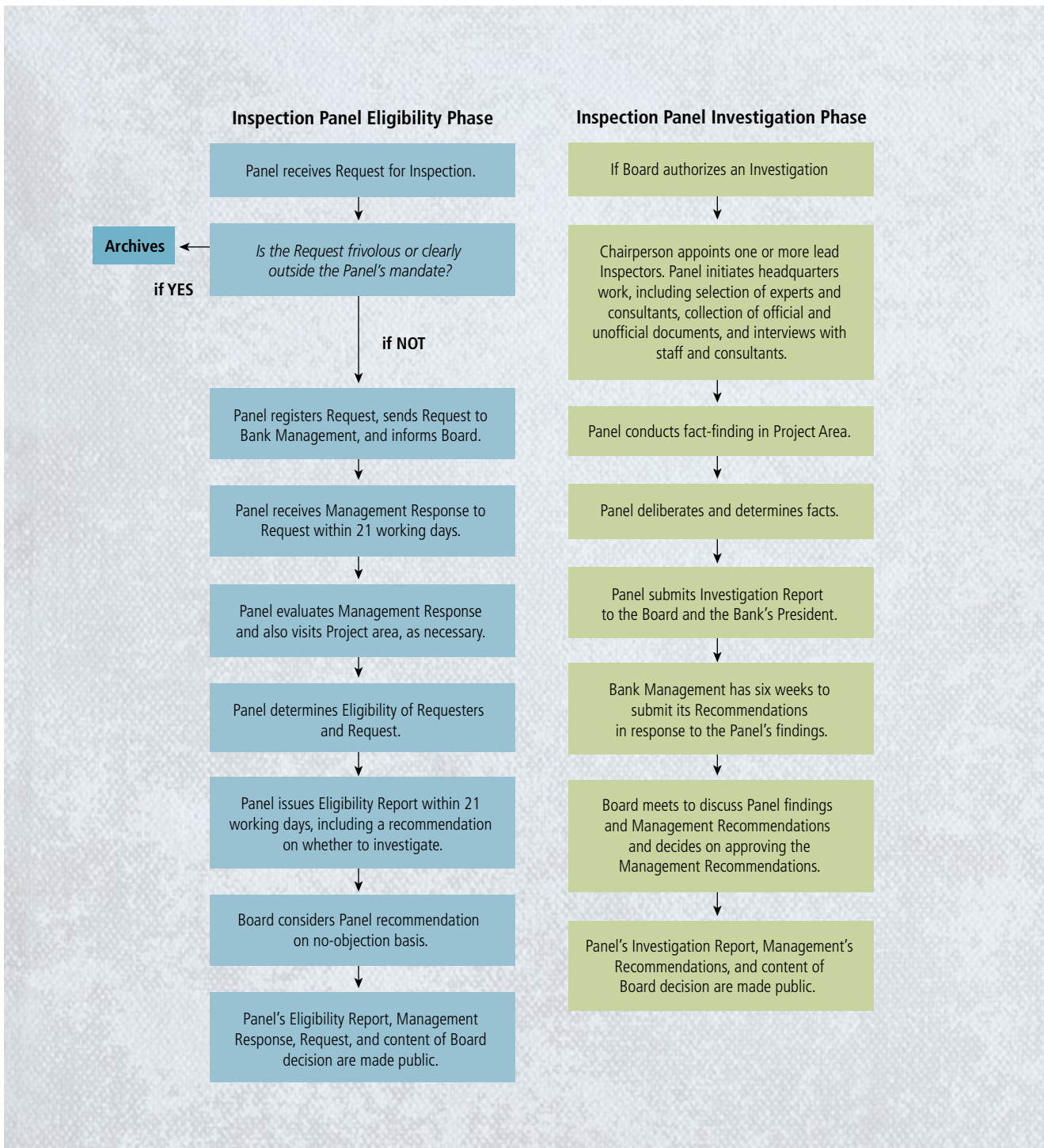
Cambodia:  
Forest Concession  
Management—  
Requesters in Stung  
Treng Province

policies need to be mentioned only if known. If they are not known, the Requesters should describe the types of actions or omissions that they believe the World Bank may be responsible for, and describe the harm in some detail so that the Panel itself may link the alleged failures and harm to specific Bank policies. This is confirmed by the 1999 Clarification to the Panel Resolution, which states that a Request simply needs to assert “in substance” that there is a serious violation of Bank Policies and Procedures (1999, 2 Clarification). This also helps reduce the need for affected citizens to seek outside assistance in preparing Requests (Bridgeman 2008).

Many Requests submitted to the Panel come directly from affected individuals or communities. However, the Panel’s procedures also allow a Request to be submitted by a local organization or other appointed representative of affected people or, in exceptional circumstances, an organization in another country if no local representative is available. The ability to submit a Request through a representative provides another means to protect the confidentiality of Requesters. Requests for Inspection may also be initiated by an Executive Director of the World Bank in cases of “serious alleged violations” and also by the Executive Directors acting as a Board.<sup>3</sup>

The Panel has received 58 Requests for Inspection since its creation 15 years ago. This relatively low number of Requests could suggest that, on the one hand, the overwhelming majority of Bank projects are designed, appraised, and implemented in full respect of Bank operational policies and procedures. On the other hand, it could also be due to the fact that knowledge of the Bank’s policies and the Panel’s existence and role is not sufficiently widespread in the countries where the Bank is financing projects. Actions to build awareness about the existence and availability of the Inspection Panel are described in chapter 4.

**FIGURE 1**  
**INSPECTION PANEL PROCESS**





## CRITERIA TO DETERMINE ELIGIBILITY FOR INVESTIGATION

Once the Panel has received and registered<sup>4</sup> a Request for Inspection, the eligibility phase of the inspection process commences. During this period, the Panel is required to determine whether the Request meets certain technical eligibility criteria established in the Panel Resolution, as updated in the Clarification to the Panel Resolution adopted in 1999:

9. If the Panel so recommends, the Board will authorize an investigation without making a judgment on the merits of the claimants' request, and without discussion except with respect to the following technical eligibility criteria:
  - a. The affected party consists of any two or more persons with common interests or concerns and who are in the borrower's territory (Resolution para. 12).
  - b. The request does assert in substance that a serious violation by the Bank of its operational policies and procedures has or is likely to have a material adverse effect on the requester (Resolution paras. 12 and 14a).
  - c. The request does assert that its subject matter has been brought to Management's attention and that, in the requester's view, Management has failed to respond adequately demonstrating that it has followed or is taking steps to follow the Bank's policies and procedures (Resolution para. 13).
  - d. The matter is not related to procurement (Resolution para. 14b).
  - e. The related loan has not been closed or substantially disbursed (Resolution para. 14c).
  - f. The Panel has not previously made a recommendation on the subject matter or, if it has, that the request does assert that there is new evidence or circumstances not known at the time of the prior request (Resolution para. 14d).

### *Determination of Eligibility by the Panel*

The eligibility phase unfolds according to a time-bound process. Once the Panel registers the Request, Bank Management has 21 business days from the date of registration to respond to the Request. In its Response, Management must provide evidence that (i) it has complied with the relevant Bank policies and procedures; (ii) there are serious failures attributable exclusively to its own actions or omissions in complying, but it intends to comply; (iii) the serious failures that may exist are exclusively attributable to the borrower or other factors external to the Bank; or that (iv) the serious failures that may exist are attributable both to the Bank's noncompliance and to the borrower or other external factors.

According to the 1999 Clarification, the Panel may "independently agree or disagree, totally or partially, with Management's position and will proceed accordingly."<sup>5</sup> With regard to the process, following its receipt of the Management Response, the Panel has

21 business days to make its determination on the eligibility of the Request for Inspection, and to make a recommendation to the Executive Directors for approval, on a no-objection basis, as to whether the matter should be investigated.

To recommend an investigation, the Panel must determine that all six eligibility criteria are met. The

"The 95 percent limitation for lodging a claim [that requests cannot be submitted after 95 percent of the loan has been already disbursed] does not make sense. Harm can also show after a project is fully working."

—Maartje van Putten, former Panel Member

recommendation will be based on the information presented in the Request, the Management Response, and other documentary evidence. The Panel may decide to visit the project country if it believes it necessary to examine on the ground the eligibility of the Request. The eligibility phase is focused entirely on whether the Request qualifies for a full-scale investigation, and is not designed to lead to a report on whether the Bank has complied with its policies or procedures.

A researcher who interviewed Requesters in 2004 observed that the Panel’s guarantee of a response to Requesters is “a remarkable departure from the practice of most institutional complaints mechanisms.” In interviews, Requesters “often reported pleasant surprise at receiving a substantive response from the Panel.” The researcher determined that it is “of utmost importance” to the credibility and effectiveness of the Panel that affected people feel that it takes them seriously from the outset.<sup>6</sup>

The Panel also notes that the initial Bank Management Response to a Request is important to the process. This document provides both the Panel and the Requesters with an explanation of how Management views its own actions, and what shortcomings it might itself detect in relation to the claims of the Requesters. In some cases, the initial response can provide a basis for early problem solving to help address issues identified by Requesters.

In one recent case, however, the Panel learned that a Bank Management Response made assertions that were sharply in conflict with documentary evidence later discovered by the Panel. In particular, the Response contended that the Bank project at issue—a coastal zone land-use management plan in Albania—had no direct or indirect link to the actions complained about in the Request (demolitions).

Had the Panel relied only on Bank Management’s assertion, it would have recommended against an investigation of the Request on the grounds that the project had nothing to do with the action causing the harm. Such a recommendation would have been, effectively, a miscarriage of justice. The Panel notes that many months later, after the Panel’s investigation, Bank Management, to its credit, fully acknowledged this (and other) errors in relation to the project, and began devoting intensive efforts to remedying the harms caused.

In some recent situations, the Panel has proposed to defer its decision of whether to recommend an investigation, in order to create additional opportunities for Management and Requesters to resolve issues and concerns raised in the Request. This emerging effort to create space for “problem solving” is discussed in more detail in chapter 4.

### *Reinforcing the Panel’s Role in Eligibility*

The Panel’s earlier publication, “Accountability at the World Bank: The Inspection Panel 10 Years On” (Inspection Panel, 2003), provides a detailed review of how the eligibility criteria were developed and applied in the early years of the Panel, and of the significance of the 1999 Clarification in the so-called eligibility phase of the Panel process. As described therein, in the early years of the Inspection Panel there was often an extremely



India: Ecodevelopment Project—Requesters and Panel team at Nagarahole

contentious process and debate between the Panel and Bank Management, and within the Board, to determine whether a particular Request satisfied the basic criteria of eligibility. For example, in some instances Bank Management would develop a mini–Action Plan through a “preliminary assessment” process just in advance of the Board’s approval of eligibility meetings in order to bolster arguments against any recommendation to carry out a full investigation.

The 1999 Clarification, however, greatly simplified this situation. It reinforced the independence of the Inspection Panel in determining whether a Request meets the relevant eligibility criteria and warrants a full investigation. It also eliminated provisions of the 1996 Clarification relating to the use of “preliminary assessment,” with the intent to obviate attempts to delay or prevent an inspection, which unfortunately had emerged in some of the earlier deliberations on eligibility for investigation. Under the new procedures, any definitive assessment of Management’s failures would not occur until the investigation stage, thus limiting early debate on policy violations and instead focusing on the *criteria* for investigation. To address experiences with *ex parte* contacts and behind-the-scenes influences during this stage, the 1999 Clarification also stipulated that

Management . . . will not communicate with the Board on matters associated with the request for inspection, except as provided for in the Resolution. It will thus direct its response to the request, including any steps it intends to take to address its failures, if any, to the Panel.<sup>7</sup>

Since the 1999 Clarification, the Board has approved all Panel recommendations made in the eligibility phase on whether to investigate.<sup>8</sup>

### *Examples of the Kinds of Projects and Harm Considered by the Panel*

Under Panel rules, Requests for Inspection can be submitted with regard to any project or program financed at least in part by the International Bank for Reconstruction and Development (IBRD) or the International Development Association (IDA). This means that a Request may relate to projects such as the following:

- projects financed by an investment loan or credit, such as infrastructure projects (for example, roads and transport, dams, pipelines, irrigation and drainage systems, and waste management), natural resource management and regulatory reform (for example, forestry, mining, biodiversity), and rural development and land use (for example, agriculture systems, land tenure, land-use planning);
- programs funded through development policy lending (formerly known as structural adjustment operations), such as economic, sector, and legal or regulatory reforms (for instance, public reform, land administration programs, and so forth);
- projects financed through a trust fund administered by the Bank, for example, Global Environment Facility–funded projects;
- projects or programs for which IBRD or IDA has provided only a guarantee (not an actual loan or credit); and
- projects or programs cofinanced with other international financial institutions.



**Left:** Albania: Coastal Zone Management—Requesters meet Panel team in Vlorë

**Above:** Albania: Coastal Zone Management—Demolitions at Jale Beach

**Below:** Panama: Land Administration—Requesters and Panel team in Bocas del Toro Province







Mumbai: MUTP—  
Panel Member meeting  
representatives in  
Mumbai

The Panel has the authority to investigate many different types of harm or potential harm to people or the environment that result from a failure by the World Bank to comply with its operational policies and procedures. These types of harm or potential harm can include harms arising from displacement and resettlement of project-affected people; impacts on indigenous peoples, their culture, traditions, land tenure, and development rights; impacts on cultural property, including sacred places, natural habitats, and the environment (for example, wetlands, forests, fisheries, protected areas); harm or poor decision making resulting from lack of participation and adequate information; and others.

### THE CORE INVESTIGATION PHASE: THE FIELD

The authority to approve a recommendation to investigate is vested in the Bank’s Board of Executive Directors, and the decision is made by the Board, on a no-objection basis, at the end of the eligibility phase. During the Panel’s 15 years, the Executive Directors approved investigations for the vast majority of Requests that the Panel determined had satisfied the eligibility criteria.

The Panel then enters the main phase of the process—the investigation phase. This section discusses the content of the Panel’s activities during this phase, the nature of the Panel’s research work, and the methodology it employs in gathering and cross-checking the information necessary for its analysis and writing the final report.

The Panel takes several steps to prepare for and conduct its investigation. One critical step is retaining from the outset one or more experts in fields relevant to the given project, who then participate in desk research and field research and in writing the final report.

In the investigation phase, the Panel is focused on fact finding and scrupulous verification. It visits the country and meets with the Requesters and other affected people, as well as with a broad array of people from whom it can learn in detail about the issues, concerns, the project’s status, and potential harmful effects. The investigation phase may take a few months, or more in complex cases.

#### *The Panel’s Research and Analysis*

The investigation phase is the central segment of the Panel’s entire work on a Request. By its nature, content, and methodology, the Panel’s work during this phase can be best described as systematic research and comprehensive analysis.

This systematic research work, in turn, falls into two categories: *desk research* and *field research*. Each has its own functions and contributions toward the Panel’s final analysis and conclusions on compliance, complementing one other to ensure comprehensive coverage of the project and of the issues under inquiry.

*Desk research* focuses first on the written documents about the project. It takes place both in the Bank’s headquarters and in the Bank’s resident mission in the country where the project is being implemented. The Panel is interested in learning as much as possible about the project’s history and the national and local contexts within which the Request for Inspection emerged.

Though *field research* is conducted mainly during the Panel’s visit to the country, it also begins first in Washington, in the Bank itself, which is part of the Panel’s “field.” Indeed, the Panel always starts the investigation phase with a series of interviews of staff members who were or still are associated with the project.

For both desk and field research in the Bank and in the country, the Panel uses several methods described in the next section of this chapter, on the Panel’s methodology.

During its country visit, the Panel meets with the Requesters and other affected people to learn in detail about the issues, their local context, people’s concerns and their exposures to risks, and the project’s actual and potential impacts and harms. As part of its responsibilities, the Panel also meets and interviews local World Bank staff, project unit staff, relevant government officials, civil society organizations, professional associations, well-recognized experts, and others so that it can gain a full understanding of and thoroughly investigate the claims expressed in the Request. During its field research, the Panel is required to keep a low profile and declines media contacts while an investigation is pending or under way (though if necessary it may respond to media questions regarding process). The Panel also makes it clear that its role is to investigate the Bank and not the borrower.<sup>9</sup>

The Panel holds public meetings and conducts site visits to talk with affected persons, creating additional avenues for participation.<sup>10</sup> It also endeavors to make the investigation process transparent and open to participation. The Panel’s Operating Procedures are published, and any member of the public can provide the Panel with supplemental information relevant to the investigation.



Honduras: Land Administration—Requesters, Panel Members and interpreter at La Ceiba

The *frame of reference* for the Panel in researching and evaluating the substance and accuracy of the Requesters' claims is the Bank's policies. The Panel examines the project's consistency with the Bank's policy provisions, the quality and soundness with which those policies have been translated into project activities in the local conditions, and the project's observance of the prescribed operational procedures during the project process. This research is multisided. It examines, for instance, the project design; the consistency between the project's main provisions and its legal loan or credit agreement with the country's government; all the nodal decision-making junctures in the project's cycle; the timeliness of undertaking certain mandated activities during project preparation and implementation; intermediate documents such as preparation documents (environmental impact assessments, social impact assessments, and the like) and other studies that served as stepping stones to the project, but may not be included in the Project Appraisal Document; and supervision reports. Such research and analysis often take the Panel on paths and directions not anticipated initially and usually yield valuable insights.

The Panel's experience has shown that relevant findings can result from the *iterative use* of desk research and field research, which very often feed off each other. In a project investigated in 2008, despite thorough desk research of the project's files in Washington before the field visit, the field visit itself revealed a number of issues and new facts requiring the Panel's study of additional documents not available in the project files. The field visit also brought up new aspects of the investigation that required, after the Panel's return from the field, additional interaction with some of the same staff members in headquarters who were interviewed earlier, as well as interviews with other staff and managers. This iterative process proved to be extremely productive for this particular project because it required the Panel to reverify information given to it in the first phase of desk research and indeed led to new findings.

The Panel's work in the investigation phase responds to the requirements, and bears the marks of, a professional and rigorous research process. The research is systematic, in-depth, and comprehensive. Like every type of research, the quality of the Panel's own research is dependent on its methods, techniques, and procedures, to which the next subsection is devoted.

### *Methodology Employed by the Panel*

The Panel's work—and the quality of the service it delivers to the Bank, as an institution, and to the Board and the project stakeholders—depends to a large extent on the Panel's ability to have unhampered access to information. Ready access to information is crucial to fact finding and analysis.<sup>11</sup> That access depends on the willing cooperation of all Bank staff with whom the Panel interacts, on the completeness of the Bank's project files, and on the quality of the research work and the methodology employed by the Panel.

During its 15-year history, the Panel has tested various approaches and research methods, while also keeping up with and learning from the professional literature on project research methods and evaluation. Because the Inspection Panel was the first such accountability body created within the community of international development finan-

cial institutions, it had to develop, adjust, and refine a methodology adequate to its functions.

While the Panel uses traditional evaluation research methods, it has deliberately set aside certain methods or procedures as being inadequate for its tasks and subject matter. As an example, the Panel contemplated the use of the sample survey, a widespread research tool for data collection that usually yields quantifiable responses and findings mainly about the personal opinions held by the surveyed people. Nonetheless, the Panel concluded that this instrument, however widespread its use, is unsuitable for the type of research the Panel conducts. The Panel's investigations focus on individual project cases and on *hard facts*, which survey questionnaires with standard questions will not capture. Rather, more reliable results can be obtained with qualitative, adaptable, and flexible research tools such as interviews, focus groups, and others.

Similarly, during these 15 years a vast methodological literature emerged that advocates the use and advantages of "rapid assessment procedures" or "rapid appraisal methods." These very names reflect the emphasis of those methods on saving time by simplifying indicators and approaches. Although the Panel aims to deliver its Investigation Reports as soon as possible, it determined that such shortcuts in the research paths would jeopardize quality and accuracy in a manner incompatible with the Panel's responsibilities. Therefore, the Panel determined that such rapid procedures should not be used in its field investigations.

Among the main methods that form the tool kit refined and employed by the Panel are the following:

- reconstruction of the project history,
- use of institutional memory as reflected in project documents,
- mobilization of personal memories of Bank staff members through direct interviews,
- site observation and field-checking of Requester's reported facts,
- data gathering from non-Requesters,
- Focus group sessions,
- consultations with country scientific institutions and experts, and
- review of official country documents.

A concise description of the above tools, with several examples, is given below, outlining the overall panorama of approaches during the investigation phase. These methods provide a glimpse into what it actually takes for the Panel to gather information from the field, additional to its desk research, to arrive at its conclusions about compliance.

*Reconstructing the project history* is a staple Panel method to piece together and recreate the evolution of the project from its earliest stage to the time of the Request. In daily parlance, the Panel members speak about recreating this history as the *project's timeline*. The timeline is usually constructed at the outset of the investigation, based on the project cycle, and is subsequently fleshed out with additional events identified as relevant to the project's evolution. Such timelines become the platform for further research to fill in gaps identified in the information received. Timelines help establish whether some pro-



### BOX 3.1 TIMELINES AND TIMELINESS

A recent Request for Inspection raised, among other issues, the complaint that the local population was not informed and consulted in a timely manner about the selection of the location for a major industrial plant. The Requesters contended that the selected location would lead to severe environmental pollution and adverse economic impacts on people's businesses and incomes. Management rejected this complaint, asserting that local project authorities organized the required public meetings for consultation. And indeed, the project's files did contain minutes of two such consultations. But when the Panel reviewed the minutes of the consultations and compared them with the recreated project timeline, it established that those meetings took place *after* the formal decision about the plant's location was already made, *not before*, as logically required by the Bank's policies. The affected population was bypassed in the decision-making process.

The project's timeline revealed that the project's "compliance" with the consultation requirements was only perfunctory. The delay rendered those pro forma meetings irrelevant and valueless.

cesses (for instance, public consultation) took place at the right time as required by the Bank's operational policies. Filling the gaps and building a well-documented timeline often leads the Panel to unanticipated, serendipitous findings. Box 3.1 describes an instance when constructing the project's timeline helped illuminate the validity of one Requester's important claims.

*Using the Bank's institutional memory.* The Panel's investigations always include a thorough study of the Bank's institutional memory, as gleaned from a project's records. The study of the records includes examination of initial project concept documents, key preparatory studies, social and environmental assessments, decision meeting minutes, the Project Appraisal Document and Program Document, on through to supervision reports.

In following and studying the project's paper trail, the Panel focuses primarily on

Nigeria: West Africa Gas Pipeline—Badagry fishermen meet with Panel Member



how the particular issues raised by the Requesters were dealt with at different stages of the project's cycle. This part of the desk research can be quite time consuming, yet it has proven to be well worth the time because it opens a window into the thinking that guided the project's makers and implementers. It yields an "understanding from within" of the project and subsequently enables a solidly informed analysis.

Also, in a number of cases, matching the documents in the project's file to the normal procedural steps prescribed by the Bank for each project phase has revealed that some of these activities have not been performed at all. As an example, a Panel Investigation Report pointed out a situation in which a project, by its nature, needed a social assessment during project preparation, yet there was no documentation of one having been performed; staff interviews later confirmed that a social assessment was not carried out.

The usefulness of carefully studying the project's institutional memory as reflected in the document trail appeared clearly in the investigation of India's Mumbai Urban Transportation Project. The Request asked for an investigation of the displacement and resettlement component of this project, which affected about 120,000 people. A large subgroup of people (small merchants who possessed not only personal residences but also commercial buildings subject to demolition) had not been treated as a distinct category in the resettlement plan; these people were woefully undercompensated, and were at great risk of losing their commercial assets and source of livelihood.

After a careful review of the project's documents and timeline, the Panel found that this urban project started, in fact, as two distinct but related projects—one for the engineering work on transportation and the other fully dedicated to resettlement. That was a sound approach, given that Bank policy fully allowed for such "twin projects" in cases in which high numbers of people were to be displaced. The two related projects should have been presented simultaneously for Board approval. However, during the lengthy preparation phase (about three years) carried out by two distinct Bank teams, the borrower's work on the engineering project advanced faster than the work on the resettlement project. For the latter, the borrower's preparation work was still incomplete and had not met the Bank's explicit policy requirements. However, rather than assisting the borrower to fulfill its requirements, the Bank reversed its initial approach and simply merged the two projects into one by reducing the resettlement of over 120,000 people to just a component of the engineering project. Hurrying to present the engineering project for Board approval, the poorly prepared displacement and resettlement plan was squeezed into the larger infrastructure project, leaving many serious issues, including the merchants' situation, unresolved.

Thus, by studying the institutional memory through the documents of the early project phases, the Panel was able to trace the roots of failures in resettlement implementation all the way to distortions or errors in the design and appraisal of the project.

Attention to the legal aspects of projects and their impacts is an integral part of the Panel's research on each investigated case. Among the institutional memory documents studied by the Panel are the project's legal agreements. Frequently, the Requesters claim that project implementation deviates from the Bank's legal credit agreement and covenants, or contend that certain activities triggered by the project may be in conflict with the country's law. Such issues come up, for instance, when illegal logging

in forests is an issue, or when claims refer to land rights, customary rights, titling processes, and so forth.

To analyze such legal issues, the Panel and its Secretariat have on board high-level legal expertise, with considerable Bank and project experience. The Panel has access to the minutes of negotiations between the Bank and the borrower for any given project, and to the minutes of the Board meeting at which a project is approved for lending. These minutes are often reviewed to better understand the Bank's final agreements with borrowers and project-executing agencies and to ascertain the extent to which Bank operational policies are reflected in these agreements. In this context, the Panel often includes in its investigation teams at least one in-house legal expert. Exceptionally, the Panel may also obtain, as necessary, local legal advice in cases where it needs to ascertain the extent and nature of harm alleged by the Requesters. Moreover, as described above, the Panel may contact the Bank's legal department in respect to questions relating to Bank rights and obligations, especially in "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."<sup>12</sup>

Searching for project documents, however, poses its own difficulties. The Panel normally has access to the standard documents mandated by the project cycle, but might not know about other documents and memoranda, often written in special situations, that may be relevant to the issues under review. The Panel counts on the indispensable cooperation of staff in disclosing the existence of such documents. If such documents are sheltered from the Panel's review, although it may eventually find them, the normal work of the Panel is interfered with and delayed.

*Interviews with staff.* However thoroughly a project's unfolding is recorded in its documentation, the record may not include many contextual facts about the "why's" and "how's" of the project's development. These are preserved only in the personal memories of the staff. The Panel regards such personal memories as an important source, which it regularly attempts to mobilize for information. In turn, staff have the professional duty to cooperate with the Panel by sharing personal knowledge and answering the Panel's questions fully and candidly.

Interviews are commonly used in many types of studies, but for the Inspection Panel's work, interviews are conducted under well-defined rules. These rules require, first, that strict confidentiality be guaranteed to the staff interviewed. The interviews are conducted as conversations, do not follow a rigid structure, and are recorded for accuracy. Furthermore, no information, if used, is associated with an individual staff member. The names of those interviewed are never mentioned in the Panel's reports, and the records of the interviews are destroyed after the end of an investigation process.

The importance of such interviews can hardly be overstated. Most staff cooperate effectively during these interviews and are helpful in facilitating the Panel's efforts for connecting the dots between different documents or decisions. Yet, the use of interviews is not always free of difficulties. In some instances, information provided in interviews conflicts with other information the Panel has received and verified. Such instances are discussed with the interviewed staff to get clarification and guarantee accuracy.

Defensiveness has also occurred in some instances. Some interviewed staff have claimed a lack of knowledge about issues directly related to their own work on the project. Other times, the Panel has received an excessive number of “I don’t remember” responses. However, because the Panel never relies on a single source to establish what it needs to learn, the search for alternative sources continues.

During a 2008 investigation, unusual difficulties in the Panel’s work resulted from the lack of cooperation and straightforwardness of some staff during interviews. The Panel raised this issue in its Investigation Report to the Board and both the Board and the Bank’s Senior Management communicated again to Bank staff the need for full cooperation and truthfulness in such interviews.

*Fact checking in the field and related methods.* A first step in the Panel’s field work is to rigorously check all the facts invoked by the Requesters as a basis for their claims and to place these facts into the context of local circumstances. This effort builds on the fact-checking performed during the eligibility phase, taking it deeper and wider using several methods.

To debrief them and listen to additional information they may provide, the Panel meets with the Requesters during its field visit not once but several times, for extended conversations. The Requesters are invited to present all documents they have to support their allegations for the Panel’s review. They are sometimes also invited to make a full and documented presentation to the Panel, which is then followed by a detailed discussion of issues and facts.

To further verify the Requesters’ claims, the Panel also undertakes direct site observation in each investigation. Environmental and social issues in particular lend themselves well to site observation. The Panel visits the sites referenced in the formal Request as well as other sites chosen by the Panel as relevant to the issues at hand.

Information gathering and fact checking involve expanding the field inquiry beyond the usually limited group of Requesters and bring the Panel into direct interaction with a large number of people not involved in the Request. Discussions are held with people who live in the same areas as the Requesters to ascertain the views of non-Requesters regarding the project and its impacts. For that purpose, either individual interviews or focus group sessions are often carried out.

*Focus groups sessions.* These are convened by the Panel to examine collectively and in depth certain aspects of the main issues raised in the Request, and involve central areas of the investigation. Focus groups, a qualitative research technique frequently used in social science research, bring together a small number of participants (between 5 and 10 people) who are invited to talk freely and spontaneously about the key themes in the given investigation. The participants are selected from the target population affected by the project under investigation. A member of the Panel’s field team presents the themes and informally moderates the discussion.

In some cultures, “focus groups” develop without prior planning, just because neighbors tend to join the preplanned household interviews or simply because they notice the field team’s presence in the area. The Panel’s field teams do not resist this cultural tendency, respond to questions about its presence and purpose, and often conduct the in-



DRC: Private Sector Development—Requesters during a meeting with Panel team



formal dialogue so as to reverify information or explore opinions and perceptions about impacts. Other times *community meetings*, which include large numbers of non-Requesters, may be found necessary.

The term “non-Requesters” is broad and includes several distinct categories of people that the Panel approaches, for example, the Bank’s resident staff who work on the given project and have day-to-day knowledge of its evolution; government officials who may have knowledge about some aspects of the project and may have totally different views and information than those of the Requesters; and various nongovernmental and civil society organizations. The Panel comes to the field with open minds about all kinds of information. It not only initiates contacts but also makes itself available to those who express a desire to meet with the Panel on the project.

Field fact finding cannot be separated from on-the-spot fact analysis; rather, such on-the-spot analysis is deliberately planned. During the field work, the members of the investigation team meet daily to discuss and analyze the information harvested during the day and to cross-check it to weigh reliability and identify possible contradictions or gaps. Such collective analysis might either amend or confirm the Panel’s lines of inquiry, or bring to light the need to also follow lines not previously contemplated.

*Consultations with country experts.* Some issues raised by Requesters—for instance, environmental matters or issues about the preservation of cultural heritage—may need to be examined and verified with experts or with the country’s scientific institutions, particularly those that might have carried out earlier research in the project area. These consultations are a part of the Panel’s search for “knowledge on the shelf,” which includes published books or studies about the area or its population that may contain in-

formation germane to the issues under examination. The Panel may visit national scientific centers and seek direct meetings with the country's scholars and researchers to take advantage of current knowledge.

In a recent investigation, for instance, the Requesters claimed that the area selected for a thermal plant was the site of a significant historical event that occurred about five centuries ago. The Requesters contended that the site should be recognized as a cultural monument. The Panel called upon the knowledge of prominent country experts—a cultural historian and two archaeologists—with whom it had extensive conversations. The Panel also strenuously searched for knowledge on the shelf about the area and ultimately identified studies by foreign researchers who had unearthed valuable historical documents pertinent to the issue. At the time this book went to press, the Panel was deliberating the advice it had received from all quarters and will make a determination on this issue in its final investigation report.

*Review of public documents.* As emphasized, the Panel does not investigate the borrower. In its search for project-relevant information, the Panel tries to use multiple publicly available sources. The Panel learned in some cases that the project situations that led to complaints were addressed in various kinds of public documents or were the object of press commentaries. The Panel thus finds it important to identify and tap such sources, particularly publicly available official documents that may contain information relevant to the given project.

An interesting example is described in the Panel's Investigation Report on Albania's Coastal Zone Management and Clean-Up Project. One of the crucial issues the Panel had to clarify was whether the house demolitions that occurred in the project area were related to the Bank-financed project. The Management Response to the Panel's eligibility report had asserted that there was no link, either "direct or indirect." However, the Panel's field research revealed that the staff of the Bank's Tirana office had reported watching on TV parts of the Albania Parliament's debate about the demolition, during which a Minister explicitly linked it to the Bank's project.<sup>13</sup> The Panel then learned that the Parliamentary debates are publicly available as official records of the legislature's activities, and are also posted on the internet. The Panel obtained a copy of the official record, reviewed it, and indeed found a detailed statement by the Minister representing the Albanian government in the parliamentary debates. In his speech, he directly confirmed the link between the demolition and the Bank project, while other speakers strongly protested the impoverishment faced by the affected families as a result of the demolitions. This enabled the Panel to include in its final report parts of the official parliamentary record about the demolitions. Along with evidence from other sources, this use of a public document made possible a better and irrefutable analysis and conclusion about the link in the Panel's investigation report, with which Bank Management also ultimately agreed.

This was the first time the Panel used parliamentary records in its documentation and project analysis. The lesson learned by the Panel for its own work was that the review of various official documents available in the public domain and relevant to the project must become part of its regular investigation methodology.

## THE REPORT-WRITING PHASE

Once the field investigation and data gathering are completed, the Panel process enters its third phase—writing the final report. This phase includes the final analysis-cum-synthesis of the data collected through desk and field research; distillation of the main findings and conclusions on compliance, harm, and noncompliance with policies; the determination of the Report’s structure; the drafting of each chapter; and the final writing of the Investigation Report to be submitted to the Bank’s Board. All Panel reports are made publicly available upon Board approval.

During the report’s drafting and its associated analyses, some of the leads picked up during the field investigation may need to be followed. The Panel may decide to return to the project’s paper trail and timeline, or to re-examine certain project documents. Additional staff members may be interviewed, as necessary. The Panel may also invite staff already interviewed to clarify issues or to cross check newly collected field data.

However, the main emphasis during this phase is not on additional fact-finding but on the collective analysis and synthesis of all that was learned during the Panel’s research. The final report is a cooperative product, to which all Panel members contribute.

The Panel ensures that the final report explicitly addresses every issue raised in the Request for Inspection. However, the Panel is not limited to just those issues. The eligibility phase and the field investigation phase may lead the Panel to policies and issues not raised in the Request, but that may be germane to the complaints formulated in the Request. Moreover, the Panel’s work rules recognize that the Requesters may not be aware of the specific Bank policies under which their complaints might fall and do not have to list them in their Request. That does not invalidate a Request, nor does it prevent the Panel from considering the facts that pertain to those policies. On the contrary, the Panel has the responsibility to identify all policies relevant to the investigated cases and examine the issues in their light. Therefore, the report for the Board explicitly covers all the relevant issues.

Arriving at final assessments about the validity of the Requesters’ complaints and about the project’s compliance with Bank policies requires extensive discussions among the Panel members and external specialists who participated in the field work, together with the ongoing support and advice of the Panel’s Secretariat. The need for collective analysis and synthesis results from the Panel’s fundamental duty to carefully weigh, and thoroughly document, its conclusions. Therefore, report drafting and redrafting routinely take several rounds. Only after all the conclusions on compliance are discussed and agreed on by Panel members is the report finalized and submitted to the Bank’s Board of Executive Directors.

The Panel conveys its Investigation Report to Bank Management via the President and also submits it to the Board. Management is expected to submit a written response to the Board and the Panel within six weeks of receipt of the Panel’s report. The Executive Directors also begin their own study of the Panel’s Investigation Report in preparation for the Board meeting convened to discuss the Panel findings and consider the Management Response.

## THE BOARD'S MEETING AND FOLLOWUP

### *Management's Response to the Board*

Under the Panel's procedures, the Management Response must include recommendations in response to the findings of the Panel, and generally includes a corresponding Action Plan. The Action Plan, which offers remedies to bring the project into compliance with Bank policies and addresses related findings of harm or potential harm, must be agreed to by the borrower and be prepared in consultation with the Requesters. This part of the Panel process is essential to its effectiveness, because it is the operational basis for the Bank to address and remedy findings of noncompliance and harm to the affected people.

The objective of the Management Response is to offer Management's opinion on the Panel's findings and conclusions, and inform the Board about Management's position and possible follow-up actions. The Management Response may agree or disagree with the Panel's conclusions, but in cases where it expresses disagreement, Management has to provide supporting evidence for why it disagrees.

The Panel's Investigation Report does not contain specific recommendations for actions that should be taken by Management.<sup>14</sup> Rather, the Investigation Report documents findings of noncompliance and harm, which may be suggestive of needed actions, but the report does not prescribe the exact nature of these actions. It is the role of the Management Response and Action Plan to make recommendations in response to the Panel's findings on noncompliance and harm, for review by the Board. Furthermore, Requesters have no opportunity to formally offer recommendations to the Board after the Panel has conducted its investigation (Bridgeman 2008).

In a number of cases, the Panel has commented favorably that Bank Management has proposed significant actions to address the Panel's findings and improve the situation of adversely affected people. In other cases, however, the Panel has expressed to the Board its concerns that the Management Response was vague in its proposals or otherwise did not adequately respond to the Panel's findings. Independent research of investigations conducted in the Panel's first decade found that "a significant number of findings of non-compliance still go unanswered in action plans" (Bridgeman 2008, 3). The sample size was too small to allow generalizations, but the Bridgeman study noted large discrepancies between findings of noncompliance and Management's proposed actions. The researcher concluded that "the Bank may be wary of correcting its own policy violations when doing so would necessitate imposing requirements on borrowers over which the Bank has an actual or perceived lack of leverage" (Bridgeman 2008, 4).

The Board of Executive Directors in the 1999 Clarification explicitly asked Management to always consult with Requesters and other affected parties<sup>15</sup> in developing an Action Plan, to be agreed upon with the Borrower, in response to the Panel's findings. This requirement of consultation during the preparation of the Action Plan creates both the mandate and the platform for an important and, hopefully, constructive dialogue between Management and Requesters when it comes to the preparation of the Action Plan. However, the possibility of a constructive dialogue is hampered by the fact that the Panel's Resolution does not allow the disclosure of its Investigation Report at this stage. This prevents Requesters from knowing its contents, which limits their ability to engage meaningfully with Management in the preparation of remedial steps.



In some cases, Management has taken certain actions to respond to the findings of the Panel even before submitting its Response to the Board or the convening of the Board meeting. For example, the nature of the Panel’s findings of noncompliance in some cases were such that Management took strong action to partially or fully suspend the project’s disbursements until important changes could be made to the project (for example, in the Mumbai Urban Transportation Project and the Albania Coastal Zone Management and Clean-Up Project).

Notably, in both of these cases, Management had opposed launching an investigation in the earlier eligibility phase.

### *The Board’s Meeting*

Once the Board has received both the Panel’s Investigation Report and the Management Response, the Executive Directors schedule a Board meeting. Each Board office examines both documents thoroughly. A particular interest is usually taken by the Executive Director whose constituency includes the country in which the project is located. Quite often, in advance of the formal Board meeting, an Executive Director invites the Panel for an informal meeting to clarify various findings.

Because the Panel’s findings and conclusions on compliance are considered relevant for the entire Bank, all operational Vice Presidencies are invited to have their representatives attend the Board meeting.

Usually a number of Executive Directors circulate their written comments and recommendations in advance of the Board meeting; other Executive Directors present their comments orally and these are subsequently entered into the Board’s records.

One important practice and tradition since the Panel’s inception is that the President of the Bank personally chairs the Board meeting at which the Panel’s Investigation Report is presented. The current and past Presidents of the Bank have always—except in a few extraordinary circumstances in which it was simply not feasible—done this for several reasons.

First, doing so reflects the importance of the Panel’s role in the institution. Second, the President is also Chairperson of the Board, and structurally the Panel reports to the Board, not to Bank Management—not even to the President. Third, and related to the second point, the alternative of having a Managing Director or Vice President of the Bank sit as Chairperson of an Inspection Panel Board meeting would raise at least the perception of a conflict of interest because the meeting would be conducted by a high-level official of the body (Bank Management) that the Panel investigated. The Panel appreciates the commitment demonstrated by Bank Presidents to this fundamental role.

The Board meeting usually starts with the Panel Chairperson presenting the Panel’s main findings and Management presenting the Management Response, proposed recommendations, and Action Plan. The Board’s discussions are thorough and wide ranging, addressing not only the

“The Part I (non-borrowing countries) EDs have huge help from their governments and finance institutions, there is capacity. The Part II (borrowing countries) EDs are really on their own. They don’t have help from their capitals, and sometimes it’s difficult to wade through all the information on your own.”

—**Julio Nogues**, former World Bank Executive Director.



Uganda: Private Power Generation—Requesters in a meeting with Panel team in the Bujagali region

issues of the individual project, but also their relevance for the Bank’s work at large. Particular attention is given by the Executive Directors to the content of the Management Action Plan.

The importance of the Board’s debate can hardly be overestimated. With regard to operational effects, a particularly significant element of the Board meeting is the decision about whether to approve the proposed Bank Management Response and Action Plan or to require changes and additions to better address the findings of the Panel’s Investigation Report. In certain cases, Board Members have called upon Management either to do more (Uganda Third Power Project, Fourth Power Project, and Proposed Bujagali Hydropower Project) or to be more specific (Democratic Republic of Congo: Transitional Support for Economic Recovery Credit and Emergency Economic and Social Reunification Support Project) in addressing the Panel’s findings. In the Pakistan: National Drainage Program Project case, Bank Management introduced an addendum with measures additional to those proposed in its initially submitted Response and Action Plan, specifying more targeted action to address the negative impacts on the affected population. In many other cases, the Board has approved the Management Response and Action Plan as proposed.

In some cases, Board Members have requested to hear about the level and adequacy of the consultations carried out by Management with affected peo-

“... the Panel played an important role in the decision making process and provided a kind of ‘counter-expertise’ that was extremely useful for the Board to weigh the arguments brought forward by Management, and it resulted in a more balanced outcome.”

—Ad Melkert, former World Bank Executive Director

Pakistan: National Drainage Program Project—Requesters and Panel team in Sindh Province



ple during the preparation of the Action Plan. The Panel is taking additional steps to ask relevant parties if these consultations are occurring as required. These steps, and related issues about this critical element of the Panel process, are described in more detail in chapter 4.

Another important feature of the Board meetings is whether the Board asks Management to subsequently submit progress reports either on implementation of the Action Plan or, more generally, on addressing Panel findings on noncompliance and harm. In most cases, the Board requests Bank Management to provide at least one report on progress in implementation of the Action Plan. Often, progress reports are proposed by Management itself in the Action Plan.

### *Monitoring of Action Plans*

The Board has requested the Panel to take on a formal follow up role on a few occasions. This type of engagement has ranged from the formal task of reporting on progress within a fixed period to a less formal assignment to call upon Management to have “technical consultations” with the Panel on specific issues. Absent a request by the Board, the Panel Resolution—and the 1999 Clarification in particular—generally is understood not to create a standing monitoring role for the Panel with regard to implementation of the Management Action Plan.

“In terms of monitoring, the Board has already illustrated that it can ask the Panel to monitor or follow up without changing the Panel Resolution.”

—**Danny Bradlow**, Professor of Law,  
American University

One of the main concerns expressed by affected people and civil society organizations about the Panel process is that the Panel is not given a strong enough, regular monitoring role, as an in-

dependent check on how well the Bank's Management Action Plan is being implemented and on whether it results in tangible changes on the ground. This substantive and procedural concern about the Panel's regular follow-up role has not yet been addressed formally. In some cases, second Requests for Inspection have been filed when Bank Action Plans were not implemented after the first Request. According to Requesters interviewed by an independent researcher, "transparency in the implementation of action plans is the crucial missing part of the Panel process" (Bridgeman 2008, 6). While the Panel's work increases the Bank's credibility, the Bank loses credibility when it fails to follow through on its proposed response.

Within the constraints of its mandate, the Panel has taken some steps on its own to address this issue, including establishing a practice to make a *return visit* to Requesters after the Board meeting to convey the findings of the Panel's investigation and to ensure that the people are fully aware of the commitments made by Bank Management to address the Panel's findings. The persisting issue of the Panel's follow-up role is discussed in more detail in chapter 4.

## NOTES

1. As described in the next section, the Panel needs to determine that certain technical eligibility criteria have been met before it can recommend a full investigation.
2. Chad: Petroleum Development and Pipeline Project, Management of the Petroleum Economy Project, and Petroleum Sector Management Capacity Building Project (2001); and Cambodia: Forest Concession Management and Control Pilot Project (2005). Both available at <http://www.inspectionpanel.org>.
3. See the Resolution establishing the World Bank Inspection Panel, paragraph 12, <http://www.inspectionpanel.org>.
4. Registration is not an automatic step. The Panel does not register Requests that are obviously outside its mandate, are anonymous, or are manifestly frivolous. See the Resolution at paragraphs 13 and 14. <http://www.inspectionpanel.org>.
5. See paragraph 3 of the 1999 Clarification, <http://www.inspectionpanel.org>.
6. Interviews with National Thermal Power Corporation Requesters, Singrauli, India, January 2004, in Bridgeman (2008).
7. See paragraph 2 of 1999 Clarification, <http://www.inspectionpanel.org>.
8. At the time this book went to press, the Board of Executive Directors of the World Bank had not made a decision on the Panel's recommendation related to the Request for Inspection received on the Yemen Institutional Reform Development Policy Grant. This Request is described in appendix I.
9. See the 1999 Clarification at paragraph 12, <http://www.inspectionpanel.org>.
10. See The Operating Procedures at paragraph 45 in annex VII D of "Accountability at the World Bank: The Inspection Panel 10 Years On" (World Bank 2003). <http://www.inspectionpanel.org>.
11. The provisions for full access are clearly set forth in the Resolution establishing the Panel. Resolution number IBRD93-10 and the Resolution number IDA93-6, both dated September 22, 1993, explicitly state in Paragraph 21, the following: "in the discharge of their functions, the members of the Panel should have access to all staff who may contribute information and to all pertinent Bank records . . ."



12. Resolution establishing the Inspection Panel, IBRD No. 93-10 and IDA No. 93-6.
13. “Inspection Panel Investigation Report on Albania: Integrated Coastal Zone Management and Clean-Up Project,” November 24, 2008, <http://www.inspectionpanel.org>.
14. It should be noted that other international financial institution accountability mechanisms, such as at the Asian Development Bank, do have the authority to make recommendations in the context of specific investigations.
15. 1999 Clarification, para. 15. The Clarification states that Management’s Action Plan has to be distinguished from Management’s report to the Board addressing Bank failure and remedial efforts. This distinction is, according to the 1999 Clarification, twofold: (i) relating to the parties involved; and (ii) the scope of the Panel’s purview. With respect to the parties’ involvement in the preparation of the Action Plan, the 1999 Clarification explicitly states that the Action Plan has to be agreed upon between the borrower and the Bank, and that Management has to “communicate to the Panel the nature and outcomes of the consultations with affected parties on the action plan.”

## CHAPTER 4

# BREAKING NEW GROUND, CONTINUING CHALLENGES

This chapter highlights developments in the Panel process over the years in response to evolving practice, lessons learned, and continuing challenges. The discussion also notes important findings on issues of compliance and harm made by the Panel in its recent investigations, and related observations by the Panel on systemic issues affecting the way the Bank addresses its safeguard policies.

### IMPROVING ACCESS TO THE PANEL FOR AFFECTED PEOPLE

Since its creation, the Panel has established practices to ensure that the procedure to initiate a Request for Inspection is simple and user friendly. Ease of use is particularly important because it ensures that people in remote locations without access to the requirements of “process” can still use the Panel when seeking to have their voices heard.

Accordingly, and as described previously, Requests for Inspection need not be long and detailed, can be submitted as a simple letter and written in any language, and do not have to reference specific Bank policies in describing the complaint.

This latter point is crucial, as the Panel has learned in recent years that many people—even those who are familiar with the its operations—appear to believe that a Request must refer to specific policies. The Panel has gone on record to indicate that this is not the case, as confirmed in the 1999 Clarification to the Panel’s Resolution (see chapter 3). In addition, the Panel Secretariat remains available to assist in this regard and clarify any questions.

For the Panel to function as an effective accountability mechanism, affected people must be aware of the Bank’s role in financing projects that impact them. Information about Bank projects and policies has become more available on the internet. However, insufficient translation and dissemination make it difficult for many affected people to access information about the Bank and the Panel (Bridgeman 2008).

“The Panel by its nature needs to be doing things that are unexpected in Bank culture . . . Being part of the ongoing process of reform is a very important role for the Panel to play. Engaging in positive change is very important. It means to be a companion to growth.”

—**Richard Bissel**, former Panel Member

“Its [the Panel’s] main weaknesses lie in its lack of direct accessibility to local affected communities and, more important, the fact that the Panel’s findings or recommendations are not binding on the Bank.”

—**Elias Díaz Peña**, Yacyretá Requester (1995 Request)

“We found the Inspection Panel through the internet. We had a meeting about whether to file a claim. The room was divided: some thought the Panel could not be independent because it was a part of the Bank. Others thought if the Bank had created such a mechanism, then it must take the independence seriously. So we decided to give it a shot and file the claim.”

—**Pacifique Mukumbu-Isumbisho**, Executive Director of CAMV and Requester in Democratic Republic of Congo Forestry (EESRSP & TSERO) case

“The Panel, as well as the procedures of access to it, must be better known, especially by local affected communities. The Panel must be proactive, making its availability known by communities potentially affected by projects financed by the WB.”

—**Elias Diaz Peña**, Yaciretá Requester (1995 Request)

In addition, it is essential that project-affected communities are aware of the existence of the Panel, so that it can be used efficiently and as intended by its founding Resolution. However, through meetings, discussions, and past outreach activities, the Panel has learned that there exists a marked lack of knowledge of the Panel’s availability as a recourse mechanism among such project-affected communities. This indicates a continuing and urgent need to take appropriate actions to build awareness about the Inspection Panel.

The Bank’s Board has specifically asked Bank Management to make significant efforts itself, as well as in coordination with the Panel, to create greater awareness of the Panel in borrowing countries.<sup>2</sup> However, an independent researcher found that in the Panel’s first 10 years, Bank Management had “made no systematic effort to publicize the existence of the Panel in borrowing countries” (Bridgeman 2008, 6). The Panel has not observed any notable improvement in this situation in the previous five years either.

For many years, the Inspection Panel has suggested ways in which Management could do more to promote awareness of the Panel. Specific steps include, among others, more prominent mention of the Panel in the Bank’s external Web site<sup>3</sup> and in project-related information that is provided to affected people. The Panel also has noted opportunities for Bank Management to promote understanding and awareness of the Panel through improved accessibility of information at Public Information Centers, awareness-building meetings in Country Offices, and guidance to staff on alerting affected communities to the existence of the Inspection Panel when the communities raise concerns about projects.

As part of its mission, the Panel has taken a number of steps to increase its own awareness-building activities, including using methods learned from the efforts of other, similar types of accountability mechanisms. These steps include the following:

- learning about where a lack of awareness exists among communities and people to whom such information is important;
- developing accessible and understandable information about the Panel process and how it works; and
- increasing participation in activities to generate and build awareness, including in-country awareness-building meetings and seminars, frequently with regional participation or in conjunction with an already-scheduled event, and in cooperation with partner and civil society organizations.

## RISKS OF RETALIATION, CONFIDENTIALITY, HUMAN RIGHTS

People who come to the Panel often are poor or in some ways vulnerable, and lack voice or influence in the political process. They may fear that someone with power will view submitting a Request for Inspection of an important World Bank–financed project as a challenge, and thus put them at risk of retaliation.

The Panel has learned about, and documented, some cases in which affected people have felt pressured not to submit a Request for Inspection. The Panel has stated clearly, and on record, that such actions threaten the integrity of the entire process, and may have long-term ramifications on the project’s quality and the willingness of affected people to assert claims to protect their rights.

For example, in the case of the Brazil-Paraná Biodiversity Project, a Global Environment Fund–supported project related to biodiversity conservation and natural resource management in the state of Paraná in Brazil, the Panel stated the following in its Eligibility Report:

... the Panel found that the Requesters felt unduly pressured by Bank staff and others not to file a Request for Inspection and then to withdraw the Request. The Requesters have cited various arguments as having been used to exert pressure. The Panel finds that this practice threatens the integrity of the Panel process, and may have a chilling effect on local people who genuinely feel harmed or potentially harmed by Bank projects. The Panel wants to call the attention of the Board of Executive Directors and Bank Senior Management to this matter, and trusts that these kinds of practices will not occur in the future.<sup>4</sup>

The Panel also reports instances of possible intimidation before or after in-country visits. In the proposed Bujagali Falls hydropower plant in Uganda, the Panel was informed that the day before its visit to affected people at the resettlement site, “Project officials, together with a number of other people, including foreign officials and one of the consultants for the social and environmental impact assessment, visited the area and met with the area leaders, but reportedly not directly with affected people signatory to the Request.”<sup>5</sup> In its Eligibility Report, the Panel charged,

The Panel is concerned by the reports of pressure and fear among at least some of the affected people who signed the Request. The Panel trusts that the Bank will take appropriate steps to ensure that the concerns turn out to be not well-founded.<sup>6</sup>

In the Mumbai Urban Transport Project (MUTP) in India, a lead Requester was imprisoned shortly after the Panel sent its Report to the Board. The Panel learned that the charges involved instances of alleged extortion and a traffic altercation. Then Chairperson of the Panel Edith Brown Weiss reported to the Board as follows:

The Panel wishes to emphasize that it respects the sovereignty of a country to deal with its own citizens. However, the Panel also notes that the imprisonment of the chief spokesperson of the Requesters, without bail, sends a chilling message to peoples everywhere who would complain to the Panel about Bank projects. It affects the

“Another challenge is the need to raise awareness among the borrowing governments about the Panel so they see it as less of an impediment and more of a contributor to having good quality projects.”

