

**REPORT AND RECOMMENDATIONS ON THE
INSPECTION PANEL’S TOOLKIT REVIEW**

March 5, 2020

REVIEW OF THE INSPECTION PANEL'S TOOLKIT

Introduction

1. The World Bank Inspection Panel (IPN) is an independent accountability mechanism providing an avenue for people and communities who believe that they have been, or are likely to be, adversely affected by a World Bank funded project. The Board of Executive Directors created the IPN in 1993 to ensure that these people have access to an independent body to express their concerns and seek recourse. For over 25 years, the IPN has been instrumental in ensuring accountability and improving compliance with World Bank policies and procedures.
2. In August 2016, the Board of Executive Directors approved a new Environmental and Social Framework (ESF), which makes important advances in areas such as transparency, non-discrimination, social inclusion, public participation, and accountability – including the requirement for every Bank funded project to have functioning grievance redress mechanisms. The new ESF, which became operational in October 2018 helps Borrowers manage project risk and impacts, as well as improve environmental and social performance.
3. In light of these developments and appreciative of the IPN's role, the Board of Executive Directors commissioned in August 2017 an External Review of the IPN toolkit ("the Review")¹ to examine whether it required any updates in seven areas to continue to operate effectively under the new ESF. The Review did not make recommendations but provided options in seven areas: (i) advisory services, (ii) Bank Executed Trust Funds (BETFs), (iii) co-financing, (iv) sharing findings with Requesters, (v) problem solving/dispute resolution, (vi) time limit on eligibility for requests and (vii) monitoring of Management Action Plans (MAPs).
4. In July 2018, a Working Group of the Committee on Development Effectiveness (CODE) that included members from all Executive Directors' offices, was established to consider the areas identified by the Review in more detail. The Working Group met on numerous occasions to discuss the lessons and experiences of the IPN and to develop proposals for enhancing its effectiveness and value to the World Bank. The Working Group completed its work in October 2018 and prepared a set of options for CODE's consideration.
5. On October 31, 2018, Executive Directors approved measures to (i) formally recognize the IPN's advisory role in its mandate; (ii) issue clarifications on the use of Bank- Executed Trust Funds (BETFs); (iii) formalize the IPN's current practice to coordinate with the accountability mechanism of co-financier(s) to process the complaints in the most efficient and effective way possible; and (iv) update the procedures for sharing the IPN's Investigation Report with Requesters ahead of Board consideration. Executive Directors also took note of Management's strengthening of the Bank's Grievance Redress Service (GRS), including maintaining a roster of expert mediators to facilitate resolution of complaints and to add an escalation point, including to the World Bank's most Senior Manager responsible for operations.
6. Executive Directors took note of Management's proposals to strengthen the World Bank's existing process for supervising MAPs, including discussing MAP progress reports with the Board on a regular basis; sharing MAP progress reports with Requesters, soliciting feedback through

¹ The Review has been published and can be found at:
<http://documents.worldbank.org/curated/en/562131583764988998/External-Review-of-the-Inspection-Panel-s-Toolkit>

follow-up consultations on their implementation status; and reflecting such feedback in the MAP progress reports to the Board. Executive Directors underscored their commitment to strengthen and enhance the effectiveness of the World Bank's accountability system and welcomed the constructive collaboration between the IPN and Management. They also highlighted the importance of consulting with Borrowers and minimizing the potential burden and costs to them.

7. Executive Directors agreed to a time-bound period of further deliberations within CODE, taking into consideration all comments expressed by Executive Directors and to undertake thorough and timely consultations with stakeholders, particularly Borrowers. This six-month period would focus on the issues related to extending the time limit on eligibility of requests; options for monitoring of MAPs, independent of the Bank's Management; and the potential to establish a dispute resolution function, independent of the Bank's Management.

8. With the assistance of the IPN and Management, CODE identified eleven projects whose stakeholders had experience in the IPN process within the last seven years to provide feedback. The selected projects took into consideration regional representation and included projects that had gone through all the different steps of the IPN process (eligibility, deferrals and early solutions if any, or full investigations). To avoid any conflict of interest, the list did not include any ongoing cases at any stage of the compliance review process. Further consultations were also held between external stakeholders and Board members.

9. In July 2019, CODE then considered a joint Chair and Vice Chair Report on the IPN Feedback Engagement. The feedback identified important cost and implementation issues to be addressed in order to inform members' deliberations on the three pending issues.

10. As Executive Directors discussed proposals, they reaffirmed the importance of the IPN and its contribution to improving compliance with the Bank policies and procedures and increasing the accountability of Bank Management and, thus enhancing project quality.

11. CODE concurred that (1) an independent and proportionate risk-based verification of Management Action Plans (MAPs) be established as an additional assurance for the Board; (2) the time limit during which complaints can be submitted to the IPN be extended beyond project closure; and that (3) an additional independent and voluntary opportunity be provided to Requesters and borrowers to resolve a dispute.