—**Danny Bradlow**, Professor of Law, American University



Bank's credibility and ability to work effectively in response to the Panel findings and in pursuit of its own Action Plan.<sup>7</sup>

A final example is discussed at some length in the Panel's publication "Accountability at the World Bank: The Inspection Panel 10 Years On" (World Bank 2004) relating to the Panel's investigation of the Chad-Cameroon Petroleum and Pipeline project. In that case, the Panel's investigation revealed that Bank consultations, at least before 1997,

... were conducted in the presence of security forces, which was certainly incompatible with Bank policy requirements. In its report, the Panel emphasized once again that full and informed consultation was impossible if those consulted perceive that they could be penalized for expressing their opposition to or honest opinions about a Bank-financed project.<sup>8</sup>

In this case, the Request alleged violations of Bank directives on proper governance and human rights. This raised a delicate topic for the Bank as well as for the Panel in light of provisions of the Articles of Agreement of the World Bank that state, "only economic considerations shall be relevant to [the Bank's] decisions." As described in "The Inspection Panel 10 Years On," there were two legal opinions (in 1990 and 1995) by the Bank's General Counsel and Senior Vice President on the topic of human rights, indicating that "the prohibition of political activities in the Bank's work translates into a prohibition to interfere in a manner in which a country deals with political human rights, as long as this has no demonstrable effect on the country's economy" (World Bank 2003, 96).

In light of the concerns raised by the Request, the Panel examined several reports on the human rights situation in Chad, and for the first time felt the obligation to examine "whether human rights issues as violations of proper governance would impede the implementation of the project in a manner that was incompatible with Bank policies."<sup>9</sup>

During his presentation to the Board, Panel Chairperson Edward S. Ayensu broke new ground, indicating for the first time that the Board had to consider human rights in the context of a specific operation.<sup>10</sup> He also reported to the Board what had happened to the Requester in Chad:

"The Chadian government reacted badly. They saw the claim as an attempt to stop the project and keep them away from the oil revenues. The government was not happy and they were threatening local affected people. One of the local Congressmen who was speaking out about the project and the need for local compensation was arrested and jailed. The government was aggressive towards people who were seeking improvement in the project."

—**Delphine Djiraibe**, Association Tchadienne pour la Promotion et la Défense des Droits de l'Homme, Chad

Given the world-wide attention to the human rights situation in Chad . . . and the fact that this was an issue raised in the Request for Inspection by a Requester who alleged that there were human rights violations in the country, and that he was tortured because of his opposition to the conduct of the project, the Panel was obliged to examine the situation of human rights and governance in the light of Bank policies. We are convinced that the approach taken in our report, which finds human rights implicitly embedded in various policies of the Bank, is within the boundaries of the Panel's approach to this sensitive subject and has pledged to continue to monitor the developments in this area within the context of the applicable Bank policies.<sup>11</sup>



Chad-Cameroon:  
Oil Pipeline Project—  
Residents in Chad at  
site of Chad-Cameroon  
Pipeline Project

In light of these significant concerns, the Panel has developed strict provisions to maintain the confidentiality of Requesters when they so ask. Panel procedures also allow affected people to submit a Request through a local representative (a nongovernmental organization, for instance) or, in exceptional cases, another representative, when the Executive Director agrees that the party submitting the Request does not have access to appropriate local representation. Reliance on representatives to submit a claim has, in fact, been used in some Panel cases to address concerns of affected people that they might be targeted if they were to submit a claim directly. The Panel procedures also provide that an Executive Director may, on his or her own initiative, request an inspection.

The Panel also stands ready to report to the highest authorities any instances of pressure or reprisal faced by Requesters, both to limit the negative ramification on all people's desire to put forth claims, and as a fundamental concern for the protection of human rights.<sup>12</sup>

### IMPROVING OPPORTUNITIES FOR EARLY PROBLEM SOLVING

The Panel's traditional role, as an accountability mechanism, is to carry out an independent investigation into whether the Bank has complied with its own policies, and any related findings of harm. A core objective of this process is to improve the conditions affecting people in-country (see chapter 5), while at the same time assessing whether the Bank is in compliance.

"... the Panel's work has limited role and impact in international law as it is not permitted to address the project-related issues by applying the most advanced principles of provisions of existing international law, mainly those relating to human rights, environmental and climate change. But the work of the Panel is a good beginning towards developing independent international corporate/IFIs accountability and human rights/environmental violations."

—**Gopal Siwakoti "Chintan"**, Requester in Arun III Project and Legal Advisor to Water and Energy Users' Federation, Nepal

“What is needed is a more problem- and solution-oriented approach and not just focusing on policy.”

—Alvaro Umaña, former Panel Member

The Panel process does not explicitly include a formal mechanism for “problem solving” in the sense of having a mandate to facilitate or conduct mediation to help resolve problems among the affected people, the Bank, and the borrower. This has become more noticeable in recent years as other accountability mechanisms have been endowed with such authority. For example, the Compliance Advisor Ombudsman process used by the International Finance Corporation and the Multilateral Investment Guarantee Agency provides for an ombudsman function, as does the accountability mechanism at the Asian Development Bank. The Panel is aware that a main reason people trigger the Panel process is to seek resolution of their problems. In this context, the Panel established in its own Operating Procedures additional steps in the processing of Requests for Inspection that would allow early resolution of Requesters’ concerns.

The Panel has been examining elements of the problem-solving approaches of other accountability mechanisms and, in recent years, has taken additional steps to enhance opportunities to address and resolve the problems of affected people, especially during the early phase of the Panel process.

### *Creating “Space” for Problem Solving*

The most important action in this regard has been to create additional space and incentives during the eligibility phase for addressing the problems raised in the Request for Inspection. In some cases, where conditions were appropriate, the Panel’s eligibility report recommended that the Board defer its decision on whether to investigate a project to give additional time and space for Bank Management to address the problems and harms facing Requesters. In other cases, specific events occurring after the submission of the Request, such as changes in government, led the Panel to request from the Board an extension of the 21-day period for the submission of the eligibility report and recommendation, so as to give the Bank a new opportunity to address the Requesters’ concerns and the possible issues of noncompliance with policies and procedure. In these cases, the Requesters also believed that additional time would allow their concerns to be addressed without the need for an investigation.

The theory behind this approach is that once a Request has been filed and the eligibility phase has begun, Bank Management has a strong incentive to explore if problems can be addressed and overcome promptly, thus avoiding the need for a full investigation. Moreover, allowing additional time for problems to be solved takes advantage of the resources and interests of Bank Management in solving problems, and adds effectiveness to the Panel process.

### *Basic Premises for Use of This Approach*

Certain core conditions must be met for this early problem-solving approach to be used. First, the Panel must be satisfied that a delay in the process will not be detrimental to the interests of the Requesters and that both Bank Management and, crucially, the Requesters, are interested in pursuing this course of action. The second condition is that, in the

Panel's view, Management is taking, or is planning to soon take, needed steps to address the Requesters' concerns. In such circumstances, the Panel may recommend to defer a decision on whether a full investigation should take place for the time it deems reasonable to expect a resolution of the problems.

Postponing the process must not become an obstacle to the Panel's fundamental role in assessing compliance, the core reason for which the Panel was created. Operationally, this means that at the end of the period specified by the Panel, the Panel must still determine whether to recommend a full investigation, taking into consideration the results of the problem-solving initiative.

In some cases, this could lead to narrowing the scope of the investigation to exclude any issues that have been addressed successfully by the time the Panel must make its recommendation.

As a final precaution, the Panel must avoid any potential conflicts of interest in responding to Requests. The Panel has learned that some other mechanisms using extensive problem-solving methods, including third-party mediation, have found the need to clearly separate those parts of the office engaged in problem solving from those engaged in compliance analysis. Such separation tends to be necessary when the organization is actively involved in the problem-solving process (as opposed to giving additional space for problem solving, as in the Panel approach). Separation ensures that the staff charged with problem solving are sufficiently detached from actions being assessed for compliance through the compliance function of the office.



Chad—Cameroon:  
Oil Pipeline Project—  
Panel Team with local  
residents

### *Illustrations*

The Panel has created space for problem solving in several cases. Some of these are highlighted below.

On January 26, 2006, the Panel received a Request relating to a **Romanian Mine Closure and Social Mitigation Project** submitted by an affected company on behalf of 30 inhabitants living near the project area. The Request claimed that the works related to the environmental reconstruction of the mine area failed to protect adequately the surrounding lands, and noted impacts of flooding and severe damage to an important road in the area used by residents. Because of the impacts of the flooding, the Requesters feared that the company would have to close and dismiss its 105 employees. Additionally, the affected persons claimed that the flooding made it impossible for people to cultivate their lands.

During its eligibility review, the Panel was informed that the Requesters, Bank Management, and local, national, and project authorities had met and agreed to undertake a series of actions to address the Requesters' concerns. In March 2006, the Panel received a letter from the Requesters indicating that, in their view, the measures set forth in the minutes of the meeting would address their concerns in a satisfactory manner. They ac-

cordingly asked the Panel “not to initiate a recommendation regarding our request for inspection for a period of 6 months,”<sup>13</sup> adding that “if these works will not be made in this period of time, however, the harm that we fear may become real and then the Panel Inspection [sic] should initiate an investigation regarding this problem.”<sup>14</sup> In light of this, the Panel recommended to the Board of Directors that it approve the Panel’s proposal to “refrain from issuing a recommendation on whether an investigation would be warranted, and rather await further developments on the matters in the Request.”<sup>15</sup>

Some months later, on June 20, 2006, the representative of the Requesters sent a letter to the Panel expressing their satisfaction with the Bank’s efforts to implement the agreed actions. However, following an inquiry from the Panel, the Requesters asked for a further delay before closing proceedings. Another letter from the Requesters to the Panel (“letter of contentment”) indicated that the problems had been satisfactorily resolved, which was possible due to “. . . the help of World Bank Management and the professionalism and reliability of the Project Management Unit from Ministry of Economy and Trade for all the duration of work execution.”<sup>16</sup> On September 29, 2006, the Panel recommended to the Board that the Request be considered closed.

The Panel also followed this approach in response to Requests relating to the **Mexico Indigenous and Community Biodiversity Project** (in Oaxaca) and the **Brazil-Parana Biodiversity Project**. In each of these cases, after the submission of the Request to the Panel, Bank Management proposed significant action to address the concerns raised by the Requesters. As a result, the Panel took the procedural step of not making a recommendation on whether to carry out an investigation at the end of the 21-day period, waiting for further developments. For the Mexican Requesters, this meant that while no investigation was initiated at that time, the door was left open for the Requesters to return to the Panel should progress deteriorate (in their judgment) and the need to investigate recur.<sup>17</sup>

In the **Brazil-Parana Biodiversity Project**, six months after its report in which it refrained from making a recommendation on the need for an investigation, and following a visit to the project area and discussions with all parties involved, the Panel noted the efforts made by the Bank and project authorities to address the concerns of the Requesters and to ensure that the project complied with Bank policies and procedures. The Panel therefore concluded that an investigation was not warranted.<sup>18</sup>

The Requests involving the **Santa Fe Infrastructure Project and Provincial Road Infrastructure Project in Argentina** also illustrate Panel actions to enhance opportunities to address issues of noncompliance and harm. The Panel received three requests, claiming that the Bank was in violation of several Bank policies in relation to a project to upgrade and expand a road in the province of Santa Fe, Argentina. In evaluating the first two Requests (submitted in 2006), the Panel found that the Requesters did not meet all eligibility criteria because of their failure to first seek resolution with Bank Management before coming to the Panel. Nevertheless, Bank Management took action and some specific claims raised by the Requesters were addressed to their satisfaction.

In a subsequent Request (Santa Fe Infrastructure Project, 2007) raising additional issues regarding the project, the Panel decided to request of the Board a three-month extension of the 21-day eligibility period. The Requesters expected that the new government about to take office could satisfactorily address their concerns. Therefore, considering



Management's positive attitude toward the first two Requests, the Panel concluded that the interests of all parties would be better served by a delay in making its recommendation on the need for an investigation. Ultimately, the Panel determined that some, but not all, of the Requesters' claims had been successfully resolved, and so recommended an investigation focused specifically on the remaining issues. The investigation is still ongoing at the time this report went to press.<sup>19</sup>

The Request relating to the **West Africa Gas Pipeline (WAGP)** project in Nigeria provides a different kind of example. Once again, the Panel identified an apparent commitment by Bank Management to address problems raised in the Request, and willingness

by Requesters to allow additional time for the proposed problem-solving actions to reach fruition. In contrast to the other cases, however, at the end of this extended period, the Panel determined that Bank Management had not adequately pursued these efforts, and the Requesters concerns had not been resolved. As a result, the Panel recommended a full investigation, which was approved by the Board.<sup>20</sup>



Ghana: West Africa Gas Pipeline—  
Takoradi area

## IMPROVING INVOLVEMENT OF AFFECTED PEOPLE: CONSULTATIONS WITH REQUESTERS IN PREPARING THE ACTION PLAN

As noted, the 1999 Clarification to the Panel Resolution requires Management to consult with Requesters and affected people in preparing an Action Plan to address Panel findings. Moreover, the Panel is given authority to submit a report to the Board on the adequacy of these consultations.

This requirement places a responsibility on both Bank Management and Requesters to act as partners. Management is required to reach out to the Requesters for meaningful consultations during the preparation of the Action Plan, and to take the results of those consultations into account in its discussions with the borrower about finalizing the Action Plan. The Requesters are expected to be receptive and constructive in their response to Management's approach for consultations.

The 1999 Clarification also states that Management "will communicate to the Panel the nature and outcomes of consultations with affected parties on the action plan."<sup>21</sup> The Panel also has authority in this system to submit a report to the Board of Executive Directors providing its view on the "adequacy of consultations with affected parties in the preparation of the action plans."<sup>22</sup> The Panel can base its conclusions on all information available, but the 1999 Clarification provides that an additional country visit can take place only "by government invitation."<sup>23</sup>

"At present claimants have no input into action plans prepared by Bank Management that are intended to resolve their problems. The situation is ironic because in our case study and numerous other cases, World Bank Management faced the task of drawing up follow-up action plans to problems whose existence it had denied in the first place."

—**Samuel Nguiffo**, Delphine Djiraibe, and Korinna Horta, in "Access to Justice from Local Village to Global Boardroom: An Experience in International Accountability: The World Bank Inspection Panel and the Chad-Cameroon Oil and Pipeline Project," 2004.

“The Action Plan was not prepared nor has it been implemented in consultation with the affected people. The people in the affected areas of Sindh have repeatedly expressed their needs and demands to the World Bank and the government in writing and in public meetings. However, the World Bank did not consult with the affected people in the Action Plan’s development and the needs and demands expressed by the people are not reflected in it. The Bank has not disseminated the Action Plan in local languages in the affected areas, explained the content of the Plan or discussed implementation priorities with the people of southern Sindh.”

—**Mustafa Talpur** (Requester in Pakistan NDP claim) and Ann-Kathrin Schneider (International Rivers Network) in “Shattered Lives and Broken Promises: The Unresolved Legacy of the World Bank’s National Drainage Program in Pakistan—an Eyewitness Account,” 2007.



Pakistan: National Drainage Program Project—Panel team in a meeting with requesters in Sindh Province

Consultations between Management and Requesters—before preparation of the Action Plan—have increasingly been recognized as a critical step. These consultations ensure that the voices of affected people, which are heard during the investigation process, are also listened to in the preparation of the final Action Plan, so that the agreement between the Bank and the borrower takes into account the concerns of the Requesters and affected parties, as stated in the original Request for Inspection. Furthermore, these additional consultations solidify the Bank’s responsiveness to the people it serves.

In several cases, however, Requesters have expressed to the Panel strong concerns about the lack of consultations during this phase of the process, or that the consultation have been far from adequate, for example, in recent cases involving the Pakistan National Drainage Program Project and the Democratic Republic of Congo (DRC) forest-related operations (Transitional Support for Economic Recovery Credit and Emergency Economic and Social Reunification Support Project). An independent researcher has noted that “Even when Management does engage Requesters [in the creation of action plans], it does not do so readily, effectively, or transparently” (Bridgeman 2008, 4).

The Panel has taken steps to devote increased attention to this issue, and to reinforce its actions. First, the Panel now directly informs and reminds the Requesters and affected people of Management’s duty to carry out these consultations when remedial measures are contemplated for the action plan. The Panel also solicits the views of Requesters about the nature of the consultations, and whether they consider them to be adequate and meaningful. In parallel, the Panel invites input and explanations from Bank Management about their own views and perspectives on this part of the process.

The purpose behind this effort by the Panel is to help ensure that affected people are fully aware of their rights, and to create a stronger incentive among Bank Management for better consultation. The Panel thus carefully considers whether each case reported to the Board adequately demonstrates that substantive consultations have, in fact, taken place.

The Panel has also highlighted, and acknowledges, that an unfortunate structural asymmetry occurs in this process, arising from rules relating to the timing of the release of the Panel’s Investigation Report. In particular, under current Panel procedures the Investigation Report is not made available to Requesters and the public until after the development of the Management Response and the subsequent Board meeting. As a result, while Management is required to consult with Requesters in developing an Action Plan to respond to the Panel’s findings, and already has access to the Panel’s Investigation

Report while doing so, the Requesters do not yet have access to the Investigation Report during this consultation process. Without access to the report, Requesters cannot be certain that Management is fully addressing the shortfalls noted in the Panel’s findings.

The Panel follows these relevant rules and does not release its Report until after the Board meeting. However, the Panel is exploring ways in which this informational asymmetry can be overcome while remaining true to its rules and living up to the basic objectives of transparency and disclosure. In doing so, the Panel would also better fulfill the policy imperative—set forth in the consultation requirements of the 1999 Clarification—that affected people have access to adequate and needed information that will enable them to participate meaningfully in the consultation process.

### *Other Means to Enhance Engagement of Requesters and Affected People*

The Panel has also been pursuing other means to enhance interaction with Requesters and affected people during the Inspection Panel process, particularly after the completion of the field visit, including maintaining more regular and frequent contact with Requesters to keep them posted on the status of an investigation, and requesting additional updates and information from them that might be relevant to the matters under investigation.

Additional ways to further involve Requesters are also being considered, such as whether Requesters should be able to participate as observers in the actual Board meeting at which the Panel’s report is considered, or otherwise have a right to submit statements or observations.

## **ROLE OF THE PANEL IN THE POST-INVESTIGATION STAGE: ISSUES AND CONSTRAINTS**

As noted in chapter 3, the Panel does not have a formal, standing mandate to monitor the implementation of Bank Management’s Action Plans or to report on progress in response to the Panel’s investigation. Affected people and civil society have expressed significant concerns about this limitation of the Panel’s mandate. In particular, critics believe this constraint reduces accountability at the vital stage of taking positive reparative action; reducing the process to simply pointing out the Bank’s failures (Udall 1994). Additionally, observers are concerned that those implementing the Action Plan may be the same people involved in the initial noncompliant project. The fact that other accountability mechanisms do have authority to monitor progress also provides impetus for an extension of the Panel’s duties.

### *Return Visits to Convey Results of an Investigation*

The Panel has taken some steps, within the limits of its mandate, to address the above concerns. Beginning with the Yacyretá hydroelectric project investigation in Paraguay,<sup>24</sup> the Panel has established the practice of returning to the affected area to brief the Requesters, the local authorities, Bank country office staff, and other stakeholders on the results of the investigation. These are not fact-finding visits; rather, the idea is

“The next fifteen years will bring more opportunities and challenges for the Panel. Perhaps it and other accountability mechanisms will be accepted more fully by the IFIs they oversee. The Panel needs the authority to monitor implementation of action plans that are developed in response to the Panel’s work.”

—David Hunter, Associate Professor of Law,  
American University

Cambodia:  
Forest Concession  
Management—Panel  
team in Stung Treng  
Province meeting with  
requesters



“The Panel should be empowered to monitor the issues and the benefits to directly affected people. Ensuring that the remedies are implemented is very often a long-term matter that requires monitoring longer-term developments. Certainly the Board cannot capture all the problems or issues in one decision-making meeting alone. If that were the case, then one would run the risk that an Inspection Panel Report is just a reflection of the moment, which does not capture sufficiently the dynamics of the interests of the people you want to protect.”

—**Ad Melkert**, former World Bank Executive Director

“The IP report should have been made available in Nepali language so that the local people could understand.”

—**Gopal Siwakoti** “Chintan”, Requester in Arun III case and Legal Advisor to Water and Energy Users’ Federation, Nepal

to convey and discuss with stakeholders the results and implications of the investigation and related Management Response, especially the Action Plan.

The Panel has undertaken return visits in connection with the following projects: Colombia (Cartagena Water Supply, Sewerage and Environmental Project); India (MUTP); Cambodia (Forest Concession Management and Control Pilot Project); Pakistan (National Drainage Program Project); DRC (forest-related operations); Honduras (National Land Administration Project); Nigeria (WAGP); Uganda (Third Power Project, Fourth Power Project); Ghana (UESP II, and Proposed Bujagali Hydropower Project). In each of these return visits, the Panel team met with Requesters and affected people to discuss and convey the results of the Panel’s Investiga-

tion Report and the related Bank Management Response and Action Plan. During these visits, the Panel also meets with members of government and other interested parties and stakeholders.

### *Return Visit to Kinshasa, DRC*

The return visit to Kinshasa, DRC, in connection with the forest-related projects illustrates the nature and potential value of conveying the investigation outcomes in person. In that case, the Panel was able to meet with all 12 of the main Requesters, who represented the indigenous Pygmy peoples from throughout the DRC, as a group in Kinshasa to convey directly to them the results of the Panel’s investigation. The Panel did not simply “report” its findings, but important, reviewed and discussed the agreed-on elements of the Management Response and Action Plan.



During the course of the meeting, the Requesters gained a better understanding not only of the findings made by the Panel, but also that the Management Response and Action Plan represented a new commitment by the Bank to take action to address and respond to their concerns. As an ancillary effect, the Requesters also used this gathering as an opportunity to reorganize themselves as a group, and developed a written statement indicating, among other topics, their demand to be an integral part of a consultation process or mechanism established by Bank Management to help ensure effective and proper implementation of the Management Action Plan. In this communication, the Requesters noted that they have rights and interests, as well as knowledge and expertise, about the issues and problems. The group also emphasized that the World Bank staff should continue to recognize those rights as the Bank attempts to reform and improve the forest sector through logging concessions while recognizing the land tenure and rights of indigenous people.

The Panel passed this statement on to the highest levels of Bank Management, and has continued to pass on input and information it has received from the Requesters and affected people, including, most recently, a new statement from the Requesters and affected people in February 2009 describing the situation and how it is affecting them (discussed in more detail in chapter 5).

The critical need for this direct personal contact is easily evident—Board meetings in Washington and press releases posted on internet sites simply are not accessible and understandable at such great distances, both geographical and cultural.

### *Follow-Up Fact Finding at the Request of the Board*

On a few occasions, the Board has requested the Panel to take a more substantive role in post-investigation activities. The Panel's engagement has ranged from a formal role in reporting back to the Board on progress (Yacyretá Hydroelectric Plant Project and Mumbai Urban Transport Project) to a less formal role of "technical consultations" on specific follow-up issues (Cartagena Water Treatment Project; Honduras Land Administration Project). The discussion below illustrates these follow-up activities through the cases of Yacyretá, Mumbai, and Cartagena.<sup>25</sup>

*The Yacyretá Hydroelectric Plant Project.* Yacyretá involved an investigation into claims of noncompliance and harm associated with a large-scale hydroelectric dam on the border of Paraguay and Argentina. The Requests alleged, among other things, that the standard of living, health, and economic well-being of people in the Yacyretá area in Paraguay would be adversely affected by filling the dam's reservoir before completion of the required social and environmental mitigation measures.

"The findings of the outcomes of the Panel's process should be made mandatory on the Bank Management and there has to be a strict compliance monitoring mechanism . . ."

—**Gopal Siwakoti "Chintan"**, Requester in Arun III case and Legal Advisor to Water and Energy Users' Federation, Nepal

"The idea of the Panel monitoring is to be an independent fact checker and to stimulate the involvement of civil society in overseeing the remedies needed in projects and improving people's lives. The Panel can help affected people to stay involved by engaging and paying attention to the implementation of the action plans."

—**Richard Bissel**, former Panel Member



The Board of Executive Directors met on May 6, 2004, to discuss the Panel’s Investigation Report and the Management Report and Recommendations. The Board commended the Panel for its report and approved Management’s recommendations on how to address the issues identified by the Panel. It also approved Management’s proposal to submit a progress report to the Board within 90 working days of the Board meeting. The Board asked that the report detail additional remedial measures for the outstanding problems. The eventual report included steps forward in implementing the Bank’s Action Plan and additional assessments, including social and economic impacts of the project as well as measures taken with respect to the 2,416 families already relocated and the 6,000 families waiting to be relocated in Paraguay. The Board also requested the Panel assess Management’s Action Plan and the additional implementation measures on its behalf.<sup>26</sup>

Following the Board meeting, the Panel returned to the project area to explain and discuss the Panel’s findings with the Requesters and the people they represented. During this visit, the Panel described its continuing role in assessing Management’s actions.

*Mumbai Urban Transport Project.* The MUTP was designed to expand and improve the rail and road infrastructure in Mumbai. The Panel received four successive Requests (processed jointly) in 2004, which claimed noncompliance and harm from the large-scale displacement effects of the project.<sup>27</sup>

In its investigation, the Panel documented serious instances of noncompliance with Bank policies in the handling of the resettlement needs of some 120,000 displaced people. Consultations required by policy and baseline surveys were inadequate, project documents significantly under-reported the number of displaced people, and the needs of middle-income shopkeepers were overlooked. The environmental assessment (EA) of resettlement sites, consideration of alternative sites, and conditions at the selected sites were also poor. Finally, the resettlement approach did not meet core policy requirements on income restoration. In light of these problems, Bank Management suspended disbursement on the road and resettlement component of the project on March 1, 2006, and indicated in its Response to the Panel’s Investigation Report that the State of Maharashtra agreed to implement a 10-condition strategy for lifting the suspension of disbursements (see also chapter 5).

At its meeting to consider the Panel’s Investigation Report, the Board endorsed the Management Action Plan and agreed that Management would submit to it a progress report no later than six months from that date. It was also agreed that the Panel would report back to the Board on Management’s progress in implementing the Action Plan.

Bank Management’s ensuing progress report stated that improvement had been made in services, such as water supply, for resettled project-affected people; on consultations and grievance procedures; and in building the capacity of the local implementing agency. Management acknowledged that development had been “slower than anticipated” in addressing the impacts facing shopkeepers, including income restoration, coordinating civil works, the timely implementation of land acquisition, and relocation of affected religious and community structures. The Panel’s progress report is described in box 4.1.

India: MUTP—  
Demolitions in  
Mumbai, India



#### **BOX 4.1 PANEL PROGRESS REPORT ON POST-INVESTIGATION ACTIONS, MUMBAI URBAN TRANSPORT PROJECT**

The Panel's follow-up progress report after its investigation of the MUTP was carried out as an independent fact-finding assessment. To conduct its own review and ascertain the facts with respect to progress made, the Panel met with Management and members of the project team and analyzed project documentation. The Panel consulted Requesters and other affected people and hired an independent local consultant who attended a series of follow-up meetings in Mumbai. Panel Member Tongroj Onchan and former Assistant Executive Secretary Anna Sophie Herken, together with the independent consultant, visited the project area March 7–11, 2007, and met with Requesters, other affected people, government authorities, and Bank Management.

In its follow-up report, the Panel acknowledged the efforts of Bank Management, while noting the complex and difficult challenges of the project. The Panel also reported a positive impression from project-affected people starting to settle at the resettlement sites and an overall improvement in the situation.

However, the Panel observed that a number of issues still needed resolution, and that many of the target dates listed in the

Management Action Plan had not been met. The Panel report documented continuing problems and concerns on the following subjects, among others: the situation of the shopkeepers; institutional capacity at the implementing authority; the database to record and track resettlement and allotments; the provision of information to project-affected people; income restoration; water supply, waste management, and social services at resettlement sites; transport connectivity; and the grievance system.

To explain its findings, the Panel divided its analysis on the issues into three parts: Panel Investigation Report findings; actions described in Bank Management's progress report; and Panel findings on progress. As described in chapter 5 (discussion of results of the investigation), while some problems remain, this overall process has yielded significant benefits and improvements for displaced people who launched the initial Requests for Inspection. In addition, the Panel's progress report and methodology provide a new reference point for follow-up fact finding that could be applied by the Panel in other settings. The Panel's progress report is posted on the Inspection Panel's Web site, at <http://www.inspectionpanel.org>.

*Colombia: Cartagena Water Supply, Sewerage, and Environmental Management Project.* The Panel investigation in this case was in response to a Request from a community some 20 kilometers outside the city of Cartagena de las Indias. The community feared that a submarine outfall pipe built near their homes to carry sewage from Cartagena and send it offshore would result in adverse and potentially dangerous contamination.

With respect to the design of the submarine outfall, the Panel reported in its Investigation Report that “the computer modeling on which the outfall design is based may not account for the rather special oceanographic conditions of the Project area in determining the risks to human health and the marine environment”<sup>28</sup> and noted that more sophisticated three-dimensional models are readily available to assess those risks. At the Board meeting on this investigation, the Executive Directors endorsed Management's Action Plan “with the caveat that Management and the Panel meet to discuss the modeling approach for assessment of the risks of the submarine outfall and to assure that the most appropriate project design is considered.”<sup>29</sup> It was agreed that Management would submit to the Board a progress report on the execution of the Project and Action Plan within six months.<sup>30</sup>

Participants of the 6th Annual Meeting of independent accountability mechanisms hosted by IFC/MIGA Compliance Advisor/Ombudsman in Washington, DC



“Within India and globally, within the past two decades, a remarkable array of coalitions, federations, networks, and alliances have been forged cutting across issues and political boundaries to secure greater transparency and accountability of dominant institutions like the World Bank... It is important therefore to acknowledge that the Inspection Panel and other efforts to hold dominant institutions accountable must therefore be seen only as an element—a small but important element—in a broader strategy of seeking a democratic and just people-centred development.”

—**Smitu Kothari**, founder of Lokayan and Intercultural Resources, in the Preface to the Indian edition of *Demanding Accountability: Civil Society Claims and the World Bank Inspection Panel*, New Delhi, 2003

## COOPERATION WITH OTHER ACCOUNTABILITY MECHANISMS

The creation of other IFI accountability mechanisms during the last 15 years has brought up issues that were not anticipated in the initial arrangements of the Panel’s work. The Panel has welcomed these new mechanisms and sought to increase cooperation with them. Aspects of such cooperation are discussed below.

### *Cofinanced Projects*

Many internationally supported development projects receive financing from more than one donor institution. For example, a given project may receive financial support from the International Bank for Reconstruction and Development, the International Development Agency, or the International Finance Corporation (for the private sector), from a regional development bank (Asia, Africa, Latin America, or Europe), bilateral aid agencies, and other sources. Often, each institution will have its own policy requirements, which may be similar—but not the same—with regard to social and environmental safeguard provisions. Other international financial institutions (the IFC, the regional development banks) also now have their own accountability mechanisms with procedures similar but not identical to those of the Inspection Panel.

This raises the possibility that an affected community would submit a request for an investigation (or problem solving) to more than one of the accountability mechanisms. This, in fact, occurred for the proposed hydroelectric plant at Bujagali Falls in Uganda, as described in box 4.2. The Panel believes that potential Requesters should have access

#### **BOX 4.2 PANEL COOPERATION WITH SISTER ACCOUNTABILITY MECHANISM: BUJAGALI FALLS**

The Bujagali Falls project was cofinanced by multiple donors, including the World Bank and the African Development Bank (AfDB). When communities experienced trouble with the project, both the Inspection Panel and the Compliance Review and Mediation Unit (CRMU) of the AfDB received requests for an inspection or investigation. The requests were very similar, but made to each institution separately.

In response to these requests, the Panel and the CRMU developed and carried out a cooperative approach to the investigation. The approach was recorded in a Memorandum of Understanding between the two entities, which is included as appendix X of this publication. The approach enabled the sharing of tech-

nical information and a joint on-site field visit, while also respecting the mandate requirements of independence and confidentiality of the respective mechanisms.

This cooperative approach best supported the affected communities and maintained their rights to seek recourse at each institution, while providing a user-friendly, coordinated approach to the process. It also proved most efficient for the Management of both the World Bank and AfDB, and for the borrower, which received the investigative teams during a single, coordinated visit. This approach offers an important reference point for handling inspections in cases involving joint funding, where (in the rare case) requesters submit complaints to more than one institution.

to all relevant accountability mechanisms and it is the duty of the mechanisms to ensure efficiency in any resulting joint investigation processes.

#### *Sharing Lessons among Accountability Mechanisms*

Over the last several years, annual meetings have been held among international accountability mechanisms to identify and foster means for cooperation, and to exchange experiences and lessons learned in the course of their work. Former Chairperson of the Panel Edith Brown Weiss played a leadership role in the establishment of these annual meetings, and the Panel hosted the inaugural gathering in Washington, DC, May 20–21, 2004. Participation has continued to expand since the initial meeting, and has included representatives from the Inspection Panel and accountability mechanisms of the AfDB, Asian Development Bank, European Bank for Reconstruction and Development, European Investment Bank, Inter-American Development Bank, International Finance Corporation (IFC), Japan Bank for International Cooperation, North American Commission for Environmental Cooperation, Nippon Export and Investment Insurance, and the U.S. Overseas Private Investment Cooperation. The latest such gathering was hosted by the IFC/MIGA CAO; 30 staff of the independent accountability mechanisms of eight international financial institutions participated. This 6th Annual Meeting took place in Washington, DC, June 24–25, 2009.

The meetings have addressed a variety of topics, including case study presentations on investigation experiences; lessons learned; opportunities for cooperation and coordination among mechanisms in awareness-building activities; and new topics of interest, such as the use of a country-systems approach in Bank operations, and experiences in cofinanced projects. In Tunis, the conference of the mechanisms was followed by a joint outreach meeting with members of civil society from different countries in the region, meant to build awareness of the existence of these accountability mechanisms, to exchange views, and to listen to inputs and concerns.



## IDENTIFICATION OF SYSTEMIC ISSUES

In several recent cases, the Panel has concluded its Investigation Report with a section on systemic issues or observations relevant to its findings on noncompliance. These remarks often focus on the “why” of noncompliance, that is, factors encountered by the Panel during the course of its investigation that help explain why policy requirements were not met. In some cases, recurring problems of noncompliance were noted. The Panel hopes that these observations could offer valuable insights to the Board and Management on ways to improve policy compliance.

### *Legacy Issues*

The Panel’s recent Investigation Reports on Bujagali Falls noted, as a systemic issue, that Bank Management does not adequately address problems of noncompliance and harm arising from past projects that have been interrupted during implementation. This is referred to as a “legacy” issue. In the Bujagali Falls report, the Panel stated as follows:

This investigation encountered a situation of adverse effects on people due to a failure to assess, correct and complete resettlement actions initiated in a previous effort to develop the Bujagali dam. In particular, many people whose lands were to be flooded or affected by the anticipated reservoir inundation and construction activities were relocated at the time of the first Bujagali dam project. When the implementation of this earlier project was halted, following withdrawal of the sponsor, many of these people were essentially left in limbo, and they did not receive key elements of the resettlement process to which they were entitled under Bank policy (e.g., relating to livelihood and income restoration, community development initiatives). . . Legacy issues from previous funding are found in many projects . . . The Panel notes the importance to affected people of timely actions to address any such situations that might arise.<sup>31</sup>

As a result of discussions at the Board meeting, it was agreed that Management will develop guidance on how to address environmental and social safeguard issues in legacy projects that suffer significant interruptions in implementation, such as in the Bujagali project.<sup>32</sup>

Ghana: UESP II—Panel team meeting Requesters and area residents in Accra



### *Time Pressure and Passing Risks on to Implementation*

In the Panel’s investigation of the Ghana UESP II, the Panel reported on an apparent conflict between policy compliance and time pressure to move a project. The Panel stated,

Another dilemma that this Report addresses is an apparent conflict between time pressure and policy adherence. During interviews, the Panel was informed that at least some in the task team felt that time pressure to prepare and submit the Project to the Board contributed to an underestimation of



risks, and that the Bank should have done more to make sure that problems at Kwabenya were not handed over to the implementation period without insuring that they can be properly dealt with. While noting the necessity of risk taking in development and the objective of simplifying procedures, short-term expediency needs to be assessed in terms of potential problems in the long term.<sup>33</sup>

These concerns are similar to the types of concerns documented in the early 1990s by internal and external reports on World Bank operations, which linked failures in safeguard compliance to Bank incentive structures to “move the money” and a “culture of approval.” The observation about passing risks on to the implementation stage of a project is an important manifestation of these problems. The Panel did not comment on whether this is a recurring problem, but has noted similar problems in certain other recent investigations.



Ghana: UESP II—Panel member visiting project site

### *Supervision: Inattention to Warning Signs, Lack of Resources*

As noted in chapter 2, on several occasions the Panel has found the Bank out of compliance with its obligations to supervise projects by failing to identify and adequately respond to issues and problems as they emerge. The Panel’s Investigation Report in Ghana UESP II, for example, noted inattention to warning signs during project implementation, which eventually contributed to significant problems in an already tense and controversial project (where there was strong local opposition to a proposed landfill). Noting as well the importance of country ownership in the development process, the Panel made the following observation:

The Panel has highlighted the importance of country ownership, and does not consider that there is any incompatibility between adequate project supervision and country ownership. Nevertheless, Management is responsible for ensuring that relevant policies are met and to facilitate action to address problematic situations that arise. In the present case, the Panel has found that Management’s hands-off approach may have contributed to inattention to safeguard issues and problems that emerged during implementation. Bank staff mentioned other systemic factors of concern that contributed to lack of adequate supervision, including high staff turnover, budget constraints, inadequate coordination in Project management and supervision, and heavy work demands on task team leaders.<sup>34</sup>

The Panel also noted in its Report that after the Request for Inspection, and in response to these concerns, Bank Management substantially scaled up its supervision of the landfill component under the project and became more active in responding to emerging problems.

Similarly, in the WAGP project, the Panel found inattention to warning signs, linked apparently to a lack of sufficient funding and safeguards expertise within the team. The Panel stated,

. . . a number of warning signs that appeared in the design phases of the Project were not properly interpreted and dealt with. For instance, Management did not adequately follow up on the warnings relating to the RAP [Resettlement Action Plan] process that were raised and discussed in the Monitoring reports. One important reason is an apparent lack of available supervision resources in terms of funds and safeguard expertise.<sup>35</sup>

The Panel also highlighted the lack of field presence as an additional explanation for (and indicator of) noncompliance in supervision. The Panel stated,

. . . oversight of safeguard Policies and of Borrower adherence to EA and RAP requirements cannot be undertaken “from a distance” and without support from Bank staff present close to the project site. Field presence becomes even more important in large regional projects such as the WAGP. . . Despite the Bank’s insistence on consultation and disclosure and having staff skilled in these fields little appears to have been done in this Project to “field check” the adequacy of the Borrower’s communications with project affected communities. The failure of Bank staff to ensure that the Borrower made information available to local people at a level they would comprehend is perplexing.<sup>36</sup>

Serious shortcomings in supervision also emerged in the Panel’s investigation of the Albania Integrated Coastal Zone Management and Clean-Up Project. A Bank supervision mission was sent to report on facts surrounding demolitions in the coastal area that later became the subject of a Request for Inspection. The mission report contained a number of accurate points of information, but as the Panel wrote in its Investigation Report,

. . . in carefully reviewing the “fact findings” of the BTO [Back to Office Report] and the Aide-Memoire, the Panel was disturbed to realize that the Mission that was formally mandated to “obtain a fuller understanding” did not interview the Requesters, and based its findings on discussions with the PCU [Project Coordination Unit] and the Construction Police.<sup>37</sup>

Even more serious, the Panel discovered that the supervision reports failed to mention documentary evidence linking the Project to the demolitions, facts that would have “enable[d] the Bank and its Management to understand the causality that led to the demolitions in Jale, and to deal with the Bank’s reputation risk in a forthright and constructive manner . . .”<sup>38</sup>

The Panel found that by leaving out essential facts on which it had an obligation to report, Bank Management did not comply with Bank Policy on Supervision. The Panel declared that these omissions “may be regarded as a material misrepresentation of a situation about which the Mission was mandated to provide a fuller understanding of the facts.”<sup>39</sup> At a systemic level, the Panel observed that “[i]t appears that Management would have been better served by sending in staff who were not directly involved in the Project to undertake a ‘fact-finding’ mission in a highly controversial situation.”<sup>40</sup> These shortcomings of supervision—the failure to interview the affected people and to report on material information relevant to the project’s link to the demolitions—had rippling negative effects for the affected people and the Bank over an extended period (see chapter 5 and the discussion of the project in appendix I for a full description of the Albania investigation).

### *Special Issues in Cases Involving Public-Private Partnerships*

The Panel also has identified a systemic issue relating to supervision of projects involving public-private partnerships. In the WAGP project, for example, development of the four-country gas pipeline project was led by private sponsors, including major international companies in the oil and gas sector. As a result of information received during its investigation, the Panel indicated its concern that “Management essentially put its faith in the Project Sponsor to carry out oversight and supervision during key preparation phases, as a substitute for direct engagement by staff in this critical function.”<sup>41</sup>

In its Response to the Request for Inspection, Management acknowledged both the opportunities and risks of working with a private sector special purpose company to implement a project of this scale. One important risk was that the company might pay insufficient attention to the requirements of Bank safeguard policies, and instead drive a tight preparation schedule, forging ahead according to procedures and requirements of the host governments. The Panel thus concluded, “private partners are often chosen for their strong technical competence in a particular field, but may not be well-equipped to address the range of Bank Policy Requirements absent effective guidance, engagement and project supervision.”<sup>42</sup>

The Panel did recognize the importance of such partnerships, and both the benefits and challenges, and noted the Bank’s efforts to broaden its portfolio through such initiatives. Yet, taking into consideration the troubled history of gas and oil exploration by some private companies, especially in parts of Nigeria (where the main Requesters came from), the Panel stated as follows:

In the present case, the Panel is concerned that Management put too much faith in the Project Sponsor’s ability to handle complex social issues in spite of the troubled history of some of the participating companies’ involvement in the Nigerian oil and gas sector.<sup>43</sup>

These observations by the Panel generated an important discussion at the Board meeting on this project. The joint press release following the meeting noted that the Board emphasized the importance of “. . . managing the risks—economic, environmental and social—associated with a large, complex, multi-country project. The lessons of experience will inform and benefit the next generation of public-private partnerships.”<sup>44</sup>

### *Project Area of Influence: Affected People “Falling Off the Radar Screen”*

The Panel has observed shortcomings in the delineation of the area of influence of a project, which is a required element under Bank Policy on Environmental Assessment. More specifically, problems have arisen when the negative impacts of a project on a community or a population are overlooked and, therefore, not addressed as part of the harm avoidance and mitigation elements of the project. These people have somehow “fallen off the radar screen” of project analysis and implementation.

As described in box 4.3, the Panel’s investigation into the Pakistan National Drainage Program offers a vivid illustration of this shortcoming.

The issues raised by the Panel’s Investigation Report into the Pakistan National Drainage Program Project, including the existence of a continuing risk to the affected

### BOX 4.3 PAKISTAN NATIONAL DRAINAGE PROGRAM: LOSING SIGHT OF AFFECTED PEOPLE

On September 10, 2004, the Panel received a Request for Inspection from local communities at the southern end of a large-scale drainage system designed to alleviate problems of water saturation and salinization in agricultural lands in the northern areas of Sindh Province. The drainage and irrigation systems transformed the natural flow of the Indus River into the Arabian Sea. In particular, the Left Bank Outfall Drain (LBOD) connected the Tidal Link, a 26-kilometer-long drainage channel, to the sea. This Tidal Link, however, ran through areas occupied by local people and communities, as well as through an interconnected series of freshwater lakes, known as dhands, that were crucial both ecologically and for livelihoods (fisheries).

The Panel's analysis of the project found that the design of the Tidal Link and related elements of the lower drainage system created significant adverse impacts and risks for the local population, especially a heightened risk of dangerous flooding caused by a combination of heavy upland rains and storms coming in from the sea. The Panel also found that some parts of the Tidal Link structures were failing. In 2003, in fact, some of the structures failed as a result of heavy rains and an offshore cyclone, which resulted in

flooding, loss of life, and large-scale damage to the lands and surrounding communities.

The Panel further found that these potential impacts were not adequately identified, assessed, and mitigated by the project team. A chief reason for this was the apparent overfocus of the project on its intended beneficiaries, that is, the upstream farmers, and not on the downstream people put at risk by the system. In the conclusion to the Panel's Investigation Report, the Panel commented as follows:

The Panel's investigation found that the Project design, appraisal, and supervision process focused on the direct beneficiaries of irrigation water and improved drainage. Downstream effects, including those on the local populations of southern Badin, did not feature in any significant way either in the design or supervision of the Project. There was also a failure to develop a complete systems view early in the NDP [National Drainage Program] Project as reflected by the restricted focus of the Project and the EA. This hampered the Borrower's and the Bank's ability to assess impacts, consider alternatives, and develop mitigation measures for the Project-affected areas in Southern Sindh in line with Bank policies. . .<sup>a</sup>

a. "Pakistan: National Drainage Program Project-Investigation Report" at page xxxvi, <http://www.inspectionpanel.org>.

population, generated significant discussion among the Board as well as attention in the outside press. In large part because of these discussions, Bank Management took the unprecedented step of supplementing its initial Management Response with an addendum, just prior to the Board meeting, to target additional measures and response actions intended to address the findings of the Report and help the affected people. The joint press release issued after the Board meeting stated as follows:

The Bank's Action Plan is designed to address with urgency the plight of the poorest people of the lower Badin and Thatta districts and help them deal with the risks inherent in living on this exposed and low-lying plain. The Bank-supported Pakistan Poverty Alleviation Fund, which works according to development choices made by the affected communities themselves, is already at work in the area with US\$18 million for community projects to build livelihoods and small scale infrastructure. The program will focus special attention on those people close to LBOD for whom the IP [Inspection Panel] found that the LBOD was a contributing factor to flood damage.

In addition, a flood response plan will be worked out with local officials to ensure better management of this risk including early warning, evacuation plans and flood refuge structures. The Bank will report on progress before the next monsoon season

in June 2007. In the medium and longer term, coastal zone and Indus River management will be a priority focus.<sup>45</sup>

Although the Panel made a return visit after the Board meeting to convey the results of its investigation, the Panel was not requested to provide follow-up reporting on progress in implementing the Action Plan and addressing the concerns of the affected people.<sup>46</sup> The Requesters have subsequently contacted the Bank asking that the Panel play such a role. Bank Management's progress reports are posted on the Panel's Web site.

The Panel documented similar circumstances of people (and impacts) being ignored in its investigations of the India MUTP (middle-income shopkeepers, significant undercounting of displaced people), the DRC forest-related operations (failure to carry out appropriate screening research in the early stage of the project to determine possible presence of indigenous Pygmy peoples, and failure to identify existence of Pygmy communities in areas affected by project), the WAGP project (decision to exclude interlinked upstream gas connection facilities and fields from project area of influence, while at the same time providing an overly positive assessment of impacts on reducing upstream gas flaring), and the Ghana UESP II project (failure to adequately define the project area of influence to include people and new residents living on and around the rim of a valley in which a landfill was proposed).

### *Application of Policies to Projects Involving Institutional and Regulatory Reform*

The Panel also has noted, in some instances, that the Bank gives inadequate attention to the potential social and environmental impacts of projects involving institutional and regulatory reform, as compared with more infrastructure-oriented, "spade-turning" projects.

For example, in the case of DRC forest-related operations, the Panel addressed confusion about the environmental assessment categorization for such institutional projects. Bank Management, in its Response to the Request, claimed ". . . technical assistance operations for institutional strengthening are usually classified as Category C [under the Environmental Assessment Policy]. Where such operations result in designs or plans that, when implemented, may have potential impacts, they may be given a classification higher than C, normally Category B."<sup>47</sup> However, some of those interviewed suggested that because this type of project does not have direct physical impacts in the field, it is designated Category C.

The Panel took issue with categorizing projects for environmental assessment based solely on direct physical impacts, and provided the following analysis concerning the potential impacts of such projects in sensitive sectors:

The Panel observes that the financing of policy and institutional reforms in a sensitive sector like the forests of DRC, and related advice and technical assistance, can lead to highly significant environmental and social impacts, even if it does not involve direct financing of the mechanical and organizational tools for industrial logging. It was evident from the Panel's field visits that the concession review process will have a very concrete impact on what is happening in the forests both to the environment and the people depending on it. Technical advice and support for the administration and regulation of a large-scale logging concession system can have much wider-scale im-



pacts than other types of initiatives. They provide the basis to approve, disapprove, or otherwise limit or restrict operations at a horizontal level across an entire field and—in the present case—vast stretches of forest in the country.<sup>48</sup>

The Panel found that a Category “A” EA would have been the appropriate, policy-consistent tool for the forest-related operations. The Panel further noted that the project was closely involved in “a process which could end up officially approving industrial concession rights in millions of hectares of primary tropical forest where many local communities and indigenous peoples are found. These concessions undoubtedly have severe social and environmental impacts.”<sup>49</sup> To its surprise, the Panel discovered that the EA prepared for the project did not even address these issues, let alone properly categorize them, even though a proposed forest zoning plan was part of the project.

In its investigation of the Albania Coastal Zone Integrated Land Use Management and Clean-Up Project, the Panel found a similar orientation by the Bank in failing to apply the Bank’s Policy on Involuntary Resettlement to the development of land use zoning plans where such plans could lead to demolition of homes of people within the project area.

## **OTHER IMPORTANT FINDINGS: SELECTED RECENT INVESTIGATIONS**

An important outcome of the Panel’s work is to create a record of Bank compliance and noncompliance with its operational policies and procedures. This record provides a means not only for the outside world to consider and understand the work and progress of the Bank as an institution, but also for the institution itself to do so and build upon that knowledge.

The following discussion provides additional detail on issues of compliance that have emerged from Panel investigations in recent years.

### ***Positive Findings of Compliance and Due Diligence***

The Panel has made a number of positive findings of compliance by the Bank with regard to important provisions of its policies, in the face of claims to the contrary.

For example, in its investigation of the Bujagali Falls Dam Project, the Panel noted that the Bank carried out substantial work on safeguards policy issues, and complied with several policy provisions (for example, environmental classification, analysis of potential impacts on fisheries, procedures relating to dam safety, actions to create an environmental offset at Kalagala Falls), although it did not comply with several others (see appendix I for a full description of the investigation).

Similarly, in its investigation of the Honduras Land Administration Project, the Panel noted the “substantial efforts” of the Bank to address safeguard issues, in particular the preparation of an Indigenous Peoples Development Plan, as required by Operational Directive 4.20 on Indigenous Peoples. The Panel also commended Management for holding several meetings during project preparation to give affected people the opportunity to provide comments and express their concerns about the project. Again, however, the Panel also found some important instances of noncompliance (see appendix I for a full description).



Honduras: Land Administration—Requesters and area residents during a meeting with the Panel

In addition, the Panel has documented instances where difficulties in a project arose, at least in part, because of circumstances outside the control of the Bank. In the proposed landfill at Kwabinya, Ghana (UESP II), for example, the Panel noted that the polarized atmosphere surrounding the proposal, and apparent security risks, presented obstacles to carrying out meaningful consultations with the affected population as required under applicable policies.

In several cases, the Panel also has reported on positive responses by the Bank subsequent to the submission of a Request for Inspection, designed to address issues of both compliance and harm. These include, for example, the India MUTP (actions to better address impacts on shopkeepers), Ghana UESP II (increased resources for supervision and safeguard expertise in the project), and others. The Panel continues to clarify that the existence of an investigation does not and should not prevent Bank Management from taking constructive action to respond to concerns of affected people,<sup>50</sup> and the Panel notes such actions in its Investigation Reports.

### *Selected Examples: Areas of Noncompliance*

At the same time, the Panel has found important and sometimes recurring instances of noncompliance by the Bank with its operational policies and procedures, and actual or potential harm as a result. Some of these issues are discussed in the section on systemic issues above, including defining the Project Area of Influence, meeting obligations on supervision, and applying safeguard policies to projects involving institutional and regulatory reform. The Panel has also noted other areas with lingering or recurring problems of policy compliance. A few are highlighted below.

*Application of Bank Policy on Involuntary Resettlement.* In several recent investigations, the Panel found that the Bank did not comply with core provisions of its Policy on Involuntary Resettlement. These include the investigations into the India MUTP, the WAGP, and the Albania Coastal Zone project.



**Left:** Ecuador: Mining Development—Requesters, City Officials and Panel team during a meeting

**Right:** DRC: Private Sector Development—Panel team meeting requesters



These cases, described in detail elsewhere in appendix I, presented a number of recurring problems, including inadequate attention to options for avoiding or minimizing displacement and to exploring resettlement options with affected people (MUTP); inadequate consultations with affected people during the preparation of a resettlement instrument, as required by Bank policy (MUTP, WAGP); failure to ensure that adequate socioeconomic baseline information was gathered on which to base resettlement planning for displaced people (MUTP, WAGP); inadequate actions to ensure income or livelihood restoration (MUTP, WAGP); and in some cases, failure to trigger the application of the policy as a safeguard for affected people (Albania Coastal Zone project). Bank Management at a senior level has acknowledged these issues and resolved to strengthen efforts to ensure policy compliance.

*Consultation and disclosure of information.* Another recurring set of findings relate to noncompliance with Bank policy requirements on consultation and disclosure of information. In the Cambodia Forest Concession Management and Control Pilot Project, for example, the Panel found a failure to consult, during project design, with affected people living in or near forest areas, which resulted in a lack of understanding of their concerns and of the potential impacts the project would have on both the people and the forest environment. Similar shortcomings occurred in the DRC forest-related projects and the Pakistan National Drainage Program Project. In those cases, the Panel acknowledged difficulties posed by the remoteness of the affected people, but highlighted that such circumstances underscore a critical need to ensure that necessary, meaningful consultation with, and information disclosure to, the affected people take place, in a manner that is both timely (before final decisions are made) and understandable (using local languages, and turning complex project information into layman’s language).

*Application of Bank Policy on Indigenous Peoples.* Panel investigations have also revealed noncompliance in application of the Bank’s Policy on Indigenous Peoples. Again, a significant issue has been shortcomings in consultations with the affected populations, and in particular, failure to adequately account for local structures of representation (Honduras Land Administration Project, DRC forest operations). The findings of non-compliance go beyond issues of consultation, however, and have included troubling instances of noncompliance in relation to the preparation of Indigenous Peoples’ Develop-

ment Plans and the development of measures and actions to protect core interests and rights of affected indigenous populations (Honduras Land Administration Project, DRC forest operations). These issues are described in more detail through case illustrations (see chapter 5).

*Protection of cultural property.* The Panel has uncovered multiple instances of shortcomings in applying Bank policy provisions to protect cultural property. In Cambodia and DRC forest-related operations, for example, the Panel found the Bank failed to adequately identify and analyze potential risks to cultural properties in the forests, including sacred groves and other sacred places. In its investigation of the Bujagali Falls project, the Panel found several important shortcomings in compliance. Among these, the Panel found that the Bank had failed to adequately assess whether the Bujagali Falls—a sacred place of great significance to the traditional Basoga people—was a “critical natural habitat” under a plain reading of the provisions of the Bank’s Policy on Natural Habitat, which defines a critical natural habitat as an area recognized and protected by traditional local people.

The Panel found that the Bank’s failure to properly analyze this question, combined with the fact that the proposed dam would inundate the falls, put the Bank at significant risk of violating a major substantive provision of Bank safeguard policies, that is, not to finance projects that, in its opinion, destroy or significantly degrade critical natural habitat.

The Panel noted its concern with the Management Response to this finding, which contended without further explanation that this policy provision does not apply to “non-biological features, and thus to a waterfall and a rock.”<sup>51</sup> In his presentation to the Board, Panel Chairperson Werner Kiene stated,

We are aware that Management has traditionally applied this policy to protect biodiversity. The Panel notes that the specific reference to “sacred groves” in the policy puts these places directly in the scope of the policy and reflects an evolution in international thinking on the important relationship between sacred places and habitat protection [...]

The Management Response, however, hardly responds at all to these findings. Rather, it states categorically that OP [Operational Policy] 4.04 does not apply to non-biological features, and thus to a waterfall and a rock.

Even if one accepts this view, the Panel explained in detail in its report that the Bujagali Falls area contains not just a waterfall and a rock, but sacred trees and other ecological functions and features that, together with its connection to the Basoga, are integral to its cultural significance. In addition, Bank Management itself has already acknowledged in the PAD and its Response that the site is a “natural habitat” - - hence, meeting its own test of “biological”.<sup>52</sup>

*Assessment of capacity of borrower and implementing entity.* In several investigations the Panel identified important shortcomings in meeting policy requirements to properly



Panel Member talking with civil society organizations during an Orientation Session in Vietnam

assess and support the capacity of the borrower and the implementing authority, in support of project objectives. In the WAGP investigation, for example, the Panel commented on the overreliance on private sector partners who lacked expertise on social safeguard issues, and the corresponding lack of support and training to ensure that resettlement needs would be addressed. In the MUTP, the Panel determined that the project had improperly transferred responsibility for resettlement operations to an agency with a different (infrastructure-oriented) mandate, lacking capacity to address social resettlement issues. Also, the nongovernmental organization assigned responsibilities for resettlement planning work in MUTP lacked capacity for its completion. The Panel has also identified shortcomings in assessing and responding to capacity needs in other investigations, such as the Cambodia and DRC forest-related operations, the Honduras Land Administration Project, and the Ghana UESP II.

*Bank policies, international law, and human rights.* As noted in earlier in this chapter, the Panel's investigation into the Chad-Cameroon Pipeline Project broke new ground, and determined that human rights are implicitly embedded in various policies of the Bank. The Chairperson of the Panel went on to state,

The Panel . . . believes that the human rights situation in Chad exemplifies the need for the Bank to be more forthcoming about articulating its role in promoting rights within the countries in which it operates . . . [and] perhaps this case should lead . . . to a study [of] the wider ramifications of human rights violations as these relate to the overall success or failure of policy compliance in Bank-financed projects.<sup>53</sup>

In its investigation into the Honduras Land Administration Project, the Panel once again was confronted with issues involving the relationship between Bank policies and human rights. Specifically, the indigenous Garífuna people in Honduras challenged Bank actions that supported a land titling and regularization project, which the Requesters claimed would harm land rights of the Garífuna people, undermining their long-standing struggle to assert collective title over lands lived on and traditionally used by the Garífuna people. As part of their Request, the Requesters claimed that the project would lead to a violation of the government's commitments under International Labor Organization Convention No. 169, an international agreement on the rights of indigenous peoples to which Honduras was a party.

The Panel determined that Bank Policy on Project Appraisal, Operational Manual Statement (OMS) 2.20, put a responsibility on the Bank to ensure that the project plan was consistent with the terms of this international convention. Specifically, the Panel referred to OMS 2.20, which states that a

. . . project's possible effects on the country's environment and on the health and well-being of its people must be considered at an early stage . . . . Should international agreements exist that are applicable to the project and area, such as those involving the use of international waters, the Bank should be satisfied that the project plan is consistent with the terms of the agreements.<sup>54</sup>

In its Investigation Report, the Panel referenced an opinion of the Bank's General Counsel that this provision refers only to agreements that are "essentially of an environmental nature" and that the relevant provision of OMS 2.20 "has been superseded by



OP 4.01,” which focuses on “environmental treaties and agreements.”<sup>55</sup> The Panel put on record its serious concern about these statements, on the basis that they “seem to limit, and even amend, existing Bank policies to apply only to agreements of ‘essentially an environmental nature’.”<sup>56</sup> The Panel observed that OMS 2.20 does not refer only to environmental agreements, but is broader in language. The Panel also noted that the preamble of OP 4.01 stated that it superseded OMS 2.36 because of its environmental nature, but not OMS 2.20.

The Panel explained its concern that the Bank, as required by OMS 2.20, “did not adequately consider whether the proposed Project plan and its implementation would be consistent with ILO Convention No. 169.”<sup>57</sup> The Panel found that Bank policies (specifically OMS 2.20) include requirements that Bank-financed projects respect international agreements addressed to human rights and indigenous peoples when the project country is a signatory, as in this case.<sup>58</sup>

## NOTES

1. See 1996 and 1999 Clarifications to Panel Resolution; Bank Policy 17.55; discussions with Board Members, Committee on Development Effectiveness.
2. The 1996 Clarification, p. 2, states, “Management will make significant efforts to make the Inspection Panel better known in borrowing countries, but will not provide technical assistance or funding to potential requesters.” The 1999 Clarification, paragraph 17, further states, “the Board underlines the need for Management to make significant efforts to make the Inspection Panel better known in borrowing countries. . .” Finally, paragraph 16 of BP 17.55 reads “Management works with the Panel and field offices to make the Inspection Panel better known in borrowing countries.”
3. It is notable that the front page of the International Finance Corporation (IFC) Web site has a section on accountability that provides a direct link to the Panel’s counterpart mechanism for the IFC and the Multilateral Investment Guarantee Agency, the Compliance Advisor/Ombudsman. In contrast, the IBRD/IDA front page makes no parallel mention at all of the Inspection Panel.
4. “Brazil: Paraná Biodiversity Project- Eligibility Report” at paragraph 43, <http://www.inspection-panel.org>.
5. “Uganda: Private Power Generation Project-Eligibility Report” at paragraph 85 (page 20), <http://www.inspectionpanel.org>.
6. “Uganda- Eligibility Report” at paragraph 86 (page 20), <http://www.inspectionpanel.org>.
7. Statement of Panel Chairperson Edith Brown Weiss, Board meeting on “India: Mumbai Urban Transport Project,” March 28, 2006.
8. The Panel noted that since 1999, the Bank made significant efforts to foster an environment more conducive to open exchange. See “Investigation Report: Chad-Cameroon Petroleum and Pipeline Project; Petroleum Sector Capacity Building Management Project; and Management of the Petroleum Economy” at paragraph 36, <http://www.inspectionpanel.org>.
9. “The Investigation Report: Chad-Cameroon Petroleum and Pipeline Project” at paragraph 35, <http://www.inspectionpanel.org>.
10. For additional details of the decision see “The Investigation Report: Chad-Cameroon Petroleum and Pipeline Project” at paragraphs 210–7, <http://www.inspectionpanel.org>.
12. See also chapter 5, returning to the broader implications of the Panel’s above-noted analysis on the relationship between Bank policies and human rights in the context of the Panel’s more recent investigation into the Honduras Land Administration Project.

13. "Romania Mine Closure and Social Mitigation Project-Inspection Panel Recommendation" at paragraph 3, <http://www.inspectionpanel.org>.
14. "Romania Mine Closure and Social Mitigation Project-Inspection Panel Recommendation" at paragraph 3, <http://www.inspectionpanel.org>.
15. "Romania Mine Closure and Social Mitigation Project-Inspection Panel Recommendation" at paragraph 1, <http://www.inspectionpanel.org>.
16. "The Inspection Panel Annual Report: July 1, 2006, to June 30, 2007" at page 85, <http://www.inspectionpanel.org>.
17. "Mexico: Indigenous and Communities Biodiversity Conservation Project-Recommendation on Request for Inspection," <http://www.inspectionpanel.org>.
18. "Brazil: Parana Biodiversity Project-Final Eligibility Report and Recommendation," <http://www.inspectionpanel.org>.
19. "Argentina: Santa Fe Road Infrastructure Project-Report and Recommendation," <http://www.inspectionpanel.org>.
20. "Ghana: West African Gas Pipeline Project-Final Eligibility Report and Recommendation," <http://www.inspectionpanel.org>.
21. See the 1999 Clarification of the Second Review at paragraph 15, <http://www.inspectionpanel.org>.
22. See the 1999 Clarification at paragraph 16, <http://www.inspectionpanel.org>.
23. See the 1999 Clarification at paragraph 16, <http://www.inspectionpanel.org>.
24. Paraguay/Argentina Reform Project for the Water and Telecommunications Sectors, SEGMA V Power Distribution Project (Yacyretá) (2002), <http://www.inspectionpanel.org>.
25. In the Honduras case, the Board instructed Bank Management to confer with the Panel on issues relating to consultation with the indigenous Garífuna people, in light of the Panel's findings that the project had designed and used a consultation process that did not adequately reflect the way in which the Garífuna people represented themselves as indigenous peoples, thus being out of compliance with the Bank Policy on Indigenous Peoples
26. "Inspection Panel Review of Management Progress Report on Implementation of the Management Recommendations and Action Plan, and Additional Implementation Measures" at page 1, <http://www.inspectionpanel.org>.
27. The Panel received a fifth request for inspection on the project in May 2009. This Request is still being processed at the time of writing.
28. Press release, "World Bank Board Discusses Inspection Panel's Investigation of the Colombia-Cartagena Water Supply, Sewerage and Environmental Management Project," November 8, 2005, <http://www.inspectionpanel.org>.
29. Press release, "World Bank Board Discusses Inspection Panel's Investigation of the Colombia-Cartagena Water Supply, Sewerage and Environmental Management Project," November 8, 2005, <http://www.inspectionpanel.org>.
30. Press release, "World Bank Board Discusses Inspection Panel's Investigation of the Colombia-Cartagena Water Supply, Sewerage and Environmental Management Project," November 8, 2005, <http://www.inspectionpanel.org>.
31. "Uganda: Private Power Generation (Bujagali) Project (Guarantee No. B0130-UG)-Investigation Report" at page lvii, <http://www.inspectionpanel.org>.
32. Press release, "World Bank Board Discusses Investigation by the Independent Inspection Panel of Power Project in Uganda," Dec. 12, 2008, <http://www.inspectionpanel.org>.
33. The proposed landfill at Kwabenya had been added as a new element to a "repeater project" that was already in the pipeline, specifically a separate urban sanitation initiative in the city of Accra,

which was replicating and scaling up an earlier Bank-funded operation. The Panel noted that repeater projects generally involve streamlined procedures, and found that injecting the highly controversial proposal for the landfill into the repeater project for processing purposes was contrary to guidelines for repeater projects indicating that they should not be used for projects that have environmental, social, or other safeguard problems. See “Ghana: Second Environmental Sanitation Project- Investigation Report” at page xxvii, <http://www.inspectionpanel.org>.

34. “Ghana: Second Urban Environmental Sanitation Project- Investigation Report” at page xxviii, <http://www.inspectionpanel.org>.
35. “Ghana: West African Gas Pipeline Project- Investigation Report” at page xxvi, <http://www.inspectionpanel.org>.
36. “Ghana: West African Gas Pipeline Project- Investigation Report” at paragraph 490, <http://www.inspectionpanel.org>.
37. “Albania: Integrated Coastal Zone Management and Clean-up Project- Investigation Report” at paragraph 224, <http://www.inspectionpanel.org>.
38. “Albania: Integrated Coastal Zone Management and Clean-up Project- Investigation Report” at paragraph 225, <http://www.inspectionpanel.org>.
39. “Albania: Integrated Coastal Zone Management and Clean-up Project- Investigation Report” at paragraph 227, <http://www.inspectionpanel.org>.
40. “Albania: Integrated Coastal Zone Management and Clean-up Project- Investigation Report” at paragraph 228, <http://www.inspectionpanel.org>.
41. “Ghana: West African Gas Pipeline Project- Investigation Report” at paragraph 482, <http://www.inspectionpanel.org>.
42. “Ghana: West African Gas Pipeline Project- Investigation Report” at paragraph 484, <http://www.inspectionpanel.org>.
43. “Ghana: West African Gas Pipeline Project- Investigation Report” at paragraph 486, <http://www.inspectionpanel.org>.
44. “Nigeria: West African Gas Pipeline Project- Press Release on Board Discussions.” <http://www.inspectionpanel.org>.
45. Press release “World Bank Board Discusses Inspection Panel Investigation Into Indus Basin Drainage Projects” at page 2, <http://www.inspectionpanel.org>.
46. Some Board members did, in fact, express interest in having the Panel carry out such a role, but this did not become part of the final Board decision.
47. “DRC: Transitional Support for Economic Recovery Grant and Emergency Economic and Social Reunification Support Project- Management Response” at page 25, <http://www.inspectionpanel.org>.
48. “DRC: Transitional Support for Economic Recovery Grant and Emergency Economic and Social Reunification Support Project- Investigation Report” at paragraph 356, <http://www.inspectionpanel.org>.
49. “DRC: Transitional Support for Economic Recovery Grant and Emergency Economic and Social Reunification Support Project- Investigation Report” at paragraph 360, <http://www.inspectionpanel.org>.
50. “Argentina: Santa Fe Infrastructure Project- Eligibility Report” (the first two requests for inspection) at paragraph 65, <http://www.inspectionpanel.org>.
51. “Uganda Private Power Generation Project – Management Report,” at paragraph 53, <http://www.inspectionpanel.org>.
52. Statement of Panel Chairperson Werner Kiene, Board meeting on “Uganda: Private Power Generation Project (Proposed),” Dec. 4, 2008.

54. See paragraph 24 of OMS 2.20—Project Appraisal (January 1984).
55. “Honduras: Land Administration Project- Investigation Report” at paragraph 254, <http://www.inspectionpanel.org>.
56. “Honduras: Land Administration Project- Investigation Report” at paragraph 255, <http://www.inspectionpanel.org>.
57. “Honduras: Land Administration Project- Investigation Report” at paragraph 258, <http://www.inspectionpanel.org>.
58. For an insightful analysis of these issues and developments, see Perrault and Herz (2008).

## CHAPTER 5

# OUTCOMES AND EFFECTS OF THE PANEL PROCESS

The Inspection Panel process produces results and outcomes at multiple levels. The first section of this chapter considers the effects of the Panel process on improvements for project-affected people, in addition to continuing challenges, through individual case illustrations. The chapter then turns to other influences that the Panel has on the World Bank and, perhaps, other institutions in promoting greater accountability and participation in the work of international development.

### OUTCOMES IN INDIVIDUAL CASES: CASE ILLUSTRATIONS

The tangible results of the Panel's investigations are wide ranging. To explore this variety, the following brief case examples were chosen from several sectors, countries, and types of impacts. Additional and more detailed case summaries of the most recent Panel investigations are provided in appendix I.

#### *Mumbai Urban Transport Project*

On April 28, 2005, the Panel received the first of four successive Requests for Inspection relating to the Mumbai Urban Transport Project. As noted in chapter 3, these Requests claimed that Bank Management was failing to comply with key Bank policies in respect to the large-scale displacement (some 120,000 people) and resettlement impacts of a major road transport expansion project in Mumbai, India.

In its investigation, the Panel identified significant compliance failures in resettlement activities, leading Bank Management to suspend disbursements until a number of key actions were taken and conditions met. These actions included expanding the options available to the shopkeepers, improving the databases of affected people and the mechanism for redressing grievances, improving

"By many measures, the Panel's experiment in democratizing international governance has been successful. Fifty-eight project-affected communities have been able to raise their voice to the international level by filing claims to the Panel in the past 15 years. Fifty-eight communities have received a greater chance at justice and fairness. Some have failed, but many others have been empowered and rewarded by putting their trust in the Panel. And the Panel has responded to every claimant that walks through the doors with respect, objectivity, and professionalism. We have been blessed with exceptional Panel Members who have done exceptional work."

—David Hunter, Associate Professor of Law, American University





India: MUTP—  
Demolitions in Mumbai

social and environmental conditions and services at the resettlement sites, addressing income restoration, and strengthening capacity to ensure effective resettlement.

During the Board meeting, Panel Chair Edith Brown Weiss highlighted the views of the Panel about this investigation, the implications for so many project-affected people, and the role of the Panel more generally:

The Panel hopes that by bringing the plight of several thousand shopkeepers and over a hundred thousand other poor affected people to the attention of the Board, the Bank will be able to support such projects more effectively. Compliance with safeguards policies protects poor people. . . The Panel appreciates the Bank’s acknowledgement of the Project’s problems, its commitment to address them, and its intent to apply the lessons to future urban resettlement.<sup>1</sup>

As described in chapter 4, both the Bank and the Panel developed progress reports on actions taken to address the concerns of the affected people. Since that time, the Bank has reported additional steps and progress sufficient to justify lifting the suspension of funding. The Panel continues to receive statements of concern from individuals subject to resettlement under the project, has forwarded these to Bank Management, and has been informed by Management of its continuing efforts to address issues and problems. While it is possible that further problems will emerge, the Panel notes that it has received a communication from a main set of Requesters indicating that efforts in follow-up to the Panel’s report have led to substantial improvements for affected people.

### *Romania Mine Closure and Social Mitigation Project*

As described in chapter 4, the Panel did not recommend an investigation in the Romania Mine Closure project because the complaints were resolved satisfactorily after the Request was filed. The Requesters indicated their views in a “letter of contentment” sent to the Panel, which expressed their satisfaction and relief at having their concerns fully resolved.

Such a case illustrates what has become an emerging development in the Panel’s process, which is—in appropriate cases—to create space and opportunities in the eligibility phase of the Panel’s process for problem solving between the Requesters and Bank Management.

These efforts have yielded highly positive outcomes for the affected people in certain cases, and a win-win situation for the people and Bank Management. In other instances in which problems were not resolved (for example, the West Africa Gas Pipeline [WAGP] project in Nigeria), the Panel moved forward with its investigation under its regular procedures.



Romania: Mine Closure  
project



Cambodia: Forest Concession Management—Requesters in a meeting with Panel team

“Working in a country and society such as Cambodia, which has a long and complex history, needs special attention and understanding.”

—**Tongroj Onchan**, former Panel Member

### *Cambodia Forest Concession Management and Control Pilot Project*

In the Cambodia Forest Project, the Request for Inspection was submitted by the NGO Forum on Cambodia on behalf of forest-dependent communities in Cambodia. The Request claimed that a Bank-financed project to achieve regulatory reform in relation to logging concession operations in Cambodia’s forests did not comply with Bank policies on environmental assessment, natural habitat, cultural property, and supervision, among others, and was instead legitimizing and supporting the operation of the concession operators who had engaged in illegal and uncontrolled logging to the severe detriment of the forests and local people who lived in and depended on the forests for their livelihoods (for example, through ownership and collection of resin from resin trees). The Request also claimed that the project failed to ensure adequate and meaningful consultations with the affected people.

The Panel commended, in principle, Bank Management’s effort to engage in forest-related work in Cambodia, knowing that such work is important at many levels, including for poverty reduction. The Panel found, however, that the core claims in the Request were valid, and that the Bank had failed to meet key provisions of the relevant policies. Among other things, the Panel found that the project design—especially in its reliance on logging concession companies to play a lead role in project implementation actions—“created a structure likely to lead to inadequate levels of local involvement, community consultations, and social and environmental assessments,”<sup>2</sup> which is not in accordance with Bank policies. The Panel further found that the project “did not give adequate at-

“The Cambodia Concession Management and Control Pilot Project has given several very important lessons for future Bank operations and policy, especially with regard to sustainable forest management...”

—**Tongroj Onchan**, former Panel Member

attention to the vital interests of local communities and indigenous peoples in forest resources, and to the contested nature of the forest domain,”<sup>3</sup> and failed to identify and make plans to protect resin trees that belonged, and were of high economic value, to the forest communities.

As it was preparing its response to the Panel’s Investigation Report, Bank Management took the significant step of transmitting a letter to the borrower highlighting the need

to take action within its authority, including cancellations of logging concessions, to address the unsatisfactory situation regarding those concessions. The Panel noted the importance of this step in its Report, and concluded its Report by stating that it “outlined productive ways of Bank support for the forestry sector which are consistent with the Panel’s Report.”<sup>4</sup>

The Bank Management Response and Action Plan included this and other important specific actions in response to the Panel’s findings. Beyond this, the Management Response and Action Plan also included a section entitled “Approach Moving Forward: Natural Resource Management Framework.” This section stated Management’s commitment to “[draw] on lessons learned not only from the project, but from other lending and policy activities,”<sup>5</sup> and to put together a Natural Resource Management framework focused on the pillars of transparency, decentralization and local empowerment, and partnerships.

This Natural Resource Management framework calls for deepening a major dialogue with the government and other stakeholders on forestry and rural development options with the explicit aim of “exploring both the short-term imperative to address concerns related to access to natural resources by the rural poor, illegal logging and forest land encroachment, and continuing forest loss and the longer-term options for sustainable management of forest resources . . .”<sup>6</sup> Among the key issues mentioned for the proposed dialogue are “[a]ppropriate conferral of use and/or tenurial rights in the context of ongoing land use planning and demarcation of a permanent forest estate . . . [d]evelopment of more robust law enforcement via enhanced independent monitoring; strengthened accountability mechanisms; [and other methods].”<sup>7</sup>

### *West Africa Gas Pipeline (WAGP) Project*

This Inspection Panel investigation was initiated following a Request made by communities in Nigeria who claimed that the WAGP project would adversely impact their safety, environment, and livelihoods as a result of acquisition of land and other related assets. They contended that the Bank failed to comply with its policies and procedures on environmental assessment, project supervision, and involuntary resettlement, posing irreparable harm to their livelihoods. The project involves construction

Nigeria: West Africa Gas Pipeline—  
Igbesa area





of a 428-mile-long (678-kilometer) pipeline to transport natural gas from Nigeria to the neighboring countries of Benin, Togo, and Ghana. The Bank provided risk guarantees, and was not supporting a conventional lending operation.

The Inspection Panel noted the project's importance as a regional initiative in West Africa, but found that Bank Management did not comply with key social and environmental safeguard policies. The project did not meet requirements for livelihood restoration of vulnerable people who involuntarily lost assets, and the Panel discovered that there had been a factor-of-10 error leading to undercompensation for the value of land. As noted, the Panel also identified systemic weaknesses in the management and supervision of the project in appendix I.

On the critical issue of gas flaring reduction, the Panel observed that some project documents provided imprecise information suggesting more impact on gas flaring reduction than the project could technically deliver. Regarding fishing concerns, the Panel concluded that there was no scientific foundation for the contention that pipeline construction at the coast of Nigeria damaged fishing nets.

The Management Action Plan, approved by the Board, includes a series of measures to address issues identified by the Panel, including actions to improve management of resettlement, compensation, and livelihood restoration, creation of an effective grievance mechanism, enhanced disclosure of information, and strengthened field-based supervision.

Some time after the Board meeting and the return visit by the Panel to meet with the Requesters, the Panel received reports that the private party project sponsor was providing several additional millions of dollars to affected and displaced people to ensure they received their rights of benefits and compensation (Bello and Ayankola 2008).

### *Democratic Republic of Congo (DRC) Forest-Related Operations*

As noted in chapter 4, this Request was brought by representatives of the indigenous Pygmy peoples in the DRC. The Request contended that Bank-funded support for regulatory reform of the logging concession system in DRC and (initially) land-use zoning in the forest areas was made without recognition of the rights and interests of the Pygmy peoples in the DRC forests, in violation of the Bank policies on indigenous peoples and environmental assessment. These measures were likely to lead to results that favored the interests of large-scale logging companies at the expense of the indigenous peoples and the forests themselves.

In its Investigation Report, the Panel found that the Bank failed to comply with core provisions of the safeguard policies, including those on environmental assessment and indigenous peoples, and that this noncompliance posed significant risks for the indigenous Pygmy peoples. Surprisingly, the Bank had failed even to identify the Pygmy peoples as an affected indigenous

DRC: TSERO & EESRSP  
—Panel team and requesters at timber concession site in Kisangani area





DRC: Congo River

population during the design phase of the forest-related components of the initial project, and failed to ensure their full and meaningful participation in key project actions (for example, the review of logging concession titles and the forest zoning element) as required by Bank policy. Following the Board meeting, the Chair of the Panel, Werner Kiene, said,

The Panel values the Bank efforts in this critical sector, and highlights the importance of its continued engagement. The Panel found, however, that there was a failure during project design to carry out the necessary initial screening to identify risks and trigger the safeguard policies so that crucial steps would be taken to address needs of the Pygmy peoples and other local people.<sup>8</sup>

The Request and investigation have led to much greater attention to the concerns of the Pygmy peoples, including a greater recognition of the high non-timber values of the DRC forests, especially for the indigenous Pygmy peoples. In the Panel's Investigation Report, the Panel's social expert, Professor Mitsuo Ichikawa, who had spent years living in, and learning about the Pygmy peoples of, the Ituri forests in eastern Congo, noted that these people relied on the forest almost entirely, including for wood and charcoal, bushmeat, forest fruit, honey, plant medicines, and other non-timber forest products. The Panel wrote,

. . . if access to these non-timber resources were considerably restricted by the timber operations, there would be no way of compensating for the loss. The Panel's expert notes that for the forest-living people who find difficulties in satisfying their subsistence needs, the promotion of logging industry, or commercialization for export products, is by no means the only way, nor the best way, to solve the problem of poverty.



Instead, it is of vital importance in the first place to secure ample subsistence-oriented life. They need by all means healthy life with nutritionally adequate food supply, which is obtained in culturally appropriate ways. What they want first is an ample subsistence base that can also afford means of fulfilling their social and cultural needs, rather than short-term economic benefits from industrial logging and related activities, which may risk their subsistence base in the longer term.<sup>9</sup>

“The President of DRC signed a document that recognizes the indigenous people. This is a big step forward.”

—**Pacifique Mukumba Isumbiso**, Requester in DRC Forestry project and Executive Director CAMV

Following the Request for Inspection, Bank Management staff participated in the publication of *Forests in Post-Conflict Democratic Republic of Congo: Analysis of a Priority Agenda* (Debroux and others 2007). This publication, like the Management Response to the Panel’s Investigation Report, reflected a stronger focus on the rights and interests of the Pygmy peoples and other forest communities, and set forth approaches to understand the multiple and high value of non-timber forest products, which went well beyond the earlier emphasis on value as measured by revenues and employment linked to industrial logging operations.

Still, with regard to outcomes in the field, significant issues continued from the lack of specificity in the Bank Management Action Plan. During the Board meeting on the investigation, the Board emphasized the need “to take and further develop specific steps to correct shortcomings and apply lessons learned.”<sup>10</sup> The Chair of the Panel noted that the proposed Action Plan

. . . contains important elements but requires specificity, particularly on actions called for under Bank policies to fully address the land tenure and other rights of the Pygmy peoples in DRC forests, and to deal with problems in the logging concession review process, including major reported breaches of the Moratorium on new concessions.<sup>11</sup>

As of this writing, this story is still unfolding. Bank Management submitted its 12-month progress report to the Board in March 2009 (two months overdue). This progress report describes the 37-month logging concession review process, the assistance of outside experts and an independent observer, and membership of the technical working group and interministerial commission. It notes that of the 133 representatives (116 were representatives of the local populations and “17 from the Indigenous Peoples”) who were able to attend the commission’s meeting in Kinshasha to review the 156 logging concession titles, 17 were able to participate in the plenary sessions to decide whether title should be converted. With regard to outcomes, the progress report states that the process will lead to a “dramatic decline” of forest areas under concession:

Out of 156 requests, only 65 were found eligible for conversion. Provided that all companies will be able to successfully negotiate social and environmental responsibility agreements with local and indigenous populations, **the area to be converted to long term forest management concessions in DRC will be 9.7 million hectares, a dramatic decline from the 43.5 million hectares prior to the 2002 forest reform and the 22.4 million hectares prior to the review. [emphasis added]**<sup>12</sup>

In its written statement of March 2, 2009—about the same date as delivery of the Bank Management progress report—representatives of the affected Pygmy peoples populations describe another view of this story. They write as follows:

“In Democratic Republic of Congo (2007), the Panel’s investigation report on forest policy reform led to serious attention to the interests of the Pygmies, whose lives are bound up in the forests and who were earlier ignored in the program. For the first time, they have representation, and their vital interests must now be considered when forest programs are drawn up in Africa.”

—**Edith Brown Weiss**, former Chairperson of the Panel

We are writing to express our disappointment with the manner in which forest sector reforms are now being conducted in our country and above all, the turn that they are taking today. The reform process has persistently, deliberately, and discriminatorily violated and totally disregarded the rights of the indigenous Pygmy peoples who live in and/or depend on the forests.<sup>13</sup>

In other sections, the statement mentions some positive results. In referring to the inclusion of two indigenous Pygmy representatives as permanent members of the interministerial commission on the legal review of forest titles, the statement indicates that “[a]though this representation was only symbolic in number, it reflected an important principle, in so far as it recognized the particularity of Pygmies’ dependence on the forest and their associated rights. . . We greatly appreciated the recognition that Pygmies are the indigenous population of the DRC. This development was, honestly speaking, a first in the Congolese context . . .”<sup>14</sup>

However, the statement indicates that because the indigenous representatives to the Commission were “limited in number and poorly prepared to participate in the discussions, the delegates could not decisively influence the decisions . . . even when those decisions went against the interest of the communities or of the countries,” and they were not involved in the interministerial discussions when the logging companies appeals were being considered. The statement expresses the fear that the results of the interministerial commission, “. . . which are already weak and mixed as it is, are now at risk of being overturned.”

In view of these concerns, the statement requests His Excellency, the Minister, to rapidly instruct title holders to cease their activities, apply the Decree of 23 January 2009 on implementation of decisions rejecting requests for conversion, abandon efforts to question or reopen decisions of the interministerial commission, accelerate the process relating to the Reduced Emissions from Deforestation and Degradation (REDD) process, and issue a decree to maintain the moratorium on new concessions “for at least ten years with a view to completing the forest zoning and ensuring that the forest administration has all the necessary capacities to monitor reforms on the ground.”

The Panel notes the significance of both the Management progress report and the statement from representatives of the Pygmy peoples, but does not have authorization to carry out any follow-up fact-finding to provide its own assessment of the current situation.

### *China Western Poverty Reduction*

An investigation from the Panel’s earlier years, related to the China Western Poverty Reduction Project, illustrates similar challenges in affecting the course of a project. The Qinghai Project was purported to benefit 57,775 poor farmers who were threatened by the erosion of their land from high population pressure. A voluntary resettlement was planned to move farmers to a dry land area in a Tibetan and Mongol Autonomous Pre-

fecture where they would enjoy user rights to arable land. A U.S.-based nongovernmental organization submitted a Request on behalf of Tibetans and Mongols living in the project area who were afraid of speaking against the government.

The Requesters were concerned that the transfer of non-Tibetan and non-Mongol people into a traditionally Tibetan area would result in social and environmental risks, conflicts over resources, and serious ethnic tensions. The Inspection Panel investigation discovered extensive violations of Bank policies and specifically found that the project design had denied participation in the preparation and consultation process to the most vulnerable ethnic groups. Despite Management's efforts to bring the project into compliance, the Board could not agree with the proposed recommendations and the borrower decided to use its own resources to fund the project.



### *Nepal: Arun III Proposed Hydroelectric Project and Restructuring of IDA Credit*

The Arun III Project (1994) was the first case to be investigated by the Inspection Panel. The project was a government of Nepal-initiated hydropower project on the Arun River, which included a large dam, a powerhouse, and an access road. The project was to be partially funded by the Bank and was estimated to cost US\$800 million, which, among other social, environmental, and resettlement costs, raised concerns about whether Nepal's economy could sustain the large project. In October 1994, the Inspection Panel received a Request for Inspection stating several claims, including the concern that indigenous persons displaced by the proposed access road would not be adequately compensated.

The Panel conducted an investigation and found that the Bank had failed to observe policy requirements for the supervision of the resettlement program and that despite proposed remedial measures, several problems remained, including the expense of the project in relation to Nepal's overall economy. In particular, the Panel's report raised questions about the project's economic justification and led eventually to the Bank conducting an independent review of this aspect of the project. After receiving the Panel's investigation report and reviewing the independent study, then Bank President James Wolfensohn withdrew IBRD/IDA support for the project.



**Upper:** China: Western Poverty—Panel Member, Consultant and Interpreter reviewing a map of Qinghai Province

**Lower:** Nepal: Arun III—Panel Member at site of project

### *The Albania Integrated Coastal Zone Management and Clean-Up Project*

A 2007 Panel investigation involving a Bank-financed project in Albania illustrates the difficulties, and the outcomes, of Inspection Panel investigations and analyses. As described in more detail in appendix I, the Panel received a Request for Inspection from families living in the southern coastal area of Albania, in the village of Jale, whose homes had just been demolished. The Request claimed that the Bank-financed project supporting coastal zone planning caused or contributed to these demolitions, and that they took place in violation of the Bank’s policy on involuntary resettlement.

In its initial response to this Request, Bank Management contended not only that there was no violation of policy, but that the Bank-financed project had no link whatsoever, either directly or indirectly, to the demolitions. Bank Management also stated that at the time of project approval, the government had agreed to a moratorium on demolitions in the coastal area covered by the Bank-funded project until such time as criteria and conditions were put in place to ensure protection of the rights and interests of vulnerable and affected people, in case resettlement would become necessary. This moratorium, according to Management, served as a safeguard against the “critical risk” of demolitions in the project area.

During the course of its investigation, however, the Panel learned that no such moratorium existed. It was established that Management had misrepresented the facts not only to the Panel, but also in the Project Appraisal Document and at the Board meeting where project financing was approved. The Panel also uncovered significant, documented links between the Bank-financed project and the actual demolitions that took place in Jale, contrary to the Bank’s denial of any such connection. The Panel, however, faced many difficulties in discovering this information because Bank Management, contrary to the norm, was far from forthcoming in providing information and explanations to the

Albania: Coastal Zone Management—project site





Panel about key facts relating to the project. Other major problems and errors emerged as well, including a marked failure by a Bank fact-finding mission to uncover and accurately report on material facts relating to the demolitions, and an ill-conceived decision to submit a “corrigendum” to rectify the Project Appraisal Document some three years after project approval without a clear explanation or suggested actions to remedy the underlying problem.

The Panel’s final Investigation Report documented these errors factually, as well as the unfortunate resistant attitude of some in Bank Management in responding to the Panel’s fact-finding process during the investigation. The Panel also found that Bank Management’s decision not to apply the Bank’s Policy on Involuntary Resettlement to the demolitions at Jale and the development of the zoning plan in the south coast was in violation of Bank policy.

After many months of a difficult inspection process, Bank Management produced its Response to the Panel Investigation Report, which fully acknowledged the Bank’s errors in the project, from beginning to end, and proposed actions to address the harms caused to Requesters, including use of the Bank’s own resources in the event the borrower determined not to provide such assistance and compensation. Bank Management also decided to suspend further disbursement under this project, a suspension that is in effect at the time of writing this report. The Panel understands that this open and forthcoming Management Response was the result of direct involvement from personnel at the very top of the Bank and Bank Management, and commends the Bank for its action.

### *Empowerment of Affected People: A Common Thread*

A common thread running through these and other cases is the empowerment of the affected people, giving them a stronger voice in actions that concern them. As revealed above, many Panel cases cite a lack of local consultation and participation in crafting project design, whether concerning economic, environmental, or social provisions.

Another common thread is poverty reduction and its related issues. Across the spectrum of investigated projects, Panel analyses focused on both the potential risks of impoverishment and actual instances where departures from Bank policies significantly reduced the projects’ expected impact on poverty alleviation. Additionally, the Panel’s analyses, when followed by Bank management actions to remedy mistakes, provided the Requesters—and many other affected people in the same situation—with added protection against project risks such as loss of livelihood, loss of access to vital resources, or inadequate compensation.

Indigenous peoples’ rights and entitlements were also a common theme examined. In all cases concerning areas inhabited by indigenous groups, rights were upheld consistent with Bank policy. Members of the indigenous communities on the north coast of Honduras confirmed this

Nepal: Arun III—  
Panel Members on  
first Panel field visit





effect recently, claiming “[b]ringing our concerns to the Inspection Panel allowed our voices to be heard at the highest level of the World Bank and of our own government.” (Honduras Requesters)

## INFLUENCES ON PROJECTS SIMILAR TO THOSE SUBJECT TO A REQUEST FOR INSPECTION

In addition to benefits accruing directly to project-affected people, Panel investigations also affect other projects in similar sectors or settings. The results of the Panel investigation into forest operations in Cambodia illustrate this point. The Bank Management Response to the Panel investigation articulated a series of “lessons learned,” and set forth a new framework for Natural Resource Management (NRM) to strengthen and enrich Bank efforts to address the full range of social, environmental, and economic issues involved in forest-related initiatives, including crucial issues of land tenure rights of communities living in and around the forests, participation, and transparency.

This new framework marks an important benchmark and precedent for future Bank operations in the field. At the end of the investigation, one of the Panel’s experts—a social forester who had spent many years working on development aid and forest conservation efforts in the region—commented that he never would have expected the World Bank to develop such a comprehensive and important response as this one.

The Panel’s investigations into the WAGP project and other projects involving “public-private partnerships” provide a second illustration of the way in which an investigation can influence projects that later come into the Bank’s lending programs. As noted above, Bank Management has made significant commitments, in response to

“The Panel has had a real impact on the Bank, because of the steady case flow. They have had on the average about three claims a year, so neither Management nor the Panel has been overwhelmed or swamped. In the beginning, Management had this big fear that the Panel would open up a floodgate of claims but this has not been borne out. There was also fear that the Panel would be manipulated by the NGOs, which has not happened either.”

—Alvaro Umaña, former Panel Member



Nigeria: West Africa Gas Pipeline Project—Badagry area

these investigations, about the need to apply lessons learned to other, similarly structured projects, including supervision methods and tracking the capacity and performance of private sector partners in carrying out needed actions to comply with Bank safeguard policies.

## INFLUENCES AT THE BROADER INSTITUTIONAL LEVEL

The Panel's existence as an arm of the Board and recourse mechanism for affected people has created incentives for Bank staff to put additional focus on proper application of Bank policies and procedures, in the hope of avoiding problems before they arise (and, by extension, before they might work their way to the Inspection Panel). This is a salutary and fundamental advantage of having an independent recourse mechanism that is supportive of the essential mission of the World Bank to design and implement projects that integrate social, economic, and environmental needs for the benefit of affected people.

One of the most important ways the Panel promotes compliance with Bank policies and procedures occurs even in the absence of a formal Request for Inspection. As described in chapter 3, one feature of the Panel process is that affected people, before submitting a Request for Inspection to the Panel, must first contact Bank Management to seek to have their concerns resolved. The Panel knows of many instances, over the years, in which additional efforts were initiated by Bank Management and staff to address and help resolve the concerns of affected people, simply because they were aware that a Request for Inspection could be brought to the Panel.

In addition, the Panel's findings provide a record usable by the Bank's operational departments in their work on new projects in which policy issues regarding environmental assessment, involuntary displacement and resettlement, indigenous peoples, and so on emerge. Some Panel findings are relevant to projects generally, such as the need for effective consultation with and participation by affected people, the need to ensure monitoring for technical quality and to provide appropriate staffing in supervision, and the need to put affected people on the "radar screen" of projects even (and sometimes especially) if they are not part of the intended beneficiaries of a project. The institution itself has recognized that some findings of the Inspection Panel have implications and offer lessons for the conduct of the institution as a whole—far beyond the individual case under consideration.

The Panel's investigation into the Albania Coastal Zone Project provides a strong illustration of this broader institutional effect even from a single case investigation. In response to the Panel's findings about misinformation and misrepresentation of critical facts in project documents relevant to safeguards against serious project risks, Management took the extraordinary step of calling for an institution-wide review of all project appraisal documents for both ongoing Bank projects and projects in advanced planning stages to determine if any other instances of misrepresentation of material facts and safeguards against project risks to people might have occurred.

The Albania investigation presented a second important institution-level issue. One of the Panel's findings was that the

"It has made Management and project management more aware of the risks of what they are doing, and that they have to face the consequences if there is a complaint. I think Management is more careful and is less likely to take shortcuts than before the Panel existed."

—**Pieter Stek**, former World Bank Executive Director

“The institutional response to Panel claims has been mixed, both on a project-specific and broader policy level. In some cases, claimants to the inspection panel have succeeded in blocking egregious projects, and there has been some institutional efforts to more comprehensively address environmental and social policies. At the same time, the Bank is actively seeking to limit its liability through the Inspection Panel process by rewriting and, at least in some cases, weakening its environmental and social policy framework.”

—**Smitu Kothari**, founder of Lokayan and Intercultural Resources, in the Preface to the Indian edition of *Demanding Accountability: Civil Society Claims and the World Bank Inspection Panel*, New Delhi, 2003

Bank had violated its Policy on Involuntary Resettlement with respect to the demolitions at Jale, and that the Requesters accordingly had rights under that policy (to compensation and assistance), which had not been met. The borrower, however, noted it could not be obligated to provide such assistance or compensation under the policy because the Bank had not included any covenant in the project documents requiring its application.

In this context, Bank Management—with leadership from the top of the institution—recognized its responsibility to address harm to the Requesters that resulted from the Bank’s failure to apply its resettlement policy, and included as part of its Management Response to the Board a commitment to use the Bank’s own resources, if necessary, for this purpose. At the time of writing this report,

this commitment is being actively implemented on the ground with direct involvement of the affected Requesters, and is regularly supervised by Bank missions. The commitment also includes Bank financial assistance for the costs of competent legal assistance, currently incurred by the Requesters, in pursuing judicial recourse. This Bank Management action sets an important precedent for future efforts by the Bank to respond to harms identified by Panel investigations.

Other Panel investigations have led to various commitments by Bank Management with implications at an institution-wide level. In response to the investigations in the DRC forests-related projects and WAGP, for example, Bank Management made significant new commitments to scale up resources for supervision and engagement of safeguard specialists in projects in the Africa region, and acknowledged the systemic need to do more and to do better in handling issues of involuntary displacement and resettlement.

In response to the Panel’s investigation in Honduras, Management informed the Panel that it is examining new approaches to ensuring that consultations with indigenous peoples are carried out in a way that is appropriate for the rights and needs of those peoples, including how they choose to represent themselves in dealing with outside entities and organizations. With respect to issues of consultation and noncompliance more generally, the Panel learned that its findings in several investigations have contributed to a decision by Bank Management to intensively review the Bank’s approach to consultations, including its level of direct participation in the Bank’s staff meetings with affected communities, as well as in reviewing the proper division of roles between the Bank and the borrower in the consultation processes.

## MODEL FOR SIMILAR INSTITUTIONS IN OTHER ORGANIZATIONS

As noted in chapter 1, the Panel has served as a pioneering model for the establishment of independent accountability mechanisms and arrangements at other international financial institutions and development organizations. Some of these more recently established mechanisms contain features that the Panel currently lacks, such as authority to monitor actions following an investigation, and more formal problem-solving procedures. Nonetheless, as reflected by the Literature Review provided in annex A to chapter

6, a large number of the Panel’s Investigation Reports are the subject of debate in university classrooms across the world, whether for students of development, political science, natural resources management, or social sciences. The initiation by the Panel of annual meetings of accountability mechanisms has also developed into a regular occurrence, which multiplies the opportunities to exchange views on new accountability elements and identify methods for improving the poverty alleviation efforts of their respective institutions.



## NOTES

1. “Press Release: India’s Urban Challenge: Building Better While Fighting Poverty” at page 1, <http://www.inspectionpanel.org>.
2. “Cambodia: Forest Concession Management and Control Pilot Project-Investigation Report” at page xix, <http://www.inspectionpanel.org>.
3. “Cambodia: Forest Concession Management and Control Pilot Project-Investigation Report” at paragraph 125, <http://www.inspectionpanel.org>.
4. “Cambodia: Forest Concession Management and Control Pilot Project-Investigation Report” at paragraph 413, <http://www.inspectionpanel.org>.
5. “Cambodia: Forest Concession Management and Control Pilot Project-Management Report and Recommendation in Response to the Inspection Panel Investigation Report” at paragraph 87, <http://www.inspectionpanel.org>.
6. “Cambodia: Forest Concession Management and Control Pilot Project-Management Report and Recommendation in Response to the Inspection Panel Investigation Report” at paragraph 88, <http://www.inspectionpanel.org>.
7. “Cambodia: Forest Concession Management and Control Pilot Project-Management Report and Recommendation in Response to the Inspection Panel Investigation Report” at paragraph 89, <http://www.inspectionpanel.org>.
8. Press release “World Bank Board Discusses Inspection Panel Investigation of Forest Sector Operations in the Democratic Republic of Congo,” <http://www.inspectionpanel.org>.
9. “DRC: Transitional Support for Economic Recovery Grant and Emergency Economic and Social Reunification Support Project- Investigation Report” at page xix, <http://www.inspectionpanel.org>.
10. Press release “World Bank Board Discusses Inspection Panel Investigation of Forest Sector Operations in the Democratic Republic of Congo” at page 2, <http://www.inspectionpanel.org>.
11. Press release “World Bank Board Discusses Inspection Panel Investigation of Forest Sector Operations in the Democratic Republic of Congo” at page 2, <http://www.inspectionpanel.org>.
12. “DRC: Progress Report on the Implementation of the Management’s Action Plan” at paragraph 3.5, <http://www.inspectionpanel.org>.
13. Statement of March 2, 2009, by Dynamique des Groupes des Peuples Autochtones (translated from the French).
14. Statement of March 2, 2009, by Dynamique des Groupes des Peuples Autochtones, addressed to Minister of Environment, Nature Conservancy, and Tourism of Democratic Republic of Congo (translated from the French).

Panama: Land Administration—Panel team explaining the Panel process to requesters in Bocas del Toro province



## CHAPTER 6

# PERSPECTIVES ON THE INSPECTION PANEL AT 15 YEARS

This chapter includes reflections by individuals who have been closely connected with the formation and strengthening of the Inspection Panel. Also included is a literature review that documents commentary on the Inspection Panel, and a brief note on evaluation criteria applicable to the assessment of accountability mechanisms.

### REFLECTIONS BY EDUARDO ABBOTT, FOUNDING EXECUTIVE SECRETARY (1994–2006), INSPECTION PANEL



**Eduardo Abbott** served as Executive Secretary of the Inspection Panel for 12 years, from 1994 to 2006. As head of the Secretariat since the Panel's establishment, he was instrumental in the development of the Panel as an institution and played a major role in its strengthening. He also served as an adviser to other institutions during the establishment and review of similar inspection functions. Prior to joining the Panel, he spent 15 years as Senior Counsel and Principal Counsel for Operational Policy in the World Bank's Legal Department.

This book contains a thought-provoking summary of the Inspection Panel's accomplishments and challenges to date. The purpose of this note is to add a few reflections about key decisions and steps taken at the beginning of its endeavors that allowed the Inspection Panel to complete 15 years of operations as an independent and highly regarded accountability mechanism. The Inspection Panel was the first working accountability mechanism for international financial institutions (IFIs). The fact that the Panel was an unprecedented vehicle for private citizens to air their concerns about Bank-financed projects and demand an independent and impartial review of their claims not only created a new path for civil society in international law but also put a heavy burden on the initial Members of the Panel. They were aware that every step, every decision they made, was bound to have important consequences for the future of the Panel, and for similar mechanisms that were starting to develop at the time the Panel initiated its operations in August 1994.

Although each Panel Member has made substantial contributions to the structure and operations of the Panel over the years, the role of the initial Panel Members was key



in determining the standing, credibility, and independence of the Inspection Panel, both within the Bank and, more importantly, among affected people, nongovernmental organizations, academia, and other IFIs.

Well over 100 academic papers, a few books, and countless press articles have been written about the Panel. While these have analyzed every aspect of its establishment, functions, role, and significance in the context of international law and its actual and perceived contributions to the operations and policy development of the World Bank Group, few have focused on the initial steps of this, at the time, bold experiment on accountability of IFIs.<sup>1</sup>

In this context, I believe that a retrospective note on key events in the Panel's initial operations that had an important bearing on the Panel's independence, authority, and accessibility to eventual Requesters should be of interest for the readers of this book.

The newly appointed Panel Members realized in their very first meeting that to be credible and successful in achieving the Panel's mission, they had to assert the Panel's independence from Bank Management and use all the resources provided by the Resolution<sup>2</sup> to make this independence actual and effective.

The Resolution provided some important safeguards to ensure the independence of the people appointed as Panel Members, such as the exclusion of people who had worked in any capacity for the World Bank Group (WBG) in the past two years, their nomination by the President after consultation with the Executive Directors and appointment by the Board, and, more importantly, a lifetime prohibition from working for the WBG "following the end of their service in the Panel."<sup>3</sup> Although useful to ensure the independence of its Members, these safeguards did not guarantee the independence of the mechanism itself within the World Bank bureaucracy. The Panel Members, and especially the newly appointed Chairperson, then resorted to other provisions of the Resolution to attain this goal.

For example, the Resolution provided that 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." One of the first actions of the Panel's Chairperson was to take the newly appointed Executive Secretary to a meeting with the WBG President, where he literally demanded that the Executive Secretary's position be a full-time appointment with the Panel, depend functionally and administratively exclusively upon the Panel, and be given the necessary resources, including staff support, to carry out his or her functions. The President agreed and the Panel's Secretariat, though not even envisaged in the Resolution, was established.<sup>4</sup>

The same paragraph<sup>5</sup> of the Resolution provided that the "Panel shall be given such budgetary resources as shall be sufficient to carry out its activities." So in the same meeting with the President, it was agreed that the Panel would receive an annual budget that would be administered by the Executive Secretary, subject to normal Bank accounting and auditing procedures, under the supervision and guidance of the Chairperson. Throughout the years, this budget has been, with few exceptions, sufficient to allow the Panel to carry out its activities as envisaged in the Resolution.

After the establishment of the Secretariat, the place of the Panel within the Bank's administrative structure became better established, although some regarded the Panel merely as a support unit to the Board of Executive Directors, not unlike the Secretariats of Board Committees that operated under the Secretary and Vice President of the Bank.

This was never the case, however, and after some bureaucratic infighting, this misperception was clarified and the Panel was able to operate with the necessary independence from Bank Management.

An early test of the Panel's hard-won independence came as a result of its handling of the second Request for Inspection ever received. The Request was related to Compensation for Expropriations and the Extension of International Development Association (IDA) Credits to Ethiopia. The Requester raised concerns about IDA's ongoing financial assistance program to Ethiopia because, in the Requesters' opinion, such assistance would encourage or even legitimize the government's position of denying compensation to foreign nationals whose assets had been expropriated or nationalized. The Panel rejected the Request for Inspection because, among other issues, the Requester had yet to ask formally the Ethiopian government for compensation and, thus, it could not be ascertained whether the alleged harm was even possible.

In spite of the Panel's rejection of the Request, Management sent a memo to the Board—which was not copied to the Panel—asking for authorization “to instruct” the Panel that its jurisdiction was limited to specific projects and did not include a country's overall lending program. The Panel Members reacted swiftly; although they did not object in principle to Management's proposal that the Panel should review only specific projects financed by the Bank, they did object strongly to the procedure used by Management in approaching the Board and, even more, to the idea of receiving instructions from Management instead of the Board. A related concern was the precise meaning of the word “project” used by Management in its memorandum to the Board. A meeting of the Panel was then held with the Senior Managers who were managing the Bank after President Lewis Preston's death. In that meeting, a number of agreements were reached with regard to how Management had to approach Panel issues vis-à-vis the Board, and how the Panel should be informed in advance of any issues or initiatives to be submitted to the Board that would in any way refer to or affect the Panel or its role and functions.

Another very important agreement was reached regarding the Panel's authority to review independently and eventually investigate Bank activities: it was agreed that the word “project” used in the Panel's Resolution and related documents included investment projects and sectoral and adjustment lending (today termed Development Policy Lending), in short, practically any activity financed by the Bank. The Board of Executive Directors endorsed these agreements and this interpretation of the Resolution on July 6, 1995.