12. The following recommendations have been developed to meet the objectives of strengthening the accountability framework, maintaining the IPN's independence, strengthening Board oversight, bolstering Management's accountability, and achieving a balanced solution in the interests of the Bank and its clients, including imposing minimal burdens on and building capacity of client countries. They reflect CODE's agreement on the reforms to the IPN's toolkit.

Recommendations

13. CODE therefore recommends that the Board consider and approve the following proposals:

(i) Independent Risk-Based Proportionate Verification

14. CODE reaffirmed that Management is responsible for its monitoring function of MAPs and its support for enhancing this function. The Committee saw the value of an independent risk-based

proportionate verification as an additional reassurance tool for the Board to avoid reputational risks. The modality adopted for such additional verification will be proportionate to the complexity and seriousness of the case.

15. The following principles apply for the independent verification:

- Verification will focus solely on the Bank's actions as outlined in the Management Action Plan, distinguishing between periodic tracking of progress and terminal verification.
- Verification will assess the status (including completion) of specific Management actions included in the MAP based on appropriate evidence of implementation status.
- To ensure efficiency of the verification process, it is important to have a timeline for verification based on timelines of agreed actions to avoid premature review of actions.
- There will be role for the IPN and /or Group Internal Audit (GIA) during the verification process that is consistent with their expertise and institutional roles as laid out below.

Proportionality Criteria

16. The IPN, Management and GIA will draft, for the CODE's and the Board's consideration, the framework for proportionality criteria and modalities for verification using as the basis parameters which include: (i) urgency of redress, (ii) risk of repetitive harms, (iii) number and vulnerability of project affected people, (iv) complexity of the case and (v) risk of retaliation against Requesters.

Role of IPN and GIA

17. The IPN will verify the implementation of Management's actions in the MAP, agreed between Management and the Borrower, designed to address harm that occurred as a result of the Bank's weakness in implementing its own safeguard policies in the respective Bank-financed project.

18. GIA will verify Management's actions in MAPs that are implemented within the Bank without involving the Borrower. That is, GIA will verify those MAP actions addressing the Bank's governance, policy and procedures, and other internal operational arrangements for its oversight of environmental and social risks of Bank projects. GIA may also verify MAP actions at the project level if Management actions refer to internal policies and practices of the institution. As per current practice, the GIA report will be sent to the President and the Audit Committee. In addition, the report will be made available to the Board and the IPN. GIA's report could be considered jointly by Audit and CODE.

Process

19. While Management is responsible for its monitoring function of MAPs, the Board will decide about the verification of the progress and/or completion of MAPs. Based on the risk-based proportionality criteria and the above-mentioned roles, the IPN, with input from GIA, will recommend to the Board whether there is a need for verification, and if so, the scope and timeline for verification, and under what modality the IPN and/or GIA will verify the MAP.

20. The IPN recommendation, generally, will be made after substantial implementation of the MAP or, if the monitoring report indicates lack of implementation, at any stage of implementation. In exceptional cases, upon IPN recommendation, with input from GIA, the Board can discuss and assign verification at the stage of approval of the MAP or shortly after. This process will avoid an automatic “one-size-fits-all” approach; site visits will be minimized to usually not more than one. Recommendation for verification will be submitted to the Board for decision on absence of objection basis (AOB).

(ii) Time Limit Eligibility

21. CODE agreed that the time limit within which requests may be submitted to the IPN should be changed. Currently, a request for inspection can only be heard by the IPN if received before the closing date of the loan which financed the project and if less than 95% of the loan financing the project has been disbursed. This requirement will be changed so that any request filed up to fifteen months after the closing date of the loan financing the project can be accepted by the IPN. This requirement will be applicable only to new projects approved by the Board after these changes take effect.

(iii) Dispute Resolution

22. CODE recognized the importance of maintaining and strengthening the WB’s Grievance Redress Services (GRS) and the value of providing an independent dispute resolution option for Borrowers and Requesters, once the Board has determined compliance eligibility, in order to avoid a full-fledged compliance investigation process.

23. While acknowledging the benefits of introducing a dispute resolution function, independent from Management, CODE underscored the importance of safeguarding the effectiveness and credibility of the World Bank IPN. To this end, CODE recommends establishing a new independent Accountability Mechanism to house both the dispute resolution and compliance functions while preserving the Inspection Panel members’ independence.

Organizational Structure

24. Introducing a new dispute resolution function will require a clear organizational line between the compliance and the dispute resolution function. While under one umbrella, the new Dispute Resolution Service (DRS) will organizationally be separate from the IPN to ensure its effectiveness and avoid conflict of interests.