The Panel's independence and authority were also dependent on other issues such as its relations with other units or departments of the Bank that should be consulted by the Panel in the performance of its duties according to the Resolution.<sup>6</sup> Over the first 15 years of the Panel's operations, the relationships with these departments have been quite productive, and any differences of opinion on the Panel's authority have been resolved in a constructive way. The Panel has requested on many occasions opinions from the Legal Department regarding the rights and obligations of the Bank with regard to borrowers and the content, meaning, and enforceability of covenants and legal agreements. The Panel, however, as endorsed by the Board, has the authority to apply the Resolution to specific cases “as it understands it, subject to Board review” only.<sup>7</sup> Furthermore, the Panel determines the eligibility of a Request for Inspection independently of any views expressed by Management<sup>8</sup> and reports independently to the Board on whether there

have been any serious violations of Bank policies and related harm, if any, in the design, appraisal, or implementation of the project or program under investigation.

Since the Resolution was not very detailed in a number of procedural and administrative aspects of the Panel's role and functions, the Panel drafted and approved a set of Operating Procedures at the start of its operations in 1994 "to add detail to the operational provisions" of the Resolution. At the same, the Panel approved its own Administrative Procedures. Both sets of procedures were distributed to the Board of Executive Directors for information and later published and widely distributed among the Panel's stakeholders, including Bank staff and Management. These acts were a reflection of the Panel's authority and independence within the Bank.

The Operational Procedures also constituted an effort to simplify the procedures set forth in the Resolution and to make the Panel more accessible to people that may feel negatively affected by Bank-financed projects. In addition, the Procedures interpreted the Resolution in ways later endorsed by the Board of Executive Directors. These included, for example, the concept of "affected party" to include two or more persons who share common interests and concerns, the introduction of a "preliminary review,"<sup>9</sup> and the registration of Requests that allowed the Panel to summarize the Requests, provide an operational policy context to the allegations contained therein and notify the Board of Executive Directors, Bank Management, and the public in general about the receipt of the request, the main issues raised, and the period of time within which Management had to respond to the Request. The process for registration also provided an effective mechanism to avoid the processing of frivolous or unfounded requests. The Panel's process for registration of Requests for Inspection was later replicated in the procedures of most international accountability mechanisms.

All of these steps and decisions, and many others, made by Panel Members with the assistance of many people outside and inside the Bank, paved the way for the establishment of a solid and widely respected accountability mechanism that in many ways has touched the lives of affected people in a positive manner. The Panel has been a pioneering effort.

Throughout its 15 years of operations, the Panel has strictly adhered to its mandate of investigating alleged violations by the Bank of its own operational policies and procedures and related allegations of harm. This has not precluded the Panel from being involved in matters with sensitive political implications (for example, the China Western Poverty Reduction Project, the Brazil Land Reform and Poverty Alleviation Project, and the Albania Coastal Zone Management Project), human rights violations (for example, the Chad-Cameroon Petroleum Development and Pipeline Project, and the Honduras Land Administration Project), and projects with impacts on a broad spectrum of the population (for example, the India Mumbai Urban Transport Project). The same ingenuity shown by the original Panel Members has been maintained by their successors in dealing with this wide array of difficult and sensitive issues. Furthermore, successive Panel Members have increasingly expanded the role of the Panel, but always within the terms of the Resolution. New initiatives have allowed the introduction of a number of problem-solving initiatives through which, with the approval of the Board, the Panel has provided more time for Management to address concerns of the respective Requesters and facilitated a dialogue among parties in an effort to come to a satisfactory outcome. This bodes very well for the future of the Inspection Panel, as experience supports the

### **Note of Appreciation for Eduardo Abbott, Founding Executive Secretary (1994–2006), Inspection Panel**

The Inspection Panel would like to express its deepest appreciation to its founding Executive Secretary, Mr. Eduardo Abbott. Eduardo's nurturing of the Panel during his 12 years of service helped make it the widely recognized, well-respected, and effective accountability mechanism that it is today. He is a true pioneer in his field, handling a difficult job with tact and diplomacy. His extraordinary skills, dedication, passion for the Panel's mission, and sense of fairness have become a role model for similar positions in other accountability mechanisms. The Panel thanks him for his tireless efforts on behalf of the Panel and the people who seek its help, for his extraordinary ability to seamlessly guide the Panel toward its goals, for his humor and camaraderie, and for the fact that much of what is written in this book is due in large part to his efforts.

Panel's ever-growing initiatives toward not only fulfilling its mission as originally conceived, but also increasingly doing so in a way that well serves the Bank's development objectives as an institution and addresses the concerns of the Bank's ultimate clients—the population of its member borrowing countries who are ultimately to benefit from the Bank's development efforts.

### **REFLECTIONS ON THE HISTORY AND ROLE OF THE INSPECTION PANEL AT 15 YEARS, BY LORI UDALL, EXECUTIVE DIRECTOR, MONTPELIER CONSULTING**

The World Bank's Board of Directors created the Inspection Panel 15 years ago during a period of intense international pressure from nongovernmental organizations (NGOs) and activists protesting a series of large-scale problem projects such as the Sardar Sarovar dam on the Narmada River in India. A series of events collided to provide the momentum for such an auspicious venture. These included U.S. congressional hearings that highlighted the lack of accountability and transparency of the World Bank in large infrastructure projects, public outcry over adverse impacts of International Development Association funding in the Bank's donor and borrower countries, internal reports such as the Wapenhans Report (revealing the lack of adherence to policies and the failure of a large number of projects), and growing awareness inside the Board of Executive Directors that the Bank needed to implement a permanent process for dealing independently with problem projects and policy violations.

Until the Panel was created in 1993, NGOs and affected people had for years already interfaced with the Board as their last recourse for attempting to effect change in Bank-funded problem projects with policy violations. For example, for eight years prior to the Panel's creation, grassroots activists from India made the long trip to Washington countless times to meet with the India Country Department, the Regional Vice President, and Bank Executive Directors, only to go home with promises for project improvement that never materialized. Dutch Executive Director Paul Arlman even held a "Board seminar" for well-known Narmada activist Medha Patkar, who interacted with Board members for a half day on Narmada, Singrauli, and other Bank-financed problem projects in India. As

is now well known, all of the hard work of Indian grassroots activists resulted in the Board appointing the “Morse Commission,” an independent panel that investigated policy violations. Many of the Morse Commission features, such as independence and access to Bank staff and project documents, provided the basis for the Inspection Panel design.

The creation of the Panel finally gave a potential voice and avenue to all the invisible and marginalized people around the globe adversely affected by Bank-financed problem projects. This is the Panel’s most essential and innovative feature. Also important is that the Board—instead of being in the uneasy role of micromanaging projects and becoming embroiled in controversy between Management and affected people—now has a tool to independently help it assess policy compliance in problem projects. It is thus opportune that the Panel reports to the Board and not Management. It is, of course, not surprising that Management and operational staff at times have an adversarial relationship with the Panel. It is human nature to be defensive when an investigation is opened into a project that one has devoted a part of a career to designing, appraising, nurturing, and supervising. But as *The Inspection Panel at 15 Years* captures, it is also folly to pretend that all Bank projects are perfect, without flaws or policy compliance problems, or without need for independent assessments. Truly sustainable inclusive development is not easy and it can only improve with independent voices, views, and verification.

When those in Bank Management or the Board raise the issue of the “costs” of the Inspection Panel resulting from project delays, one only has to look back at the days of Narmada, Polonoreste, Transmigration, and the Brazil Power Sector loan to know that the Bank can never go back to the pre-Panel era. Some of those projects were delayed for years (far longer than a Panel investigation) because of local protests, inadequate public consultations, policy and human rights violations, flawed project design, and lack of environmental and social oversight, among other issues.

There is ample evidence that the Panel has not only improved the Bank’s reputation, accountability, and transparency but also that it has saved the Bank millions of dollars by preventing or correcting poor project design and costly mistakes, and by improving project quality, environmental assessments, and resettlement plans. Some Bank staff also admit that many poorly designed projects have never made it to the appraisal stage, in large part because of the Panel’s existence.

The work of the Panel has even more profoundly effected change for communities on the ground. Affected people have been compensated, people’s livelihoods have improved, communities have been empowered, local policies have been reassessed, local and national governments’ relationships with project beneficiaries have improved, and stakeholder ownership of projects has increased. While it is true that some projects may have been delayed as a result of Panel activities, this cost must be balanced with the need to ensure project quality and development effectiveness as well as to reach and include target populations and beneficiaries. The fact that the Panel has now had 58 claims is a

**Lori Udall** worked with grassroots communities in India, Indonesia, and Nepal from 1985 to 1996 to promote alternative bottom-up development and to raise international awareness about the adverse environmental and social impacts of World Bank-financed mega-projects. Along with her Indian colleagues, Udall was instrumental in convincing the World Bank Board to set up the Morse Commission, which carried out the first ever independent investigation of a World Bank Project. Using the Morse Commission as a model, Udall promoted the design and establishment of the World Bank Inspection Panel from 1992 in the U.S. Congress and World Bank Board of Executive Directors until its creation in 1993.





confirmation of its credibility, the professionalism of its work, and the trust that its constituency has placed in it.

The Panel's relevance has grown with the years. In the months since the global financial crisis began, we are reminded that the global public is demanding increased transparency and accountability and better governance in all national and international financial institutions. Other pressing recurring systemic issues detailed in *The Inspection Panel at 15 Years*—such as time pressures, legacy issues, inattention to warning signs during supervision, projects involving private sector actors that do not have the same policy framework, and project-affected people “falling off the radar”—all underscore the timeliness of the Panel's work.

The Bank has often cited its Charter to justify that it can only base decisions on economic factors; thus, Bank decisions cannot be based on human rights or other issues. Increasingly, academics and scholars have rejected this argument as it becomes evident that economic issues and human rights are inextricably linked. The 2007 passage of the United Nations Declaration on the Rights of Indigenous Peoples underscores that the basic economic right to ancestral homelands and the livelihoods that depend on them are closely link to indigenous human rights. While the Panel cannot specifically deal with international human rights violations, it has noted that human rights are embedded in many of its safeguard policies and broke new ground in its investigation of the Chad-Cameroon Pipeline Project by suggesting to the Board that the Bank study the broader consequences of human rights violations as they relate to the overall success or failure of policy compliance in Bank-financed projects. In projects in which human rights violations have been ongoing or where there has been retaliation against Requesters, such as the Mumbai Urban Transport Project or the Chad-Cameroon Pipeline Project, the Panel's option of protecting the identity of threatened people is also critical.

The Bank's role as a leader and partner in many climate change and energy initiatives, such as the Bank's Clean Technology Fund, Strategic Climate Fund, Forest Investment Program, Forest Carbon Partnership Facility, and Pilot Program for Climate Resilience, also calls for the application of Bank safeguard policies and Panel jurisdiction. Because indigenous peoples networks have recently expressed concerns and opposition to top-down initiatives on deforestation and degradation, these policy issues may well unfold in the Panel's domain.

The developments described above all capture the growing relevance and role of the Panel. The fact that the Panel is so timely also makes it a good moment to ensure that it has all the tools and functions it needs to challenge the Bank to be more accountable and transparent. The Panel is doing the best it can do within its current mandate. While the Panel has a solid record of compliance work and still provides a model for other accountability mechanisms on doing compliance well, recent developments in other accountability mechanisms that provide an ombudsman function and post-inspection monitoring have enhanced the capacity of these mechanisms to assist adversely impacted people.

The ombudsman or problem-solving role is an alternative avenue for affected people that recognizes that complaints and grievances of affected people are not always related to policy compliance, and that some issues or impacts are better resolved through consultation, mediation, or dispute resolution. This function is working well in the IFC-MIGA Compliance Advisor/Ombudsman, the Asian Development Bank, and the African Development Bank.

The monitoring function in these other accountability mechanisms is a critical feature that ensures that affected communities and beneficiaries take ownership of and participate in the remedies that have been proposed to alleviate harm and negative impacts and that lessons learned are incorporated back into operations on the ground. In the Bank, local participation or consultation in Management's Action Plan is simply not enough. As the Panel's history has underscored, all too often policy compliance problems still exist months or even years after the Panel has investigated a complaint, which has led to Requesters filing a second claim, as in the case of the Yacyretá Hydroelectric Project. The Bank Board has already illustrated it can request monitoring and follow-up fact finding without changing the Panel's founding Resolution.

In the early years of the Panel, the Board requested that it monitor or provide feedback on projects such as the Rôndonia Natural Resources Management Project, the Itaparica Resettlement and Irrigation Project, and the Jamuna Multipurpose Bridge Project. Despite issuing a limitation to the Panel's ability to monitor Management's Action Plans in 1999, the Board then went on to request monitoring and follow-up fact-finding in the Yacyretá Hydroelectric Project, the Cartagena Water Treatment Project, the Mumbai Urban Transport Project, and the Honduras Land Administration Project. The Panel has thus already demonstrated its competence and professionalism in monitoring. This function would not compete with Management's monitoring and supervision function of the overall project, but would be limited to the subject of the Request.

The Panel has excelled in its work in the last 15 years, but with these few (Board-initiated) innovations the Panel could realize its full potential and impact on project quality, development effectiveness, Bank accountability, and most important, giving affected people ownership over their own development and future.

In concluding, I celebrate and salute the Panel, its current and former Members, and its Executive Secretaries and staff, for 15 years of difficult work and perseverance.

## ANNEX A COMMENTARY ON THE INSPECTION PANEL THROUGH THE LITERATURE

Before the creation of the Inspection Panel, affected people found it extremely difficult to make their voices heard within the Bank system. In the past 15 years, scholars have examined the degree to which the Inspection Panel process is truly participatory, explored limitations on its mandate and independence, and assessed the impact of the Panel on the Bank and other international organizations. The wealth of different commentaries illustrates the importance of the Panel and well represents its influence on discussions of international accountability for financial institutions and beyond.

### *A Voice at the Highest Levels of the World Bank*

Acknowledging the difficulty of giving individuals a voice in international law, most scholars have praised the Inspection Panel as a bold step to increase the accountability and transparency of World Bank operations. Reflecting on the Bank's previous lack of accountability, Hunter describes the Panel as a unique and potentially influential new model for citizen advocacy that "has no precedent in international law" (Hunter 2003, 202). Boisson de Chazournes, Romano, and Mackensie (2002) commend the Inspection Panel for facilitating the involvement of nongovernmental organizations in an institution once hostile—or at least closed—to such participation. Boisson de Chazournes notes limitations to participation in the Panel process, but applauds the Panel's role in strengthening "access to justice for individuals before an international organization" (Boisson de Chazournes 1999, 93).

Boisson de Chazournes also observes that the Panel process reflects "the growing importance of the individual as an emerging rights holder in areas of development and environment." It creates "a new venue for a dialogue between a lending institution and the direct beneficiaries of its developmental activities" (Boisson de Chazournes 2001, 84–5). Past Panel Chairman Richard Bissell calls the Panel process "an unusual window for members of the public to access quasi-legal processes and norms" (Bissell 1997, 744), which gives individuals the opportunity to influence the evolution of international law as practiced by multilateral institutions like the Bank (Bradlow 1994).

### *Limitations to Meaningful Participation in the Panel Process*

Although the Panel was created to give voice to private citizens, some researchers argue that its process reflects "a lack of real commitment to the principle of participation" (Bissell 2001, 125). The literature has identified limitations on participation at several stages of the Panel process, from requesting an inspection to ensuring that the Bank responds to complaints effectively.

Limitations on knowledge of and access to the Inspection Panel compromise the participatory nature of the Panel process from the outset. While researchers note that many Bank-funded projects produce profound and often irreversible changes in people's lives (Bradlow 1994), these people are not always aware of the Bank's role in funding such projects. Even if they are aware of the Bank, they may not be familiar with the Inspection Panel. Despite the Panel's efforts to raise awareness about its process, Boisson de Chazournes observes that this information is "not easily accessible for all interested people" (Boisson de Chazournes 2001, 83).

Hunter (1996) has criticized the complicated and daunting nature of the Panel process as another limitation to participation. Access to the Panel is effectively restricted to those who have a sophisticated knowledge of the Bank and the Inspection Panel process (Bradlow 2005). Therefore, observes Clark of the International Accountability Project, affected people often must rely upon the assistance of experts in preparing Requests for Inspection (Clark 2003).

Clark also names several additional reasons that affected individuals may be unwilling to file a claim, including threats to safety, time constraints, the inability to prove a direct link between policy and problems, potential frustration, the belief that the Panel is altogether an inappropriate tool, or a cost-benefit analysis weighing whether a community's organizing energy is better channeled elsewhere (FOEI and IAP 2004). Some claimants have been "detained, harassed, beaten, and tortured by local authorities for having requested an inspection" (Clark, Fox, and Treakle 2003, 257). Nevertheless, Clark, Fox, and Treakle review trends in the history of Panel cases and find that Southern civil society actors working independently have generated the most claims submitted to the Panel so far.

Even people who successfully file a Request may not be able to participate meaningfully in later stages of the Panel process, which is dominated by Bank Management (Bissell 2001). Carrasco and Guernsey assert that the Panel "fails to give affected people a true voice in the outcome of the investigation" (Carrasco and Guernsey 2008, 580). Bradlow criticizes the process for providing "too many opportunities for ex parte communications between the Panel and the Bank's staff, the borrower, and the Executive Director representing the borrower state" (Bradlow 1994, 591). Bradlow suggests that Requesters should be allowed the right to be informed of all communications between the Panel and the Bank's staff, the Executive Directors, and the borrower, and should be given opportunities to respond (Bradlow 1994). Clark, Fox, and Treakle agree, noting that because Requesters "have no right to comment on what remedial measures would be appropriate to bring the project into compliance or rectify the harm that they have suffered," the Bank Board "tends to adopt management-generated action plans, ignoring the experience, knowledge, and preference of the people who triggered the process in the first place" (Clark, Fox, and Treakle 2003, 267).

In addition to limitations on meaningful participation by Requesters, Orakhelashvili (2005) points out that the participatory goals of the Panel are also limited by the lack of representation of developing countries in Panel positions.

### *Limitations on the Panel's Mandate*

Many researchers are concerned about limitations on the Inspection Panel's mandate. For instance, the restriction of investigations to only those cases in which the Bank has broken its safeguard policies theoretically "excludes people affected by projects where policies may not have been directly violated, but which have negative impacts nonetheless" (Clark, Fox, and Treakle 2003, 267). This is especially a problem with respect to human rights. Although the Panel has made efforts to include human rights considerations in some cases—specifically the Chad-Cameroon oil pipeline project—the absence of human rights from the Bank's full charter, and thus from the Resolution creating the Inspection Panel, significantly limits the Panel's mission (Skogly 2003). There are cases

in which operational policy violations are symptomatic of human rights violations, but many scholars see the lack of explicit references to human rights in the Panel mandate as an unwarranted narrowing of the Panel's work.

Criticism of other technical criteria used to determine the eligibility of a Request for Inspection comes from two sides. On one hand, Woods quotes Robert Wade to argue that “almost any project can be found to be out of compliance if one pushes hard enough, and since there is no limit on the cases that affected groups can bring . . . the Bank is likely to be deluged with Inspection Panel investigations” (Woods 2001, 93). On the other hand, some scholars see the eligibility criteria as overly specific. For example, Clark, Fox, and Treakle (2003, 267) note, “The Panel can't investigate projects in which the loan has been more than 95 percent disbursed . . . But many problems don't show up until years after funds are disbursed . . . [For] those people who learn about the Panel and choose to file a claim too late in the project cycle . . . there simply is no official recourse.” Although the need for a statute of limitations is justifiable, one may argue that—even under the limited mandate of the Panel to investigate Bank compliance with its operational policies—many cases that need investigation fall outside of Panel jurisdiction. Furthermore, Bradlow suggests that the “technical” eligibility criteria for a Request for Inspection make it easy for Bank Directors to reject investigations that a country representative might oppose (Bradlow 2001, 251–2), even though all cases recommended by the Panel for investigation since 1999 have been approved by “no-objection.” To many scholars, the fact that the Board has oversight at all raises worries that the criteria for eligibility will be abused.

The number of Panel cases approved since 1999 suggests that neither side's fears about the eligibility criteria have been completely realized. The Inspection Panel has had significantly more cases approved since revisions to the Resolution barred management from interfering with the Board's decision to investigate and created a “no-objection” approval system. At the same time, the Panel has avoided a flood of requests; there have been only 58 to date. If nothing else, scholars on both sides of the debate over eligibility criteria concur that evolving Bank policy and practice may necessitate revisions to the criteria.

Multiple sources assert that the Panel's lack of oversight of Management's plans and actions to address affected communities' concerns decreases the effectiveness of the Panel process (Boisson de Chazournes 2005; Orakhelashvili 2005). Bridgeman and Hunter (2008) think a major flaw in the Panel process is that “those found in non-compliance (i.e., the Bank's management) are the very same as those charged with implementing the Panel's recommendations.” However, they also note that “pressure can build to implement the recommendations because of the costs to the institution's credibility and legitimacy when high-profile recommendations are not implemented” (Bridgeman and Hunter 2008, 210). Clark, Fox, and Treakle (2003) assert that the Action Plans that Bank Management prepares in response to investigations immediately preclude most remedial measures, whether monetary reimbursement or complete cancellation of a project. Other scholars worry that lack of oversight by the Panel means that Bank Management seldom involves affected people in deciding how to address their concerns.

Bradlow (1994) argues that an inspection mechanism must have a clear “lessons learned” function if it is to maximize its value to the organization. Such a function takes advantage of the rare opportunity to have information on the actual impact of the organization from the affected communities' points of view, and helps build credibility with all stakeholders. In general, Bradlow and others see restrictions on the Panel's role in



implementation as a significant problem because such restrictions imply that no entity in the entire Bank can assess the final implementation honestly and independently.

### *Questions about the Panel's Independence*

Questions about limitations on the Inspection Panel's mandate are part of a larger debate about the Panel's independence. For instance, the Panel's overlapping jurisdiction with Bank Management in the task of creating an Action Plan forces it to curb advice on compliance, and implicitly excludes complainants from the process and dilutes the Inspection Panel's independence (Bissell 2001). The Panel's inability to independently dictate the entirety of the investigation and outcome process promotes dialogue with Management, but decreases the Panel's effectiveness as an accountability mechanism.

Scholars also question the Panel's independence and impartiality in other respects. Regarding field visits and information gathering, Clark, Fox, and Treakle (2003, 268) assert, "In the first land reform case, the Panel was accompanied by bank officials, and in Singrauli, NTPC [National Thermal Power Corporation] officials were present during the field visit. The presence of government or bank officials could stifle free exchange."

On a more systematic level, the Board's oversight of the Panel further constrains its independence. *Fifty Years is Enough*, a civil society group that lobbied the World Bank at the turn of the millennium, questions the Board's role. The group claims that a 1999 "gentlemen's agreement" that the Board will approve investigations recommended by the Panel is not enforceable. Therefore, there is no reason to believe it will be maintained (*Fifty Years Is Enough* 1999). Although the Board has not prevented any investigations the Panel has recommended since 1999, its oversight theoretically erodes the Panel's independence. Carrasco and Guernsey (2008, 587) agree that "vesting ultimate authority . . . with the Board undermines the independent nature of the Panel . . . and thus [it] should not be authorized to make an eligibility determination under a system that is purportedly independent from the Bank."

Other scholars explore broader questions of independence within the World Bank. Bradlow (2001) claims that the ability of "northern" governments to participate in the decision-making process of the Bank without being held accountable as individual governments reflects a disturbing independence from direct responsibility. He states,

The work of the Bank has no direct impact on the citizens of the G-7 countries and therefore is unlikely to influence the outcome of any elections in the G-7 countries. Furthermore, these governments can show that they are doing something to deal with the difficult social and environmental issues that affect all societies without actually having to engage in a full debate about the domestic implications of these issues. This means, in effect, that the G-7 countries are able to exercise power without responsibility in relation to the Bank and the IMF. (Bradlow 2001, 256-7)

Because developed countries are neither recipients of Bank funding, nor held responsible in any accountability mechanism, their independence is too great. Additionally, because developing country governments are implicitly judged by the Panel's examination of Bank oversight, and northern nongovernmental organizations are involved in the request process, there is potential for conflict between states and nonstate actors. Fox

best explains the situation, describing how the Panel process “challenges key assumptions of national sovereignty” because Bank safeguard policies are in theory more rigorous than the practices of many governments. This contributes to a “national-transnational friction” (Fox 2002, 148–50).

As they attempt to address questions about the Panel’s mandate and independence, many scholars look beyond theoretical arguments to examine the effects of the Panel to date.

### *Positive Effects of the Panel*

The literature explores how the Panel process—despite its limitations—has affected Bank projects and other international institutions. Clark, Fox, and Treakle firmly conclude that overall the Panel process has led to clear project- and policy-level changes at the Bank, has positively influenced public accountability at other international financial institutions, and ultimately has “changed whose voices count, and who listens” (Clark, Fox, and Treakle 2003, xxii).

In many cases, the Panel process has helped ensure justice for individuals affected by Bank projects (Boisson de Chazournes 1999). Hunter (1996) predicted that conditions in Requesters’ communities would probably improve even without a full inspection, because preliminary investigations would likely spur the Bank to take charge and fix a problem. Likewise, Bissell suggests that the Panel may have “more effect on projects through indirect pressure than through its formal procedures set out by the executive directors” (Bissell 1997). Clark, Fox, and Treakle (2003) reference concrete changes—such as a cancellation of a dam project in Nepal and a positive restructuring of a project in Brazil—that have resulted from Panel investigations.

Many researchers suggest that, in addition to addressing concerns about specific projects, the Panel also has “a positive influence over the overall efficiency and governance of the Bank” (Bradlow 1994, 556). Bradlow (1994) predicted that the Panel would provide Bank Management with “timely, independent, and objective information about the actual and potential effects of its operations,” thereby improving Management’s “ability to identify and correct, or at least mitigate, problems caused by on-going operations.” Bradlow hoped that the Panel’s work would “ultimately encourage the Bank and its staff to be more responsive to the needs and concerns of those touched by Bank operations” (Bradlow 1994, 556).

Several more recent articles affirm the idea that the Panel improves the overall work of the Bank. Orakhelashvili (2005, 100) calls the Panel “undoubtedly . . . of essential importance for successful attainment of the World Bank’s development purposes.” Boisson de Chazournes (2005) suggests that the Panel has both a preventive and curative impact, positively influencing the direction of the Bank. She highlights two unique and unprecedented contributions the Panel makes to the Bank: increased clarification of Bank policies and increased public awareness of potential and actual instances of malpractice. She believes these contributions—and increased debate about the impact of Bank projects—enhance the quality of Bank operations (Boisson de Chazournes 2001).

Clark, Fox, and Treakle (2003) provide specific examples of how the Panel has been able to set important precedents within the Bank, such as applying social and environmental standards not just to infrastructure projects, but also to macroeconomic adjust-

ment loans. For instance, Bank-wide policy reform was sparked after the China Western Poverty Reduction Request caused serious tensions between the Board, donors, and recipient countries (Clark, Fox, and Treacle 2003). Clark (2003) also refers to a case in which, even though the Panel rejected a Request for Inspection of a dam in Chile, the process caused the Bank President to set up a commission to investigate International Finance Corporation scandals and implement positive new safeguards.

Because the Panel is the first body of its kind to give voice to individuals in international development (World Bank 2004), it has also had the important effect of influencing other international organizations—especially other international financial institutions—to adopt similar accountability mechanisms. Bissell (2001) calls the Panel a “complete innovation” that sparked the creation of other accountability mechanisms.

Scholars such as Alfredsson (2001) view the Panel as a “worthwhile model” of accountability for other intergovernmental institutions, despite its limitations. Bradlow (1994) hoped that the example set by the World Bank in establishing the Panel would influence the development of the administrative law of international organizations. More recently, Freestone argues that the World Bank, through safeguard policies and the creation of the Inspection Panel, is “providing important new benchmarks for the environmental and social performance of all international financial institutions” (Freestone 2003, 139). Hunter (2003) and Boisson de Chazournes (1999) also suggest that the Panel has inspired new accountability mechanisms at other multilateral development banks. Clark, Fox, and Treacle (2003, 269–70) think the Panel’s work has helped people recognize “that the costs of non-compliance are higher than the costs of compliance at the end of the day.”

### *Limitations on the Panel’s Effectiveness*

Despite these examples of the Panel’s positive impact, scholars have also noted ways in which the Panel’s influence has been limited. Hunter (2003) calls the Panel a “vanguard” with much potential. However, as discussed above, he suggests that it should be able to conduct “ongoing monitoring” and pay restitution for damages resulting from violations of its own policies to be truly effective. Likewise, Orakhelashvili (2005) suggests that the Panel should be awarded remedial competence to monitor Management’s Action Plans. According to Clark, Fox, and Treacle (2003) the fact that the Panel does not have oversight over Management’s plans and actions to address Requesters’ claims can lead to unsatisfactory remedies, or in the worst case scenario, total lack of Bank action. Those authors note that “there is no guarantee that a claim will lead to improvements at the project level.” In fact, they find that only “ten of the twenty-eight claims filed had (in some case limited) positive project-level impacts” (Clark, Fox, and Treacle 2003, 258). Clark thinks the lack of a system of redress is the weakest link in the Panel process, since “a right without a remedy is no right at all” (Clark 2002, 220). Clark also implies that there should be critical discussion of Management’s progress reports and Panel oversight in remedial activities to ensure claimants’ needs are addressed.

On a more fundamental level, Woods (2001) raises the concern that the Panel does not solve the core accountability deficit in the Bank because it does not make the governance of the Bank itself more participatory.

### *Criticism of the Panel's Effects*

Some researchers even worry that the Inspection Panel has resulted in negative changes in the Bank's behavior. Clark, Fox, and Treakle (2003, 273) suggest that the Panel process appears to have had "*contradictory* impacts on the social and environmental policy framework" of the Bank. They note that the Bank's safeguard policies have not been strengthened "commensurate with the deteriorating global environment . . . The World Bank has lost the social and environmental leadership it had between the 1980s and 1990s" (Clark, Fox, and Treakle 2003, 272). Furthermore, they suggest that the existence of the Panel may be causing the Bank to shift accountability to borrowers. They worry that "it is highly risky to pass all responsibility for social and environmental issues to borrowers when they still lack the capacity and normative framework to address issues effectively" (Clark, Fox, and Treakle 2003, 273).

Clark, Fox, and Treakle (2003) also speculate that the Panel process may deter some managers from projects involving safeguard policies. Woods notes that the time and financial cost of inspections and the fear of an inquisitorial process mean that "Bank staff are now refusing to contemplate projects involving either involuntary resettlement or indigenous peoples, because they cannot compete with other sources which do not have to take into account such high additional costs" (Woods 2001, 94). This might be viewed as either a positive consequence of increased accountability or as bad for the Bank.

Several researchers have asked whether the effects of the Panel justify its costs. Bradlow, for example, criticizes the high costs of Panel investigations. He writes that the "primary disadvantage" of the Panel is "that it is very expensive." (Bradlow 2005, 473–5). Bottelier comments on the example of the Qinghai Anti-Poverty Project in China: "It is strange that the IP does not have to consider trade-offs between the costs and benefits of additional assessments and studies it recommends" (Bottelier 2001). Ultimately, the answer to this trade-off question depends on the overall impact of the Panel's work.

### *Conclusion*

Thus, scholars have largely praised the Inspection Panel as an important development in citizen-based accountability for the World Bank and an example for other international financial institutions. At the same time, they note limitations on the ability of affected communities to participate in the Panel process. They question the Panel's independence and identify constraints on its effectiveness, proposing revisions to the Panel's mandate that would further strengthen the ability of people affected by Bank projects to have their concerns addressed at the highest levels.

## ANNEX B NOTE ON CRITERIA FOR EVALUATING ACCOUNTABILITY INSTITUTIONS IN MDBS: Address to 4th Meeting of Accountability Mechanisms, London, England, June 21, 2007, by Edith Brown Weiss

Thank you for the opportunity to provide some reflections on the evolution of mechanisms for accountability and recourse at multilateral development banks (MDBs).

Accountability is an important element of the legitimacy of an institution. One can distinguish different kinds of accountability. One kind is top-down accountability, in which managers hold staff accountable for their performance. This is the customary internal accountability. Institutions are also held accountable to those who created them. In the case of MDBs, the institutions are accountable to their member states. Accountability can also be bottom-up, in which institutions are held accountable to those whom they are intended to serve. For MDBs, these include the impoverished communities that receive their assistance.

There has been vast growth in concern for bottom-up accountability—in economic development, human rights, environmental protection, and corporate governance—and in processes available for pursuing it. The accountability mechanisms in MDBs and national export banks focus on accountability of management and staff for compliance with the institution’s policies and procedures. The process uses a strategy of “sunshine” in which affected people can complain to the accountability mechanism; investigations can be made; and the complaints, investigation, and bank response become public. The World Bank Inspection Panel is an example.

### EVOLUTION OF ACCOUNTABILITY MECHANISMS

The World Bank Inspection Panel was established in 1993, and became operational in 1994. Other MDBs followed this precedent, such that all MDBs now host an institution. These accountability mechanisms share basic common elements: affected people can complain; investigations can be held; corrective actions can be taken by management in response; and the complaint, investigation, and outcomes are made public. To be sure, there are also differences. Some of the MDBs also have an arm from which individuals and communities can seek mediation and settlement of specific complaints.

The Inspection Panel now receives an average of six Requests for Inspection per year. Those who complain must have tried to resolve the issues first with World Bank Management and staff, a requirement similar to the one in some other institutions that those who complain must first have sought satisfaction through a designated ombudsman. For the Inspection Panel, the data indicate that about one-third of the Requests for Inspection received by the Panel do not go to investigation. This is often because those making the Request have not approached the Bank first with their claims or because, aided by the presence of the Panel, they were able to resolve the issues after the Request was filed.



**Edith Brown Weiss** was appointed to the Inspection Panel in September 2002 and served as Chairperson from 2003 to 2007. She is the Francis Cabell Brown Professor of International Law at Georgetown University Law Center, where she has been on the faculty since 1978. She has published widely on issues of international law and global policies, including environmental and compliance issues. She has received many awards for her scholarship on international law and global policies, including environmental, compliance, and intergenerational issues.



On reflection, what have we accomplished as members of accountability and recourse mechanisms? At least for the World Bank Inspection Panel, we can observe the following, most of which apply in varying degrees to other accountability and recourse mechanisms:

- People adversely affected by a Bank-financed project or program now have a forum in which their concerns can be heard, which is usually unique for them. This has contributed to greater transparency in what MDBs do and often to the initiation of measures that address their complaints. Within the World Bank, there is now acceptance that affected people have a right to be heard.
- In response to Panel findings and Board decisions, Management and staff have taken actions to address Panel findings of noncompliance with policies and procedures.
- There is greater attention within the Bank to compliance with policies and procedures, to supervision, and to how work is done, although this may not be consistent across the Bank.
- Within countries, the Inspection Panel has opened space for civil society to have conversations about the effects of economic development projects and programs.
- The Panel has NOT discouraged the taking of risks; the Panel recognizes that risks are inherent in sustainable development.

## CRITERIA FOR EVALUATING ACCOUNTABILITY INSTITUTIONS IN MDBS

We can discern four criteria for evaluating accountability institutions, or mechanisms: accessibility, credibility, efficiency, and effectiveness. Each has multiple subcomponents. I refer to these as the *ACEE criteria*. For purposes of brevity, they are presented in outline form.

### **Access. Whether the institution and process are accessible**

- a. Knowledge of process  
Is the process open to all potential claimants? Do affected people know about the process and how to use it?
- b. Openness to claimants  
Can affected people reasonably file requests? Are measures in place to protect the confidentiality of complainants when needed?
- c. Capacity to file complaints  
Do affected people have the capacity to file claims? Can claims be filed in the local language? Do complainants have access to appropriate assistance when it is needed?

### **Credibility. Whether the institution and process are credible**

- a. Independence  
Is the institution independent of management and staff and able to act independently of outside influences? Does it have adequate technical and financial resources for its work?
- b. Impartiality

Does the institution act impartially with regard to all relevant actors: requesters, management and staff, national and provincial governments and public authorities, civil society, and the private sector?  
Does it pursue research impartially and examine data thoroughly without prejudice?

c. Integrity

Does the institution treat all participants with integrity and objectivity?  
Does it safeguard and protect the integrity of all data and other information gathered?

d. Competence

Are the institution's members and staff expert and professional in their work?

Is the work thorough and careful?

e. Transparency

Are the procedures and work products transparent?

Are the final reports available to complainants and to the public?

Are the final reports available in the local language?

**Efficiency. Whether the institution is efficient**

a. Timeliness

Are statutory procedural deadlines met?

Are the work products, considering the level of effort required, delivered in a timely manner?

b. Appropriateness of resources used

Are the resources used for the institution's activities adequate and appropriate to the task?

Are these resources used efficiently?

c. Avoidance of unnecessary duplication of work of other institutions

Are efforts made to coordinate with other accountability mechanisms in addressing complaints to reduce duplication of effort?

If the same complaint comes to two or more accountability mechanisms, are efforts made to conduct investigations efficiently and to minimize impact on the country?

**Effectiveness. Whether the institution is effective—are benefits realized?**

a. Effectiveness in relation to the affected people or other authorized party making the complaint

Are there benefits to affected people from the process?

Are the claims of affected people fully considered?

Do affected people have opportunities to contribute relevant information?

Do affected people have access to the findings and an opportunity to discuss them?

Do affected people have an opportunity for input into the development and implementation of actions taken by management and staff in response to the institution's findings?

- b. Effectiveness in relation to the host organization (for example, the World Bank), its purposes, and the performance of management and staff, and in relation to the executing agency in the country in which the project is located.
  - (1) For the individual project or program subject to complaint
    - Are the views of Bank staff and relevant country officials solicited and considered?
    - When the project is in compliance, is this fact properly validated?
    - When there is noncompliance, are measures taken to bring practice into compliance with policies and procedures?
    - Does the filing of a complaint lead to preemptive action?
  - (2) For similar projects and for projects and programs subject to the same policies and procedures
    - Are findings and insights from accountability reports considered in practice? Are these projects and programs improved as a result?
    - More generally, are lessons learned incorporated into the host organization's practice?
    - Do management and staff exercise greater due diligence as a result of the accountability process?
    - Are the process and the practice consistent with appropriate risk-taking in projects?
  
- c. Effectiveness in relation to the states that are members of the host international institution (for the Inspection Panel, the member states of the World Bank)
  - Does the accountability mechanism help provide transparency to member states regarding the host institution's practices?
  - Does it help states ensure that the host institution is following its policies and procedures?
  - Does it help provide a level playing field among countries in the application of policies and procedures?

The ACEE criteria are interrelated, and satisfaction of each may change over time. The Inspection Panel has found that when Requests come to the Panel, they trigger the attention of Bank Management and staff to the problems and, in certain cases, may result in prompt efforts to address them.

## **A FEW PROBLEMS FOR THE FUTURE**

While many problems may arise, some of which have been otherwise mentioned, the most important may be to maintain the trust of all the constituencies. The effectiveness of an accountability mechanism requires that people trust it, especially the impoverished people who bring the complaints, the member governments, Management and staff, and

civil society. Trust depends heavily on the impartiality, integrity, independence, and competence of the people who are officials and staff in the mechanism. It also depends on the mechanism having the necessary resources.

At the same time, the mechanisms will have to ensure that the costs of ensuring accountability do not become so burdensome that recipients of financing and financial guarantees look elsewhere, to institutions in which there may be little accountability. The long-term benefits of accountability to sustainable development must be apparent and widely appreciated. This may point to a need for more entry points within an institution to which impoverished people may turn to raise grievances and other concerns.

## NOTES

1. The exception to this is David Hunter's article "Using the World Bank Inspection Panel to Defend the Interests of Project-Affected People" (Hunter 2003).
2. IBRD Resolution No. 93-10 and IDA Resolution No. 93-6, dated September 22, 1993 (collectively referred to as "the Resolution"), which established the Inspection Panel.
3. Resolution, para. 12.
4. Many people have credited part of the initial success of the Panel in maintaining its independence on the fact that, unlike similar mechanisms, it was able to receive support from an independent Secretariat without the need to rely on authorizations or other assistance from Bank Management.
5. Resolution, para. 11.
6. Paragraph 21 of the Resolution provides that the Panel "shall consult as needed" with the Director General of the Operations Evaluation Department (today the Independent Evaluation Group) and the Internal Auditor, while paragraph 15 provides that 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."
7. The Resolution establishing the Inspection Panel called for a review of the mechanism after two years of the appointment of the first Panel Members. The 1996 Clarification was the outcome of this review.
8. Paragraph 6 of the 1999 Clarification (the 1999 Clarification was issued as a result of the second review of the Inspection Panel).
9. Concept endorsed by the Board in the 1996 Clarification of the Resolution, but later dropped in the context of the 1999 Clarification, which introduced a more formalistic approach to the Panel's decisions on whether to recommend an investigation of the matters alleged in a Request for Inspection.





---

APPENDIX I  
THE INSPECTION PANEL ANNUAL REPORT  
FISCAL YEAR 2009



# I. REQUESTS RECEIVED IN FISCAL YEAR 2009

## PANAMA

REQUEST NOS. 53 AND 56

### Land Administration Project (Programa Nacional de Administración de Tierras—PRONAT)

(LOAN NO. 7045-PAN)

#### BOX 1. PROJECT INFORMATION AT A GLANCE

Project Name:	Panama: Land Administration Project (Programa Nacional De Administración de Tierras—PRONAT)
Region:	Latin America and the Caribbean
Sector:	Public Administration, Law, and Justice
Environmental Category:	B
IBRD Loan Amount:	US\$47.9 million
Board Approval Date:	January 16, 2001
Effective Date:	July 19, 2001
Project Restructuring Effective:	June 23, 2006
Closing Date:	December 31, 2009

#### THE REQUEST

On February 25, 2009, the Inspection Panel (the “Panel”) received a Request for Inspection related to the Panama: Land Administration Project (the “Project”—in Spanish, Programa Nacional de Administración de Tierras, or PRONAT). The Request was submitted by representatives of the Naso people and was registered by the Panel (the “First Request”). A second Request for Inspection related to the same Project was submitted by leaders of the Congreso de Area Anexa de la Provincia

De Bocas Del Toro on behalf of the communities that live in the so-called *áreas anexas* (annex areas) to the Comarca Ngöbe-Buglé in the Bocas del Toro Province. This request was registered on March 20, 2009 (the “Second Request”).

#### THE PROJECT

The Project aims to modernize Panama’s Land Administration System and addresses policy, legal, and institutional reforms; modernizes the country’s geodetic network and mapping capabilities; and builds the institutional capacity of various entities. It is financed by a loan from the International Bank for Reconstruction and Development (the “Bank”) of US\$47,900,000. The loan was approved on January 16, 2001. After experiencing some implementation problems, the Project was restructured on June 23, 2006, to narrow the project scope and outputs and improve “*implementation and financing modalities.*”

According to the original Loan Agreement, the objectives of the Project were “(a) to promote equitable access to land and improve land tenure security by providing Land Administration Services in the Project Area; and (b) to enhance natural resources conservation through the consolidation of the SINAP [Sistema Nacional de Tierras Protegidas] and Indigenous Peoples Territories.”

The Amended Loan Agreement provides, however, that “the objective of the Project is to modernize the land administration system, including priority protected areas and Indigenous Peoples Territories.”

## THE FIRST REQUEST

The Requesters claim that, in violation of its own policy on Indigenous Peoples, during implementation of the Project the Bank did not take into account the rights and interests of the Pueblo Naso communities, inter alia, because Project officials are trying to impose a Carta Orgánica in their territory that is detrimental to their rights, has not been discussed with the indigenous people, and lacks legal basis. What follows is a summary of the situation as depicted in the Request.

The Requesters state that PRONAT is expected to demarcate the territory of the “original people” of the Bocas del Toro Province and that, since its initial implementation, “the Project has been carrying out activities in their Naso Tjër Di territory with the support of the Dobbo Yala Foundation and the then King Tito Santana [of the Naso people] and his team” (emphasis added). The Requesters state that, in this context, Bank financing made it possible to agree on a Bill of Law, supported by the Naso people, which would create the Province of Naso Tjër Di. This Bill of Law was submitted to the National Assembly of Panama but was never approved.

The Requesters claim that the situation has now changed and PRONAT officials are no longer consulting with the legitimate representatives of the Naso people, and that this has created tensions between the members of the Naso people and the foundation carrying out the consultations. The Requesters claim that “unfortunately, the Dobbo Yala Foundation was contracted by the Public Enterprise of Medellín (Empresa Pública de Medellín or EPM) to carry out an alleged community consultation related to the proposed Bonyik Hydroelectric Project to be built within the Naso Territory.” As a result, the Requesters assert that “in May 2004, the Naso Peoples General Assembly decided to dismiss the then King Tito, and appoint His Majesty Valentín Santana present King of the Naso Peoples.” The Requesters add that “several weeks after [this event] the National Assembly rejected the Bill of Law.” In addition, they state that after the new President of Panama took office, “several individuals” of the Dobbo Yala Foundation “became Government employees working on the PRONAT project.”

They state that the Bank-financed Project supported a new Bill of Law establishing collective land property in indigenous territories, which was approved by the National Assembly on December 3, 2008, as Law No. 72. According to the Requesters this new Law created “an uncertain regime of regional rezoning.” The Requesters believe that the Project-supported new law “constitutes a flagrant and very serious violation of the sole and true aspiration of the Naso People—the creation of a juridical framework that



Panama: Land Administration—  
Panel team meeting with indigenous community in Project Affected area

*would respect the cultural and all forms of politico-traditional life of our Naso people, as well as the natural, archeological and genetic resources in general that we now have and that we have inherited from our ancestors and that we are entitled to: that is the region of Naso Tjër Di.”*

The Requesters state that they asked PRONAT officials to comply with the World Bank’s Operational Policy on Indigenous Peoples and that, because no reply was received from these officials, the “Naso people, jointly with Ngobe leaders affected by the delimitation of the adjacent lands,” sent a note to World Bank staff in December 2007 “requesting an urgent visit to the area.”

They add that World Bank staff carried out a field visit in January 2008 where they were informed about the concerns of the Naso people in relation to PRONAT. The Request claims that on a follow-up visit to evaluate PRONAT in March 2008, Bank staff did not meet with the Naso people, who were left waiting for them at the community of Bonyik. The Naso people’s concerns were again expressed at a meeting held later in Panama City. However, the Requesters claim that, so far, World Bank staff have not responded to their concerns.

In view of the foregoing, the Requesters state that “we are also disappointed with the World Bank, who has not enforced its operational policies on indigenous peoples,” adding that for this reason they are “requesting the Inspection Panel to carry out an in-depth and detailed investigation of all that has happened since the arrival of PRONAT in our territory.”



## THE SECOND REQUEST

The Second Request contains a number of claims similar to those included in the First Request and, more specifically, the Requesters object to the way the Project is being implemented, particularly in relation to disclosure of information activities, and the consultation and measurement methods used in the demarcation of the Ngabe territories in the Bocas del Toro province, the Parque Internacional (World Heritage Site), the Bosque Protector [Protector Forest] Palo Seco (tropical upland forest), and the Bastimentos National Marine Park. According to the Requesters, not only do the Project's actions violate their human and land occupation rights, but they also contravene the conventions and international treaties to which Panama is a party, as well as *“the World Bank's strategies and operational policies on indigenous peoples approved by the Bank's Board on February 22, 2006.”*

The Requesters claim that, upon receipt of a request from the communities of the áreas anexas and of the islands of the Boca del Toro province, local Bank staff agreed to meet with them in PRONAT offices in the town of Changuinola. In this meeting, in which government officials also participated, the Requesters expressed their concerns about the implementation of PRONAT and what they consider *“negligence and irregularities”* directly affecting the land rights of the Ngabe communities of the Bocas del Toro province and the áreas anexas, which remain outside the limits of the Comarca Ngabe-Bugle.

The Requesters claim that during a follow-up visit that took place in January 2008, local Bank staff were informed that the communities were about to complain against irregularities in the implementation of PRONAT to the Bank's executive management in Washington. In response, the Requesters state, they were then told to wait until a March 2, 2008, community meeting where local Bank staff would present an answer to their concerns. According to the Requesters, no one from the Bank attended the March meeting and they have yet to receive a response from the Bank.

According to the Requesters, in 2001 the government of Panama obtained Bank financing so that PRONAT could measure and demarcate the territories of the native peoples of the Bocas del Toro province. They claim, however, that *“practically since that moment, this Program has violated the indigenous land rights, since PRONAT's main objective is to title land and not to demarcate territories.”* They also claim that the Project is restricting the areas recognized as indigenous peoples' lands to those used for housing, excluding the areas that the communities use *“for materials, medicines, craft items, workshops and other production activities.”*

The Requesters argue that *“the lack of territorial protection has allowed tourism, mining and hydroelectric enterprises to speculate with our land which is shamelessly given away by the national authorities by way of Law Number 2 of 2006 on concession and titling of islands and coasts ...”* The Request refers specifically to *“the concession of 6.215 hectares in the rural area of Valle Risco, a Ngabe indigenous territory, granted by ANAM [Autoridad Nacional del Ambiente] for the construction of the hydroelectric project Chan 75,”* and points out that this case was denounced to the Supreme Court of Justice, the Inter American Commission on Human Rights, and to the United Nations Rapporteur on Indigenous Peoples.

The Requesters also claim that the Bank-financed Project supported a new Bill of Law, approved by the National Assembly on December 3, 2008, as Law No. 72, which estab-





Panama: Land Administration— Representative of the indigenous community relaying his concerns to the Panel

lished collective land property in indigenous territories and specifically prohibited the creation of new áreas anexas. In the Requesters' opinion, Law No. 72 "*constitutes a flagrant and very serious violation of the sole and true aspiration of the communities of the 'áreas anexas,' that is, the creation of a juridical framework that would respect the cultural and all forms of political life of the Ngabe-Bugle people.*"

The Requesters state that they "*hold directly responsible*" the government and government institutions for their problems but, at the same time, that they "*are also disappointed with the World Bank, who has not enforced its operational policies on indigenous peoples,*" adding that for this reason they request

the Panel to carry out an Investigation as well. are "*requesting the Inspection Panel to carry out an in-depth and detailed investigation of all that has happened since the arrival of PRONAT in our territory.*"

In the Registration Notices of the First and Second Requests, the Panel stated that the Requesters' claims "*may constitute non-compliance by the Bank with various Provisions*" of the Bank's Operational Policies and Procedures on Indigenous Peoples (Operation Directive [OD] 4.20) and Supervision (Operational Policy/Bank Policy [OP/BP] 13.05).

## MANAGEMENT'S RESPONSE

Because both Requests for Inspection referred to the same Project and were closely related, Management, after obtaining approval from the Board of Executive Directors on March 24, 2009, submitted a single Response on April 20, 2009, addressing both Requests for Inspection.

## THE PANEL'S ELIGIBILITY REPORT AND BOARD'S DECISION

The Inspection Panel is currently assessing the eligibility of both Requests for Inspection and based on the results of this assessment, it may recommend that the Board of Executive Directors authorize an investigation of the claims presented in the Requests. The authorization to investigate is normally granted by the Board of Executive Directors, generally on a no-objection basis.

### Private Sector Development and Competitiveness Project

(IDA CREDIT NO. 3815-DRC)

#### THE REQUEST

On February 27, 2009, the Inspection Panel received a Request for Inspection related to the Congo (DRC): Private Sector Development and Competitiveness Project (the “Project”). This first Request was submitted by Mr. Chola Kabamba and Mr. Assani Kyombi, both residents of Likasi, Katanga, DRC, acting as former employees of the state enterprise Générale des Carrières et des Mines, abbreviated as Gécamines, “*and as victims of the Voluntary Departures Operation initiated by the Congolese Government with the financial support of the World Bank.*” The Panel registered this Request on March 12, 2009.

On March 13, 2009, the Inspection Panel received a second Request for Inspection related to the same Project. Mr. Bidimu Kamunga, also a resident of Likasi, submitted the Request acting as President of *le Collectif des Ex-agents Gécamines ODV* (“*the Collective of VDO [Voluntary Departures Operation] of former Gécamines employees*”). The Request included 14 signatures of other members of the collective.

On March 26, the Panel received a “petition” from the Congolese Association for the Defense of Economic and Social Rights (ADDES), requesting the Inspection Panel “*to recommend to the Executive Directors of the World Bank that they initiate the opening of an inquiry to resolve the problem posed by all our actual members, namely their complementary compensation and their economic reintegration in Katanga.*” In an attachment to this petition, ADDES requested the Panel to add the association to the procedure initiated by the other two Requests.

The Requesters claim that the Bank-financed operation known as Voluntary Departures resulted in the dismissal of 10,655 Gécamines workers from August 11, 2003, to February 6, 2004, in exchange for severance payments ranging from US\$1,900 to US\$30,000. They add that the reintegration effort, in the form of social assistance

#### BOX 2. PROJECT INFORMATION AT A GLANCE

Project Name:	Democratic Republic of Congo: Private Sector Development and Competitiveness
Region:	Sub-Saharan Africa
Sectors:	General Transportation; Mining and Other Extractive; General Energy; General Finance; Telecommunications
Environmental Category:	B
IDA Credit Amount:	US\$120 million equivalent
Board Approval Date:	July 29, 2003
Effective Date:	December 2, 2003
Closing Date:	December 31, 2012

and training, should mean that the employees receive their severance allowance and be engaged in individual or collective activities enabling them to earn the necessary income for their own survival and that of their dependents.

The Requesters state that the special rules and procedures the Bank adopted for this operation, including the payment of a lump-sum amount, are in contravention of certain provisions of the Congolese Labor Code. They add that each employee was presented with a standard transaction instrument entitled “*Agreement to terminate the labor contract by mutual agreement,*” which each had to sign. They add that their rights and interests were directly and negatively affected by this operation, which was in violation of the contractual obligations between each of them and their former employer, Gécamines. They further add that this has deprived them of wage arrears and the final reckoning to which each of them is entitled, and which they would have collected if their contracts had not been terminated in this manner. They also add that they were “*deprived of all other social advantages (...) and have lost all acquired benefits of any kind.*” They state that this sudden adaptation to “*a life of poverty*” has caused great harm to the victims of the VDO.

The Requesters also claim that the reinsertion programs for former Gécamines employees were limited. They state that the Katanga Reintegration Coordination Unit in the small project support program and the KUJENGA UHURU program supported only activities involving self-promotion and “*covered only a portion of the former Gécamines employees, selected as being those most motivated and with the greatest potential.*”

The Requesters state that they wrote Bank staff in Washington and in Kinshasa, but to no avail. The Requesters asked the Inspection Panel to recommend to the Board of Executive Directors an investigation “*in order to resolve [their] problem.*” The Requesters suggest some solution to mitigate the harm they allege to have suffered as a result of this Project. Specifically, they ask (i) for “*payment of 36 months’ of arrears in compensation, pension principal, payment of legally paid leave, all social benefits associated with the contract,*” and (ii) that the World Bank be responsible for the Gécamines’ violation of its contractual obligations. They state that the Bank “*must ensure that state enterprises to which it extends loans, even with the guarantee of the Congolese government, apply and observe such rights.*”

## MANAGEMENT RESPONSE

On April 7, 2009, Management requested from the Board of Executive Directors an extension to the original deadline for its Response. Management stated in its request that “*[i]n view of the fact that the two Requests concern the same project and address similar issues, in the interest of efficiency, Management is requesting to prepare a single, comprehensive Management Response that addresses both Requests.*” Similarly, for reasons of economy and efficiency and because the two Requests raise similar issues related to the same Project, the Panel has also processed both Requests jointly, as it has done in previous similar situations.

Management submitted its Response on April 27, 2009. In its Response, Management stated that the “*Bank has made every effort to apply its policies and procedures and to pursue concretely its mission statement in the context of the Project.*” Management added that the Bank followed the guidelines, policies, and procedures applicable to the matters raised by the Requests. Management further concluded that “*the Requesters’ rights*



DRC: Private Sector Development—Panel team meeting with representatives of former Gécamines employees in Likasi

*or interests have not been, nor will they be, directly and adversely affected by a failure of the Bank to implement its policies and procedures.”*

According to the Management Response, the Gécamines Voluntary Departure Program (VDP) took place between March 2003 and February 2004. At that time, the country was marked by the mismanagement of the Mobutu regime and was gradually emerging from a decade of political instability and conflict.

At the center of the government economic recovery program in 2001–02 was the mining sector restructuring and, more specifically, Gécamines’ restructuring. According to Management, the VDP at Gécamines was undertaken in the context of Component 2 of the Project. Management adds that the project is implemented by COPIREP (Comité de Pilotage de la Réforme des Entreprises Publiques, or Steering Committee for Public Enterprise Reform), which is the government body in charge of preparing and undertaking, following the government’s approval, the restructuring of public enterprises in DRC.

Management considers that Project implementation has always been rated satisfactory. It also considers that while the VDP in DRC had demonstrable success, it was implemented in the challenging context of a small private sector base and devastated infrastructure. According to Management, it was initially estimated that 11,200 employees would be eligible for the VDP; however, 10,655 benefited from it. Management also states that Gécamines’ management had calculated, at the time the VDP was implemented, the cost of terminating employment on a voluntary basis for 11,000 employees at around US\$120 million. Because this represented an impossible financial burden for a bankrupt company (and for a highly indebted state with very limited financial resources), the government decided to put in place a program of mutually agreed separation.

According to Management, the initial proposal by the government to Gécamines employees in June 2002, consisting of a first VDP payment scale for a total amount of US\$25 million, was rejected by the trade unions in the same month. The government then decided to hire an international consultant with experience in retrenchment plans to help





DRC: Private Sector Development—Former Gécamines employee relaying the impact of the project on his family and community

reach an agreement with the trade unions. The consultant undertook a detailed analysis of the laws and regulations governing retrenchments in DRC, and for Gécamines more specifically, as well as consultations with the trade unions and the government. The VDP finally agreed to by the trade unions and the government in March 2003 amounted to US\$43.5 million.

Management states that the VDP consultant undertook a thorough analysis of the Gécamines labor force, which, as of August 31, 2002, numbered 23,730 employees. The consultant also analyzed the applicable regulations for retrenchment in private enterprises and reviewed the experiences of other African countries. Following the analysis of the labor force and of the legal and regulatory framework, the VDP consultant worked with the Gécamines Human Resources Department on different scenarios for the VDP. The payment scale proposed by the VDP consultant respected all provisions of the col-

lective bargaining agreement, except the pension fund (capital pension) and life insurance (for managers). It took into account the termination indemnity (notice, paid leave, and leave gratification) and salary arrears through August 31, 2002.

According to Management, the VDP was approved by ECOFIN (Ministerial Committee in charge of Economic and Financial Questions) on March 11, 2003, and was officially announced by the Minister of Mines on March 13, 2003. Gécamines issued several memoranda to explain details of the program. By May 21, 2003, Gécamines finalized the list of candidates for the VDP and an audit firm checked the accuracy of the list compiled by Gécamines. As a result of the consultant's work, the VDP established an average payment amount of US\$4,083 with a minimum actual amount of US\$825 and a maximum amount of US\$60,773. The payments started on August 11, 2003, and ended on March 11, 2004.

Concerning the reinsertion program, Management states that the consultant estimated, on one hand, that about 25 percent of the VDP beneficiaries would not seek, for various reasons (in particular because of their age), to participate in reinsertion activities, and on the other hand, that because of the context of Katanga at the time, the reinsertion program would not be able to achieve ambitious results. A Poverty and Social Impact Analysis (PSIA) was undertaken at the beginning of the VDP in 2003 and completed in 2007, with the University of Lubumbashi carrying out part of the research. The assessment led to the design of interim programs to support Gécamines schools and health centers, which had not been foreseen at project preparation. The PSIA revealed that at the start of the VDP, Gécamines employees were worse off than the general population in Katanga.

Management adds that a number of reinsertion activities were undertaken for VDP beneficiaries. During individual interviews with beneficiaries for this demand-driven process, 40.3 percent of them chose agriculture, 40.0 percent chose livestock farming, 11.2 percent chose trading, 5.5 chose craft, 2.6 chose fishing, and 1.4 percent chose health- or education-related activities. An evaluation of the reinsertion activities was undertaken



between November 2005 and January 2006 by Centre de Recherche et d'Etudes en Economie et Sondage (Center for Research and Studies on Economy and Surveys). Less than two years after the start of the VDP, 93 percent had initiated an income-generating activity. However, Management states that this high reinsertion rate would not typically be sustained in the medium to long term.

Management states that the Bank team made every effort to meet the requirements of Bank policies. It adds that the provisions of the VDP were reviewed by Bank Management, and a memorandum dated April 24, 2003, noted that it met the applicable requirements. With regard to supervision, Management states that 12 supervision missions were undertaken from July 2003 to the Mid-Term Review in June 2007. Additionally, the Task Team Leader has been based in Kinshasa since October 2007. In March 2009, Management sent a team to Katanga that met with both groups of Requesters in Likasi. As a result of this visit, Management proposed actions to be taken with regard to the Gécamines' VDP and actions to be taken for other past and forthcoming retrenchment plans.

### THE PANEL'S ELIGIBILITY REPORT AND BOARD DECISION

On May 27, 2009, the Panel submitted to the Board of Executive Directors its Report and Recommendation regarding the eligibility of the Requests. To determine the eligibility of the Requests and the Requesters, the Panel reviewed the Requests for Inspection and Management Response. The Panel also visited DRC from May 3 through May 9, 2009. During its visit, the Panel team met with signatories of both Requests for Inspection. The Panel also met with governmental officials and representatives of the project-implementing unit COPIREP; trade union leadership; and local and international technical experts in Kinshasa, Lubumbashi, and Likasi.

The Panel determined that both Requests and Requesters met the eligibility criteria set forth in the Resolution establishing the Panel. The Panel noted that the Requests and Management Response contain conflicting assertions and interpretations about the issues, the facts, and compliance with Bank policies and procedures. The Panel stated that to ascertain compliance with Bank policies it would need to conduct an investigation of the issues raised in the Requests and related alleged harm. The Panel added that in this case, however, Management has stated its willingness to undertake a survey for the purpose of analyzing the need for special actions are needed for the *partants volontaires*, and to enter a dialogue with the government on any specific actions. Furthermore, the Requesters stated their willingness to see whether this survey would lead to an effective resolution of their concerns.

On this basis, the Panel recommended that, in fairness to all parties concerned, it will not take a position at this time on whether the issues of noncompliance and harm raised in the Requests merit an investigation. The Panel recommended to the Board that it approve the Panel's proposal to refrain from issuing a recommendation at this time on whether an investigation is warranted, but wait six months to see if there are further developments on the matters raised in the Request for Inspection.

On June 11, 2009, the Board of Executive Directors approved, on a no-objection basis, the Panel's recommendation. The Panel expects to be able to make a determination as to whether to recommend an investigation six months after issuing its first recommendation report.

## Institutional Reform Development Policy Financing

(GRANT NO. H336-YEM)

### BOX 3. PROJECT INFORMATION AT A GLANCE

Project Name:	Yemen: Institutional Reform Development Policy Financing
Region:	Middle East and North Africa
Sectors:	General Industry and Trade; General Public Administration
Environmental Category:	C
IDA Grant Amount:	US\$50 million
Board Approval Date:	December 6, 2007
Effective Date:	April 28, 2008
Closing Date:	June 30, 2010

### THE REQUEST

On April 13, 2009, the Inspection Panel received a Request for Inspection (“the Request”) related to Yemen: Institutional Reform Development Policy Financing (“the Program”). Mr. Abdelkader Ali Abdallah and Mr. Yahya Saleh, both residents of Sana’a, Republic of Yemen, submitted the Request on their behalf and on behalf of the Yemen Observatory for Human Rights. The Request claims, inter alia, that the Bank failed to comply with principles of transparency and disclosure of information with respect to a Development Policy Operation for

institutional reform in the Republic of Yemen, which they contend will produce negative effects on wages, employment, and poverty reduction.

The Requesters state that they have incurred and will probably continue to incur damages “as a result of the information blackout policy practiced by the World Bank Office in Yemen and its refusal to disclose information” related to the Program. The Requesters add that after civil society pressure led to the disclosure of some information, “the Bank office in Sana’a refused to give [them] a translated copy into Arabic or to cooperate with civil society to get it translated.”

The Requesters state, “according to the World Bank, the implementation of the Institutional Reform Program in Yemen will lead to soaring prices and the increased suffering of the poor in the Yemeni society. Poverty rate, currently running around 45% will increase by 9.2% up to a total of 54.2%.” They add that the Project will reduce wages by 1.6 percent of GDP. The Requesters question these reforms stating that they will result in an “increase in poverty and unemployment.” They add that had the Project contents been disclosed previously, civil society would have been able to contribute by providing recommendations in relation to the adoption of fair tax policies, and other options could have

been proposed “to provide resources through anti-corruption measures and the adoption of quality policies to address poverty and unemployment.”

The Requesters state that the Bank and the Country Office “violated the principle of partnership which the World Bank adopts and calls for its promotion with civil society,” and violated the principle of transparency and disclosure of information. They add that the lack of translations is contrary to the principle of information sharing emphasized by the former President of the World Bank in his introduction to the disclosure policy of June 2002. They state that the former President “stressed the significance of information sharing as a substantial factor to achieve sustainable development and to improve transparency and accountability in development.” They further state that “he also stressed the significance of information sharing for promoting public support to efforts designed to improve people’s lives in developing countries.”

The Requesters list a number of correspondences through which they requested the Country Office in Sana’a to disclose “a complete copy of the Institutional Reform Program and its translation.” They state that they received a copy in English of the Program Document. However, in later correspondence the Country Office refused to provide them with a translation. According to the Requesters, on January 30, 2008, 25 Yemeni organizations addressed the Country Office to confirm their request for a complete copy of the Program Document in Arabic, but “receive no response to [their] request and all [their] communications and letters were ignored.” On May 19, 2009, Management submitted its Response to the Request for Inspection.



Yemen: Institutional Reform—Requesters and civil society representatives during a meeting with the Panel team in Sana’a

## THE PANEL’S ELIGIBILITY REPORT AND BOARD DECISION

On June 18, 2009, the Panel submitted to the Board of Executive Directors its Report and Recommendation regarding the eligibility of the Request. The Board had not yet made a decision on the Panel’s recommendation on the Yemen case at the time this report went to press. To determine the eligibility of the Request and the Requesters, the Panel reviewed the Request for Inspection and Management Response. The Panel also visited Sana’a, the Republic of Yemen, from June 9 through June 12, 2009. During its visit, the Panel team met with signatories of the Request for Inspection, government officials, and representatives of the civil society organizations in Sana’a.

## Mumbai Urban Transport Project

(LOAN NO. 4665-IN; CREDIT NO. 3662-IN)

### BOX 4. PROJECT INFORMATION AT A GLANCE

Project Name:	India: Mumbai Urban Transport Project
Region:	South Asia
Sector:	Urban Transport; Other Social Services
Environmental Category:	A
IBRD Loan Amount:	US\$463 million
IDA Credit Amount:	US\$79 million
Board Approval Date:	June 18, 2002
Effective Date:	November 6, 2002
Closing Date:	June 30, 2008

### THE REQUEST

On May 29, 2009, the Inspection Panel received a Request for Inspection related to the Mumbai Urban Transport Project (hereinafter “the Project”). The Request was jointly submitted by Messrs. Ambries Mehta, Deepak Mehta, and Hinesh Mehta, three brothers who are owners of a property situated in the Gandhi Nagar Plan within the Revenue Village of Tirandaz, Taluka Kurla, Adi.Shankar-charya Marg, I.I. T Main Gate, Powai, Mumbai-400 076 (hereinafter “the Property”) in the city of Mumbai, India. They submitted the request on their own behalf and claim to be adversely affected

by the Project, and especially by its resettlement program.

The Project aims to foster the development of an efficient and sustainable urban transport system in the Mumbai Metropolitan Region, and provides, *inter alia*, for completing two major east-west road links. The Resettlement Action Plan provides for resettling persons affected by the construction of the road-based transport component. One of the east-west road links, the 11-kilometer Jogeshwari-Vikhroli Link Road (JVLR), whose Phase II includes realigning and widening existing roads, relates to the subject of the Request.

The Requesters are residents who live in an area known as Powai through which the JVLR Phase II runs. They state that in 2006, the Mumbai Metropolitan Region Development Authority (MMRDA), the Implementing Agency, “*came to demolish [their] structure*” as a result of which the Requesters obtained a High Court Stay Order against any future demolition of the Property. The Requesters claim that they have “*suffered in the MUTP JVLR Phase II*” and borne physical, mental, and financial hardship because they have been told to demolish their Property before they can receive compensation. They



also state that they reached a verbal agreement with the MMRDA in April 2009 around a negotiated compensation settlement but that they have been unsuccessful in getting the MMRDA to formalize the agreement in writing. They further state that MMRDA has asked them to demolish their property and claim benefits subsequent to the demolition. They assert their willingness to vacate the property and withdraw their High Court Case if they receive possession papers for the alternate properties offered to them as compensation as per the verbal agreement reached with MMRDA.

The Panel, under its regular administrative procedure, which implies no judgment on the merits of the Request for Inspection, registered the Request on June 9, 2009, and is awaiting Management's Response, which is due July 9, 2009.



## II. INVESTIGATIONS COMPLETED

### NIGERIA

REQUEST NO. 40

#### West African Gas Pipeline Project

(IDA GUARANTEE NO. B-006-0-GH)

##### BOX 5. PROJECT INFORMATION AT A GLANCE

Project Name:	Nigeria: West African Gas Pipeline Project
Region:	Sub-Saharan Africa
Sector:	Oil and Gas Environmental
Category:	A
IDA Credit Amount:	US\$50 million
Board Approval Date:	November 23, 2004
Effective Date:	December 31, 2004
Closing Date:	June 30, 2009

##### THE REQUEST

On April 27, 2006, the Panel received a Request for Inspection related to the Ghana: West African Gas Pipeline Project (the “Project”). The Project covers four countries, Benin, Ghana, Nigeria, and Togo. However, the Request was submitted by the Ifesowapo Host Communities Forum of the West African Gas Pipeline (WAGP) Project through their representatives from the Olorunda Local Government Area of Lagos State, Nigeria. The Request was submitted on behalf of 12 communities that will be affected by the Project around the Badagry axis, in Lagos State, southwest Nigeria.

These communities are Ajido, Imeke Agemowo, Araromi Ale, Idaghe Iyesi, Ilogbo Eremi, Igbesa, Okoomi, Itori, Oloya/Abiola, Arobieye, Igboliye, and Egushi Benja. On June 9, 2006, the Panel received a letter from Friends of the Earth–Ghana (FoE–Ghana) expressing its support for the above Request and asking to be added to the Request for Inspection.

The Requesters believed that the Project would cause irreparable damage to their land and destroy the livelihoods of their communities. According to the Requesters, the Bank failed to follow its policies and procedures in the preparation of the Environmental Impact Assessment (EIA). They stated that although West African Gas Pipeline Company (WAPCo) periodically consulted landowners, other “*stakeholders*” were wrongly excluded. The Requesters also asserted that they could not comment on the EIA because it was not available. The Requesters claimed that the scope of the EIA was too narrow and should have included the existing Escravos-Lagos Pipeline to which the West African Gas Pipeline will be linked. They also considered this existing pipeline to be unsafe.

The Requesters claimed that they believed that the Project would negatively impact their livelihoods and provide inadequate compensation. They claimed that “*when the compensations were eventually paid, the rates were in most cases less than 4% of the market rate.*” They asserted that the payment of compensation was left to the discretion of the Project sponsors, resulting in compensation paid only for the actual crops on the affected land and not for the land or loss of future profits from their activities on the land. They indicated that the Project and the insufficient information about the amount of compensation paid caused serious social conflicts within families.

The Requesters also questioned the economic evaluation of the Project and asserted that while the Project proponents claim that associated gas (which is normally being flared) will be the source of gas for the pipeline, they have obtained information demonstrating that this assertion is false. Moreover, the Requesters claimed that Management failed to comply with the Bank’s policies on supervision. The Requesters asserted that the Bank did not comply with a number of its policies and procedures, including OP/BP 4.12 (Involuntary Resettlement), OP/BP 4.01 (Environmental Assessment), OP/BP 10.04 (Economic Evaluation of Investment Operations), OP/BP 13.05 (Project Supervision), OP/BP 4.15 (Poverty Reduction), and the World Bank Policy on Disclosure of Information.

The FoE–Ghana submission supports the original Request for Inspection and raises concerns about the Project’s economic benefit to Ghana, consultation, safety, and adverse livelihood consequences for fishermen in Ghana as a result of the construction and operation of the pipeline. According to the submission, although initially promised, the economic and financial analysis of the Project was never disclosed.

## MANAGEMENT RESPONSE

Management submitted its Response on June 6, 2006, addressing the issues raised by the Ifesowapo Host Communities Forum, and on June 22, 2006, Management submitted its Clarifications to the Panel on the concerns raised by FoE–Ghana. Management, in its initial Response, stated that the Project is well prepared and meets the Bank’s safeguards requirements.

According to Management, the Environmental Assessment (EA) concluded that the Project would cause no major impacts in Nigeria and that impacts would be limited to the Project’s immediate vicinity. Management also claimed that the EA covers pipeline safety issues but did not include the Escravos-Lagos Pipeline System (ELPS) because it was not determined to be part of the Project’s area of influence. Management claimed that an environmental audit concluded that the ELPS was in overall good condition. With regard to the additional problem of pollution and loss of fisheries in the Badagry area, Management concluded that it was unlikely that the harm related to the Project.

Management noted in its Response that the Project acquires small portions of land from 1,557 private landowners and 928 tenants of the total holdings that they own or cultivate. Management also indicated that the principle for compensation agreed upon and applied is the “*replacement value*” for land and assets, considering all future production as required under Bank policies. Management indicated its readiness to correct cases where the principle for compensation “*has been applied inconsistently.*” On the valuation methods, Management stated that WAPCo did not base compensation rates only on government schedules. Nevertheless, Management confirmed that it is reviewing the actual payments to ensure that

Nigeria: West Africa Gas Pipeline—Embankment protecting the gas pipeline as it reaches the shore of Takoradi in Ghana



*“the principle of replacement value for lost assets was met.”* Furthermore, Management emphasized in its response that WAPCo has instituted community development programs that include new water systems, schools, and health centers.

Management acknowledged initial difficulties with regard to disclosure of information but claimed that the situation was corrected immediately. Management acknowledged that disclosure should have been supplemented with translations of summaries of the Resettlement Action Plan (RAP) and Environmental and Social Management Plan (ESMP) in the local language, Yoruba. Management claimed that the economic analysis considered all alternatives, including the “no project” alternative, and adequately evaluated the sustainability of the Project. Additionally, Management believed that project documents draw a realistic picture of the Project’s contribution to gas flaring reduction. With respect to the emergency response system, Management stated that WAPCo held public meetings and clearly described the actions that all parties need to take in case of accidents.

### **MANAGEMENT-PROPOSED STEPS**

Realizing that some issues still needed to be addressed, Management introduced an Action Plan to resolve the situation. Activities under the Action Plan include the facilitation of community development programs and measures to increase transparency and accountability through two supervision missions per year until Project completion. Additionally, Management states that WAPCo will disseminate nontechnical translations of RAP and ESMP summaries, including explanations of the grievance and monitoring mechanisms. Management also expects that systemwide emergency response plans will be disclosed and detailed site plans developed.

Moreover, Management will appoint an expert advisory panel to, among other things, review social and environmental issues and assess effectiveness of the grievance procedures. Management also states that it will assess whether compensation rates are sufficient to replace acquired assets and the status of income restoration. Additionally,

WAPCo will conduct professional surveys based on actual field measurements and ratings to assess the current values of each type of lost asset.

### THE PANEL'S ELIGIBILITY REPORT AND BOARD DECISION

The Panel submitted its Report and Recommendation to the Board on July 10, 2006. In this Report, the Panel established that the Requesters and the Request met the eligibility criteria set forth in the Resolution establishing the Inspection Panel and the 1999 Clarification. The Panel added that *"this Request has special circumstances which affect the Panel's consideration of whether an Investigation is merited at this time."* The Panel notes that Management's Response contained a series of proposed steps to address issues raised. Furthermore, when consulted about these, Requesters with whom the Panel met indicated that they did not want to press for an investigation at this time but would rather await further developments and Bank actions regarding their concerns.

In its Report, the Panel deferred the decision on whether an investigation is warranted and recommended to the Board of Executive Directors that it approve the proposal to refrain from issuing a recommendation and await further developments on the matters raised in the Request for Inspection. The Panel expected to be able to make a determination by end of 2006 as to whether to recommend an investigation. The Board approved the Panel's recommendation on a no-objection basis on July 27, 2006.

### FINAL ELIGIBILITY REPORT AND RECOMMENDATION AND BOARD DECISION

To ascertain the need for an investigation, the Panel followed up on the status of the Requesters' concerns and the status of Management's progress in addressing them. During a follow-up field visit to Nigeria, January 24–30, 2007, the Panel met with WAPCo officials, who provided updated information but noted that they had not been adequately informed by Bank Management about the content of Management's Response and the extent to which it required actions on their part. The Panel also observed a lack of information about the compensation issues and an apparent disagreement about the situation of the fishermen and the cause of pollution. The Panel further noted that affected people repeatedly stated that their situation had remained the same in the past six months and they seemed not to have been informed or consulted about actions set forth in the Management Response. Furthermore, during this visit, a group of persons from the Escravos area of the western Niger Delta submitted a letter to the Panel to express their support for the Request and to ask that their names be added to it.

The Panel submitted its Final Eligibility Report and Recommendation to the Board on March 1, 2007. The Panel stated in the Report that it *"finds conflicting assertions of the Requesters and Management about the interpretation of issues, facts, and the compliance with Bank policies and procedures."* The Panel added that the important questions regarding Management's alleged failure to comply with Bank policies and procedures and the possible harm to the Requesters could only be addressed in the context of an investigation. The Panel recommended to the Board that an investigation be conducted into claims made by the Requesters. The Board approved, on a no-objection basis, the Panel's recommendation on March 13, 2007.



## THE INVESTIGATION REPORT

As authorized by the Board, the Panel investigated the matters alleged in the Requests. The Panel submitted its Investigation Report to the Board on April 25, 2008.

On the social impacts of the Project, the Panel found that Management did not ensure that requisite socioeconomic information was gathered. The Panel found that the complexities of the traditional land tenure system were not adequately taken into account and the size of the displaced population seemed to be underestimated as a result of the methodology of averages used for their identification. The Panel added that project documents included incorrect and incomplete information on livelihood and impoverishment risks.

The Panel also found that the land-based resettlement option was not effectively offered to the displaced persons as a viable option for livelihood restoration. Livelihood restoration, resettlement assistance beyond compensation, and benefit sharing were not properly negotiated with displaced persons. The Panel found that the RAP transferred the burden for restoration of livelihoods onto displaced persons without providing additional assistance. Additionally, displaced people were paid one-tenth of what was planned in the RAP.

The Panel established that the lack of meaningful and timely consultation prevented participation and informed negotiation of resettlement options by displaced persons. The Panel added that Management did not provide adequate guidance and instructions to the project sponsor to carry out meaningful consultation with displaced people and failed to ensure that the sponsor had in place an effective grievance process to identify and redress resettlement issues. The Panel also found that Management did not assess the borrower's commitment to, and capacity for, implementing the resettlement instrument.

The Panel found that the gas supply system upstream of WAGP was within the Project's area of influence, and that associated facilities should be viewed as an interconnected system for purposes of the EA, and should consider both potential benefits and adverse impacts. The Panel also found that, although alternatives were evaluated, Management failed to conduct a full economic evaluation of the alternative offshore pipeline route. Concerning the environmental impacts, the Panel found that Management failed to establish in a timely manner an independent advisory panel.

As to the pollution of fisheries, the Panel found that no sample of substance was subjected to microscopic or microbiological examination or to chemical analysis to determine its identity and none was preserved to allow for later testing. Precisely what the offending substance was remained unknown.

For the ELPS, the Panel found that an Integrity Study was undertaken, but this document was not placed in the public domain and affected communities appear not to have been provided with understandable relevant materials on the overall environmental documentation before consultations. The Panel found that the WAGP being connected to the ELPS had the net effect of subjecting the ELPS to a thorough review and inspection; defects were detected and corrected, and safety and operational systems were modernized. The Panel also found apparent inconsistencies in Management documents with respect to the Project's expected contribution to flaring reduction. The Panel found it important to ensure transparent monitoring of the Project's impact on gas flaring.



With regard to Project supervision, the Panel found long gaps between missions. Safeguard staff were mainly concerned with Project preparation and far less involved in the construction phase, and Management was slow to address problems identified with the compensation process.

The Panel, finally, identified a number of systemic issues: (i) Management placed too much faith in the project sponsor's ability to handle complex social issues despite its troubled history in the Nigerian oil and gas sector; (ii) because of an apparent lack of available supervision resources (both funds and expertise), warning signs in the design phases of the Project were not properly interpreted and dealt with; (iii) an ongoing regional or in-country presence by Management was initially not considered; and (iv) the repeated references to secondary benefits raised expectations among those mainly interested in these benefits.

## THE MANAGEMENT RESPONSE

Management, having requested from the Board of Executive Directors an extension for the deadline to submit its Report and Recommendations, submitted its Report on June 30, 2008. This Report included a detailed Action Plan.

In its Report, Management proposed to retain the expert advisory panel through July 2009. It also proposed to translate the Executive Summary of the Environmental Management Plan (EMP) into Yoruba and disseminate it, and to endeavor to obtain annual data on the respective volumes of associated and non-associated gas sent to WAGP through the ELPS. It also stated that WAPCo would conduct emergency response plan awareness meetings with stakeholders and communities near the WAGP facilities before first gas; and would produce a safety brochure, translate it into local languages, and disseminate it.

Management proposed a minimum of two Bank supervision missions of about two weeks' duration during the remaining Project construction period (to include social and environmental specialists), and to maintain continuous formal and informal supervision. In addition, Management would strengthen input and coordination with the Country Office in Project monitoring with periodic reviews of Project implementation and would allocate adequate budgetary resources for these supervision efforts. Management also proposed to document lessons learned about the supervision of public-private partnerships, bring this to the attention of project teams handling similar complex projects, develop best practice tool kits, and undertake a more comprehensive evaluation of the sector environmental and social issues.

In its attention to the ELPS Integrity Study, Management stated that ELPS is not owned or controlled by WAPCo or N-Gas. WAPCo requested Nigerian National Petroleum Corporation to carry out an ELPS Integrity Study, and the study identified some possible safety and reliability improvements. This study confirmed that the ELPS was in satisfactory condition to deliver gas to WAGP without modification. The study could not be publicly disclosed because its contents—information on design and vulnerability to acts of sabotage—are highly sensitive for pipeline security. Management also added that new facilities to supply additional gas would not be required within the medium term (5 to 10 years) or longer; moreover, the specific nature of any potential new investments and their locations could not be predicted.

On the gas flaring concerns, Management stated that the socio-environmental conditions in the Niger Delta need to be addressed, but that this Project was not the right tool. It stated that WAGP's contribution to flaring reduction would at most be 5 percent of current flaring volume. According to Management, this Project is a vehicle that can provide incentives to Nigeria to collateralize and remove related negative environmental impacts of an otherwise wasted but important asset.

Management added that the government of Nigeria, with Bank and Global Gas Flaring Reduction assistance, drafted a Downstream Gas Act and revised the oil and gas fiscal system to support emergence of a domestic market. It also added that the Bank supports several projects in Rivers State, addressing infrastructure, human development, electricity, community development, governance, and public sector management concerns.

## **BOARD MEETING**

On August 5, 2008, the Bank's Executive Directors met to discuss the Panel's Investigation Report and the Management Report and Recommendations. At the Board meeting, there was wide agreement with the Panel's findings and the measures outlined in the Action Plan. The Action Plan was designed to address key issues for project sustainability. These actions included providing compensation at market rates to begin to restore livelihoods to Project-affected people; strengthening community development programs focused on restoration of livelihoods, skills development, and targeting the special needs of vulnerable groups; and developing robust grievance-handling procedures and appointing an independent civil society monitor to document and witness the payment process for additional compensation to restore livelihoods.

Following the endorsement of the Action Plan, it was agreed that Management would submit an update to the Board in six months and provide a project implementation report in a year's time, in consultation with the Panel.

Between November 16 and 21, 2008, a two-person Panel team returned to Nigeria and Ghana to hold meetings with community representatives, WAPCo officials, and government officials. The purpose of the meetings was to convey the results of the Panel investigation and the related meeting of the Board of Executive Directors of the Bank. The Panel team met with stakeholders in Badagry, Warri, and Abuja in Nigeria, and with stakeholders in Accra, Ghana.

## **FIRST PROGRESS REPORT**

Management sent to the Board of Executive Directors its First Progress Report on April 29, 2009. In its Report, Management relayed its progress in implementing the Action Plan.

Management stated that it completed consultations before the start of distribution of payments in September 2008, as noted by the witnessing nongovernmental organization (NGO; Nigeria Network of NGOs, or NNNGO). It added that WAPCo completed a census of Project-affected people's basic information for additional compensation, including verification of eligible Project-affected people and inter- and intra-household claims, and accomplished a transparent payment process, which was observed by the witnessing NGO and Bank representatives and was considered satis-

factory. A new methodology for calculating additional payments for crops and trees was also recommended.

Management stated that it will finalize the socioeconomic survey on key data relating to livelihood and income by first quarter 2009. It added that WAPCo will implement Phase III of the Community Development Program (CDP), with a focus on livelihood-directed programs and based on information from the socioeconomic survey, while strengthening Phases I and II of the CDP by addressing sustainability of small infrastructure operation and maintenance using agreements with local governments (for example, ensuring support for teachers in schools and medical practitioners in health centers). Management also added that WAPCo identified 64 households with vulnerable people; Community Relations Representatives have the responsibility for the coordination of programs for them.

Management stated that it found the grievance process in Nigeria to be effective because it is based on local and traditional systems of dispute resolution. Except for some cases that have been subject to litigation, the average period for grievance resolution was about two months. It also stated that WAPCo had 11 staff performing community and government relations responsibilities as its social safeguards team. It added that WAPCo safeguards training, including monitoring and evaluation, was completed in July and October 2008 and another workshop on livelihood restoration was planned for the first quarter of 2009.

Concerning actions related to the environment, Management stated that the Environment and Social Advisory Panel was retained until July 2009. It stated that the Executive Summary of the EMP was translated into Yoruba and disseminated to local communities in Nigeria, Benin, Togo, and Ghana in August 2008. It also stated that data on the respective volumes of associated and non-associated gas sent to WAGP through ELPS would not be obtained until December 2009. Management added that WAPCo conducted emergency response plan awareness briefings for more than 170 community residents in Nigeria and Ghana, and produced a safety brochure, which it translated into Yoruba and distributed 500 copies of in Nigeria. It also added that awareness briefings would continue during the following six months.

With regard to its supervision efforts, Management stated that it had instituted a system of Task Team monthly field visits. It also stated that the Regional Vice President continued to closely monitor the progress on the WAGP, requiring periodic updates, and that the quality of safeguards implementation is monitored by the Task Team and Management Implementation Status Reports. Management further stated that it had carefully documented supervision lessons on incorporating local traditions in compensation payment processes. It added that environment and social issues in the Sub-Saharan Africa region are analyzed through country portfolio reviews and reviews of regional projects. Additionally, Management was undertaking a review of regional projects in the oil and gas sector.

The Panel's and Management's Reports were made public as required by the Panel's Resolution and are available on the Panel's Web site at <http://www.inspectionpanel.org>, along with a press release about the discussions held at the Board meeting.

## Private Power Generation Project

(IDA GUARANTEE B-0130-UG)

### BOX 6. PROJECT INFORMATION AT A GLANCE

Project Name:	Uganda: Private Power Generation Project
Region:	Sub-Saharan Africa
Sector:	Power Environmental
Category:	A
IDA Guarantee :	US\$115 million
Board Approval Date:	April 26, 2007

### THE REQUEST

The Inspection Panel received a Request for Inspection (the “Request”) related to the Uganda: Private Power Generation Project (the “Project”) on March 5, 2007. The Ugandan National Association of Professional Environmentalists (NAPE) and other local organizations and individuals (the “Requesters”) submitted this Request to the Panel.

The Project is commonly known as the Bujagali Hydropower Project. It provides for the construc-

tion of a dam and hydropower plant on Dumbbell Island along the upper stretch of the Nile River in Uganda, about 8 kilometers downstream from the source of the Nile in Lake Victoria and the existing Nalubaale and Kiira dams. The facility would provide an installed capacity of 250 megawatts of electricity. Bujagali Energy Ltd. (BEL) is responsible for financing, constructing, and operating the power plant.

The total Project cost is estimated to be about US\$750 million. The World Bank Group supports the Project with an International Development Association (IDA) Guarantee of up to US\$115 million for payment of interest and repayment of the principal amount of a loan to BEL, an International Finance Corporation (IFC) loan, and a Multilateral Investment Guarantee Agency (MIGA) guarantee. The Board approved the guarantee on April 26, 2007.

The Request claimed that the Project’s social and environmental studies do not adequately address hydrological risks, including on the long-term health of Lake Victoria; fail to address climate change impacts on power production and lake levels; and are based on outdated data. The Request contended that the commitment of the government of Uganda to establish an environmental offset at Kalagala Falls is not binding, and thus there is no guarantee that the falls will never be developed for hydropower.

The Request claimed that the economic analysis does not adequately assess alternative energy options to the dam, and that the Project is economically risky, especially in



view of the changing hydrology. The Requesters note that the Project costs have considerably increased since the original estimate, and the citizens' ability to afford the Project has become a contentious issue. According to the Requesters, the Bank refuses to make public the information on Nile hydrology and Lake Victoria's hydrological conditions. They call for more transparency and openness from the Bank. The Requesters complain that the Power Purchase Agreement, which is a key project document, was only recently released and is not readily and easily available.

The Request also alleged that the design of the Bujagali dam does not consider safety issues relating to the upstream dams as an integral part of Project design, and that the proposal to form a dam safety panel is not sufficient. With respect to social issues, the Requesters stated that the Basoga people living in the Project area should have been considered as indigenous peoples, as they are under the Constitution of Uganda, and that the existing compensation and resettlement framework for the displaced population is outdated and does not reflect current economic conditions.

This is the second Request concerning the Bujagali power plant received by the Panel. In December 2001, the Board of Executive Directors approved an IDA Guarantee to support an earlier proposal for the Bujagali Hydropower Project. Before Board approval, in July 2001, NAPE submitted a Request for Inspection to the Panel in relation to this previous project. The Panel conducted an investigation of the issues raised in the 2001 Request. The Bank subsequently cancelled the IDA Guarantee, and Uganda dropped the Project for a number of reasons, including allegations relating to AESNP, the private company that was to develop the Project.

## MANAGEMENT RESPONSE TO REQUEST

On April 5, 2007, Management submitted its Response to the Request for Inspection. The Response noted severe power shortages in Uganda and stated that the proposed Project is intended to provide the needed capacity in a *“least-cost and environmentally and socially sustainable manner.”*

The Management Response stated that the the government of Uganda has learned *“valuable lessons”* from the previous experience, which have shaped *“the current proposed project”* and that *“the economic, financial, safeguard, technical, governance, and other required analyses to date are compliant with relevant World Bank Group policies and were undertaken to high professional standards.”* The Response contended that the Project analyses considered a wide range of supply options and a wide range of demand scenarios based on the most recent data on the Ugandan economy and the electricity subsector, and assessed the impacts of both low and high hydrology scenarios.

## ELIGIBILITY REPORT AND BOARD DECISION

On May 3, 2007, the Panel submitted to the Board of Executive Directors its Report and Recommendation regarding the eligibility of the Request. To determine the eligibility of the Request and the Requesters the Panel visited Uganda April 18–25, 2007. During its visit, the Panel team met with the Requesters, other members of civil society, and locally affected communities, Bank staff, national and local authorities, Project authorities, members of



Uganda: Private Power Generation—Bujagali Falls before the construction of the dam further downstream



Parliament, and others. The Panel found that the Request and Requesters met the eligibility criteria set forth in the Resolution establishing the Panel. It also noted that the conflicting claims and assertions outlined above merited independent review and investigation.

## PANEL INVESTIGATION

On May 18, 2007, the Board of Directors authorized the Panel to carry out an investigation into issues raised by the Request. The Panel hired expert consultants in hydrology, environmental assessment, economic analysis, and social anthropological issues to assist in its investigation. The Panel conducted its on-site visit in December 2007. The Panel met with Requesters and Project-affected people, Ugandan government officials and entities, spiritual leaders and representatives of the Basoga people, the project sponsor and project implementation officials, NGOs and stakeholders, representatives of the Nile Basin Initiative and the National Fisheries Resources Research Institute, and river rafting organizations.

As described earlier in this report, the Panel broke new ground in the investigation through its cooperation with a sister accountability mechanism, the Compliance Review and Mediation Unit (CRMU) of the African Development Bank (AfDB). The CRMU had received a request for investigation similar to the one submitted to the Panel, except that it focused on whether the policies of the AfDB (also a project funder) had been met. The Panel and the CRMU developed a first-of-its-kind framework to cooperate in gathering technical information, and conducted a joint investigation visit, while retaining their respective independence and institutional mandates. The Memorandum of Understanding setting forth this cooperative approach is contained in appendix X to this publication.

In its Investigation Report, the Panel highlighted that energy is a crucial factor in Uganda's development, and that energy production requires considerable care to ensure that social, economic, and environmental aspects are properly considered in line with Bank policies. In this regard, the Panel found areas of both compliance and noncompliance by the Bank with a number of relevant operational policies and procedures.

In particular, the Panel found that the Bank met the requirements of its Policy on Environmental Assessment to assess project impacts on fisheries and complete a baseline hydrologic data series. The Project also complied with Bank Policy on Dam Safety by establishing a dam safety panel. On issues of involuntary resettlement, the Project properly issued land titles to Project-affected people, and the standard of living in the area of housing had greatly improved. The Panel also commended the Bank for its work on conserving the Kalagala Falls area as an environmental offset, in response to the Panel's investigation in 2001.

However, the Panel found that Management did not ensure that significant cultural and spiritual matters at Bujagali Falls were adequately considered in Project preparation, and when comparing the Bujagali and Karuma dam alternatives. Alternative project configurations were unduly narrowed on the basis of preconceptions rather than an exploration of all technically feasible options, including options that would not involve flooding Bujagali Falls and thus have lower social and environmental costs, so that judgments on optimal alternatives could be made with a full understanding of the trade-offs involved.

The Panel further found that the assessment of the cumulative impacts of building the dam on the river was inadequate, and that the Project improperly excluded Lake Victoria from the Project's area of influence. This latter issue was particularly important in light of questions relating to the hydrological risk posed by the dam and inter-related issues of climate change, as described in the Panel's Report.

The Panel noted that a key projection in the Project Appraisal Document appeared to be misleading and seriously at odds with the projected revenue stream of the project. The Panel also found that the power purchase arrangements led to an even higher allocation of risk to the power purchaser and the government (and away from the project sponsor), as compared with the earlier project, and increased the possibility that the government of Uganda would have to make payments under its guarantee or increase electricity tariff subsidies (or both). In this context, the Panel found that the Project may not achieve the broad objective of sustainable development and poverty reduction embodied in Bank policies.

On social issues, the Panel found that the Project did not meet Bank policy requirements to restore livelihoods for people displaced years ago in the first Bujagali project, including agriculturalists and fishermen who had been "left in limbo" in the aftermath of the earlier project. The Panel further found that the Bank followed an inadequate approach to address and mitigate the flooding of a significant cultural property of great spiritual value to the Basoga people, a local community, and was at risk of violating a major substantive provision of the Bank Policy on Natural Habitats prohibiting the destruction of critical natural habitats, which include areas recognized as protected by traditional peoples (sacred groves, for instance). The Project also failed to take into account that the adverse cultural impacts of flooding the Bujagali Falls affected not just nearby Basoga residents but the entire Basoga community of some 2 million people.

Last, the Panel identified certain “systemic” issues affecting Bank compliance, including legacy issues arising from incomplete implementation of actions under a previous project (in this case, involuntary resettlement), transparency, public-private partnerships, timely disclosure of information within the project cycle, and guidance to staff on the handling of impacts on critical natural habitat and sacred places.

## BANK MANAGEMENT RESPONSE TO INVESTIGATION

The Bank Management Response contained a summary of actions already taken by Management in response to the Panel’s earlier investigation of the Project in 2001–02. With respect to the current Project, the Response stated that it took many steps to enhance due diligence in Project preparation and supervision. On the question of Project alternatives, the Response asserted that the Project “*proceeded with the selection of Bujagali, with the knowledge that the cultural and spiritual aspects were sufficiently taken into account in its site selection.*” This varied with the Panel’s findings on this central issue.

On the issues of water flow and impacts on Lake Victoria, Management acknowledged that pressure overrides of the existing water release regime (the “Agreed Curve”) could still occur “*if Uganda experiences acute shortages of electricity supply,*” but contends that had the Bujagali dam been commissioned in 2005, “*over-abstraction and the decline in lake levels would have ceased.*” Management restated its argument that this would occur because the dam increases electricity production “*by re-using upstream water releases, thus optimizing water flows through the cascade of dams.*” The Response adds that Bank Management was working to assist Uganda’s efforts to return to the Agreed Curve “*by supporting both hydropower and other power generation investments*” and through its support for various regional efforts.

With regard to economic analysis and affordability, the Response contended that a thorough and comprehensive Economic Analysis was carried out for this Project in accordance with OP 10.04 and OP 4.01. In response to the Panel’s findings that overall

costs had increased significantly by the time of Project appraisal, Management stated simply that the Economic Study and PAD used the latest Project cost information available at the time those documents were finalized. Notably, Management’s Response argued for a significantly different analysis and set of conclusions from those presented by the Panel and its independent technical experts on this topic.

On issues relating to resettlement, the Response stated that although some aspects of the original resettlement required followup, “*the bulk of the resettlement and compensation components*” were completed by 2003. Management

Uganda: Private Power Generation—Inspection Panel and AfDB’s CRMU meeting with spiritual leader Nabamba Bujagali and project affected people at Bujagali Falls





further stated that in January 2007, before the submission of the Request for Inspection, they found deficiencies in the socioeconomic baseline information and initiated corrective action.

With respect to the issues of cultural property and the spiritual significance of Bujagali Falls to the Basoga people, the Response noted various ceremonies and actions (including payments) designed to achieve “*closure regarding the Budjagali spirits,*” and stated that “*Management found that all participants in the appeasement ceremony believed it was successful.*” Again, the Management Response came to significantly different conclusions from those of the Inspection Panel. The Response went on to state that the government in coordination with the Project sponsors “*will work with the various stakeholder groups to develop mitigation measures, including additional ceremonies, as necessary and based on experts’ advice, prior to the filling of the reservoir. These measures will be reviewed by cultural specialists, and more importantly, will be implemented in consultation with recognized local and spiritual leaders.*”

On next steps, the Response identified certain “*new actions*” for building institutional capacity, addressing the needs of vulnerable groups, cultural property management, and reviewing the results of an independent panel of environmental and social experts by the end of 2008. Other steps were described as “*ongoing actions,*” including for project monitoring and supervision, updating socioeconomic baseline information, sharing of benefits, followup on actions for the Kalagala Falls offset, and followup on the the government of Uganda commitment to disclose water release information.

## BOARD MEETING

During the meeting of the Board of Executive Directors on December 4, 2008, to receive the Panel Report and consider the Management Response, Werner Kiene, Chairperson of the Panel, stated, “*The Management Response contains some important actions. However, several key Panel findings are incompletely addressed in the Response and Action Plan, including on resettlement, protection of cultural values, and in the analysis of economics and risks.*” Dr. Kiene also noted, “*Management has expressed a commitment to address the critical issues raised. The Panel is optimistic that a Project costing several hundred million dollars can fully restore the livelihood losses among the 2,500 families who are inadvertently in its pathway.*”

The Board approved the range of actions set forth in the Management Response and the additional actions that Management intended to undertake in view of the Inspection Panel investigation and Board deliberations. These would include timely implementation of a sustainable management plan for Kalagala Falls, updating and implementing a cultural property management plan, and undertaking an enhanced socioeconomic study to support and fully achieve livelihood restoration. Management was to undertake these actions in consultation with the government of Uganda, affected people, and the project sponsor. In addition, Management will develop guidance on how to address environmental and social safeguard issues in legacy projects that suffer significant interruptions in implementation, such as in the Bujagali project. Management will report to the Board on the progress of the Action Plan in six months. At the time of writing of this Report, Management had not yet reported to the Board on such progress.

## Integrated Coastal Zone Management and Clean-Up Project

(IDA CREDIT NO. 4083 ALB)

### BOX 7. PROJECT INFORMATION AT A GLANCE

Project Name:	Albania: Integrated Coastal Zone Management and Clean-Up Project
Region:	Europe and Central Asia
Sectors:	General Water, Sanitation and Flood Protection; Solid Waste Management; General Public Administration
Environmental Category:	F
IDA Credit Amount:	US\$17.5 million equivalent
Board Approval Date:	June 21, 2005
Effective Date:	November 29, 2005
Closing Date:	March 31, 2010

### THE REQUEST

On July 30, 2007, the Inspection Panel (the “Panel”) received a Request for Inspection (the “First Request”), dated July 25, 2007, related to the Albania: Integrated Coastal Zone Management and Clean-Up Project (the “Project”). The local representatives of a number of families who are part of a community situated in the area known as Jale, which is part of the larger village of Vuno in the Himare region of Albania, submitted the Request.

On August 13, 2007, the Panel received a second Request for Inspection (the “Second Request”), dated August 5, 2007, related to the Project. Mr. Petrit Levendi, on behalf of the Association of Tourist Operators of Vlora, Albania, and other affected individuals

who reside in Vlora and in the “*area covering the northern part of the Bay of Vlora, known as Treport Beach, Narta Lagoon Coastal Strip and Bisht Poro,*” submitted the Request for Inspection.

In the First Request, the Requesters stated that between April 17 and April 21, 2007, the Construction Police of the Municipality of Vlora, under the supervision of the Ministry of Public Works and “*in line with the Southern Coastal Development Plan of the World Bank,*” demolished either totally or partially their permanent residences. The Requesters were told that they did not possess building permits. In this regard, the Requesters pointed out that “*approximately 100% of construction*” in coastal Albania lacks these permits and that a summer resort and other houses were left intact.

The Requesters claimed that they requested building permits in the past, but were told that permits were not available in areas lacking an urban plan. The Requesters claimed that the lack of an urban plan is not unique to the village of Jale but rather is common to much of Albania. They also stated that they had lost confidence that an ur-



ban plan could be approved for Jale because the village is small and isolated, lacking even basic services such as fresh water. Nevertheless, they stated that in 2006 the government finally passed a law (Law 9482 “On the legalization, urbanization and integration of buildings without permits”) that allowed the Requesters and other families of Jale to apply for building permits. The Requesters claimed that they did so and received confirmation of their applications by local authorities.

Despite the pending permit applications, the Requesters claimed that they received a notice on April 3, 2007, from the Construction Police informing them that their houses were slated for demolition. They added that they later “*learned from the media and onsite managers of the project that the demolition was a result of executing the Southern Coastal Development Plan of the World Bank for the area.*” The Requesters filed a complaint with local authorities against the demolition notice. The houses were demolished, however, on April 17, 2007. According to the Requesters, “*all court dates were scheduled for after April 17, 2007.*” The house demolitions, the Requesters report, were carried out with “*unexplained urgency*” at 4:00 in the morning of April 17, and one house resident was also “*hit while inside her house in an attempt to take out her cellular phone.*”

The Requesters claimed that the Project implementation resulted in displacement of a small number of families, “*human rights violations,*” “*inhumane actions*” including violence by the police, and a “*complete lack of information and transparency regarding any projects or future plans for the area.*” The Requesters argued that the village of Jale was destroyed as a result of the Bank’s failures and oversights “*to take into consideration legal rights as well as the well being*” of the community. They claimed that the Bank also violated its policies requiring supervision of project activities and those mandating that risks of impoverishment for the community be mitigated.

The Requesters stated that after the demolitions, World Bank officials visited the site at least twice. The first time they talked with the families and asked about the size of the damage but did not provide any information. The second time they did not talk to the community at all.

The Requesters claimed that government representatives indicated that the demolitions “*were based on the law and were part of a bigger plan drafted by the World Bank for the Coastal Region of Albania.*” The Requesters also claimed that to date they have not received any “*sound explanation*” of why their village was “*targeted*” by the Project. The Requesters claimed that the demolitions not only destroyed their houses, but also destroyed existing sewage structures, roads and other constructions, and centuries-old trees in the area. In addition, following the demolitions, waste covered the valley of Jale for weeks, making the place dangerous, especially for children.

The Requesters claimed that the Project is aimed at enhancing community-driven tourism development along the coastal areas. However, they stated that “*by overnight destroying all of the community assets, the project provides no insights on how it intends to support community-driven tourism activities, or which channels would the community follow to support itself during the project implementation phase.*”

The signatories of the Second Request (Second Requesters) claimed that “*although the Project covers an area of the Albanian coastline from Butrint region in the South (Ionian Sea) to the Porto Romano in the North (Adriatic Sea), it nevertheless excludes from its scope and implementation the area covering the northern part of the Bay of Vlora up to the mouth of River Vjosa,*” the area where the Second Requesters reside,

south of Porto Romano. According to the Second Requesters, the Project's integrated coastal management and clean-up strategy has artificially divided the Vlora Bay into two regions. They believed that this is "*discriminatory, simply unnatural and fundamentally harmful*" to their interests.

The Second Requesters argued that the Project creates a "*dangerous vacuum*" by excluding the northern part of the Vlora Bay from its scope and, as a result, will significantly harm tourism development in the bay and its vicinity. According to the Requesters, the Project's discriminatory approach "*opens the way for other potentially detrimental development projects with long standing negative consequences*" for the Bay of Vlora and the Albanian Adriatic-Ionian coastline.

The Second Requesters claimed that the "*very purpose, goals and importance of the Project are being undermined*" by focusing on the southern part of the Albanian coast and excluding the north part of Vlora Bay, which is, according to the Second Requesters, "*widely accepted*" to be the "*real gateway to Albania's tourism and valorization of cultural heritage.*"

## MANAGEMENT RESPONSE

On September 17, 2007, Management submitted its Response to the First and Second Requests for Inspection. With regard to the First Request for Inspection, Management stated that the demolition of the houses was not linked to the Project either directly or indirectly, adding that the demolitions were in accordance with a government program, pursuant to national law, that had been ongoing since 2001. Management claimed that the demolitions of the houses "*were not limited to the Project area, not caused by or linked to the Project, and were not done in anticipation of the Project or to achieve the Project objectives,*" and that the government confirmed this to Management on its visit to the country. Furthermore, Management stated that the demolitions were not carried out as part of or because of the Southern Coastal Development Plan (SCDP) because that plan was yet to be prepared.

The Response stated that a group of consultants was commissioned to prepare the SCDP in 2005 and a comprehensive study with recommendations was submitted in 2006. Management stated that the study reflected the local stakeholders' views, but fell short of what the "*Government felt would be necessary to support and promote sustainable development in the area.*" Management indicated that the contract between the government and the consultants was amicably terminated. The government and the Bank reached an agreement to hire new consultants to continue work on the SCDP.