25. The IPN and the DRS will be integrated into a newly created “World Bank Accountability Mechanism”. The new Mechanism will be headed by an “Accountability Mechanism Secretary” (AM Secretary) who will be appointed by and report directly to the Bank’s Executive Directors.

26. The AM Secretary will be responsible for planning and overseeing the processes of the Accountability Mechanism in line with agreed procedures and will be responsible for keeping the records of the AM proceedings. She/He will also oversee the Dispute Resolution Service. All staff of the Accountability Mechanism will report to the Accountability Mechanism Secretary with the exception of the Inspection Panel members. IPN compliance staff, including the Executive Secretary of the Panel, will report to the AM Secretary on administrative matters but will continue to report to

the Inspection Panel members on technical matters related to compliance. The administrative functions of the IPN will be transferred to the AM Secretary. The AM Secretary will work with the IPN to prepare and submit the AM annual budget proposal for Board's consideration. The budget will itemize the budgetary requirements for the IPN, the AM Secretary office and the DRS.

27. The IPN will have no role in (DR). The IPN will continue to be constituted and operate as established in the IPN Resolution. While administratively integrated in the World Bank Accountability Mechanism, the Inspection Panel members will remain fully independent and continue to report directly to the Board on all compliance investigation matters.

28. The AM Secretary will ensure that information disclosed in an DR-process will not be used in a later compliance investigation. The AM Secretary will submit a report to the Board, the IPN and Management summarizing the core outcome of the DR process as outlined below. The IPN will not opine on the outcome of the process.

Parties to a Dispute

29. The Parties to the DR process would be the Requesters and the Borrower's relevant project implementing agency. The parties are clarified during the IPN eligibility phase. In addition, Management staff and DRS may be present as observers if agreed to by both parties to the DR process. It is important to be clear as to who the parties' representatives are, so that their participation in meetings is not questioned and determines how the information goes back to the community or Borrower or Management to ensure that the decision making is viewed as legitimate and final.

Eligibility criteria for DR cases

30. The IPN will apply the same eligibility criteria to DR and compliance. There will be no change to the current practice of recommending eligibility, when a complaint is registered, based on the IPN's current eligibility criteria.

Process

31. During the eligibility phase, the IPN recommends eligibility for compliance. After the Board has approved the eligibility for compliance, the AM Secretary will offer an opportunity for dispute resolution to the parties. If Borrower and Requesters voluntarily agree to go for a dispute resolution, the case will be referred by the AM Secretary to the DRS. The AM Secretary will inform the Board, the IPN and Management of the parties' decision. In case the parties agree to use the DR process, the compliance process of the IPN will remain in abeyance. If the parties do not agree, the AM Secretary will inform the Board, the IPN and Management and the case will be taken up by the IPN for a compliance investigation.

32. The DR process will be facilitated by the DRS for reaching a mutually agreed solution between the DR parties. At the end of the DR process, the DRS will issue a report to the Board through the AM Secretary, informing them of the outcome of the DR process.

- If the DRS confirms that DR-parties have reached an agreement, the AM Secretary will inform the Board, IPN and Management. In such cases, no further compliance investigation will be undertaken. The Parties will have the option to keep their agreement confidential or disclose it.

- In the case DRS finds that the DR process is not able to reach an agreement (no agreement could be reached), the AM Secretary will inform the Board. The AM Secretary will refer the case to the IPN which will start the compliance investigation.

33. The independent AM Secretary (as Head of the Dispute Resolution Service) convenes the DR process. The parties select the mediator and agree on the objectives, scope, participants, stages and timelines of the DR. The DRS will draw from a roster of mediators and will contract the selected mediator who is able to respond to case demands and deliver DR services in a culturally appropriate manner. The mediator helps the parties to the dispute resolution find their own solution that is acceptable to them.

34. Neither the three Inspection Panel members nor any IPN staff involved in compliance review will take part in the DR process in any form. IPN will not opine on policy compliance in DR process/outcome. Similarly, the DRS will not opine on compliance review process/outcome. With agreement of the parties, Bank Management may be an observer in the DR process. The role of Management would remain only technical.

Time-bound process

35. The DR process would have a one-year time limit in order to provide assurance that the process is not prolonged and incentivize the parties to reach an agreement. If both parties agree, the process could be extended for up to six months in which case the Board, Management and IPN would be informed by DRS.

(iv) Review and Update

36. These changes reaffirm the importance of the IPN and its contribution to improving compliance with the Bank's policies and procedures and increasing the accountability of Bank Management and staff.

37. CODE acknowledges that strengthening accountability is an ongoing process and therefore proposes that the Board review the above proposals three years after implementation starts so as to assess their effectiveness and make course corrections if necessary.

Conclusion

38. The recommendations outlined in this document are expected to enhance the effectiveness of the World Bank's accountability system. They will become effective six months after Board approval of this document.