In response to the applicability and the implementation of the Bank's Safeguard Policies OP 4.01 and OP 4.12, Management stated that an Environmental and Social Safeguards Framework (ESSF) was prepared with appropriate consultations and disclosure. Management further stated that the ESSF was in line with Bank policies on Environmental Assessment, Physical Cultural Resources, and Involuntary Resettlement.

Management stated that at the design stage of the Project, the Bank considered several instances where OP 4.12 might be triggered, including the demolition of illegal buildings under the government's policy. Management stated that the Bank undertook to investigate and review the potential impact the government's demolition policy would have on the Project. Management noted that the review indicated that "*(i) the Govern-*

ment's program is aimed at enforcing existing land-use regulations in the country and follows the due process established under Albanian laws and regulations; (ii) the process does not target removing encroachments from specific locations for the purpose of promoting investments; (iii) the process predates the Bank's involvement in the Project; and (iv) the process is likely to continue regardless of the Bank's involvement in the Project." As a consequence, Management stated that the findings indicated no violation of paragraph 4 of OP 4.12; therefore, the demolitions were unrelated to the Bank's financing of the Project, and the SCDP would not be subject to the Policy on Involuntary Resettlement.



Albania: Coastal Zone Management—Panel team meeting with members of the Albanian families affected by the project

The Response stated that the Bank had been working closely with the government to address the issues related to unauthorized structures and land use for this and other projects in the country, and was also helping to develop “sustainable, equitable and humane solutions” to the problem. Management stated that the Bank had given the government its recommendations with respect to the demolitions and had advised the government to postpone any future demolitions until the recommendations were reviewed and discussed.

With regard to the Second Request for Inspection, Management stated that the purpose of the Project was “expected to serve as a pilot program, to be extended to other areas of the coast in the future.” Furthermore, Management stated that the Project was a “new approach in Albania and relatively complex to implement,” which is why the first phase of the Project concentrated only on one section of the coast—the southern coast—to maximize the chances of success and to ensure the Project’s manageability. The Response further stated that the second phase would expand and build on the results of the first. Management stated that the extension to the areas identified in the Second Request would greatly depend on the outcomes of the pilot project.

## THE PANEL’S ELIGIBILITY REPORT AND BOARD DECISION

On October 17, 2007, the Panel submitted to the Board of Executive Directors its Report and Recommendation regarding the eligibility of the Requests. To determine the eligibility of the Requests and the Requesters, the Panel reviewed the Requests for Inspection and the Management Response. The Panel also visited Albania from September 21 to September 25, 2007. During its visit, the Panel team met with signatories of both Requests for Inspection. The Panel also met with government officials, local authorities in Vlora, the Project Coordination Unit, and Bank staff in the Bank Country Office of Tirana.

The Panel determined that the First Request and Requesters met the eligibility criteria set forth in the Resolution establishing the Panel. The Panel noted that the Request and the Management Response contained conflicting assertions and interpretations of the

issues, facts, compliance with Bank policies and procedures, and actual and potential harm. The Panel recommended an investigation of the matters raised by the First Request for Inspection.

With regard to the Second Request for Inspection, the Panel noted that a Panel investigation, already approved by the Board of Executive Directors in relation to a previous Request for Inspection submitted by the same Requesters, would cover the main concerns and allegations of noncompliance contained in this Second Request, and the contention that the Second Requesters would be harmed as a result of the exclusion of the Vlora Bay area from the Project did not warrant by itself a recommendation to investigate. Consequently, the Panel did not recommend an investigation into the matters alleged in the Second Request. However, the Panel noted that in the event of new evidence or circumstances, the Second Requesters would be able to submit a new Request to the Panel.

On November 1, 2007, the Board of Executive Directors approved, on a no-objection basis, the Panel's recommendation to conduct an investigation into the matters alleged in the First Request for Inspection.

## **THE INVESTIGATION PROCESS**

The Panel conducted a two-part investigation. The first part involved detailed research into Bank records related to the Project, interviews with Bank staff in Washington, DC, and a review of relevant documents. The second part took the form of an in-country fact-finding visit in January 2008. During the visit, the Panel met with Requesters, government authorities, Project officials, and Bank staff in Tirana. The Panel also visited Jale and Vlora and met with the Requesters and the Project implementation team in Vlora. In its investigation, the Panel identified and carefully reviewed all documents relevant to the case that the Requesters, Bank staff, and other sources provided to the Panel. The Panel also analyzed other evidence gathered during the field visits or otherwise in its research, including scholarly literature. The Panel submitted its Investigation Report to the Board of Executive Directors on November 24, 2008.

## **THE INVESTIGATION REPORT**

Jale is one of the most beautiful small bays of Albania's southern coast. Administratively, Jale belongs to a larger village named Vuno. Jale has been a residential area for centuries; for several years, it also accommodated a military unit during the past regime. Most of the families living in Jale have a long residence history, inheriting and owning their lands and house plots from a common family ancestor. The houses that fell out of repair during the past regime (through 1990) have since been rebuilt and expanded using the remittances received from family members who moved abroad as migrant workers. As evidenced by the remains of the structures after demolition, the buildings were mostly residential buildings of concrete and brick construction.

On April 3, 2007, two years after approval of Project financing and in the absence of any major demolition activity in the Project area, the Requesters received a formal notice from the Construction Police and the Ministry of Public Works, Transport and Telecommunications that a decision had been made by authorities to demolish their houses. They appealed the decision within the short period granted for appeals (five days) and were



given court dates of April 17, 2007, or later for review of their appeals. However, the Construction Police began the demolitions on April 17, 2007, despite pleas from the Requesters and some local authorities to defer action until after the conclusion of pending court cases. The demolition process caused wrenching and painful scenes of opposition and resistance. The Construction Police completed the demolitions in five days.

The Requesters alleged that the demolitions were linked to a Bank-funded project and that the Bank failed to comply with its own Policy on Involuntary Resettlement. Bank Management, however, asserted that the Project was not linked to the demolitions and, therefore, the families in Jale were not entitled to benefits and rights under the Bank Policy on Involuntary Resettlement.

During its investigation, the Panel was surprised by Management's determination that there was "*no linkage*" between the government's demolition program and the objectives of the Project. The government's demolition programs aimed to enforce land-use requirements, and the very purpose of the Project was to promote sustainable development and management of the coastal zone, including through land-use planning measures and requirements and their enforcement. The Panel found that the kind of encroachment removal that the government intended to carry out in the area covered by the Bank-assisted Project clearly fell within the three categories stated in paragraph 4 of the Bank Policy on Involuntary Resettlement—to wit (i) the government's demolition program aimed to achieve objectives that are declared to be the same as the objectives pursued by the Project itself, the sustainable development and proper use of the coastal zone; (ii) as such, the activities were necessarily part of actions to achieve these objectives; and (iii) these activities were planned and carried out contemporaneously with the Project, within the meaning of paragraph 4 of OP 4.12.

In the absence of applying the Bank Policy on Involuntary Resettlement, the claimed "agreement" with the government to suspend demolitions in the Project area, stated in the Project Appraisal Document (PAD), gave the impression that a safeguard was in place to protect potentially affected people and the Bank against the critical Project risk of demolitions. During its investigation, however, the Panel learned that the government had not made such a commitment and had not agreed with what was stated in the PAD. This crucial statement in the PAD turned out to be unfounded and incorrect. During the Board meeting approving the Project, Management did not inform the Board about this fact, although Executive Directors indicated that they welcomed the existence of this agreement.

The Panel found that without the alleged agreement with the government to suspend demolitions in the Project area, without an agreement on a cut-off date, and above all without applying the Bank's Policy on Involuntary Resettlement to ongoing demolitions, Management failed to safeguard people potentially affected by Project-related activities, and thus failed to comply with the Bank's Policy on Involuntary Resettlement. Management did not protect the Bank from a significant reputational risk acknowledged in the PAD.

In addition, the Panel found that the objectives and content of the Project, including the SCDP, went well beyond regulation of natural resources and, therefore, the Bank's Policy on Involuntary Resettlement should have applied. As part of "good project design" in the preparation of the SCDP, Management agreed with the borrower that it would develop certain criteria and procedures to assist "*affected people who lose their*



*primary residence or main source of livelihood due to encroachment removal.*” The Panel noted, however, that this promise became effective only once the SCDP was prepared. As a result, Project design did not enable the provision of assistance to people who lost their homes or sources of livelihood in Jale.

The Panel investigation revealed an important and direct connection between the Project and the demolitions in Jale. Indeed, Project records indicated an active relationship between the Project and the Construction Police and that aerial photography financed under the Project identified the buildings that were demolished.

On March 26, 2007, the Project Coordination Unit sent a letter, on the official letterhead of the Bank-financed Project and signed by the Project Coordinator, to almost all relevant high-level government authorities, including the General Director of the Construction Police, notifying them of what the Coordinator characterized as illegal construction along the Ionian Coast. Attached to the letter were two compact discs with aerial photos of the coast, which had been financed by the Project. In its response letter, the Construction Police stated that they had administered all the necessary procedures and the decision to demolish these buildings had been communicated to the respective parties.

Project records showed that the Project provided support, both material and technical, to the Construction Police for the demolitions leading to this Request for Inspection, the most important item being the aerial photographs used to identify the houses to be demolished. This constituted direct and material support by the Project to the demolitions in Jale. The Panel noted that this Project activity was not acknowledged or described in the Management Response. To the contrary, the Response stated in no uncertain terms that “[t]he demolitions were not linked to the Project directly or indirectly.”

The analysis and facts established by the Panel during its investigation showed that the Bank Policy on Involuntary Resettlement should have been applied to the demolitions related to the Project. This conclusion was based on the assistance provided by the Project to the Construction Police for undertaking their functions, Project-financed aerial photographs identifying the demolished houses, and the official communications of the Project Coordination Unit calling on the Construction Police to deal with the alleged illegal construction.

The Panel found no merit in Management’s statement that “[t]he demolitions were not linked to the Project directly or indirectly.” Indeed, the Panel found a direct link between the demolitions in Jale and the Project and its objectives. Consequently, the Panel found that Management failed to comply with the requirements of the Bank Policy on Involuntary Resettlement with respect to the demolitions that took place in Jale. In this sense, the Project also failed to address the poverty reduction objectives set forth in the Bank Policy on Poverty Reduction.

In addition to the documentary evidence linking the Project to the demolitions in Jale, the Panel found that debates had occurred in the Albanian Parliament and that several news articles had appeared in the Albanian press that explicitly linked the demolition to the Bank-financed Project. Furthermore, the Panel found that the fact-finding mission that took place May 3–5, 2007, left out essential facts and did not comply with Bank Policy on Supervision.

With respect to the presentation of the Project to the Board of Executive Directors, the Panel found that the mistake in the PAD about the agreement with the government to suspend demolitions was not corrected, although two Executive Directors had issued

written statements welcoming the government's agreement as conveyed in the PAD. The Panel found that the paragraph allegedly included in Management's statement to the Board, which would have corrected the mistake, and given to the Panel by Management during its eligibility visit, was not read to the Board. The Panel found that this statement would have provided to the Board crucial factual information on the status of a critical risk mitigation measure in the PAD that had been welcomed and relied upon by the Board members when approving the Project.

On September 2, 2008, months after becoming aware of the Panel's discovery about this statement in the PAD indicating government agreement to suspend demolitions, Management circulated to the Board a corrigendum. The corrigendum informed the Board that the PAD, which had been approved by the Board more than three years earlier, had been amended in its public version by deletion of this key statement. The Panel noted that the use of a corrigendum to modify such a substantive statement in the PAD, which had been relied upon by the Board, without any explanation or consideration by the Board, may set a very serious and disturbing precedent. The Panel noted this as a fundamental issue of Board-Management relations.

In conclusion, the Panel found that the initial decision not to apply the Bank Policy on Involuntary Resettlement at the decisive stage of Project appraisal was a root cause of Management's mishandling of the Jale demolitions. The Panel found that, not only during Project design and appraisal but also during Project implementation, the Bank failed to comply with its Policy on Involuntary Resettlement. The Project, which included components known to be associated with demolitions in the Project area, harbored a critical risk that could have been avoided with an appropriate contractual framework and adequate supervision. The Panel found that Management failed to supervise the Project, as required under the Bank's Policy on Supervision. The Panel also concluded that the Management Response was particularly unhelpful and non-informative, and at times in total conflict with factual information that had long been known to Management.

## **MANAGEMENT REPORT AND RECOMMENDATION—ACTION PLAN**

In its Report and Recommendation, submitted to the Board on January 9, 2009, Management acknowledged that a series of errors was committed throughout the Project cycle, including during Project preparation, Board presentation, and Project supervision, as well as in the preparation of the first Management Response in September 2007 and the issuance of the corrigendum to the PAD in September 2008. Management noted that these errors were unacceptable and point to a serious breakdown of Management's accountability, responsibility, and oversight mechanisms for the Project. Management expressed its appreciation to the Panel for having brought these errors to its attention and agreed with the Panel that Bank Policies on Investment Lending: Identification to Board Presentation and Project Supervision were violated.

With respect to the Policy on Involuntary Resettlement, Management noted that, at the time the Project was presented to the Board, Management judged that the policy did not apply to land-use planning activities such as the SCDP. Management acknowledged that relevant provisions of the policy were ambiguous and needed to be clarified. Management indicated that it would review the application of safeguard policies in projects



Albania: Coastal Zone Management—Members of family who lived in one of the demolished houses recounting their ordeal to the Panel

that support land-use planning and would issue guidance to address environmental and social issues.

The Management Report and Recommendation listed a range of lessons learned. Management noted that complex projects require experienced Task Teams with a broad range of technical skills and intensive and continuous managerial oversight. Risks and their mitigation measures needed to be addressed fully and presented comprehensively and candidly in project documents. Social risks, in particular, must be given adequate attention. When designing complex land-use planning projects, it is important to pay attention to the legal and institutional framework. Preparation for Board meetings should

be thorough, errors must be acknowledged promptly, and outstanding issues following the Board meeting should be dealt with immediately.

Management indicated that the government of Albania had informed Management that it did not agree to amend the Credit Agreement to reflect a stay on demolitions of existing buildings, a step that Management considered essential to ensuring that the Project had a sound legal basis for successful implementation. In the absence of such an amendment, Management informed the Board that the Project was suspended on January 9, 2009.

As part of its Report and Recommendations, Management prepared an Action Plan containing (i) assistance to the poor or vulnerable among the Requesters; (ii) a timely, independently monitored, case-by-case review before the Albanian Judiciary of the Requesters' claims that they were harmed as a result of the April 2007 demolitions and that they should be compensated as a result of those demolitions; and (iii) World Bank financing for the independent observer and legal services required by the Requesters. Management indicated that the Bank would confirm the government's assurance of all possible efforts for the expeditious completion of this review, while recognizing and committing to fully respect the independence of the judiciary. The Bank would also confirm that the government will provide all available documentation necessary for the review, and that the government will not object to a reasonable proposal to consolidate the Requesters' claims. Furthermore, the Bank would also confirm that the government will abide by, and promptly comply with, any and all court decisions resulting from this review, including any decisions to compensate plaintiffs. The Action Plan stated that if the process is judged unsatisfactory by the independent observer or the Bank, Management reserves the option to (i) suspend disbursements under the Project, if the Project were to be restructured; and (ii) directly provide assistance to the Requesters, even though the Bank is not legally obligated to do so.

With regard to Project supervision, Management stated that the Project remains suspended until a decision is reached either to cancel the entire IDA Credit or to restructure the Project to maintain support for important infrastructure investments. Management stated that all land-planning activities would be canceled and the associated funds allocated to other activities.

In addition, Management noted that World Bank Senior Management had carried out a Bank-wide review of 1,550 projects in the portfolio as well as of quality control arrangements in all regions. In view of the seriousness of the errors identified under the Project, the President of the World Bank asked the Acting General Counsel to undertake a review of the circumstances surrounding the issuance of the corrigendum in September 2008. Building on this review, the President asked the World Bank's Department of Institutional Integrity to lead an Accountability Review into alleged misrepresentation to the Inspection Panel and events surrounding Project preparation, Board presentation, and Project supervision.

## BOARD MEETING

On February 17, 2009, the Bank's Executive Directors met to discuss the Panel's Investigation Report and the Management Report and Recommendation. The President of the World Bank Group said, *"From basic project management to interactions with the Board and the Inspection Panel, the Bank's record with this project is appalling."* He added, *"We take very seriously the concerns raised by the Inspection Panel and we are moving promptly to strengthen oversight, improve procedures, and help the families who had their buildings demolished. The Bank cannot let this happen again."*

Board members noted that this investigative process demonstrates the value of an independent Inspection Panel in strengthening the Bank's accountability and effectiveness. It was agreed that Management would report back to the Board in three months on progress. On June 30, 2009, Management submitted a first Progress Report to the Board. The Progress Report was to be made public after a Technical Briefing to the Board. At the time of writing of this Annual Report, the Technical Briefing was to take place on July 9, 2009.

The Panel's and Management's Reports were made public and available on the Inspection Panel's Web site at <http://www.inspectionpanel.org>, along with a press release about the discussions held at the Board meeting.



## Second Urban Environmental Sanitation Project

(CREDIT NO. 3889-GH)

### BOX 8. PROJECT INFORMATION AT A GLANCE

Project Name:	Ghana: Second Urban Environmental Sanitation Project
Region:	Sub-Saharan Africa
Sector:	Sanitation
Environmental Category:	A
IDA Credit Amount:	US\$62.0 million equivalent
Board Approval Date:	April 29, 2004
Effective Date:	October 27, 2004
Closing Date:	June 30, 2010

### THE PROJECT

The Project aims to improve urban living conditions in Ghana, with special emphasis on the poor and with respect to environmental health, sanitation, and solid waste management. The Project includes preparation of integrated solid waste management strategies, support for operation and monitoring of new sanitary landfills, and closure and rehabilitation of active and discontinued refuse dumps. The Project has five components: to address flooding through storm drainage; to increase access to adequate sanitation; to develop sustainable solid waste management;

to upgrade community infrastructure in low-income communities; and to strengthen institutions.

The Request for Inspection concerns the proposed sanitary landfill at Kwabenya, which is a subproject under the solid waste management component. The Project was classified as a repeater project to Urban Environmental Sanitation Project I (UESP I), although UESP I did not include the Kwabenya landfill element. A separate effort had been undertaken to construct a landfill at Kwabenya beginning in 2000, with financial assistance from Britain's Department for International Development (DfID). The Project is financed by an IDA Credit of 41.6 million Special Drawing Rights (equivalent to US\$64.39 million), approved by the Board of Executive Directors in April 2004. US\$25.7 million is allocated to the solid waste management component.

### THE REQUEST

On August 16, 2007, the Inspection Panel received a Request for Inspection ("the Request") related to the Ghana: Second Urban Environmental Sanitation Project (UESP II; "the Project") financed by the International Development Association. The Request was



submitted by the Centre on Housing Rights and Evictions on behalf of the Agyemankata Community. The Panel registered the Request on August 22, 2007.

UESP II is classified as a repeater project to UESP I. The objectives of the Project are to improve urban living conditions in Accra, Kumasi, Sekondi-Takoradi, Tamale, and Tema with regard to environmental health, sanitation, drainage, vehicular access, and solid waste management in a sustainable fashion, with special emphasis on the poor. The Project consists of five components including one relating to sustainable solid waste management. The Request relates specifically to the subcomponent under the solid waste management component, whereby a sanitary landfill is to be constructed in Kwabenya to meet the sanitation requirements of the Greater Accra region.

The Requesters contend that, because of the Project-funded sanitary landfill, their community will be detrimentally affected. They claim that the landfill will have a negative impact on those living in its proximity and possibly pollute their water supply. These impacts would result in an involuntary displacement of much of the Agyemankata Community and leave the remainder living in conditions detrimental to their health.

The Requesters claimed that the community was not meaningfully consulted during the design phase of the project and that the information provided to them by the authorities was through local newspapers and radio announcements and often after decisions were made. They added that they wrote the Bank requesting it to withdraw its support for the landfill subcomponent. The Requesters also added that several letters were sent to the authorities, but no response had been received. Additionally, the Requesters claimed that they have, on several occasions, expressed their concerns to Bank officials in Accra, but feel that their concerns have not been dealt with satisfactorily.

The Requesters asserted that the Bank did not comply with various provisions of OP/BP 4.01 on Environmental Assessment; OP/BP 4.12 on Involuntary Resettlement; and Operational Manual Statement 2.20 on Project Appraisal.

## MANAGEMENT RESPONSE

On September 21, 2007, Management submitted its Response to the Request. In this Response, Management asserted that the Project was processed in line with the Bank's requirements, including the Bank's environmental and social safeguard policies.

Management stated that the Kwabenya subcomponent was delayed. It added that on several occasions, it discussed the implementation problems with the government, indicating that if evidence of satisfactory progress on the drafting of a RAP was not available by December 2007, it would likely cancel the financing for the subcomponent.

Management's Response indicated that an Environmental Impact Study (EIS) for the proposed landfill was commissioned in 1999 and the construction of a roadway to the site was commenced thereafter. It further stated that at the time of the EIS, there were practically no resettlement needs. However, with the roadway, people began to move closer to the site, and construction of the landfill was delayed as a result of land rights claims.

Management noted that the EIS was used as the basis for preparing the Environmental and Social Assessment (ESA) for UESP II. According to Management, the ESA contained an updated Environmental Management Plan (EMP) and Resettlement Policy Framework (RPF). In relation to the resettlement issues, the Response stated that the



Ghana: UESP II—Stone cutters at Kwabenya, site of proposed landfill

RPF was reviewed and found to be in line with the Bank's resettlement policy. Management further stated that it was aware that further information would be needed to prepare an adequate RAP. Management has stated that the Bank will not proceed with the Kwabenya subcomponent until a RAP for the subcomponent is satisfactorily completed.

Management further stated that a great deal of analysis of the environmental impacts of the project was undertaken and publicly disclosed, and the consultations carried out during the drafting of the RPF were considered satisfactory.

## ELIGIBILITY PHASE AND BOARD DECISION

The Panel visited Ghana October 9–12, 2007, to determine the eligibility of the Request. The Panel submitted its report and recommendation on eligibility to the Board on October 24, 2007. On November 9, 2007, the World Bank Board of Executive Directors approved, on a no-objection basis, the Inspection Panel's recommendation to conduct an investigation into the issues raised in the Request for Inspection.

## PANEL INVESTIGATION

The Chair of the Panel, Werner Kiene, led the investigation. The Panel Secretariat and two expert consultants—on social issues and resettlement, and on environment—assisted the Panel in the investigation. The Panel team carried out its investigation visit to the areas affected by the Project in February 2008. The Investigation Report was submitted to the Board of Executive Directors on March 13, 2009.

In its Report, the Panel noted the importance of the overall Project in addressing environmental sanitation issues in Accra, including through the development of an engineered sanitary landfill that would avoid the conditions and problems encountered at other waste disposal sites in Ghana. The Panel determined that the Bank did not comply with several provisions of Bank policies on Environmental Assessment, Involuntary Resettlement, and Project Supervision. The Panel, however, appreciated that Bank staff acknowledged several of these issues, and noted that additional significant actions were under way at the time of the Report. These included the development of an updated EIA and RAP. The Panel noted that these ongoing actions presented the opportunity for important additional analysis and decisions that could address issues identified during the investigation, including the need to revisit the analysis of alternatives; the size of the buffer zone; and other measures to avoid, mitigate, or compensate for potential adverse impacts.

The Panel found that the Project was correctly categorized as "Category A" for the purpose of OP/BP 4.01 on Environmental Assessment but that the EA failed to meet

several key requirements for a Category A EA as explained in the following paragraphs. The 2003 Project's ESA did not adequately examine alternative sites for the future landfill and did not assess adequately the implications of the influx of people and changing conditions in the years since the earlier studies (1993 and 1999), on which it relied, had been prepared. The roadway built into the area under the abandoned DfID first attempt to construct the landfill in 2000 enabled more people to move into and closer to the site proposed for the landfill. Management informed the Panel that the new EA then being prepared would examine potential alternative sites for the landfill.

The Panel further found that the 2003 ESA did not adequately identify the full extent of the "area of influence" of the proposed landfill, nor its potential impacts on nearby people and residents. In this regard, the 2003 ESA did not adequately assess or justify the use of a buffer zone of 250 meters or less, as compared with the larger buffer zones noted in related documents and in view of significant concerns about capacity to properly and safely maintain the landfill. In the Panel's view, the landfill could also result in indirect adverse impacts on people who live in the area adjacent to the buffer zone, but within the Project area of influence. This analysis is also important to determine who may be entitled to compensation and resettlement under OP 4.12. The Panel further found that the EMP included in the 2003 ESA was noticeably deficient in most aspects, such as costing, provisions for capacity building and monitoring, and strategies for mitigation of impacts. Significant risks of inadequate operation of a landfill at Kwabenya were also downplayed in project documents.

With respect to the consultation process, attempts were made by the government to consult with the affected population, but the level of tension between the local community and Project authorities had been increasing. The Panel noted that meaningful consultations did not take place with those living nearest the proposed landfill but also acknowledged the difficulties of conducting such meaningful consultations under the prevailing conditions.

The Panel assessed whether the decision to proceed with an RPF rather than a full RAP during Project appraisal was in compliance with Bank policy. The Panel noted that the preparation of a RAP would have helped to surface the crucial and difficult questions involving resettlement planning before the time of Project appraisal, rather than leaving these to Project implementation. However, the Panel also observed that the ability to prepare a policy-consistent RAP hinged on conditions not present at the time of Project preparation, including an adequate consultation process.

The RAP for the Kwabenya site was under preparation at the time of the Panel's Report, as was an updated EA, as noted above, which would examine, among other things, alternative sites for the landfill. This, the Panel noted, posed a dilemma for the Project because it was surprising and possibly inappropriate under Bank Policy to conduct the final EIA after completion of the RAP. The Panel noted its concern that there was inadequate consideration of the dilemmas posed by these interrelationships among the relevant policies, during both Project design and implementation.

With respect to the RPF, the Panel found that although important elements were included in the RPF, the risks related to land acquisition and compensation were not sufficiently considered. The Panel concurred with an earlier Bank Quality at Entry Assessment that the RPF seemed to have underestimated the people's objections to the

proposed landfill. In addition, contrary to the requirements of Bank policies, no records were available to show that the draft RPF was disclosed to the affected people and that the affected population was provided with an information sheet in local languages or in English or French setting out the purpose of the survey, or explaining the resettlement and compensation procedures.

The Panel found that supervision of the Kwabenya subcomponent was lacking until well into the implementation of the Project, especially with respect to the social issues. However, as Project implementation progressed, and particularly after the submission of the Request for Inspection, Management became more active in responding to emerging problems. In assessing Bank actions and policy compliance, the Panel highlighted that the concerns about safety of Bank staff at the Kwabenya site should not be underestimated.

The Panel concluded its Report with expressions of concern about carrying out projects in challenging circumstance, when positions among project stakeholders have hardened, trust has been lost, and an impasse has been reached; and about legacy issues and the effect of changing circumstances in the field when a Project is interrupted for a number of years.

## **MANAGEMENT REPORT AND RECOMMENDATIONS**

On April 24, 2009, Management submitted its Report and Recommendations in response to the Panel's findings. Management acknowledged and agreed with key findings of the Panel's Investigation Report and, in response to ongoing challenges in the Project, it proposed a two-pronged approach that would address the need for adequate solid waste management in Accra. Under the first set of actions, Management proposed to continue the dialogue with the government to work on capacity building and planning for an Integrated Solid Waste Management Strategy to address medium- and long-term problems. In this context, the Bank would also support the preparation of a Strategic Environmental Assessment. The second set of actions is more Project specific and relates to the preparation of the EA, which will evaluate, among other things, alternative sites for the landfill.

## **BOARD DECISION**

On June 18, 2009, the Bank's Board of Executive Directors met to discuss the Management's Response to the Panel's Investigation Report. The Board approved the Action Plan proposed by Management and it was agreed that Management would report back to the Board in six months regarding progress in implementing these measures.

The Panel's and Management's Reports were made public and available on the Inspection Panel's Web site at <http://www.inspectionpanel.org>, along with a press release about the discussions held at the Board meeting.



## III. INVESTIGATIONS IN PROCESS

### ALBANIA

REQUEST NO. 46

### Power Sector Generation and Restructuring Project

(IDA CREDIT NO. 3872 ALB)

#### THE REQUEST

On April 30, 2007, the Panel received a Request for Inspection related to the Albania Power Sector Generation and Restructuring Project (the “Project”). The Request was submitted by the Civic Alliance for the Protection of the Bay of Vlora, an NGO. On May 2, 2007, the Panel received a second document from eight persons who live in the city of Vlora and who claim to be affected by the Project.

According to the Request, *“if built, the Vlora Thermal Power Plant [TEP] will destroy environment, tourism, safe fisheries, natural habitat, ecosystem, coral colonies as well as the unique historical and cultural significance of the entire Vlora Bay and Narta Lagoon.”* The Requesters expressed serious concerns about the adequacy of Management’s consideration of alternative sites to Vlora. Some of the concerns expressed by the Requesters relate to the potential harm that could be caused by the thermal power plant’s emissions in both the water and the air, which, because of prevailing winds and currents, could affect the enclosed Vlora Bay and contaminate the air of the city. They stated that these effects would have a negative impact not only on local population and fishing but also on the tourism industry, which is an important source of employment and income in the area. The Requesters stated that the prospect of economic growth of the area is mostly based precisely on the activities that could be harmed by the Project, namely tourism and fishing.

The Requesters claimed that the Environmental Assessment (EA) misrepresents the Project site. They stated their objection to the representation of the site in the EA as *“green field site ... relatively barren coastal area with little vegetation or wildlife.”* The Requesters noted the proximity of the Project site to the Narta Lagoon, which is a pro-

#### BOX 9. PROJECT INFORMATION AT A GLANCE

Project Name:	Albania: Power Sector Generation and Restructuring Project
Region:	Europe and Central Asia
Sector:	Power Environmental
Category:	A
IDA Credit Amount:	US\$25 million equivalent
Board Approval Date:	March 16, 2004
Effective Date:	January 25, 2005
Closing Date:	January 31, 2008



tected area composed of beaches, sand dunes, forests, and wetlands and is home to a number of endangered species. The Requesters asserted that the area is sanctuary to important animals, plants, and coral colonies, which might be significantly harmed by the Project. They alleged that these conditions were not considered during the preparation of the EA. The Requesters further asserted that the Project site is located only 746 meters from the Narta Lagoon, rather than the 2 kilometers indicated in the Project documents. The Requesters claimed that the Project would have significant negative impacts on the protected area.

The Requesters also asserted that the Bank failed to take into account the future cumulative environmental impact of one or more additional thermal power plants that would raise generation capacity at the selected Vlora site to as much as 300 megawatts and the other investments already approved by the government in the vicinity of the Project site. They claimed that the Environmental Impact Assessment for the Project referred to only one thermal power plant of 100 megawatts, while the decision of the government—which the Bank is or should have been aware of—explicitly states that an agreement exists to reach a capacity of 300 megawatts in future phases. The Request further indicated that the government approved a concession agreement for a large oil storage deposit to be built in the Vlora Bay, just 1 kilometer from the TEP.

Furthermore, the Requesters claimed that the Bank failed to ensure public participation and consultation in decision making regarding the Project. According to the Request, *“the procedures concerning the Vlora Thermal Power Plant were already found in violation of Article 6 of the Aarhus Convention on Access to Information, Public Participation and Access to Justice, as determined by the Aarhus Convention Compliance Committee in its Draft Finding and Recommendations of March 23, 2007.”*

The Requesters also indicated that the Project site has important archeological and historical significance. The Requesters stated that the site is close to an ancient Mediterranean port city, Treport Cape/Aulona, that has archeological significance, and that it

has historical significance because Sephardic Jews, escaping from Spain in 1492, landed and settled in Vlora. The Requesters expressed strong concern that if the thermal power plant is built, it will destroy the unique historical and cultural significance of the area.

## MANAGEMENT RESPONSE

On June 1, 2007, Management submitted its Response. The Response stated that Albania has suffered from electricity shortages since the summer of 2000 as the result of both growth in electricity demand and impacts from adverse

Albania: Power Sector—  
Beach at project site



hydrology on Albania's predominantly (95 percent) hydropower-based system. Management stated that hydropower is subject to considerable variability because it is dependent on rainfall. Management asserted that domestic thermal generation capacity was needed to reduce dependence on imported electricity and to diversify domestic generation.

Management stated that following a request from the government of Albania for assistance in arranging donor financing for a new thermal electric power plant, the Bank initiated discussions with the European Investment Bank (EIB) and the European Bank for Reconstruction and Development (EBRD) regarding cofinancing of a TEP. The Bank informed the government in January 2002 that the three institutions were prepared to assist in financing the Project. Management stated that in 2002 an internationally recognized consulting firm prepared a siting and feasibility study of the proposed TEP, with financing from the United States Trade and Development Agency, and that this consulting firm also prepared the EA for the Project in 2003.

Management indicated that the Project was assigned a Category A rating for its EA, in acknowledgment of the potential significant impacts on the environment and the need for avoidance, mitigating, and monitoring measures. Particular areas of concern included the impacts on air quality from stack emissions, water quality from cooling water discharge, and any ancillary impacts on the Narta Lagoon, which, according to Management, is located about 2 kilometers from the Project site.

According to Management, alternatives were analyzed as part of the Project appraisal process. Management further noted that the Project feasibility study considered other sites as well as other fuels as alternatives to the use of distillate oil in a combined-cycle generating unit at Vlora. Management noted that there was a close correspondence between the ordering of the sites on the basis of the 10 criteria and the ordering on the basis of "levelized" cost alone. Management stated that in both cases, the recommended Vlora site was ranked first over the site at Fier, which was ranked second. Management indicated that the option of a natural gas-fired combined-cycle unit at each of the proposed sites was found to be more costly than the distillate fuel option but that, if and when imported natural gas is brought to Albania, the Vlora plant could be readily converted to gas.

Management stated that the Vlora site could physically accommodate additional units for a total installed capacity of 300 megawatts. Management further stated that *"the Project being financed by the Bank, EBRD and EIB is limited to one facility of 97 MW capacity and the final EA focused on that only."* Management added that *"if the Government decides to proceed with additional generation units (either at the Vlora site or another location), then a new comprehensive EA will be required."*

With respect to public consultation, Management stated that a public meeting was held in Vlora on October 31, 2002, to discuss the findings of the final siting study (dated October 21, 2002), and the draft feasibility study (dated August 6, 2002), which included a detailed preliminary environmental analysis and a draft outline of an EA. Management indicated that following the standard Bank procedures for Category A projects, public consultations were held at the early EA preparation stage on April 2, 2003, and draft EA report stage on September 3, 2003.

With respect to the Requesters' concern about the Project's potential impacts on ecosystems (*"fisheries, natural habitat, ecosystem, coral colonies"*), Management stated that the EA and measures to be taken during implementation were adequate. Manage-

ment indicated that the Project site is outside the protected area around the Narta Lagoon, designated as such in 2004 by the government, and is not anticipated to have an impact on this area.

In its Response, Management agreed that the EA insufficiently covered the matter of the review of potential cultural property. Management indicated that when this issue was subsequently raised, a supervisory visit was made in July 2006. Management noted that as a result of the visit, it was concluded *“that the site is not of archaeological significance due to the known locations of the ancient city sites in the Vlore Bay region and the lack of any evidence of human habitation during digging for the adjacent fishing harbor in the early 1980s and beyond. Consequently a surface survey of the selected site prior to the start of construction is neither necessary nor justifiable.”*

Management also stated that monitoring of excavations during construction of the plant and related civil works to identify and protect “chance finds” was deemed the only action that needed to be taken, consistent with established Bank practice.

## **THE PANEL’S ELIGIBILITY REPORT AND BOARD DECISION**

To determine the eligibility of the Request and the Requesters, the Panel reviewed the Request for Inspection and Management Response. The Panel also visited Albania from June 24 to June 30, 2007. During its visit, the Panel team met with a wide array of Project stakeholders and visited the Project site, the city of Vlora, and the Fier site. The Panel team noted that the selection of Vlora as the Project site is a source of significant dispute and controversy for the local community.

The Panel determined that the Request and Requesters met the eligibility criteria set forth in the Resolution establishing the Panel. On July 2, 2007, the Panel submitted to the Board of Executive Directors its Report and Recommendation regarding the eligibility of the Request. The Panel noted that the Request and the Management Response contained conflicting assertions and interpretations of the issues, facts, compliance with Bank policies and procedures, and actual and potential harm.

On July 18, 2007, the Board of Executive Directors approved, on a no-objection basis, the Panel’s recommendation to conduct an investigation into the matters alleged in the Request for Inspection. The Request, Management Response, and the Panel’s Report and Recommendation were made public shortly after the Board of Executive Directors authorized the inspection sought by the Requesters.

## **THE INVESTIGATION PROCESS**

As authorized by the Board of Executive Directors, the Panel is in the process of investigating the matters alleged in the Request. As of the end of June 2009, the Inspection Panel was finalizing the Investigation Report.

## Santa Fe Road Infrastructure Project

(IBRD LOAN NO. 7429-AR)

### THE PROJECT

The Argentina: Santa Fe Road Infrastructure Project (“the Project”) aims at improving transport conditions of a segment of National Route 19 between the Province of Santa Fe (PSF) and the Province of Cordoba, Argentina. According to project documents, under the Project’s Component 1, Route 19 will be widened from the existing two lanes to a four-lane road (motorway or *autovía*)—two lanes in each direction—between the town of Santo Tomé in the PSF and the border of the Province of Cordoba. These works are planned to be the first stage of a program aimed at eventually converting Route 19 into a limited-access high-speed freeway (*autopista*). This Project component provides also for ancillary works such as ground-level interchanges at the intersections with rural and urban roads, and turn lanes and returns at intervals of 6 kilometers. The Bank supports the Project with a US\$126.7 million loan to the PSF. The loan is guaranteed by the Republic of Argentina.

#### BOX 10. PROJECT INFORMATION AT A GLANCE

Project Name:	Argentina: Santa Fe Road Infrastructure Project
Region:	Latin America and the Caribbean
Sector:	Roads and Highways
Environmental Category:	B
IBRD Loan Amount:	US\$126.7 million
Board Approval Date:	February 13, 2007
Effective Date:	August 17, 2007
Closing Date:	June 30, 2012

### REQUEST FOR INSPECTION

The Panel received a Request for Inspection related to the Project on September 13, 2007. The Request was submitted by residents of Franck, a town along the segment of Route 19 to be upgraded under the Project, on behalf of themselves and of other residents of the Project-affected area. The Requesters believed that, based on the current route design and expropriation plans, the Project could cause them harm because the Project design does not adequately provide for water drainage and, as a result, the proposed elevation of the new carriageway will increase the risk of flooding of lands





Argentina: Santa Fe—  
Panel team meeting with  
requesters on the site of  
Route 19

surrounding the road by rain, rather than addressing the existing serious flooding problem. They also claimed that the disclosure of information and consultation with project-affected people about the expropriation process and the environmental impacts of the Project were not adequate.

## MANAGEMENT'S RESPONSE

On November 20, 2007, the Panel received Management's Response to the Request for Inspection. According to the Response, the Bank consistently complied with the policies on Environmental Assessment (OP/BP 4.01) and Involuntary Resettlement (OP/BP 4.12), and all the studies and simulations conducted and plans de-

signed during Project preparation meet the requirements of all applicable Bank policies and procedures.

Addressing the issue of flooding that may result from the proposed elevation (0.80 meters) of the new carriageway to be constructed under the Project, the Response stated that the Requesters' claims were not "*well founded*" and provided no engineering or other evidence in support of their allegations, while from a safety and engineering point of view, the proposed elevation is necessary to prevent water from crossing the new improved Route 19, as has happened in the past during intense rain with the present configuration of the route.

According to Management, the engineering designs were also re-examined with respect to the risk of flooding after severe rain and flooding of Route 19 in March 2007. A Bank mission traveled to the area to check the Project designs, while the national authorities withheld approval of these designs until the PSF again analyzed and re-examined them to ensure "*their robustness.*" The reviews conducted by both the Bank and the PSF confirmed the soundness of the designs and concluded that the Project would not increase the risk of flooding of the areas surrounding Route 19. In view of the foregoing, Management claimed that the Project would not worsen the hydrological situation of the area, but, to the contrary, would reduce the risk of flooding compared with current conditions.

With respect to the consultation process, Management stated that project-affected people have had numerous opportunities to express their concerns, including in public meetings and through an electronic mailbox and physical mailboxes in 15 communities. Management noted that the Project design underwent a number of changes resulting from the consultations with affected people, whose concerns were key in the decision-making process regarding, for example, road alignments of bypasses, the location of road crossings, and the types of restoration programs for urban areas. Management also stated that the Requesters "*have participated actively in the consultation process and their concerns about access to productive land*



*have been accommodated in the Project.*” Management further stated that the Bank’s Project team had participated actively in the consultation by participating in meetings, talking to landowners, and communicating their concerns to the Project Implementation Unit.

Management further stated that in an area where the average size of the properties is 100 hectares, *“in fifty percent of the properties less than 4 hectares will be acquired to expand the ROW [right of way]”* under the Project. The Response stated that a RAP was prepared in accordance with OP/BP 4.12 on Involuntary Resettlement and will be implemented before commencing the physical works. Management added that the RAP includes an information and communication program. For landowners and households and businesses that will be displaced, *“additional programs are included.”* For those physically displaced, the program provides support for families and businesses *“to restore their socioeconomic conditions to the level that existed prior to displacement.”*

## **ELIGIBILITY PHASE**

As part of the eligibility phase, the Panel visited Argentina once more and met with signatories of the Request for Inspection and with other affected people in the area near Santa Fe. The Panel also met with federal and provincial government officials, and with local authorities in Santa Fe. During this phase, the Panel’s attention was called to the fact that recent changes in the PSF government and possible changes in the Project Implementation Unit could have had an impact on the Project and the Requesters’ concerns. After discussing the matter with the Executive Director for Argentina and with the Requesters, the Panel determined that the interests of all parties would be better served if the Panel delayed the issuance of its eligibility report and recommendation. Based on the foregoing, the Panel requested the Board of Executive Directors on December 21, 2007, to extend the deadline for submitting the Report and Recommendation for about 90 days.

## **PANEL REPORT AND RECOMMENDATION**

Because there were no significant changes to the Project, the Requesters asked the Panel to proceed with the eligibility process. After reviewing the eligibility of the Request for Inspection and Bank Management’s Response to the Request, the Panel determined that the Request and the Requesters satisfy the eligibility criteria for an Inspection. The Panel also noted that the Request and the Management Response and additional communications of both parties with the Panel contain conflicting assertions and interpretations of the issues, the facts, compliance with Bank policies and procedures, and harm, that could be addressed only with an investigation.

The Panel noted, however, that Management outlined in a communication to the Panel certain actions that Management intends to carry out to improve transparency of land-related information (soil maps and cadastre data), provide capacity building on resettlement and consultations, monitor compensation payments, and ensure continued review of Project design.

Argentina: Santa Fe—  
Project affected people  
meeting with the Panel  
team



The Panel recommended an investigation of the matters raised in the Request for Inspection. The Panel noted that “*the investigation would take into account progress in the implementation of the actions noted in the Management Response and other actions being carried out to address the concerns of the Requesters.*” It added that the investigation, therefore, “*will focus on issues raised in the Request that still remain pending, particularly issues related to route design and flood risks, as well as disclosure of information and consultation with project affected people on resettlement and environmental aspects.*”

The Panel submitted its Report and Recommendation to the Board of Executive Directors on April 18, 2008. The Inspection Panel’s recommendation was approved by the Board on May 2, 2008, on a no-objection basis. At the time of writing of this Annual Report, the Panel was finalizing its Investigation Report and expected to submit it to the Board in early July, 2009.

## IV. ACTIONS ON EARLIER REQUESTS AND INVESTIGATIONS

INDIA

REQUEST NOS. 32 AND 33

### Mumbai Urban Transport Project

(LOAN NO. 4665-IN; CREDIT NO. 3662-IN)

#### BACKGROUND

On April 28, 2005, the Panel received the first of four successive and jointly processed Requests for Inspection related to the India: Mumbai Urban Transport Project. The Panel issued its Investigation Report on December 21, 2005. Management submitted its Report and Action Plan in response to the Panel's findings to the Board on February 27, 2006.

On March 1, 2006, the Bank suspended disbursement to the road and resettlement component of the Project. The State of Maharashtra agreed to a 10-condition strategy for lifting the suspension of disbursements. The Board of Executive Directors discussed the Panel's Investigation Report and Management's Report and Recommendation in response to the Investigation Report and approved both Reports and endorsed the Management Action Plan. It was agreed that Management would submit a Progress Report to the Board within six months and that the Panel would report on progress to the Board.

On June 29, 2006, the Bank lifted the suspension of disbursement because the State of Maharashtra had substantially met the conditions set by IBRD/IDA for lifting the suspension.

On March 1, 2007, Management submitted its first Progress Report to the Board of Executive Directors. The Panel submitted its progress review on June 5, 2007. While the Panel observed that the overall situation at the resettlement sites seemed to have improved, it noted that a number of issues still needed to be resolved and that many target dates listed in Management's Action Plan had not been met. More specifically, the Panel noted that the situation of the first group of Requesters, the United Shop Owners Association

#### BOX 11. PROJECT INFORMATION AT A GLANCE

Project Name:	India: Mumbai Urban Transport Project
Region:	South Asia
Sector:	Urban Transport; Other Social Services
Environmental Category:	A
IBRD Loan Amount:	US\$463 million
IDA Credit Amount:	US\$79 million
Board Approval Date:	June 18, 2002
Effective Date:	November 6, 2002
Closing Date:	June 30, 2008



India: MUTP—House half-demolished as a result of road widening

(USOA), had still not been resolved and that acceptable solutions for the shopkeepers had not been found. The Panel also noted ongoing discussions between the USOA and the local agency Mumbai Metropolitan Region Development Authority (MMRDA) about a proposal for in situ development. The Panel was also informed about land reservations that would have to be removed to develop the area and to realize the in situ development.

On May 1, 2008, the first group of Requesters, the USOA, submitted a letter to the Chairperson of the Inspection Panel

expressing “[T]hanks for your kind support for expediting of our in-situ project.” They also expressed their gratitude toward the local agencies involved as well as the World Bank for “expediting our in-situ project as per your promise.” In their letter they informed the Panel that they had vacated Project-affected land as agreed and that the developer had supported them in setting up the necessary infrastructure. With regard to the land reservations on the land needed for the in situ development, the USOA wrote that they “would appreciate the Government of Maharashtra and all component departments if the necessary clearance will be provided at the priority basis to expedite the in-situ project.”

## NEW DEVELOPMENTS

Management submitted its second Progress Report on November 13, 2007, and its third Progress Report on April 23, 2009. In the second Progress Report, Management stated that “significant progress had been achieved with resettlement” but that “key challenges” remain in the implementation of the full Action Plan. The third Progress Report said that “progress in implementation of the Borrower Action Plan has been real but moderate” with some Action Plan components making more progress than others. Management said it will continue to provide technical assistance to MMRDA for implementation of the Action Plan and will report on progress again in one year’s time. This could be the last Progress Report if Management determines that “satisfactory closure has been reached regarding the shopkeepers and long-term sustainability of post-resettlement activities.”

The USOA sent another letter to the Panel on July 24, 2008, in which it stated that the “issue of resettlement [is] almost resolved with USOA and MMRDA” and that “every condition has been approved by the MMRDA Commissioner and Chief R&R” but they were waiting for a memorandum of understanding between MMRDA and the USOA. The Panel remains in contact with the USOA and has forwarded Management’s Progress Reports to them.

Another significant development, as seen in earlier sections of this report, was the submission of a new complaint on May 29, 2009, by Messrs. Ambries Mehta, Deepak Mehta, and Hinesh Mehta, who are joint owners of a property in Powai, Mumbai, which they claim will be affected by Phase II of the Jogeshwari-Vikhroli Link Road component of the Mumbai Urban Transport Project. The Panel registered the Request on June 9, 2009, and is awaiting Management’s Response, due on July 9, 2009.



# DEMOCRATIC REPUBLIC OF CONGO

REQUEST NO. 37

## Transitional Support for Economic Recovery Credit Operation (TSERO) (IDA Grant No. H 192-DRC) and Emergency Economic and Social Reunification Support Project (EESRSP)

(CREDIT NO. 3824-DRC AND GRANT NO. H 064-DRC)

### THE REQUEST

The Panel received a Request for Inspection on the Transitional Support for Economic Recovery Credit Operation (TSERO) project and the Emergency Economic and Social Reunification Support Project (EESRSP) on November 19, 2005. The Request, dated October 30, 2005, was submitted by the Indigenous Pygmy Organizations and Pygmy Support Organizations in the Democratic Republic of Congo (DRC) on their own behalf and on behalf of affected local communities living in the provinces of Orientale, Equateur, Maniema, Bandundu, Sud-Kivu, and Nord-Kivu.

The Panel registered the Request on December 1, 2005. The Requesters claimed that they have been harmed and will be harmed by the forestry sector reforms supported by the TSERO project and the EESRSP. They claimed that if the Projects are implemented without consulting the indigenous peoples and considering their interests, the Projects may cause irreversible harm and lead to violations of their rights to occupy their ancestral lands, to maintain the integrity of their lands, to access existing resources, to manage their forests and resources according to traditional knowledge and practices, and to protect their cultural and spiritual values.

### BOX 12. PROJECT INFORMATION AT A GLANCE

Project Name:	Democratic Republic of Congo: Transitional Support for Economic Recovery Country Project (TSERO)/ Emergency Economic and Social Reunification Support Project (EESRSP)	
	<b>TSERO</b>	<b>EESRSP</b>
Region:	Sub-Saharan Africa	Sub-Saharan Africa
Sector:	General Finance	Central Government Administration
Environmental Category:	Not categorized	B
IDA Credit Amount:	US\$90 million equiv.	US\$214 million equiv.
Board Approval Date:	December 8, 2005	September 11, 2003
Effective Date:	December 27, 2005	December 5, 2003
Closing Date:	December 31, 2006	September 30, 2008





DRC-Forest: TSERO and EESRSP Requester with Panel team

The Requesters contended that the EESRSP Project was erroneously classified as Category B instead of Category A, under OP 4.01 (Environmental Assessment). The Requesters stated that the Bank ignored the application of OD 4.20 (Indigenous Peoples) despite the presence of indigenous people in the Project implementation area. The Requesters further stated that Bank activities pertaining to the forestry sector in the DRC are not consistent with OP 4.36 (Forests). According to the Requesters, the EESRSP is based on the Forest Code, which was adopted without the participation of civil society or the involvement of the indigenous population and without implement-

ation of any safeguards. The Requesters feared that the Projects would lead to the lifting of the moratorium on granting titles for forest exploitation.

The Requesters' claims described actions or omissions that may constitute violations by the Bank of various provisions of the following operational policies and procedures: OP/BP 4.01 (Environmental Assessment), OP 4.12 (Involuntary Resettlement), OD 4.15 (Poverty Reduction), OD 4.20 (Indigenous Peoples), OP/BP 4.36 (Forestry), OP/BP 8.50 (Emergency Recovery Assistance), Operational Policy Note 11.03 (Cultural Property), OP/BP 13.05 (Project Supervision), and BP 17.50 (Disclosure of Information).

## MANAGEMENT RESPONSE

On January 13, 2005, Management submitted its Response to the Request for Inspection in which it stated that the Bank made every effort to apply its policies and procedures. With regard to the environmental categorization of the Project, Management asserted that the EESRSP was classified correctly. Management emphasized that it did not decide not to implement safeguard policies and that completion of the Environmental Assessment and Environmental and Social Management Framework was delayed because of procurement issues. Management admitted that in this respect it did not comply with OP 4.01 but stated that it intended to be in compliance by February 2006.

Management further explained that OD 4.20 was not triggered because the design of the Project as reviewed at concept stage did not reveal the existence of Pygmy communities in project-affected areas. However, Management recognized that OD 4.20 should have been triggered during Project preparation.

Management also noted that the moratorium on allocating new concessions was established to avoid having concessions allocated too quickly and in an inappropriate way. Management claimed that its efforts have led to an unprecedented decrease of the areas under concessions. Management stated that it will establish a proactive forest information and outreach program and direct lines of communication with indigenous

communities, including the Pygmies, ensuring that in future Bank operations they receive culturally appropriate social and economic benefits.

### **THE PANEL'S ELIGIBILITY REPORT AND BOARD DECISION**

The Panel submitted its Report and Recommendation to the Board on February 16, 2006. In this Report, the Panel stated that the Requesters and the Request met the eligibility criteria. The Panel added that the Request and Management Response contained conflicting assertions and interpretations, which justified an investigation. The Board approved the Panel's recommendation to conduct an investigation into claims made by the Requesters on a no-objection basis on February 28, 2006.

### **THE PANEL'S INVESTIGATION REPORT**

On August 31, 2007, the Panel submitted its Investigation Report to the Board of Executive Directors. As a result of its investigation, the Panel found that while no reliable census data are available, DRC is home to between 250,000 and 600,000 Pygmy people. However, Project documents do not mention Pygmy peoples, or assess potential issues or risks to them posed by Project activities. The Panel observed that Pygmies in the DRC should be considered as Indigenous People under OD 4.20. The Panel found that Management failed to identify the existence of Pygmy communities in Project-affected areas.

Concerning the environmental categorization of the Project, the Panel found that no EA had been completed for the pilot zoning and logging concession elements contained in Component 2 of the Project. The Panel found that it should have been clear at Project design that the Project's involvement in the review of the logging concessions carried very significant environmental and social implications.

The Panel observed that financing of policy and institutional reforms in a sensitive sector like the forests of DRC can lead to highly significant environmental and social impacts. In that context, the Panel found that the Bank's determination that there were no significant environmental or social effects of the forest component of the TSERO was not consistent with the objective of Bank policies, especially when the Project essentially carried forward Component 2 of the EESRSP, subject to full Bank safeguard policies.

The Panel noted in its Investigation Report that it heard repeatedly that the 2002 moratorium on allocation of new forest concessions had been bypassed on a large scale. Reportedly, areas deemed unproductive were "swapped" or exchanged for higher-quality forest areas. Furthermore, substantial portions of concession areas canceled in 2002 reemerged as concession areas under consideration for validation in the concession conversion process supported by EESRSP. These transactions affected an estimated 15 million hectares and involved areas where Pygmies and other vulnerable peoples live. The Panel found that Management did not make timely follow-up efforts at a sufficiently high level to ensure necessary action in response to moratorium violations. The Panel also noted that none of the supervision documents after July 2005 referred to "swaps" or any potential moratorium violation.

Concerning the interministerial commission, the Panel noted that a representative of indigenous people will be included for each concession under review if the concession is in proximity to indigenous people. The Panel also understood that under new draft

legislation, a permanent representative and an alternate representative of indigenous peoples' organizations may be included in the commission. The Panel commended the Bank for its efforts to encourage participation of indigenous people in the process.

The Panel observed that dropping the pilot zoning element instead of bringing it into compliance with Bank policies and procedures delayed the gathering of important information. The Panel noted that the forest concession conversion process served as de facto zoning under which legal and economic interests of logging companies would be considered for long-term recognition, while consideration and recognition of land tenure and livelihood rights of people living in the forests or dependent upon them will be delayed.

In its report, the Panel noted the importance of developing a more balanced approach that would emphasize appropriate models of community forests and other actions to support community participation, land tenure, and use rights in forests. This approach would be developed by linking it to a recently proposed Bank-administered fund to pilot instruments for reducing carbon emissions from deforestation and forest degradation.

The Panel recognized that it is important for the Bank to remain engaged in the forest sector in the DRC. It is also essential that the Bank comply with its social and environmental safeguard policies, as well as its other policies, to ensure that the forests benefit both present and future generations in the DRC.

## **MANAGEMENT'S REPORT AND RECOMMENDATIONS IN RESPONSE TO THE PANEL'S FINDINGS**

The Panel received Management's Report and Recommendation on November 5, 2007. Management stated that in 2002, the government cancelled 163 concessions—bringing the total area under concessions from 45 million hectares to 20 million hectares—and established a ban on new concession allocations. A review of the legality of remaining concessions and others possibly awarded or exchanged illegally between 2002 and 2005 was being conducted with a view to rescinding those not in compliance with prevailing legislation.

Management agreed that with regard to the EESRSP, the quality of the Bank's intervention would have been enhanced by the preparation of an EA for Component 2. However, Management clarified that the design of the pilot zoning activity, had it started, included the elements required by OP 4.01, and was setting the stage for future multipurpose forest management.

Concerning involuntary resettlement, Management clarified that OP 4.12 was triggered during project preparation, adding that no resettlement would derive from the forest-related activities supported by the Project. Management noted that the Legal Review is designed to cancel illegal concessions and introduce additional social provisions in remaining compliant concessions.

With regard to indigenous peoples, Management clarified that (i) the design of the dropped pilot zoning activity identified the possible presence of Pygmy populations in the pilot area and included the consultation, disclosure, baseline data collection, and analytical work required; and (ii) a Consultation Protocol was being implemented to ensure full participation of indigenous peoples for the Legal Review.

Management agreed with the finding that the EESRSP was consistent with OP 4.36 for (i) not financing significant conversion of critical forest areas or natural habitats; (ii)



advising the government to cancel illegal or expired concessions; (iii) considering the development of a good-quality legal framework; (iv) helping establish an independent observer in the Legal Review; and (v) promoting independent monitoring to tackle illegal logging.

Management also clarified that the policies supported by the Development Policy Operation regarding forests helped preserve the forests and forest peoples' rights. Management stated that investment lending and development policy lending instruments cannot be used interchangeably and that the choice of a develop-

ment policy grant to support a small set of policy and institutional actions was appropriate and consistent with Bank policies.

As part of its Report, Management prepared an Action Plan in which it committed to strengthen safeguards quality control to better monitor and manage environmental and social risks. It also committed to undertake more consultations so that the concerns of affected peoples are adequately considered. With regard to addressing indigenous peoples' issues, Management planned to integrate indigenous peoples as a cross-cutting theme across its activities in the DRC. Management stated that it would (i) analyze the current situation of vulnerable groups, including Pygmies, in the DRC, and draw upon and disseminate lessons from ongoing efforts to reach and support them with access to education, health, and rural infrastructure, and the dialogue would be in the context of the forest reforms; and (ii) ensure that upcoming road, agriculture, and forest projects include capacity-building components to implement Indigenous Peoples Frameworks.

With regard to forest reforms, Management stated that it would continue to monitor the Legal Review and the moratorium and assist the government to ensure compliance with the 2005 Presidential Decree. Additionally, Management planned to continue mobilizing the attention of the highest level of government and ensure that forest governance, capacity building, participatory zoning, customary rights, critical natural habitats, law enforcement, and independent monitoring feature in forthcoming forest-related operations.

Finally, Management welcomed the finding that the various parties, including the Requesters, believed it important that the Bank remain involved in the forest sector in the DRC. Management stated its commitment to support the authorities and other relevant groups in the DRC in implementing the work started in 2002 and implement the Action Plan. Management proposed to provide the Board with a progress report in December 2008.



DRC-Forest: Logs gathered in the Kisangani area

## **BOARD DISCUSSIONS**

On January 10, 2008, the Bank's Executive Directors met to discuss the Panel's Investigation Report and the Management Report and Recommendations. At the Board meeting, there was wide agreement with the findings of the Panel, the measures outlined in the Action Plan, and an emphasis on the need to take and further develop specific steps to correct shortcomings and apply lessons learned. It was also agreed that Management would provide a progress report on implementation of the Action Plan to the Board within 12 months.

Between February 27 and March 1, 2008, a two-person Panel team returned to Kinshasa, DRC, to hold meetings with representatives of the Requesters and government officials and convey the results of the Panel investigation and the related Board meeting.

## **FIRST PROGRESS REPORT**

In its first Progress Report, delivered in March 2009, Management stated that with regard to safeguards, the region made progress through decentralization of staff in charge of safeguards, safeguard training for Task Team leaders, country environment and social clinics, and the use of lending to strengthen countries' environmental and social management capacity.

Regarding indigenous peoples in the DRC, Management stated that work had begun with the government, development partners, and key stakeholders on a Pygmy Development Strategy aiming to analyze factors threatening the cultural identity of Pygmy populations and contributing to their impoverishment. This strategy would provide information to form the foundation for a national and longer-term strategy to be developed by the government in 2010. The implementation of this work has been constrained because of security issues and the practical difficulties of working in remote areas.

Regarding forestry, Management stated that the government is moving toward a modern approach to forest management supporting a mosaic of different uses. It completed the Legal Review of concessions, resulting in a dramatic reduction in the area under concession management, from 43.5 million hectares in 2002 to 9.7 million hectares in 2008. It is supporting community-based forest management; respecting the rights of traditional users; developing innovative ecosystem services models; and ensuring community participation and consultation in all decision-making processes related to forest management. Management added that it will scale up support of capacity building, community forest management, and conservation.

Regarding outreach and communications, Management stated that it held four meetings with indigenous groups to discuss the indigenous peoples-related actions. Five radio interviews, a 45-minute television broadcast, three forest mission debriefings with indigenous representatives, as well as various briefings and interviews with journalists were organized in 2008. In addition, 15 sessions were held with local people from the project area to discuss the design of the upcoming Bank-assisted forest and nature conservation project. Management also stated that 215 representatives of Pygmy populations participated in these meetings between April and December 2008.



In conclusion, Management stated that substantial progress had been made in implementing the Action Plan. Two areas in particular require sustained attention: the safeguard strengthening work, where the upscaling will take time to yield results; and the field implementation of Indigenous Peoples Plans, where the logistical difficulties of working in remote areas of the DRC are considerable. Management also stated that over the coming year it would continue monitoring the portfolio across the region for compliance with safeguards and work on strengthening country capacity to mainstream sound environmental and social assessment into program design and implementation. Management will also work with country stakeholders to ensure that the rights of indigenous peoples and marginalized groups are better respected, though it must be recognized that issues of social exclusion and marginalization are deeply rooted in many societies and take decades to overcome.

The Request for Inspection and the Panel's and Management's Reports are public and are available on the Inspection Panel's Web site at <http://www.inspectionpanel.org>, along with a press release about the discussions held at the Board meeting.

## V. OUTREACH AND OTHER ACTIVITIES

### **Workshops with Members of Civil Society in Ho Chi Minh City, Vietnam, and Jakarta, Indonesia**

Panel Chairperson Mr. Werner Kiene and Deputy Executive Secretary Mr. Dilek Barlas participated in two outreach workshops organized jointly with the Bank Information Center, the Vietnam Rivers Network, and Vietnam’s Institute of Tropical Biology, entitled “How Do the World Bank’s Accountability Mechanisms Work?” The workshop in Ho Chi Minh City, Vietnam, took place on April 3, 2009, as part of a five-day training workshop. The workshop in Jakarta, Indonesia, took place on April 7, 2009. The Compliance Advisory Ombudsman from the International Finance Corporation of the World Bank Group also participated in the workshops. Workshop participants included representatives of NGOs and community-based organizations, and academics. In addition to Vietnam and Indonesia, representatives came from Cambodia, the Philippines, and Thailand. The events in both Ho Chi Minh City and Jakarta focused on the issue of accountability in general and in Bank-financed projects, and the role and functions of the Inspection Panel and the Compliance Advisory Ombudsman.



Participants at workshop in Jakarta, Indonesia

### Right to Appeal for Affected Communities, Rome, Italy

On December 12, 2008, Senior Operations Officer Ms. Tatiana Tassoni participated in an event organized in Rome, Italy, by Counter Balance, a network of European NGOs, and Campagna per la Riforma della Banca Mondiale (Campaign for the Reform of the World Bank), an Italian NGO. The event, which included presentations by members of the Complaints Office of the European Investment Bank, introduced the Right to Appeal of local communities affected by projects financed by international financial institutions, to achieve better accountability from these institutions. Ms. Tassoni discussed in particular the results of the Inspection Panel's activities for affected people and the World Bank, and the challenges facing the Inspection Panel's role and function.

### Introducing the Inspection Panel to Academia

Ms. Tassoni teamed with staff from the Bank's External Affairs department to introduce the World Bank's activities in general and the Inspection Panel's work within the Bank to groups of students from local universities. The Panel regularly conducts such outreach activities with students of universities—especially the American University Human Rights Summer Program and the Columbia University Human Rights Advocates Program—to present the Panel, its role, its function, and the outcome of its activities.

### World Social Forum in Belem, Brazil

On January 29, 2009, an Inspection Panel team participated in an event at the World Social Forum in Belem, Brazil, as part of its efforts at outreach and building awareness of the Panel's availability as a recourse mechanism. The Panel team, composed of Chairperson Mr. Werner Kiene, Executive Secretary Mr. Peter Lallas, and Consultant Mr. Eduardo Abbott, partnered with the Grupo de Trabalho Amazonico (GTA) and the Environmental Defense Fund (EDF) in organizing and leading the discussions at the session. The discussions addressed the topic "Community-Led Accountability: How Can Communities Hold International Financial Institutions Accountable and Have Their Voices Heard at the World Bank?" As part of the discussions, the Panel described its role as an accountability mechanism and responded to many questions from participants.

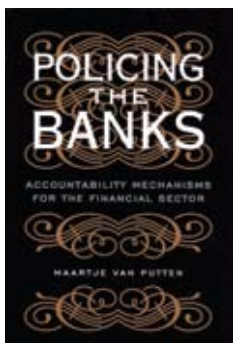


Audience at State University of Rio de Janeiro



### Awareness Building in Rio de Janeiro, Brazil

The Panel Chairperson Mr. Werner Kiene and the Executive Secretary Mr. Peter Lallas participated in the seminar “The World Bank Inspection Panel and Public Administration in Brazil,” organized by the Fundação Getulio Vargas, the country’s leading economic research institute, and which took place in Rio de Janeiro on February 2, 2009. Mr. Kiene also gave a lecture on “Transparency, Accountability and the Rule of Law” at the Military Police Academy Dom João VI in Rio de Janeiro on February 3, 2009. Finally, Mr. Kiene, Mr. Lallas, and Mr. Eduardo Abbott participated in a roundtable on “The World Bank Inspection Panel: Evaluation and Administration of Public Policies in the Modern World” at the State University of Rio de Janeiro, also on February 3, 2009.



### More Accountability for International Financial Institutions, Brussels, Belgium

On March 17, 2009, the Chairperson of the Inspection Panel Dr. Werner Kiene and the Commissioner for Economic and Monetary Affairs in the European Union Mr. Joaquin Almunia presented Dr. Maartje van Putten’s book *Policing the Banks* to members of the European Parliament. Dr. Kiene arrived in Brussels on that occasion to join in the introduction of the book and to reflect on practices and lessons learned in accountability among international financial institutions. Dr. van Putten was a Member of the Panel from October 1999 to September 2004.



Inspection Panel Open-House reception during World Bank Spring Meeting



## Inspection Panel Activities during Spring Meetings 2009

The Inspection Panel took part in a number of activities during the 2009 Spring Meetings of the World Bank and the International Monetary Fund. The Panel hosted an Open House in its Washington, DC, offices on April 24, 2009, where Panel Members and Secretariat staff interacted with visiting civil society representatives and Bank staff. Other events included participation by the Panel's Chairperson Mr. Werner Kiene in the Orientation Session for civil society organizations on April 22; Mr. Kiene's keynote address in a discussion on "The Inspection Panel and Human Rights at the World Bank" on April 23, cohosted by the International Accountability Project and the Center for International Environmental Law (CIEL); and a briefing to civil society representatives about the Panel's recent activities in a meeting hosted by the Bank Information Center and CIEL on April 24.

## Civil Society Meeting in Cairo, The Arab Republic of Egypt

On November 23 and 24, 2009, civil society groups convened in Cairo and organized two separate events to discuss the Bank-financed West Delta Irrigation Project and the function of the World Bank Inspection Panel as an avenue for recourse. The discussion was organized by the Land Center for Human Rights and the Habi Center for Environmental Rights and was attended by officials from the Egyptian Ministry of Irrigation, members of opposing political parties, representatives of the World Bank office in Cairo, Project-affected farmers, investors, geologists, environmentalists, and journalists as well as an international NGO. Panel Operations Officer Mr. Serge Selwan was invited to attend the discussions, which covered topics including the irrigation and agriculture policies in Egypt, impacts of climate change, national legislation governing the project, and applicable Bank policies. The participants raised many concerns about the effects of the project on surrounding lands and on the food crisis in Egypt. The meeting was considered a success for civil society, which succeeded in bringing the government and downstream farmers into a meaningful discussion of the project.



Workshop on Accountability for Sustainable Development in Beirut, Lebanon

### **Middle East Civil Society Meeting in Beirut, Lebanon**

On March 30 and 31, 2009, Panel Chairperson Mr. Werner Kiene, and Panel Operations Officer Mr. Serge Selwan attended two workshops in Beirut to raise awareness of accountability for sustainable development and to explain the significance of the Inspection Panel as a recourse mechanism to people and communities affected by Bank-financed projects. The first workshop was organized for the Beirut-based staff of the World Bank and was also attended by staff from the Iraq and Jordan Country Offices via video-conference. On March 31, the Panel team met with civil society organizations from Egypt, Jordan, Lebanon, and the Republic of Yemen. The meeting was organized by the Bank Information Center to discuss the Bank's policies and the function of the Bank's Inspection Panel. In addition to the two workshops, on April 1, 2009, the Panel team, accompanied by the Director of the Bank's Country Office in Lebanon Mr. Demba Ba, met with Minister of Finance Mr. Mohamed Chatah.

### **Access to Independent Review Mechanisms in Dakar, Senegal**

On June 2 and 3, 2009, the Independent Review Mechanism of the African Development Bank (AfDB) organized a two-day event on the recourse mechanisms of various international financial institutions. The two-day workshop included a site visit to a project proposed for joint AfDB and Bank financing. The opening remarks were made by AfDB Resident Representative in Senegal Mr. Mohamed H'Midouche and

Participants of workshop on recourse mechanisms in Dakar, Senegal



National Programme Coordinator in Guinea-Bissau Mr. Ansumane Mane. The presentations concerning the different mechanisms were made by Mr. Per Eldar Sovik, director of AfDB's Compliance Review and Mediation Unit (CRMU), Mr. Samba Idrissa, Consultant, and Mrs. Adila Abusharaf, CRMU principal compliance officer, from the Independent Review Mechanism of the AfDB; Ms. Julia Gallu, Specialist Ombudsman, and Ms. Emily Horgan, Program Officer, from the Compliance Advisor/Ombudsman office of the International Finance Corporation; and Mr. Serge Selwan, Operations Officer, from the World Bank Inspection Panel. The workshop was well attended and, in addition to civil society organizations from Senegal, included representatives from civil society organizations in Cape Verde, The Gambia, Guinea-Bissau, Mali, and Mauritania.





---

APPENDIXES II-XII



## APPENDIX II

---

### BIOGRAPHIES OF PANEL MEMBERS AND EXECUTIVE SECRETARY



**Mr. Werner Kiene** (Austria) was appointed to the Panel in November 2004. He holds a master of science degree and a Ph.D. in agricultural economics from Michigan State University. He has held leadership positions with the Ford Foundation and German Development Assistance. In 1994, Mr. Kiene became the founding director of the Office of Evaluation of the United Nations World Food Programme (UN WFP). He was the World Food Programme country director for Bangladesh from 1998 through 2000 and also served as UN resident coordinator during this period. From 2000 to 2004 he was a representative of the UN WFP in Washington, DC. Mr. Kiene's focus has been on the design, implementation, and assessment of sustainable development initiatives. His professional writings have dealt with issues of rural poverty and social services delivery; food security, agricultural, and regional development; emergency support and humanitarian assistance; international trade; and international relations. Mr. Kiene is involved in professional organizations such as the American Evaluation Association, the Society for International Development, the American Association for the Advancement of Science, and the International Association of Agricultural Economists.



**Mr. Roberto Lenton** (Argentina) was appointed to the Panel in September 2007. He earned a Civil Engineering degree from the University of Buenos Aires and a Ph.D. from the Massachusetts Institute of Technology (MIT). A specialist in water resources and sustainable development with more than 30 years of international experience in the field, he serves as Chair of the Water Supply and Sanitation Collaborative Council and Member of the Board of Directors of WaterAid America, and served until July 2009 as Chair of the Technical Committee of the Global Water Partnership. Mr. Lenton is a co-author of *Applied Water Resources Systems* and co-editor of "Integrated Water Resources Management in Practice," and a lead author of *Health, Dignity and Development: What Will It Take?*, the final report of the United Nations Millennium Project Task Force on Water and Sanitation, which he co-chaired. Mr. Lenton was earlier Director of the Sustainable Energy and Environment Division of the United Nations Development Programme in New York, Director General of the International Water Management Institute in Sri Lanka, and Program Officer in the Rural Poverty and Resources program of the Ford Foundation in New Delhi and New York. He has served as Adjunct Professor in the School of International and Public Affairs at Columbia University and Assistant Professor of Civil and Environmental Engineering at MIT.

**Mr. Alf Jerve** (Norway) was appointed to the Panel in November 2008. Mr. Jerve brings to the Panel close to three decades of work in the field of development. A social anthropologist by training, he has been engaged in a wide range of development activities including extensive field research in Africa and Asia. Among his assignments was a three-year posting to Tanzania with the Norwegian Agency for Development Cooperation as coordinator of a rural development program. From 1993 to 1995 he was responsible for resettlement and rehabilitation issues with projects in Bangladesh during an assignment with the World Bank. In 1995 he became Assistant Director, and served as Director in 2005 and 2006, at the Christian Michelsen Institute in Norway, an internationally recognized development research institution, where he has also devoted his energies and expertise to research and analysis of a wide variety of policy and program issues affecting people in developing countries. Over the years, Mr. Jerve also has led and participated in numerous independent evaluations commissioned by bilateral and multilateral development agencies, and served as a Member of the Roster of Experts for the Asian Development Bank's Inspection Function. He earned his magister degree in social anthropology from the University of Bergen and his bachelor's degree is in the areas of environmental science and biology. His publications have focused on rural development, decentralization, and poverty reduction and most recently on issues of ownership in development aid cooperation.

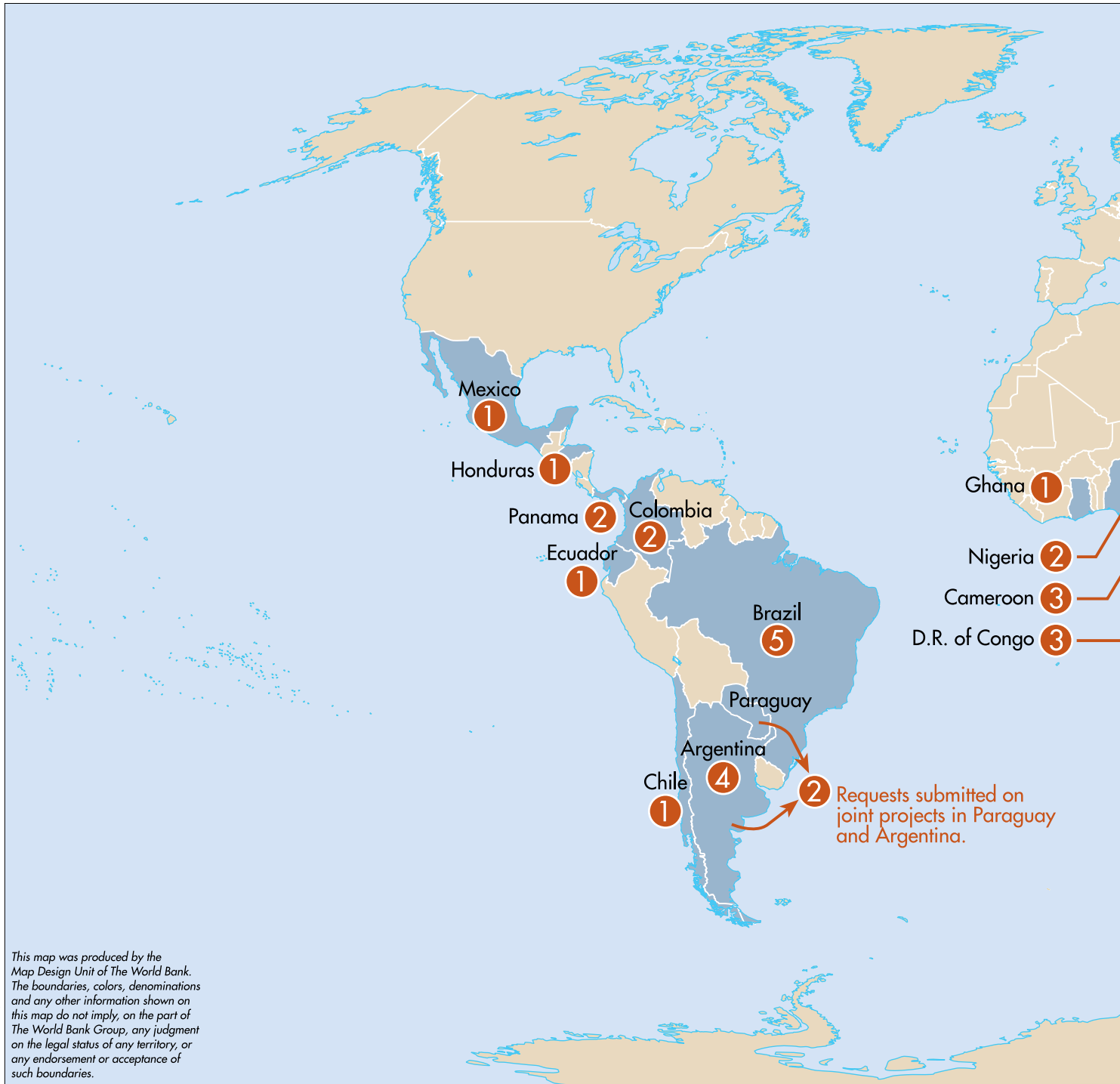


**Mr. Peter Louis Lallas** (United States) became the Inspection Panel's Executive Secretary on January 1, 2007, following the retirement of the Panel's long-time Executive Secretary Mr. Eduardo Abbott. Mr. Lallas has nearly two decades of experience in the fields of international cooperation and law, working in a variety of institutions, settings, and countries. He has held positions as legal advisor on international law and organizations in the United Nations Food and Agriculture Organization (FAO) in Rome; as director of the International Environmental Law Office of the U.S. Environmental Protection Agency in Washington, DC; in the Commission of the European Communities in Brussels; and in an active Brussels law practice in international law, trade law, and European Community law. Mr. Lallas served as the Inspection Panel's Deputy Executive Secretary prior to becoming Executive Secretary. He holds a J.D. from Harvard University Law School (1986) and a B.A. in economics with Distinction and Honors from Stanford University (1981). Over the years, Mr. Lallas has taught on international law and policy issues, including as adjunct professor on international environmental policy in the Masters of Science Program of Georgetown University. He has authored and coauthored a number of publications on topics of international law, cooperation, and sustainable development and has been honored many times for his work.

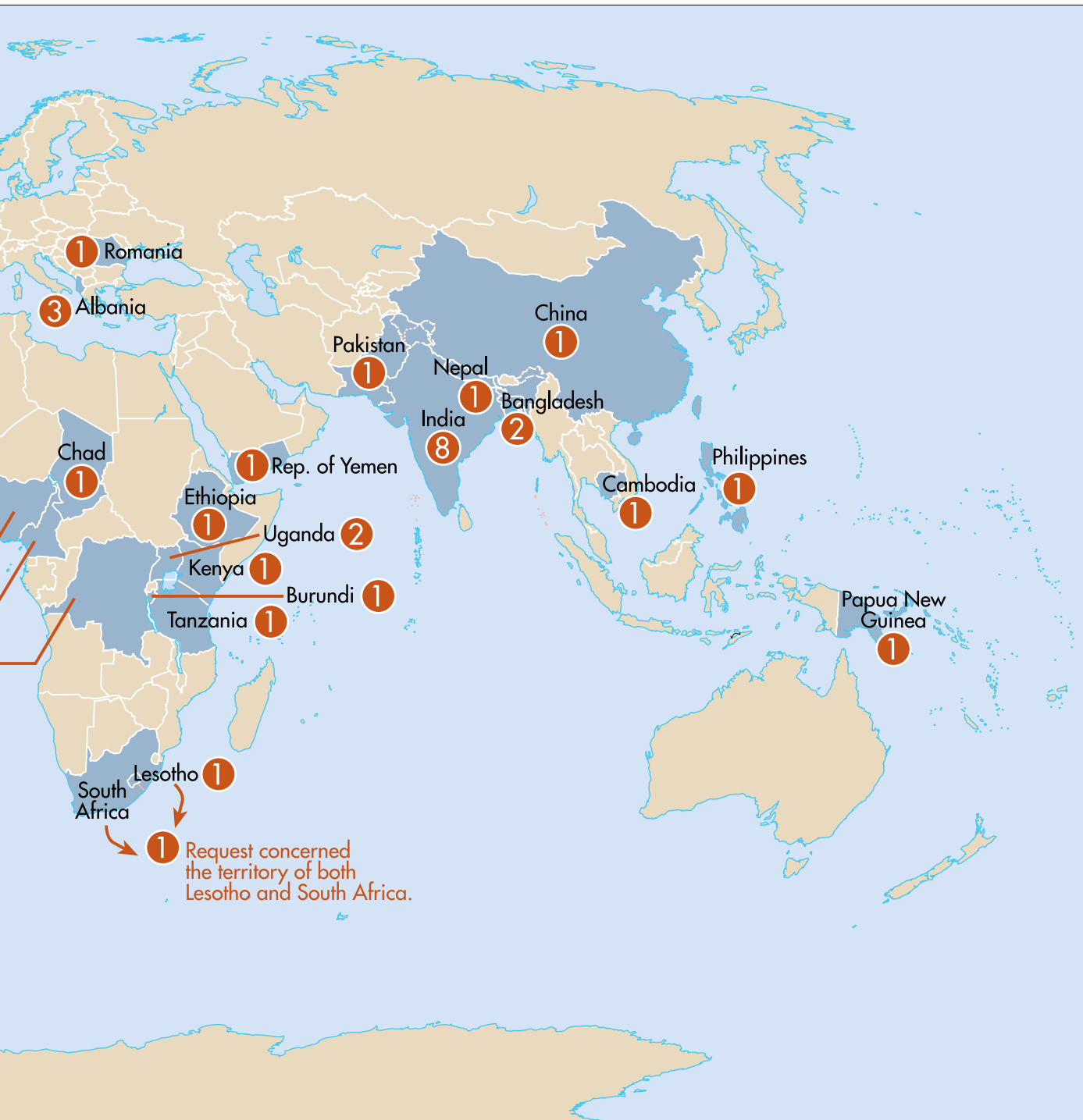


# APPENDIX III

## GEOGRAPHICAL DISTRIBUTION OF REQUESTS FOR INSPECTION







IBRD 32336R16

## APPENDIX IV

### TABLES

**TABLE IV–A: SUMMARY OF INSPECTION PANEL CASES<sup>a</sup>**

JUNE 30, 2009

REQUEST (SHORT FORM)	REQUEST RECEIVED	REQUEST REGISTERED	INSPECTION PANEL RECOMMENDATION	RECOMMENDATION APPROVED BY THE BOARD	PANEL'S ACTIVITY
1. <b>Nepal:</b> Arun III Proposed Hydroelectric Project and Restructuring of IDA Credit	October 24, 1994	Yes	Investigation	Yes	Eligibility Report and Investigation Report
2. <b>Ethiopia:</b> Compensation for Expropriation and Extension of IDA Credits to Ethiopia	May 2, 1995	No	—	—	—
3. <b>Tanzania:</b> Power VI Project	May 16, 1995	Yes	No investigation	Yes	Eligibility Report
4. <b>Brazil:</b> Rondônia Natural Resources Management Project	June 16, 1995	Yes	Investigation	No	Eligibility Report, Additional Review report, and Review of Progress in Implementation
5. <b>Chile:</b> Financing of Hydroelectric Dams in the Bio-Bio River	November 17, 1995	No	—	—	—
6. <b>Bangladesh:</b> Jamuna Multipurpose Bridge Project	August 23, 1996	Yes	No investigation	Yes	Eligibility Report and Report on Progress on Implementation of Action Plan
7. <b>Argentina/Paraguay:</b> Yacyretá Hydroelectric Project (1996)	September 30, 1996	Yes	Investigation	No	Eligibility Report and Review of Present Project Problems and Assessment of Action Plans
8. <b>Bangladesh:</b> Jute Sector Adjustment Credit	November 13, 1996	Yes	No investigation	Yes	Eligibility Report
9. <b>Brazil:</b> Itaparica Resettlement and Irrigation Project	March 12, 1997	Yes	Investigation	No	Eligibility Report and Action Plan review
10. <b>India:</b> NTPC Power Generation Project	May 1, 1997	Yes	Investigation	Yes	Eligibility Report and Report on Desk Investigation

Note: IDA = International Development Association

a. Normally, the Panel advises the Executive Directors and the President when it receives a Request for Inspection that it cannot process (as it did in the Requests regarding Chile: Bio-Bio River; India: NTPC, Second Request; Cameroon: Pipeline Project, Second Request; Burundi: Public Works and Employment Creation Project; and Cameroon: Urban Development). The Inspection Panel received a letter, dated August 27, 1999, also addressed to the President and the Executive Directors of the World Bank, requesting for the second time the "installation of an Inspection Panel" to investigate the Itaparica Resettlement and Irrigation Project in Brazil. Because the Bank's loans for this project were then long closed, the Panel was precluded from processing this Request. Furthermore, because the Request had already been addressed to the President and Executive Directors, no action on the part of the Panel was necessary. However, some regard this extemporaneous request as a formal Request for Inspection that should be added to the Panel's records.

REQUEST (SHORT FORM)	REQUEST RECEIVED	REQUEST REGISTERED	INSPECTION PANEL RECOMMENDATION	RECOMMENDATION APPROVED BY THE BOARD	PANEL'S ACTIVITY
11. <b>India:</b> Ecodevelopment Project	April 2, 1998	Yes	Investigation	No	Eligibility Report
12. <b>Lesotho/South Africa:</b> Phase 1B of Lesotho Highlands Water Project (1998)	May 6, 1998	Yes	No investigation	Yes	Eligibility Report
13. <b>Nigeria:</b> Lagos Drainage and Sanitation Project	June 17, 1998	Yes	No investigation	Yes	Eligibility Report
14. <b>Brazil:</b> Land Reform Poverty Alleviation Project	December 14, 1998	Yes	No investigation	Yes	Eligibility Report
15. <b>Lesotho:</b> Highlands Water Project (1999)	April 26, 1999	Yes	No investigation	Yes	Eligibility Report
16. <b>China:</b> Western Poverty Reduction Project	June 18, 1999	Yes	Investigation	Yes	Eligibility Report and Investigation Report
17. <b>Argentina:</b> Special Structural Adjustment Loan	July 26, 1999	Yes	No investigation	Yes	Eligibility Report
18. <b>Brazil:</b> Land Reform Poverty Alleviation Project, Second Request	September 14, 1999	Yes	No investigation	Yes	Eligibility Report
19. <b>Kenya:</b> Lake Victoria Environmental Management Project	October 12, 1999	Yes	Investigation	Yes	Eligibility Report and Investigation Report
20. <b>Ecuador:</b> Mining Development and Environmental Control Technical Assistance Project	December 13, 1999	Yes	Investigation	Yes	Eligibility Report and Investigation Report
21. <b>India:</b> NTPC Power Generation Project, Second Request	November 27, 2000	No	—	—	—
22. <b>Chad:</b> Petroleum Development and Pipeline Project, Management of the Petroleum Economy Project, and Petroleum Sector Management Capacity Building Project	March 22, 2001	Yes	Investigation	Yes	Eligibility Report and Investigation Report
23. <b>India:</b> Coal Sector Environmental and Social Mitigation Project and Coal Sector Rehabilitation Project	June 21, 2001	Yes	Investigation	Yes	Eligibility Report and Investigation Report
24. <b>Uganda:</b> Third Power Project, Fourth Power Project, and proposed Bujagali Hydropower Project	July 27, 2001	Yes	Investigation	Yes	Eligibility Report and Investigation Report
25. <b>Papua New Guinea:</b> Governance Promotion Adjustment Loan	December 6, 2001	Yes	No investigation	Yes	Eligibility Report

*continued*

REQUEST (SHORT FORM)	REQUEST RECEIVED	REQUEST REGISTERED	INSPECTION PANEL RECOMMENDATION	RECOMMENDATION APPROVED BY THE BOARD	PANEL'S ACTIVITY
26. <b>Paraguay/Argentina:</b> Reform Project for the Water and Telecommunication Sectors, SEGBA V Power Distribution Project (Yacyretá 2002)	May 17, 2002	Yes	Investigation	Yes	Eligibility Report and Investigation Report
27. <b>Cameroon:</b> Petroleum Development and Pipeline Project, and Petroleum Environment Capacity Enhancement Project	September 25, 2002	Yes	Investigation	Yes	Eligibility Report and Investigation Report
28. <b>Philippines:</b> Manila Second Sewerage Project (MSSP)	September 26, 2003	Yes	No recommendation, as the Requesters failed to satisfy a procedural criterion—that is, that the Requesters had brought the subject matter to Management's attention and that, in the Requesters' view, Management failed to respond adequately.	Yes	Eligibility Report
29. <b>Cameroon:</b> Petroleum Development and Pipeline Project	November 26, 2003	No	—	—	—
30. <b>Mexico:</b> Indigenous and Community Biodiversity Project (COINBIO)	January 26, 2004	Yes	In fairness to all parties concerned, the Panel could not take a position on whether the Request merits an investigation and awaits further developments.	Yes	Eligibility Report
31. <b>Colombia:</b> Cartagena Water Supply, Sewerage, and Environmental Management Project	April 20, 2004	Yes	Investigation	Yes	Eligibility Report and Investigation Report
32. <b>India:</b> Mumbai Urban Transport Project	April 28, 2004	Yes	Investigation	Yes	Eligibility Report and Investigation Report
33. <b>India:</b> Mumbai Urban Transport Project—Gazi Nagar	June 29, 2004	Yes	Investigation as part of Request number 32, <b>India:</b> Mumbai Urban Transport Project	Yes	Eligibility Report and Investigation Report completed as part of case Request number 32, <b>India:</b> Mumbai Urban Transport Project
34. <b>Burundi:</b> Public Works and Employment Creation Project	September 17, 2004	No	—	—	—
35. <b>Pakistan:</b> National Drainage Program Project	September 10, 2004	Yes	Investigation	Yes	Eligibility Report and Investigation Report
36. <b>Cambodia:</b> Forest Concession Management and Control Pilot Project	January 28, 2005	Yes	Investigation	Yes	Eligibility Report and Investigation Report



REQUEST (SHORT FORM)	REQUEST RECEIVED	REQUEST REGISTERED	INSPECTION PANEL RECOMMENDATION	RECOMMENDATION APPROVED BY THE BOARD	PANEL'S ACTIVITY
37. <b>Democratic Republic of Congo:</b> Transitional Support for Economic Recovery Credit Operation (TSERO) and Emergency Economic and Social Reunification Support Project (EESRSP)	November 19, 2005	Yes	Investigation	Yes	Eligibility Report and Investigation Report
38. <b>Honduras:</b> Land Administration Project	January 3, 2006	Yes	Investigation	Yes	Investigation Report
39. <b>Romania:</b> Mine Closure and Social Mitigation Project	January 6, 2006	Yes	In fairness to all parties concerned, the Panel could not take a position on whether the Request merits an investigation and awaits further developments.	Yes	Eligibility Report
40. <b>Nigeria:</b> West African Gas Pipeline Project	April 27, 2006	Yes	Investigation	Yes	(First) Eligibility Report and Final Eligibility Report Investigation Ongoing
41. <b>Brazil:</b> Paraná Biodiversity Project	July 10, 2006	Yes	No investigation	Yes	(First) Eligibility Report and Final Eligibility Report
42. <b>Argentina:</b> Santa Fe Infrastructure Project and Provincial Road Infrastructure Project	August 28, 2006	Yes	No recommendation, as the Requesters failed to satisfy a procedural criterion, that the Requesters had brought the subject matter to Management's attention and that, in the Requesters' view, Management failed to respond adequately.	Yes	Eligibility Report
43. <b>Argentina:</b> Santa Fe Infrastructure Project and Provincial Road Infrastructure Project	September 21, 2006	Yes	Eligibility as part of Request number 42, <b>Argentina:</b> Santa Fe Infrastructure Project and Provincial Road Infrastructure Project	Yes	Eligibility Report completed as part of Request number 42, <b>Argentina:</b> Santa Fe Infrastructure Project and Provincial Road Infrastructure Project
44. <b>Uganda:</b> Private Power Generation Project	March 5, 2007	Yes	Investigation	Yes	Eligibility Report Investigation Ongoing
45. <b>India:</b> Uttaranchal Decentralized Watershed Development Project	March 7, 2007	Yes	In fairness to all parties concerned, the Panel could not take a position on whether the Request merits an investigation and awaits further developments.	Yes	Eligibility Report
46. <b>Albania:</b> Power Sector Generation and Restructuring Project	April 30, 2007	Yes	Investigation	Yes	Eligibility Report Investigation Ongoing
47. <b>Albania:</b> Integrated & Coastal Zone Management	July 30, 2007	Yes	Investigation	Yes	Eligibility Report Investigation Ongoing
48. and Clean-Up Project	August 13, 2007	Yes			

*continued*

REQUEST (SHORT FORM)	REQUEST RECEIVED	REQUEST REGISTERED	INSPECTION PANEL RECOMMENDATION	RECOMMENDATION APPROVED BY THE BOARD	PANEL'S ACTIVITY
49. <b>Ghana:</b> Second Urban Environment Sanitation Project (UESP II)	August 16, 2007	Yes	Investigation	Yes	Eligibility Report Investigation Ongoing
50. <b>Cameroon:</b> Urban Development Project and Second Urban Project	September 5, 2007	No	—	—	—
51. <b>Argentina:</b> Santa Fe Infrastructure Project and Provincial Road Infrastructure Project	September 13, 2007	Yes	Investigation	Yes	Eligibility Report Investigation Ongoing
52. <b>Colombia:</b> Bogotá Urban Services Project	October 30, 2007	Yes	No recommendation, as the Requesters failed to satisfy a procedural criterion, that the Requesters had brought the subject matter to Management's attention and that, in the Requesters' view, Management failed to respond adequately.	Yes	Eligibility Report
53. <b>Panama:</b> Land & Administration Project	February 25, 2009	Yes	—	—	—
56.	March 17, 2009	Yes			
54. <b>Democratic Republic of Congo:</b> Private Sector Development and Competitiveness Project	February 25, 2009	Yes	In fairness to all parties concerned, the Panel could not take a position on whether the Request merits an investigation and awaits further developments.	Yes	Eligibility Report
55.	March 13, 2009	Yes			
57. <b>Yemen:</b> Institutional Reform Development Policy Financing	April 13, 2009	Yes	—	—	—
58. <b>India:</b> Mumbai Urban Transport Project	May 29, 2009	Yes	—	—	—

Source: Inspection Panel.

**TABLE IV–B: ALLEGED VIOLATIONS OF POLICIES AND PROCEDURES PER REQUEST**

JUNE 30, 2009

DATE REQUEST RECEIVED	REQUEST	POLICIES AND PROCEDURES RAISED IN THE REQUEST FOR INSPECTION
1. 10/24/1994	<b>Nepal:</b> Arun III Proposed Hydroelectric Project and Restructuring of IDA Credit	Economic evaluation of investment operations (OP/BP 10.04) Disclosure of operational information (BP 17.50) Outline for a project information document (BP 10.00, Annex A) Environmental assessment (OD 4.01) Involuntary resettlement (OD 4.30) Indigenous peoples (OD 4.20)
2. 05/2/1995	<b>Ethiopia:</b> Compensation for Expropriation and Extension of IDA Credits to Ethiopia (not registered)	Dispute over defaults on external debt, expropriation, and breach of contract (OMS 1.28)
3. 05/16/1995	<b>Tanzania:</b> Power VI Project	Article V Section 1(c), IDA Articles of Agreement Article V Section 1(d), IDA Articles of Agreement Article V Section 1(g), IDA Articles of Agreement Environmental aspects of Bank work (OMS 2.36) Environmental assessment (OD 4.01)
4. 06/16/1995	<b>Brazil:</b> Rondônia Natural Resources Management Project	Project supervision (OD 13.05) Forestry (OP 4.36) Wildlands (OPN 11.02) Indigenous peoples (OD 4.20) Involving nongovernmental organizations in Bank-supported activities (GP 14.70) Project monitoring and evaluation (OD 10.70) Investment lending—identification to the Board presentation (BP 10.00) Suspension of disbursements (OD 13.40) Accounting, financial reporting, and auditing (OD 10.60) Procurement (OD 11.00) Use of consultants (OD 11.10) Borrower compliance with audit covenants (OD 13.10)
5. 11/17/1995	<b>Chile:</b> Financing of Hydroelectric Dams in the Bio-Bío River (not registered)	Environmental policy for dam and reservoir project, Annex B (OD 4.00) Indigenous peoples (OD 4.20) Wildlands (OPN 11.02) Management of cultural property in Bank-financed projects (OPN 11.03) Involuntary resettlement (OD 4.30) Project supervision (OD 13.05)
6. 08/23/1996	<b>Bangladesh:</b> Jamuna Multipurpose Bridge Project	Environmental assessment (OD 4.01) Involuntary resettlement (OD 4.30) Involving nongovernmental organizations in Bank-supported activities (GP 14.70)

*continued*

DATE REQUEST RECEIVED	REQUEST	POLICIES AND PROCEDURES RAISED IN THE REQUEST FOR INSPECTION
7. 09/30/1996	<b>Argentina/Paraguay:</b> Yacyretá Hydroelectric Project	Environmental policy for dam and reservoir projects (OD 4.00, Annex B) Environmental assessment (OD 4.01) Indigenous peoples (OD 4.20) Involuntary resettlement (OD 4.30) Project monitoring and evaluation (OD 10.70) Project supervision (OD 13.05) Wildlands (OPN 11.02) Management of cultural property in Bank-financed projects (OPN 11.03) Environmental aspects of Bank work (OMS 2.36) Suspension of disbursements (OD 13.40)
8. 11/13/1996	<b>Bangladesh:</b> Jute Sector Adjustment Credit	Adjustment lending policy (OD 8.60) Project supervision (OP 13.05) Suspension of disbursements (OP 13.40)
9. 03/12/1997	<b>Brazil:</b> Itaparica Resettlement and Irrigation Project	Environmental policy for dam and reservoir projects (OD 4.00, Annex B) Environmental assessment (OD 4.01) Involuntary resettlement (OD 4.30) Indigenous peoples (OD 4.20) Project supervision (OD 13.05)
10. 05/1/1997	<b>India:</b> NTPC Power Generation Project	Economic evaluation of investment operations (OD 10.04) Environmental assessment (OD 4.01) Involuntary resettlement (OD 4.30) Indigenous peoples (OD 4.20) Project supervision (OD 13.05)
11. 04/2/1998	<b>India:</b> Ecodevelopment Project	Indigenous peoples (OD 4.20) Involuntary resettlement (OD 4.30) Forestry (OP 4.36)
12. 05/6/1998	<b>Lesotho/South Africa:</b> Phase 1 B of Lesotho Highlands Water Project	Environmental policy for dam and reservoir projects (OD 4.00, Annex B) Economic evaluation of investment operations (OD 10.04) Poverty reduction (OD 4.15) Water resources and management (OP 4.07)
13. 06/17/1998	<b>Nigeria:</b> Lagos Drainage and Sanitation Project	Involuntary resettlement (OD 4.30) Poverty reduction (OD 4.15) Gender dimensions of development (OD 4.20) Project monitoring and evaluation (OD 10.70) Economic evaluation of investment operations (OP/BP 10.04) Article V, Section 1(g), IDA Articles of Agreement
14. 12/14/1998	<b>Brazil:</b> Land Reform Poverty Alleviation Project, First Request	Poverty reduction (OD 4.15) Disclosure of operational information (BP 17.50) Environmental assessment (OD 4.01) Involving nongovernmental organizations in Bank-supported activities (GP 14.70)
15. 04/26/1999	<b>Lesotho:</b> Highlands Water Project	Disputes over defaults on external debt, expropriation, and breach of contract (OP/BP 7.40) Disclosure of operational information (BP 17.50)
16. 06/18/1999	<b>China:</b> Western Poverty Reduction Project	Disclosure of operational information (BP 17.50) Involuntary resettlement (OD 4.30) Environmental assessment (OD 4.01) Indigenous peoples (OD 4.20) Pest management (OP 4.09) Safety of dams (OP/BP 4.37) Retroactive financing (OD 12.10) Investment lending (OD 10.00)



DATE REQUEST RECEIVED	REQUEST	POLICIES AND PROCEDURES RAISED IN THE REQUEST FOR INSPECTION
17. 07/26/1999	<b>Argentina:</b> Special Structural Adjustment Loan	Project supervision (OD 13.05) Poverty reduction (OD 4.15) Project monitoring and evaluation (OP/BP 10.70) Suspension of disbursements (OP/BP 13.40) Disclosure of operational information (BP 17.50)
18. 09/14/1999	<b>Brazil:</b> Land Reform Poverty Alleviation Project, Second Request	Poverty reduction (OD 4.15) Project supervision (OD 13.50) Disclosure of operational information (BP 17.50)
19. 10/12/1999	<b>Kenya:</b> Lake Victoria Environmental Management Project	Environmental assessment (OD 4.01) Poverty reduction (OD 4.15) Economic evaluation of investment projects (OP 10.04) Project supervision (OD 13.05)
20. 12/13/1999	<b>Ecuador:</b> Mining Development and Environmental Control Technical Assistance Project	Environmental assessment (OD 4.01) Wildlands (OPN 11.02) Indigenous peoples (OD 4.20) Project supervision (OD 13.05)
21. 11/27/2000	<b>India:</b> NTPC Power Generation Project, Second Request (not registered)	Involuntary resettlement (OD 4.30) Project supervision (OD 13.05) Environmental assessment (OD 4.01)
22. 03/22/2001	<b>Chad:</b> Petroleum Development and Pipeline Project, Management of the Petroleum Economy Project, and Petroleum Sector Management Capacity Building Project	Environmental assessment (OD 4.01) Natural habitats (OP/BP 4.04) Pest management (OP 4.09) Poverty reduction (OD 4.15) Indigenous peoples (OD 4.20) Involuntary resettlement (OD 4.30) Forestry (OP 4.36) Disclosure of operational information (BP 17.50) Economic evaluation of investment operations (OP 10.04) Management of cultural property in Bank-financed projects (OPN 11.03) Project supervision (OD 13.05)
23. 06/21/2001	<b>India:</b> Coal Sector Environmental and Social Mitigation Project and Coal Sector Rehabilitation Project	Environmental assessment (OD 4.01) Indigenous peoples (OD 4.20) Involuntary resettlement (OD 4.30) Disclosure of operational information (BP 17.50) Management of cultural property in Bank-financed projects (OPN 11.03) Project supervision (OD 13.05)
24. 07/27/2001	<b>Uganda:</b> Third Power Project, Fourth Power Project, and proposed Bujagali Hydropower Project	Environmental assessment (OD/OP 4.01) Natural habitats (OP 4.04) Indigenous peoples (OD 4.20) Involuntary resettlement (OD 4.30) Safety of dams (OP 4.37) Management of cultural property in Bank- financed projects (OPN 11.03) Economic evaluation of investment operations (OP 10.04) Poverty reduction (OD 4.15) Disclosure of operational information (BP 17.50) Project monitoring and evaluation (OD 10.70) Project supervision (OD 13.05)
25. 12/6/2001	<b>Papua New Guinea:</b> Governance Promotion Adjustment Loan	Forestry (OP 4.36) Adjustment lending policy (OD 8.60) Project supervision (OD/OP/BP 13.05)

*continued*

DATE REQUEST RECEIVED	REQUEST	POLICIES AND PROCEDURES RAISED IN THE REQUEST FOR INSPECTION
26. 05/17/2002	<b>Paraguay:</b> Reform Project for the Water and Telecommunication Sectors  <b>Argentina:</b> SEGBA V Power Distribution Project	Environmental policy for dam and reservoir projects (OD 4.00, Annex B) Environmental assessment (OD 4.01) Involuntary resettlement (OD 4.30) Project supervision (OD/OP/BP 13.05) Project monitoring and evaluation (OD 10.70) Suspension of disbursements (OD 13.40)
27. 09/25/2002	<b>Cameroon:</b> Petroleum Development and Pipeline Project, and Petroleum Environment Capacity Enhancement Project	Environmental assessment (OD 4.01) Natural habitats (OP/BP 4.04) Poverty reduction (OD 4.15) Indigenous peoples (OD 4.20) Involuntary resettlement (OD 4.30) Disclosure of operational information (BP 17.50) Project supervision (OD 13.05)
28. 09/26/2003	<b>Philippines:</b> Manila Second Sewerage Project	Environmental assessment (OD 4.01) Economic evaluation of investment operations (OP 10.04) Disclosure of operational information (BP 17.50) Project supervision (OD 13.05)
29. 11/26/2003	<b>Cameroon:</b> Petroleum Development and Pipeline Project (not registered)	Involuntary resettlement (OD 4.30)
30. 01/26/2004	<b>Mexico:</b> Indigenous and Community Biodiversity Project (COINBIO)	Indigenous peoples (OD 4.20) Project supervision (OD/OP/BP 13.05)
31. 04/20/2004	<b>Colombia:</b> Cartagena Water Supply, Sewerage and Environmental Management Project	Environmental assessment (OD 4.01) Natural habitats (OP/BP 4.04) Water resources management (OD 4.07) Poverty reduction (OD 4.15) Indigenous peoples (OD 4.20) Financial management (OD 10.02) Economic evaluation of investment operations (OP 10.04) Project supervision (OD/OP/BP 13.05)
32. 04/28/2004	<b>India:</b> Mumbai Urban Transport Project	Environmental assessment (OP/BP 4.01) Involuntary resettlement (OD 4.30) Disclosure of information (January 2002) Project supervision (OP/BP 13.05)
33. 06/29/2004	<b>India:</b> Mumbai Urban Transport Project—Gazi Nagar	Environmental assessment (OP/BP 4.01) Involuntary resettlement (OD 4.30) Disclosure of information (January 2002) Project supervision (OP/BP 13.05)
34. 09/10/2004	<b>Pakistan:</b> National Drainage Program Project	Environmental assessment (OD 4.01) Natural habitats (OP 4.04) Indigenous peoples (OD 4.20) Involuntary resettlement (OD 4.30) Management of cultural property in Bank-financed projects (OPN 11.03)
35. 09/17/2004	<b>Burundi:</b> Public Works and Employment Creation Project (not registered)	Project supervision (OP/BP 13.05) Procurement (OP/BP 11.00)

DATE REQUEST RECEIVED	REQUEST	POLICIES AND PROCEDURES RAISED IN THE REQUEST FOR INSPECTION
36. 01/28/2005	<b>Cambodia:</b> Forest Concession Management and Control Pilot Project	Environmental assessment (OP/BP 4.01) Natural habitats–1995 (OP/BP 4.04) Management of cultural property in Bank-financed projects (OPN 11.03) Indigenous peoples (OD 4.20) Forestry (OP/BP 4.36) Technical assistance (OP/BP 8.40) Project supervision (OP/BP 13.05) Disclosure of operational information (BP 17.50)
37. 11/19/2005	<b>Democratic Republic of Congo:</b> Transitional Support for Economic Recovery Credit Operation and Emergency Economic and Social Reunification Support Project	Environmental assessment (OP/BP 4.01) Involuntary resettlement (OP/BP 4.12) Poverty reduction (OD 4.15) Indigenous peoples (OD 4.20) Forestry (OP/BP 4.36) Emergency recovery assistance (OP/BP 8.50) Management of cultural property in Bank-financed projects (OPN 11.03) Project supervision (OP/BP 13.05) Disclosure of information (January 2002)
38. 01/03/2006	<b>Honduras:</b> Land Administration Project	Environmental assessment (OP/BP 4.01) Natural habitats (OP/BP 4.04) Tribal people in Bank-financed projects (OMS 2.34) Indigenous peoples (OD 4.20) Indigenous peoples (OP/BP 4.10) Project supervision (OD/OP/BP 13.05) Disclosure of operational information (BP 17.50)
39. 01/06/2006	<b>Romania:</b> Mine Closure and Social Mitigation Project	Environmental assessment (OD 4.01) Project supervision (OD/OP/BP 13.05) Disclosure of information (January 2002)
40. 04/27/2006	<b>Nigeria:</b> West African Gas Pipeline Project	Environmental assessment (OP/BP 4.01) Involuntary resettlement (OP/BP 4.12) Poverty reduction (OD 4.15) Economic evaluation of investment operations (OP/BP 10.04) Project supervision (OP/BP 13.05) Disclosure of information (January 2002)
41. 07/10/2006	<b>Brazil:</b> Paraná Biodiversity Project	Environmental assessment (OP/BP 4.01) Natural habitats (OP/BP 4.04) Forestry–1993 (OP/BP 4.36) Project supervision (OP/BP 13.05)
42. 08/28/2006	<b>Argentina:</b> Santa Fe Infrastructure Project and Provincial Road Infrastructure Project	Environmental assessment (OP/BP 4.01) Involuntary resettlement (OP/BP 4.12) Disclosure of information (January 2002)
43. 09/21/2006	<b>Argentina:</b> Santa Fe Infrastructure Project and Provincial Road Infrastructure Project	Environmental assessment (OP/BP 4.01) Involuntary resettlement (OP/BP 4.12)

*continued*

DATE REQUEST RECEIVED	REQUEST	POLICIES AND PROCEDURES RAISED IN THE REQUEST FOR INSPECTION
44. 03/05/2007	<b>Uganda:</b> Private Power Generation Project	Environmental assessment (OP/BP 4.01) Natural habitats (OP/BP 4.04) Environmental action plans (OP 4.02) Water resource management (OP 4.07) Indigenous peoples (OP/BP 4.10) Physical cultural resources (OP/BP 4.11) Involuntary resettlement (OP/BP 4.12) Safety of dams (OP 4.37) Projects on international waterways (OP/BP 7.50) Economic evaluation of investment operations (OP/BP 10.04) Poverty reduction (OP 1.00) Disclosure of information (January 2002)
45. 03/07/2007	<b>India:</b> Uttaranchal Decentralized Watershed Development Project	Environmental assessment (OP/BP 4.01) Natural habitats (OP/BP 4.04) Poverty reduction (OD 4.15) Forests (OP/BP 4.36) Project supervision (OP/BP 13.05)
46. 04/30/2007	<b>Albania:</b> Power Sector Generation and Restructuring Project	Project appraisal (OMS 2.20) Environmental assessment (OP/BP 4.01) Natural habitats (OP/BP 4.04) Involuntary resettlement (OP/BP 4.12) Economic evaluation of investment operations (OP/BP 10.04) Management of cultural property in Bank-financed projects (OPN 11.03) Project supervision (OP/BP 13.05)
47. 07/30/2007	<b>Albania:</b> Integrated Coastal Zone Management and Clean-Up Project	Poverty reduction (OP 1.00) Project appraisal (OMS 2.20) Environmental assessment (OP/BP 4.01) Involuntary resettlement (OP/BP 4.12) Project supervision (OP/BP 13.05)
48. 08/13/2007	<b>Albania:</b> Integrated Coastal Zone Management and Clean-Up Project	Project appraisal (OMS 2.20) Environmental assessment (OP/BP 4.01) Management of cultural property in Bank-financed projects (OPN 11.03)
49. 08/16/2007	<b>Ghana:</b> Second Urban Environment Sanitation Project (UESP II)	Project appraisal (OMS 2.20) Environmental assessment (OP/BP 4.01) Involuntary resettlement (OP/BP 4.12)
50. 09/05/2007	<b>Cameroon:</b> Urban Development Project and Second Urban Project (not registered)	Environmental assessment (OD 4.01) Poverty reduction (OD 4.15) Indigenous peoples (OD 4.20) Involuntary resettlement (OD 4.30) Project supervision (OD 13.05) Disclosure of operational information (BP 17.50)
51. 09/13/2007	<b>Argentina:</b> Santa Fe Road Infrastructure Project	Poverty reduction (OP 1.00) Environmental assessment (OP/BP 4.01) Involuntary resettlement (OP/BP 4.12) Project supervision (OP/BP 13.05) Disclosure of information (January 2002)
52. 10/30/2007	<b>Colombia:</b> Bogotá Urban Services Project	Environmental assessment (OP/BP 4.01) Involuntary resettlement (OP/BP 4.12) Project supervision (OP/BP 13.05)
53. 02/25/2009	<b>Panama:</b> Land Administration Project	Indigenous peoples (OD 4.20) Project supervision (OP/BP 13.05)



DATE REQUEST RECEIVED	REQUEST	POLICIES AND PROCEDURES RAISED IN THE REQUEST FOR INSPECTION
54. 02/25/2009	<b>Democratic Republic of Congo:</b> Private Sector Development and Competitiveness Project	Poverty reduction (OD 4.15) Bank financing (OP/BP 6.00) Financing severance pay in public sector reform operations (OpMemo) Project supervision (OP/BP 13.05)
55. 03/13/2009	<b>Democratic Republic of Congo:</b> Private Sector Development and Competitiveness Project	Poverty reduction (OD 4.15) Bank financing (OP/BP 6.00) Financing severance pay in public sector reform operations (OpMemo) Project supervision (OP/BP 13.05)
56. 03/17/2009	<b>Panama:</b> Land Administration Project	Indigenous peoples (OD 4.20) Project supervision (OP/BP 13.05)
57. 04/13/2009	<b>Yemen:</b> Institutional Reform Development Policy Financing	Development policy lending (OP/BP 8.60) World Bank policy on disclosure of information dated June 2002
58. 05/29/2009	<b>India:</b> Mumbai Urban Transport Project	Involuntary resettlement (OP 4.30) Project supervision (OP/BP 13.05)

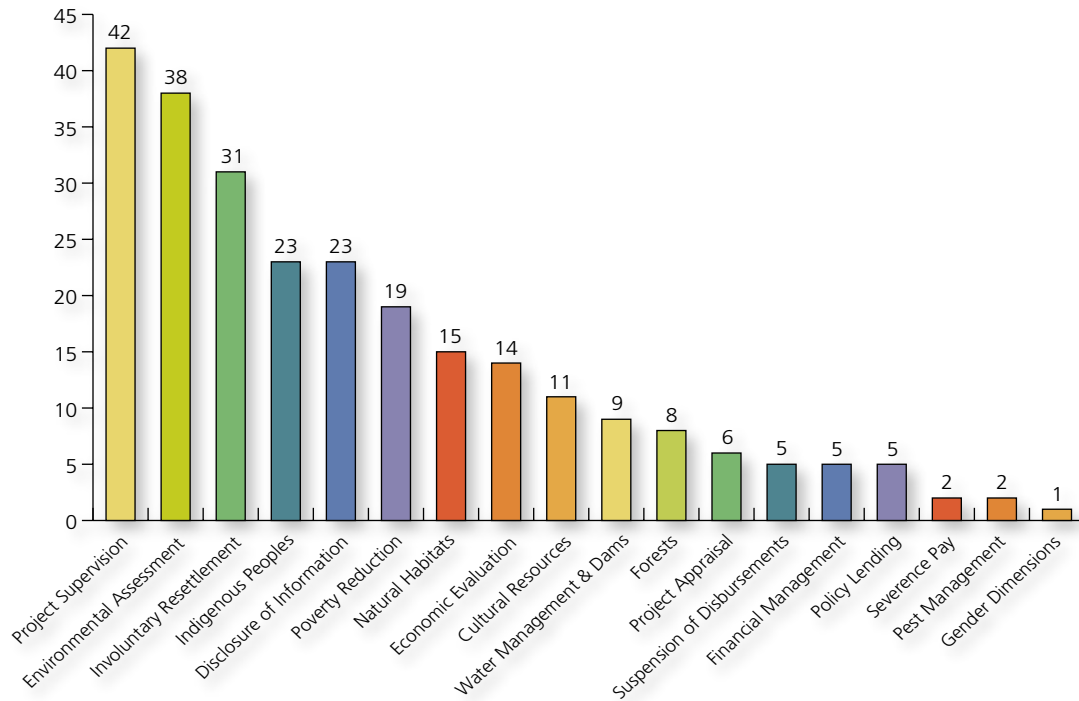
Source: Inspection Panel.

Note: BP = Bank Procedure; IDA = International Development Association; OD = Operational Directive; OMS = Operational Manual Statement; OP = Operational Policy; OPN = Operational Policy Note.

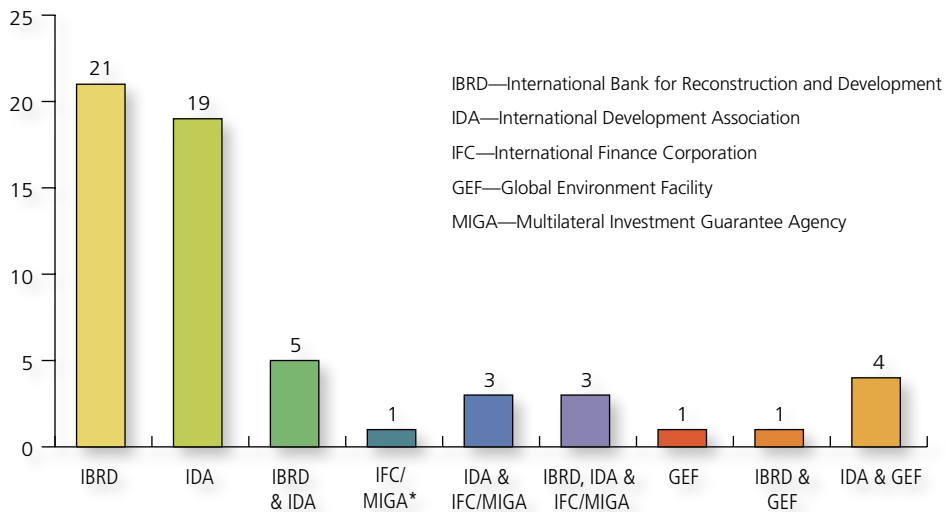
# APPENDIX V

## FIGURES

**FIGURE V–A POLICY-RELATED ISSUES MOST OFTEN RAISED IN REQUESTS**  
As of June 30, 2009

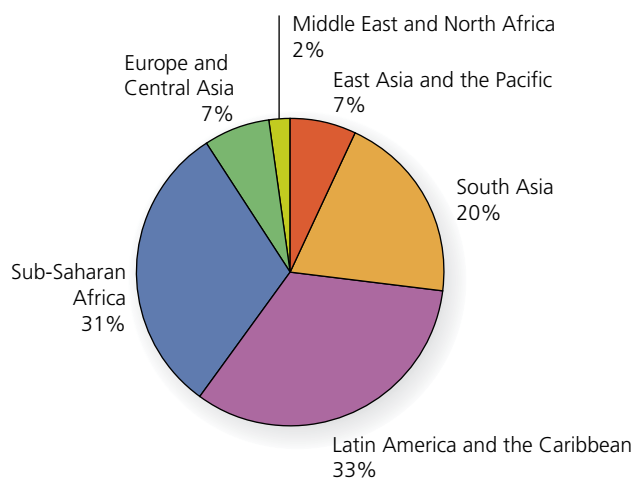


**FIGURE V–B FINANCING FOR PROJECTS SUBJECT TO REQUESTS**  
June 30, 2009

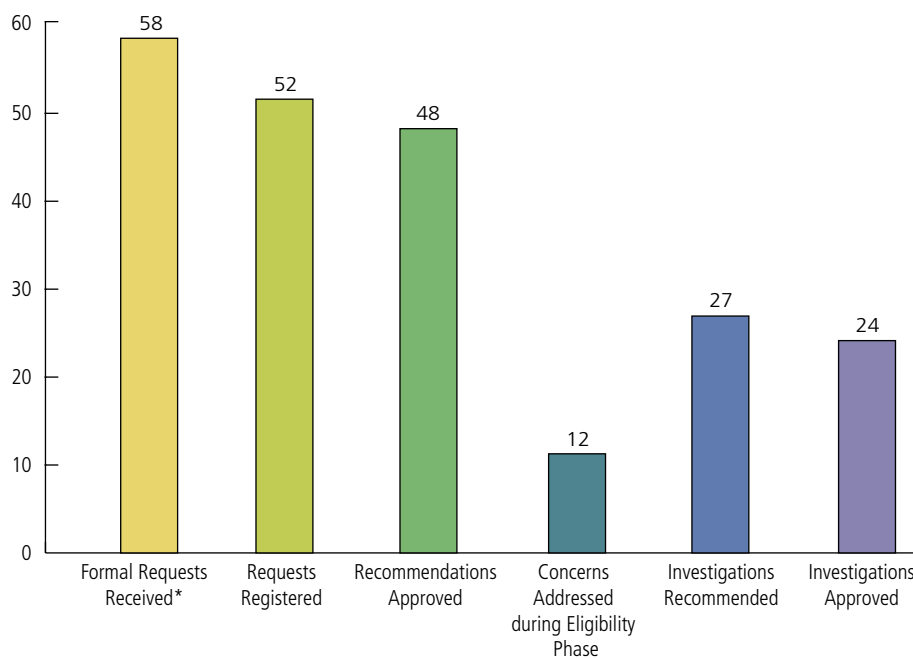


\* The Panel's mandate does not cover IFC/MIGA. However, in November 1995, the Panel received a Request regarding a project financed solely by IFC/MIGA, and it forwarded the Request to the Bank's President. Thereafter, in 1999, the Bank established IFC/MIGA's Compliance Advisor/Ombudsman.

**FIGURE V–C PERCENTAGE OF REQUESTS RECEIVED PER REGION**  
As of June 30, 2009



**FIGURE V–D PANEL'S REQUEST RECORD**  
As of June 30, 2009



\* Since Requests 42 and 43 related to the same Project, the Argentina—Santa Fe Infrastructure Project and Provincial Road Infrastructure Project (Loan No. 7301-AR), they were processed in the same Eligibility timeframe and the Recommendations to both Requests were issued in the same Eligibility Report. The same was done for Requests 47 and 48, which related to the same Project, the Albania: Integrated Coastal Zone Management and Clean-Up Project (Credit No. 4083-ALB), also for Requests 53 and 56, which related to the same Project, the Panama: Land Administration Project (Loan No. 7045-PAN), and also for Requests 54 and 55, which related to the same Project, the Democratic Republic of Congo: Private Sector Development and Competitiveness Project (Credit No. 3815-DRC).

### THE RESOLUTION ESTABLISHING THE INSPECTION PANEL

September 22, 1993

**INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT  
INTERNATIONAL DEVELOPMENT ASSOCIATION**

*Resolution No. IBRD 93-10*

*Resolution No. IDA 93-6*

**"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 Management, 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.<sup>1</sup>
  - (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.

---

<sup>1</sup> This will be deemed to be the case when at least 95 percent of the loan proceeds have been disbursed.

## 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 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.



## APPENDIX VII

---

### FIRST REVIEW OF THE RESOLUTION ESTABLISHING THE INSPECTION PANEL

#### 1996 CLARIFICATION OF CERTAIN ASPECTS OF THE RESOLUTION

The Resolution establishing the Inspection Panel calls for a review after two years from the date of appointment of the first panel members. On October 17, 1996, the Executive Directors of the Bank and IDA completed the review process (except for the question of inspection of World Bank Group private sector projects) by considering and endorsing the clarifications recommended by Management on the basis of the discussions of the Executive Directors' Committee on Development Effectiveness (CODE). The Inspection Panel and Management are requested by the Executive Directors to observe the clarifications in their application of the Resolution. The clarifications are set out below.

#### THE PANEL'S FUNCTION

Since the Resolution limits the first phase of the inspection process to ascertaining the eligibility of the request, this phase should normally be completed within the 21 days stated in the Resolution. However, in cases where the Inspection Panel believes that it would be appropriate to undertake a "preliminary assessment" of the damages alleged by the requester (in particular when such preliminary assessment could lead to a resolution of the matter without the need for a full investigation), the Panel may undertake the preliminary assessment and indicate to the Board the date on which it would present its findings and recommendations as to the need, if any, for a full investigation. If such a date is expected by the Panel to exceed eight weeks from the date of receipt of Management's comments, the Panel should seek Board approval for the extension, possibly on a "no-objection" basis. What is needed at this preliminary stage is not to establish that a serious violation of the Bank's policy has actually resulted in damages suffered by the affected party, but rather to establish whether the complaint is *prima facie* justified and warrants a full investigation because it is eligible under the Resolution. Panel investigations will continue to result in "findings" and the Board will continue to act on investigations on the basis of recommendations of Management with respect to such remedial action as may be needed.

#### ELIGIBILITY AND ACCESS

It is understood that the "affected party" which the Resolution describes as "a community of persons such as an organization, association, society or other grouping of individuals" includes any two or more persons who share some common interests or concerns.

The word “project” as used in the Resolution has the same meaning as it generally has in the Bank’s practice, and includes projects under consideration by Bank management as well as projects already approved by the Executive Directors.

The Panel’s mandate does not extend to reviewing the consistency of the Bank’s practice with *any* of its policies and procedures, but, as stated in the Resolution, is limited to cases of alleged failure by the Bank to follow its operational policies and procedures *with respect to the design, appraisal, and/or implementation of projects*, including cases of alleged failure by the bank to follow up on the borrowers’ obligations under loan agreements, with respect to such policies and procedures.

No procurement action is subject to inspection by the Panel, whether taken by the Bank or by a borrower. A separate mechanism is available for addressing procurement-related complaints.

## **OUTREACH**

Management will make its response to requests for inspection available to the public within three days after the Board has decided on whether to authorize the inspection. Management will also make available to the public opinions of the General Counsel related to Inspection Panel matters promptly after the Executive Directors have dealt with the issues involved, unless the Board decides otherwise in a specific case.

Management will make significant efforts to make the Inspection Panel better known in borrowing countries, but will not provide technical assistance or funding to potential requesters.

## **COMPOSITION OF THE PANEL**

No change in the composition of the Panel is being made at this time.

## **ROLE OF THE BOARD**

The Board will continue to have authority to (i) interpret the Resolution; and (ii) authorize inspections. In applying the Resolution to specific cases, the Panel will apply it as it understands it, subject to the Board’s review. As stated in the Resolution, “[t]he 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.”

*October 17, 1996*

## APPENDIX VIII

---

### SECOND REVIEW OF THE RESOLUTION ESTABLISHING THE INSPECTION PANEL

#### 1999 CLARIFICATION OF THE BOARD'S SECOND REVIEW OF THE INSPECTION PANEL

The Executive Directors approved today, April 20, 1999, with immediate effect, the report of the Working Group on the Second Review of the Inspection Panel, as revised in light of the extensive consultations that took place after the report was first circulated.

The report confirms the soundness of the Resolution establishing the Inspection Panel (IBRD Resolution No. 93-10, IDA Resolution No. 93-6 of September 22, 1993, hereinafter “the Resolution”) and provides clarifications for its application. These clarifications supplement the clarifications issued by the Board on October 17, 1996, and prevail over them in case of conflict. The report’s recommendations approved by the Board are as follows:

1. The Board reaffirms the Resolution, the importance of the Panel’s function, its independence and integrity.
2. Management will follow the Resolution. It will not communicate with the Board on matters associated with the request for inspection, except as provided for in the Resolution. It will thus direct its response to the request, including any steps it intends to take to address its failures, if any, to the Panel. Management will report to the Board any recommendations it may have, after the Panel completes its inspection and submits its findings, as envisaged in paragraph 23 of the Resolution.
3. In its initial response to the request for inspection, Management will provide evidence that
  - i. it has complied with the relevant Bank operational policies and procedures; or that
  - ii. there are serious failures attributable exclusively to its own actions or omissions in complying, but that it intends to comply with the relevant policies and procedures; or that
  - iii. the serious failures that may exist are exclusively attributable to the borrower or to other factors external to the Bank; or that
  - iv. the serious failures that may exist are attributable both to the Bank’s noncompliance with the relevant operational policies and procedures and to the borrower or other external factors.

The Inspection Panel may independently agree or disagree, totally or partially, with Management's position and will proceed accordingly.

4. When Management responds, admitting serious failures that are attributable exclusively or partly to the Bank, it will provide evidence that it has complied or intends to comply with the relevant operating policies and procedures. This response will contain only those actions that the Bank has implemented or can implement by itself.
5. The Inspection Panel will satisfy itself as to whether the Bank's compliance or evidence of intention to comply is adequate, and reflect this assessment in its reporting to the Board.
6. The Panel will determine the eligibility of a request for inspection independently of any views that may be expressed by Management. With respect to matters relating to the Bank's rights and obligations with respect to the request under consideration, the Panel will seek the advice of the Bank's Legal Department as required by the Resolution.
7. For its recommendation on whether an investigation should be carried out, the Panel will satisfy itself that all the eligibility criteria provided for in the Resolution have been met. It will base its recommendation on the information presented in the request, in the Management response, and on other documentary evidence. The Panel may decide to visit the project country if it believes that this is necessary to establish the eligibility of the request. In respect of such field visits, the Panel will not report on the Bank's failure to comply with its policies and procedures or its resulting material adverse effect; any definitive assessment of a serious failure of the Bank that has caused material adverse effect will be done after the Panel has completed its investigation.
8. The original time limit, set forth in the Resolution for both Management's response to the request and the Panel's recommendation, will be strictly observed except for reasons of force majeure, i.e., reasons that are clearly beyond Management's or the Panel's control, respectively, as may be approved by the Board on a no-objection basis.
9. If the Panel so recommends, the Board will authorize an investigation without making a judgment on the merits of the claimants' request, and without discussion except with respect to the following technical eligibility criteria:
  - a. The affected party consists of any two or more persons with common interests or concerns and who are in the borrower's territory (Resolution para. 12).
  - b. The request does assert in substance that a serious violation by the Bank of its operational policies and procedures has or is likely to have a material adverse effect on the requester (Resolution paras. 12 and 14a).
  - c. The request does assert that its subject matter has been brought to Management's attention and that, in the requester's view, Management has failed to respond adequately demonstrating that it has followed or is taking steps to follow the Bank's policies and procedures (Resolution para. 13).
  - d. The matter is not related to procurement (Resolution para. 14b).

- e. The related loan has not been closed or substantially disbursed (Resolution para. 14c).
  - f. The Panel has not previously made a recommendation on the subject matter or, if it has, that the request does assert that there is new evidence or circumstances not known at the time of the prior request (Resolution para. 14d).
10. Issues of interpretation of the Resolution will be cleared with the Board.
  11. The “preliminary assessment” concept, as described in the October 1996 Clarification, is no longer needed. The paragraph entitled “The Panel’s Function” in the October 1996 “Clarifications” is thus deleted.
  12. The profile of Panel activities, in-country, during the course of an investigation, should be kept as low as possible in keeping with its role as a fact-finding body on behalf of the Board. The Panel’s methods of investigation should not create the impression that it is investigating the borrower’s performance. However, the Board, acknowledging the important role of the Panel in contacting the requesters and in fact-finding on behalf of the Board, welcomes the Panel’s efforts to gather information through consultations with affected people. Given the need to conduct such work in an independent and low-profile manner, the Panel—and Management—should decline media contacts while an investigation is pending or under way. Under those circumstances in which, in the judgment of the Panel or Management, it is necessary to respond to the media, comments should be limited to the process. They will make it clear that the Panel’s role is to investigate the Bank and not the borrower.
  13. As required by the Resolution, the Panel’s report to the Board will focus on whether there is a serious Bank failure to observe its operational policies and procedures with respect to project design, appraisal, and/or implementation. The report will include all relevant facts that are needed to understand fully the context and basis for the panel’s findings and conclusions. The Panel will discuss in its written report only those material adverse effects, alleged in the request, that have totally or partially resulted from serious Bank failure of compliance with its policies and procedures. If the request alleges a material adverse effect and the Panel finds that it is not totally or partially caused by Bank failure, the Panel’s report will so state without entering into analysis of the material adverse effect itself or its causes.
  14. For assessing material adverse effect, the without-project situation should be used as the base case for comparison, taking into account what baseline information may be available. Non-accomplishments and unfulfilled expectations that do not generate a material deterioration compared to the without-project situation will not be considered as a material adverse effect for this purpose. As the assessment of material adverse effect in the context of the complex reality of a specific project can be difficult, the Panel will have to exercise carefully its judgment on these matters, and be guided by Bank policies and procedures where relevant.
  15. A distinction has to be made between Management’s report to the Board (Resolution para. 23), which addresses Bank failure and possible Bank remedial efforts,



and “action plans,” agreed between the borrower and the Bank, in consultation with the requesters, that seek to improve project implementation. The latter “action plans” are outside the purview of the Resolution, its 1996 clarification, and these clarifications. In the event of agreement by the Bank and borrower on an action plan for the project, Management will communicate to the Panel the nature and outcomes of consultations with affected parties on the action plan. Such an action plan, if warranted, will normally be considered by the Board in conjunction with the Management’s report, submitted under Resolution para. 23.

16. The Panel may submit to the Executive Directors for their consideration a report on their view of the adequacy of consultations with affected parties in the preparation of the action plans. The Board should not ask the Panel for its view on other aspects of the action plans nor would it ask the Panel to monitor the implementation of the action plans. The Panel’s view on consultation with affected parties will be based on the information available to it by all means, but additional country visits will take place only by government invitation.
17. The Board underlines the need for Management to make significant efforts to make the Inspection Panel better known in borrowing countries, as specified in the 1996 “Clarifications.”
18. The Board emphasizes the importance of prompt disclosure of information to claimants and the public, as stipulated in the Resolution (paras. 23 and 25) and in its 1996 Clarifications. The Board requires that such information be provided by Management to claimants in their language, to the extent possible.
19. The Board recognizes that enhancing the effectiveness of the Inspection Panel process through the above clarifications assumes adherence to them by all parties in good faith. It also assumes the borrowers’ consent for field visits envisaged in the Resolution. If these assumptions prove to be incorrect, the Board will revisit the above conclusions.

## APPENDIX IX

---

### JOINT STATEMENT ON THE USE OF COUNTRY SYSTEMS

*Mexico Decentralized Infrastructure Reform and Development Project*  
(R2004-0077, 0077/3)

**CHAIRPERSON OF THE INSPECTION PANEL  
AND  
SENIOR VICE PRESIDENT AND GENERAL COUNSEL**

We are in agreement that the country systems strategy would not change the role of the Inspection Panel as set forth in the 1993 Resolutions establishing the Panel. The Inspection Panel will continue to investigate whether Management is in compliance with its policies and procedures in the design, appraisal, and implementation of projects and programs. This means that if a request were filed with the Inspection Panel in the context of the Mexico Decentralized Infrastructure Reform and Development Loan Project, the Inspection Panel could, with regard to the issues raised, examine Management's assessment of the equivalence of the relevant Bank policies and procedures with the country system (and any additional measures agreed upon to achieve equivalence) in materially achieving the objectives of Bank policies and procedures, as well as Management's supervision of the project. The operational framework for the specific project or program agreed upon with the borrower would be the frame of reference for the borrower's performance and the Bank's supervision.<sup>1</sup>

Edith Brown Weiss  
Chairperson  
The Inspection Panel

Roberto Danino  
Senior Vice President and General Counsel  
The World Bank

*June 8, 2004*

---

<sup>1</sup> The Bank would continue to be bound by OP/BP 13.05 on Supervision, and the Inspection Panel would review Bank compliance with OP/BP 13.05. The Borrower will be supervised by the Bank, based on its implementation of the contractual arrangements reflected in the legal agreements.

**MEMORANDUM OF UNDERSTANDING, THE WORLD BANK INSPECTION  
PANEL AND THE COMPLIANCE REVIEW AND MEDIATION UNIT  
OF THE AFRICAN DEVELOPMENT BANK,  
NOVEMBER 28, 2007**

November 28, 2007

### **MEMORANDUM OF UNDERSTANDING**

1. The World Bank Inspection Panel and the Compliance Review and Mediation Unit (CRMU) of the African Development Bank (AfDB) Group intend to cooperate in certain aspects of their respective investigations into the Uganda: Private Power Generation Project (Bujagali)/Bujagali Hydropower and Bujagali Interconnection Projects (the “Project”). This memorandum of understanding (MOU) sets forth the elements of this cooperation, which focus on the use of consultants to assist the Inspection Panel and CRMU in carrying out the investigations of the Project.
2. This cooperation is intended to promote efficiency so that each entity can carry out its investigation in an effective manner, consistent with the mandate and independence of each. The nature of cooperation described below is feasible and desirable given the respective mandates of the institutions, the similarities in process that they follow, and the similar nature of the matter which is subject to investigation. At all times, the cooperation must remain within the requirements and constraints of their respective mandates, rules and procedures, including requirements of confidentiality and disclosure of information.

#### *General*

3. The Inspection Panel is conducting an investigation, authorized by the World Bank’s Board of Executive Directors on May 18, 2007, into whether the Bank observed its policies and procedures during the design, appraisal and supervision of the Uganda: Private Power Generation Project (Bujagali).
4. The CRMU is conducting a compliance review, authorized by the AfDB Groups’ Boards of Directors on 7 September 2007, into whether the Bank Group has complied with its own policies and procedures in the design, appraisal and implementation of the Uganda: Bujagali Hydropower and Bujagali Interconnection Project.

### *The Consultants*

5. It is anticipated that the following consultants (“the Consultants”) will be involved to assist in the investigations of the Project:

The Inspection Panel and the CRMU, as required, have provided these consultants with separate terms of reference for their assignments, which address a number of matters and issues of common concern to the investigations.

#### **a. Sharing of Information Developed by Consultants**

6. Set forth below are the elements of cooperation between the Inspection Panel and the CRMU in sharing information developed by the Consultants. It is understood at all times that each entity, the Inspection Panel and the CRMU, will apply its own policies and procedures in their respective investigations and will arrive independently at its own finding and conclusions regarding the application of the policies and procedures of the World Bank/IDA and the African Development Bank Group, respectively, and related issues of harm.

##### *(i) The Investigation Visit in Uganda*

7. The Inspection Panel and the CRMU intend to carry out a joint inspection visit to the Project area as part of the investigation process. The visit is expected to take place at a mutually agreeable time sometime in November or December 2007. The visit will include, among other elements, meetings and interviews with requesters and project-affected people and communities, government officials, the Project sponsor, members and representatives of civil society, and others. The visit is likely to last around 7 to 12 days.

8. Is it expected that four of the Consultants, noted above, would participate in the joint inspection visit. One or more of the Consultants may be able to stay for a shorter or longer period of time, based on the needs of the investigation and the respective Terms of Reference (TORs).

9. The Inspection Panel and the CRMU agree that it would be equitable to split the time and the travel costs of the Consultants for their participation in the joint inspection visit. The modalities of their terms will be developed in line with the procedures and requirements of the respective institutions.

##### *(ii) Draft Reports Prepared by Consultants (the “Common Report”)*

10. The Inspection Panel and the CRMU intend to each pay an equitable share of the analysis of the Consultants to cover the development by each Consultant of a draft report on factual and technical issues addressed in their TORs. This shall be known as the “Common Report,” and it will address matters of common interest and concern to the respective investigations.

##### *(iii) Additional Analysis and other Related Tasks by Consultants*

11. As needed, each entity may decide to use and pay for additional time for one or more of the Consultants for purposes of follow-up analysis, interviews of staff members, report writing and other related tasks. It is agreed that these activities of

the Consultants will be arranged and paid for by each entity individually, in accordance with the relevant terms of reference and internal contracting procedures.

*(iv) Participation of Consultants in Interviews (other than in-country visit)*

12. Each institution will carry out separately and independently interviews of relevant staff and Consultants of the respective institutions involved in the Project, in line with its own procedures. The contents of these interviews will remain fully confidential, and their use and disclosure is protected by the individual contracts between the institutions and the Consultants.
13. The Inspection Panel and the CRMU may use one or more of the Consultants to participate in their respective interviews. It is agreed that these activities of the Consultants will be arranged and paid for by each entity individually, in accordance with the relevant terms of reference.

**b. Confidentiality**

14. The cooperation and sharing of information between the Inspection Panel and CRMU shall be subject to the confidentiality and disclosure of information requirements of each respective institution. While the reports and follow-up analysis provided by the Consultants may be shared among the two entities, such reports and analysis and all other information gathered and produced by Consultants shall otherwise remain subject to all applicable confidentiality requirements, including those specified in the respective terms of reference and letters of appointment or contracts.

*Modifications, Unforeseen Circumstances*

15. The Inspection Panel and the CRMU enter the above arrangements in good faith and in a spirit of cooperation, in support of their respective missions and mandates. Both entities appreciate that this effort at cooperation is perhaps the first of its kind, and that unforeseen circumstances or other factors might arise that pose difficulties in relation to one or more of the elements noted above. The cooperation also will depend on the ability of the Consultants to work effectively in the above-described manner of cooperation.
16. Accordingly, each entity considers that the above elements should be applied with a degree of flexibility to allow for change and adjustment as may be needed, and in light of circumstances as they arise. Any such changes or adjustments should be considered and carried out in a spirit of cooperation and consultation.

For the Inspection Panel  
Peter Lallas  
*Executive Secretary*

For the CRMU  
Per Eldar Sovik  
*Director*



## APPENDIX XI

---

### GUIDANCE ON THE INSPECTION PANEL

#### PANEL PROCESS

The Panel's process is straightforward. Any two or more individuals or groups of individuals who believe that they or their interests have been or are likely to be harmed by a Bank-financed Project can request that the Panel investigate their complaints. After the Panel receives a Request for Inspection, it is processed as follows:

- The Panel determines whether the Request is barred from Panel consideration.
- If not, the Panel registers the Request—an administrative procedure.
- The Panel promptly notifies the members of the Board that a Request has been received and sends the Request to them and to Bank Management.
- Bank Management has 21 working days to respond to the allegations of the Requesters.
- Upon receipt of Management's Response, the Panel conducts a review in 21 working days to determine the eligibility of the Requesters and the Request for an Investigation.
- The Panel delivers its Eligibility Report and any recommendation on an Investigation to the Board for its approval on a no-objection basis.
- If the Panel does not recommend an investigation, the Board of Executive Directors may still instruct the Panel to conduct an investigation if warranted.
- After the Board's approval of the Panel's recommendation, the Requesters are notified.
- Shortly after the Board decides whether an investigation should be carried out, the Panel's Report (including the Request for Inspection and Management's Response) is publicly available at the Bank's InfoShop and the respective Bank Country Office, as well as on the Panel's Web site (<http://www.inspectionpanel.org>).
- If the Board approves the Panel's recommendation for an investigation,<sup>1</sup> the Panel undertakes an investigation. The investigation is not time bound.
- When the Panel completes an investigation, it sends its findings on the matters alleged in the Request for Inspection to the Board and to Bank Management for its response to the Panel findings.

---

<sup>1</sup> See "1999 Clarification of the Board's Second Review of the Inspection Panel," paragraph 9: "If the Panel so recommends, the Board will authorize an investigation without making judgment on the merits of the claimant's request . . ." <http://www.inspectionpanel.org> and included in appendix 8 of this report.

- Bank Management then has six weeks to submit its recommendations to the Board on what, if any, actions the Bank intends to take in response to the Panel's findings.
- The Board then makes the final decision on what should be done based on the Panel's findings and Bank Management's recommendations.
- Shortly after the Board's decision, the Panel's Report and Management's Recommendation are publicly available through the Inspection Panel's Web site and Secretariat, the Bank's InfoShop, and the respective Country Office.
- The Panel's Report, Management's Response, and the press release concerning the Board's decision are posted on the Panel's Web site (<http://www.inspectionpanel.org>).

### **WHO MAY SUBMIT A REQUEST FOR INSPECTION?**

- Any two or more persons directly affected by a Bank-supported Project
- Local representatives on behalf of directly affected persons with proper proof of authorization
- Subject to Board approval, a nonlocal representative (in exceptional circumstances where local representation is not available) may file a claim on behalf of locally affected persons.
- An Executive Director

### **WHAT ARE THE CRITERIA FOR RECOMMENDING AN INVESTIGATION?**

- The affected party consists of any two or more persons in the borrower's territory who have common interests or concerns.
- The Request asserts that a serious violation by the Bank of its operational policies and procedures has, or is likely to have, a material adverse effect on the Requester.
- The Request asserts that its subject matter has been brought to Management's attention and that, in the Requester's view, Management has failed to respond adequately in demonstrating that it has followed or is taking steps to follow the Bank's policies and procedures.
- The matter is not related to procurement.
- The related loan has not been closed or more than 95 percent disbursed.
- The Panel has not previously made a recommendation on the subject matter or, if it has, the Request asserts that there is new evidence or circumstances not known at the time of the previous Request.

## **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 separate documents as much other information as you think necessary. Please note and identify attachments in your summary.

*You may wish to use the accompanying model form.*

**MODEL FORM:**

**REQUEST FOR INSPECTION**

To: Executive Secretary, The Inspection Panel  
1818 H Street NW, MSN 10-1007, Washington, DC 20433, USA  
Fax No.: 202-522-0916;  
or The Inspection Panel, P.O. Box 27566, Washington, DC 20038, USA  
or c/o the appropriate World Bank Country Office

1. We [insert names] live and/or represent others who live in the area known as [insert name of area]. Our addresses are attached.
2. We have suffered, or are likely to suffer, harm as a result of the World Bank's failures or omissions in the [insert name and/or brief description of the project or program] located in [insert location/country].
3. [Describe the damage or harm you are suffering or are likely to suffer from the project or program]
4. [List (if known) the World Bank's operational policies you believe have not been observed]
5. We have complained to World Bank staff on the following occasions [list dates] by [explain how the complaint was made]. We have received no response, [or] we have received a response and we are not satisfied that the explanations and answers solve our problems for the following reasons:
6. We request the Inspection Panel recommend to the World Bank's Executive Directors that an investigation of these matters be carried out.

Signatures:

Date:

Contact address, telephone number, fax number, and email address:

List of attachments

We [do/do not] authorize you to disclose our identities

## APPENDIX XII

---

### THE INSPECTION PANEL BUDGET

JULY 1, 2008–JUNE 30, 2009

(THOUSANDS OF U.S. DOLLARS)	
Consultants <sup>a</sup>	690.7
Salaries <sup>b</sup>	1,012.3
Temporaries	55.5
Publications	65.8
Travel	435.5
Benefits	506.2
Communications and IT Services	96.2
Equipment and Building Services	2.4
Representation and Hospitality	5.9
Contractual Services	37.4
Other Expenses	15.6
Office Occupancy	168.0
<b>Total Expenses</b>	<b>3,091.5</b>
<b>Current Budget</b>	<b>3,146.2</b>

*Note:* Numbers may not add to totals because of rounding.

a. Includes Panel Members' fees.

b. Includes Chairperson's salary.



## REFERENCES

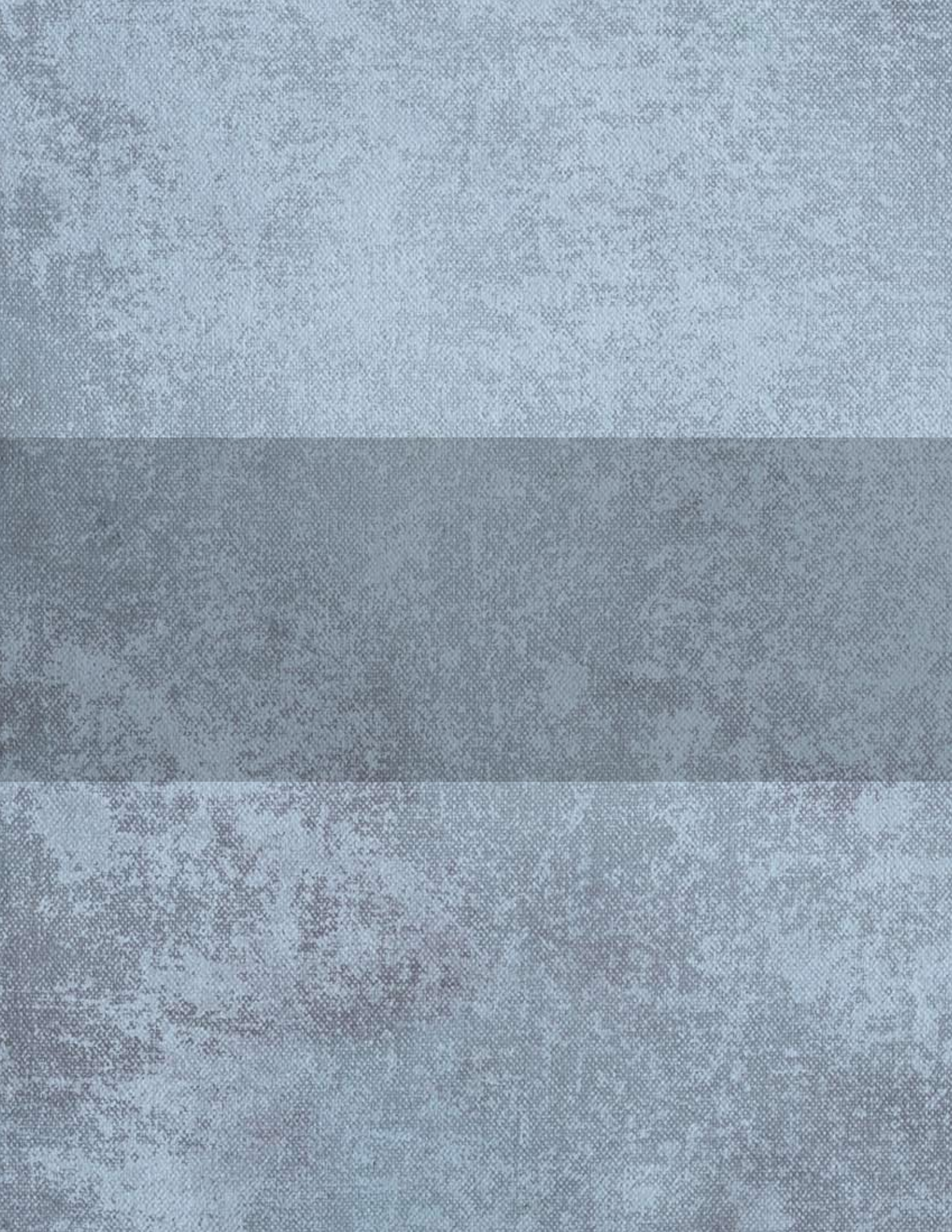
---

- Alfredsson, Gudmundur. 2001. "Introduction – Broadening the Scope of Applicable Standards." In *The Inspection Panel of the World Bank: A Different Complaints Procedure*, ed. G. Alfredsson and Rolf Ring, 47–66. The Hague; Boston: Martinus Nijhoff Publishers.
- Ayensu, Edward S. 2002. "Remarks of the Chairman of the Inspection Panel to the Board of Executive Directors on the Chad-Cameroon Pipeline Projects." World Bank, Washington, DC.
- Bello, Olusola, and Martin Ayankola. 2008. "Fresh \$400m Compensation Paid over W/African Pipeline." *Businessday*, October 22. [http://www.businessdayonline.com/index.php?option=com\\_content&view=article&id=758:fresh-400m-compensation-paid-over-wafrican-gas-pipeline&catid=1:latest-news&Itemid=18](http://www.businessdayonline.com/index.php?option=com_content&view=article&id=758:fresh-400m-compensation-paid-over-wafrican-gas-pipeline&catid=1:latest-news&Itemid=18).
- Blagescu, Monica, and Robert Lloyd. 2006. *2006 Global Accountability Report: Holding Power to Account*. London: One World Trust.
- Bissell, Richard E. 1997. "Recent Practice of the Inspection Panel of the World Bank." *American Journal of International Law* 91: 741–4.
- . 2001. "Institutional and Procedural Aspects of the Inspection Panel." In *The Inspection Panel of the World Bank: A Different Complaints Procedure*, ed. G. Alfredsson and Rolf Ring, 107–26. Leiden, the Netherlands: Kluwer Law International.
- Boisson de Chazournes, Laurence. 1999. "Public Participation in Decision Making: The World Bank Inspection Panel." In "The World Bank, International Financial Institutions, and the Development of International Law," ed. E. Brown Weiss, A. Rigo Sureda, and L. Boisson de Chazournes. *Studies in Transnational Legal Policy* No. 31, American Society of International Law.
- . 2001. "Compliance with International Standards: The Contribution of the World Bank Inspection Panel." In *The Inspection Panel of the World Bank: A Different Complaints Procedure*, ed. G. Alfredsson. New York: Springer Publishing. Cited in Alfredsson, Gudmundur, and Rolf Ring, eds. 2001. *The Inspection Panel of the World Bank: A Different Complaints Procedure*. The Hague; Boston: Martinus Nijhoff Publishers.
- . 2005. "The World Bank Inspection Panel: About Public Participation and Dispute Settlement." In *Civil Society, International Courts, and Compliance Bodies*, eds. Tullio Treves and others. 187–203. The Hague: TMC Asser Press.
- Boisson de Chazournes, Laurence, Cesare P. R. Romano, and Ruth Mackenzie, eds. 2002. *International Organizations and International Dispute Settlement: Trends and Prospects*. Ardsley, NY: Transnational Publishers.
- Bottelier, Pieter. 2001. "Was World Bank Support for Qinghai Anti-Poverty Project in China Ill-Considered?" *Harvard Asia Quarterly* 5 (1). [http://www.asiaquarterly.com/index.php?option=com\\_content&task=view&id=96&Itemid=40](http://www.asiaquarterly.com/index.php?option=com_content&task=view&id=96&Itemid=40).
- Bradlow, Daniel D. 1994. "International Organizations and Private Complaints: The Case of the World Bank." *Virginia Journal of International Law* 34: 553–613.

- . 2001. “Lessons from the NGO Campaign Against the Second Review of the World Bank Inspection Panel: A Participant’s Perspective.” *Journal of International and Comparative Law* 7 (Spring): 248.
- . 2005. “Private Complainants and International Organizations: A Comparative Study of the Independent Inspection Mechanisms in International Financial Institutions.” *Georgetown Journal of International Law* 36 (Winter): 403.
- Bridgeman, Natalie, and David Hunter. 2008. “Narrowing the Accountability Gap: Toward a New Foreign Investor Accountability Mechanism.” *Georgetown International Environmental Law Review*, January 1.
- Bridgeman, Tess. 2008. “Accountability and Credibility at the World Bank: An Analysis of the Effectiveness of the World Bank Inspection Panel in its First Decade.” Unpublished briefing paper.
- Brown Weiss, Edith, and Harold K. Jacobson, eds. 2000. *Engaging Countries: Strengthening Compliance with International Environmental Accords*. Boston, MA: MIT Press.
- Brown Weiss, Edith, Peter L. Lallas, and Anna Sophie Herken. 2009. “The World Bank Inspection Panel: Participation and Accountability.” In *Envisioning Reform: Enhancing UN Accountability in the 21st Century*, ed. Sumihiro Kuyama and Michael Ross Fowler. Tokyo: United Nations University Press.
- Carrasco, Enrique, and Alison K. Guernsey. 2008. “The World Bank’s Inspection Panel: Promoting True Accountability Through Arbitration.” *Cornell International Law Journal* 41 (3): 577–630.
- Chambers, Robert. 1994. “Foreword .” In *Beyond Farmer First: Rural People’s Knowledge, Agricultural Research and Extension Practice*, ed. Ian Scoones and John Thompson. London: Intermediate Technology Publications.
- Clark, Dana L. 2002. “The World Bank and Human Rights: The Need for Greater Accountability.” *Harvard Human Rights Journal* 15 (Spring): 205–26. <http://www.law.harvard.edu/students/orgs/hrj/iss15/clark.shtml>.
- . 2003. “Understanding the World Bank Inspection Panel.” In *Demanding Accountability: Civil Society Claims and the World Bank Inspection Panel*, ed. D. Clark, J. Fox, and K. Treakle, 1–24. Lanham, MD: Rowman & Littlefield Publishers.
- Clark, Dana, Jonathan Fox, and Kay Treakle. 2003. *Demanding Accountability: Civil-Society Claims and the World Bank Inspection Panel*. Lanham, MD: Rowman & Littlefield.
- Debroux, L. T. Hart, D. Kaimowitz, A. Karsenty, and G. Topa, eds. 2007. *Forests in Post-Conflict Democratic Republic of Congo: Analysis of a Priority Agenda*. Bogor, Indonesia: CIFOR, World Bank, CIRAD.
- Fifty Years is Enough. 1999. “The World Bank’s Inspection Panel: Background and an Update.” *Economic Justice News Online* 2.3. <http://www.50years.org/cms/ejn/story/223>.
- FOEI (Friends of the Earth International) and IAP (International Accountability Project). 2004. “Strategic Guide: Strategic Tips for Filing Complaints with International Financial Institutions.” Friends of the Earth International and International Accountability Project, Berkeley, CA
- Fox, Jonathan. 2001. “The World Bank Inspection Panel and the Limits of Accountability.” In *Reinventing the World Bank*, ed. Jonathan R. Pincus, and Jeffrey Winters, 131–63. Ithaca, NY: Cornell University Press.
- Freestone, David. 2003. “The Environmental and Social Safeguard Policies of the World Bank and the Evolving Role of the Inspection Panel.” In *Economic Globalization and Compliance with International Environmental Agreements*, ed. Alexandre Kiss, Dinah Shelton, and Kanami Ishibashi, 139–56. The Hague, The Netherlands: Kluwer Law International.

- Hunter, David. 1996. Interview with Juliette Majot of BankCheck. *BankCheck Quarterly* No. 14, May.
- . 2003. “Using the World Bank Inspection Panel to Defend the Interests of Project-Affected People.” *Chicago Journal of International Law* 4 (1): 201–11.
- Hunter, David, and Lori Udall. 1994. “The World Bank’s New Inspection Panel: Will it Increase the Bank’s Accountability.” CIEL Brief No. 1, Center for International Environmental Law, Washington, DC.
- Inspection Panel. 2003. “Accountability at the World Bank: The Inspection Panel 10 Years On.” World Bank, Washington, DC.
- Lloyd, Robert, Jeffrey Oatham, and Michael Hammer. 2007. *2007 Global Accountability Report*. London: One World Trust.
- Morse, Bradford, and Thomas Berger. 1992. *Sardar Sarovar: Report of the Independent Review*. Ottawa: Resource Futures International.
- Orakhelashvili, Alexander. 2005. “The World Bank Inspection Panel in Context: Institutional Aspects of the Accountability of International Organizations.” *International Organizations Law Review* 2 (1): 57–102.
- Perrault, Anne, and Steve Herz. 2008. “Bringing Human Rights Claims to the World Bank Inspection Panel.” Unpublished.
- Skogly, Sigrun. 2003. *The Human Rights Obligations of the World Bank and the IMF*. London: Cavendish Publishing.
- Sohn, Louie. 1982. “The New International Law: Protection of the Rights of Individuals Rather than States.” *American University Law Review* 32 (1): 1–64.
- Talpur, Mustafa, and Ann-Kathrin Schneider. 2007. “Shattered Lives and Broken Promises: The Unresolved Legacy of the World Bank’s National Drainage Program in Pakistan—an Eyewitness Account.” *International Rivers Network*, Berkeley, CA.
- Udall, Lori. 1994. “Statement of Lori Udall on Behalf of International Rivers Network, Friends of the Earth, Bank Information Center, Environmental Defense Fund, Greenpeace, Sierra Club.” In “World Bank Disclosure Policy and Inspection Panel: Hearing before the Subcommittee on International Development, Finance, Trade, and Monetary Policy of the Committee on Banking, Finance, and Urban Affairs—House of Representatives. 103rd Congress, Second Session (June 21).” Government Printing Office, Washington, DC.
- UN (United Nations). 1987. *Our Common Future*. New York: Oxford University Press.
- Wapenhans, Willi, et al. 1992. “Report of the Portfolio Management Task Force.” Unpublished, World Bank, Washington, DC.
- World Bank. 1996. “Review of the Resolution Establishing the Inspection Panel: 1996 Clarification of Certain Aspects of the Resolution.” World Bank, Washington, DC. <http://siteresources.worldbank.org/EXTINSPECTIONPANEL/Resources/1996ReviewResolution.pdf>.
- . 1998. *The World Bank Inspection Panel: The First Four Years*. Washington, DC: World Bank.
- . 1999. “1999 Clarification of the Board’s Second Review of the Inspection Panel.” World Bank, Washington, DC. <http://siteresources.worldbank.org/EXTINSPECTIONPANEL/Resources/1999ClarificationoftheBoard.pdf>.
- . 2002. “The World Bank’s Environmental and Social Safeguard Policies.” World Bank, Washington, DC.
- Woods, Ngaire. 2001. “Making the IMF and the World Bank More Accountable.” *International Affairs* 77 (1): 83–100.







**The Inspection Panel** 

1818 H Street, NW  
Washington, DC 20433 USA

Telephone: 202.458.5200  
Facsimile: 202.522.0916  
E-mail: [ipanel@worldbank.org](mailto:ipanel@worldbank.org)  
Internet: [www.inspectionpanel.org](http://www.inspectionpanel.org)



**THE WORLD BANK**

A free publication

SKU 32282