

September 9, 2022

The World Bank Accountability Mechanism and Inspection Panel  
1818 H St., NW  
Washington, DC 20433  
*Via Electronic Mail*

**RE: Comments on the 2022 Draft Operating Procedures for the Accountability Mechanism and the Inspection Panel**

***Introduction***

Thank you for the opportunity to provide comments on the draft Operating Procedures for the Accountability Mechanism and Inspection Panel. As civil society organizations and individuals who have advised communities seeking justice through accountability mechanisms, we offer recommendations for changes to the draft sets of procedures based on our case experiences. Our objective is that the Accountability Mechanism and Inspection Panel be as effective as possible for the communities who need them.

Because we know how transformative good accountability mechanism processes can be, we want the World Bank Accountability Mechanism and Inspection Panel to be the global leaders in accountability. Unfortunately, the September 2020 Board Resolutions that created the Accountability Mechanism and updated the Inspection Panel's mandate (Resolution No. IBRD 2020-0004 and Resolution No. IDA 2020-0003) set a low ceiling for how effective the World Bank Accountability Mechanism and Inspection Panel can be. The Resolutions include multiple provisions that are inconsistent with and far behind standard practice at other accountability mechanisms.<sup>1</sup> Although we are hopeful that these shortcomings will be addressed soon, we understand that the draft procedures open for comment must be consistent with the Resolutions. Therefore, we limit our comments only to changes that are both consistent with the Resolutions and proven to be required to increase the effectiveness of accountability mechanisms.

We divided our recommendations into three sections: (1) recommended changes that affect both the Inspection Panel and Accountability Mechanism Procedures; (2) recommended changes to

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<sup>1</sup> The Board Resolutions include multiple provisions that are inconsistent with standard practice at other accountability mechanisms. For example, they require Board approval of both a decision to investigate as well as a case that pursues dispute resolution. They severely limit the opportunity for Requesters to view and provide input on an investigation report. The verification power is far more limited than standard monitoring undertaken by other mechanisms. Dispute resolution is limited to 12 months with a 6-month extension. The Resolutions limit who requesters can choose as representatives, and the Resolutions do not give a clear mandate to the Accountability Mechanism or Inspection Panel to recommend remedial actions. The eligibility criteria are more limiting than at many mechanisms.

the Accountability Mechanism Procedures specifically; and (3) recommended changes to the Inspection Panel procedures specifically. Attached is an annex listing all recommendations.

We welcome the opportunity to discuss these recommendations with you. If you would like to do so, please contact Margaux Day ([margaux@accountabilitycounsel.org](mailto:margaux@accountabilitycounsel.org)), who is happy to coordinate.

Sincerely,

1. AbibiNsroma Foundation ANF – Ghana
2. Abna'a Alnazehien Organization in Myssan
3. Accountability Counsel – United States of America
4. Africa Development Interchange Network (ADIN) – Cameroon
5. Association jeunes pour jeunes (AJJ) – Morocco
6. Association Talassemiane pour l'environnement et développement (ATED) – Morocco
7. Association Tunisienne de Droit du Développement – Tunisia
8. Association Zero Zbel – Morocco
9. Arab Watch Coalition – United States of America and Middle East North Africa Region
10. ATCP – Tunisia
11. ATGL – Tunisia
12. Bank Information Center – United States of America
13. The Bretton Woods Project – United Kingdom
14. Buliisa Initiative for Rural Development Organisation (BIRUDO) – Uganda
15. Center for International Environmental Law – United States of America
16. Centre de Défense des Droits de l'Homme et Démocratie – Democratic Republic of the Congo
17. Centre de Développement de la Région de Tensift – Morocco
18. Centre for Financial Accountability – India
19. David Hunter, Peregrine Environmental Consulting – United States of America
20. Dibeem for Environmental Development – Jordan
21. EG Justice – Equatorial Guinea
22. Endorois Welfare Council – Kenya
23. Espace de Solidarité et de Coopération de l'Oriental – Morocco
24. Foundation for Environmental Management and Campaign Against Poverty – Tanzania
25. Friends of the Earth US – United States of America
26. Fundeps (Foundation for the Development of Sustainable Policies) – Argentina
27. Gender Action – United States of America
28. Global Legal Action Network – Ireland and United Kingdom
29. Green Advocates International – Liberia
30. Hayat Center - RASED – Jordan

31. Inclusive Development International – United States of America
32. International Accountability Project – Global
33. Jamaa Resource Initiatives – Kenya
34. Lawyers’ Association for Human Rights of Nepalese Indigenous Peoples (LAHURNIP) – Nepal
35. Lebanon Eco Movement – Lebanon
36. Lori Udall, Montpelier Consulting – United States of America
37. Mazingira Network - Tanzania (MANET) – Tanzania
38. Natural Justice – South Africa
39. Observatoire d'etudes et d'appui a la responsabilite sociale et environnementale (OEARSE) – Democratic Republic of the Congo
40. Oxfam – United States of America
41. Oyu Tolgoi Watch – Mongolia
42. Peace Point Development Foundation (PPDF) – Nigeria
43. Phenix Center – Jordan
44. Press Freedom Advocacy Association in Iraq/جمعية الدفاع عن حرية الصحافة في العراق – Iraq
45. Recourse – Netherlands
46. Resonate Yemen – Yemen
47. Rivers without Boundaries Coalition – Mongolia
48. The Sentry – United States of America
49. Social Justice Platform/ منصة للعدالة الاجتماعية – Egypt
50. Stop pollution – Tunisia
51. SUHODE Foundation – Tanzania
52. urgewald – Germany
53. Wedyan Association For Society Development – Yemen
54. Witness Radio – Uganda
55. Women’s and Children’s Affairs Organization/ منظمه شؤون المراه والطفل – Iraq
56. Yemen Organization for Promoting Integrity – Yemen
57. Yemeni Observatory for Human Rights – Yemen

## *Recommendations for both the Accountability Mechanism and Inspection Panel Procedures*

1. **Issue:** The procedures do not expressly state that issues not covered by a dispute resolution agreement can go to compliance.

**Proposal:** The procedures should be amended to explicitly state that issues left unresolved by dispute resolution will be subject to a compliance investigation by the Inspection Panel. In other words, a partial agreement means that unresolved issues are subject to a compliance review.

**Reasoning:**

- **A dispute resolution process can address many issues, but not all.** Requesters, the Bank, and indeed everyone who wants financing to be sustainable, should want all potential issues of noncompliance to be addressed. Practically speaking, borrowers are better situated to address some issues of noncompliance, and the Bank is better positioned to address others. Many complaints to accountability mechanisms allege more than one way a project is noncompliant: of the **144** complaints to the Inspection Panel for which the issues alleged are known, **129** alleged at least two (2) ways a project was noncompliant.<sup>2</sup> And, requesters often allege noncompliance with both environmental and social safeguards: of those **144** complaints to the Inspectional Panel, **86** alleged both environmental and social issues.<sup>3</sup> In fact, certain issues are particularly difficult to address through dispute resolution, including gender-based violence.<sup>4</sup> To require borrowers and requesters to address every issue through dispute resolution is simply unrealistic, and it means that requesters will either choose to forgo certain issues for the sake of others or will forgo dispute resolution altogether.
- **Many accountability mechanisms permit issues unaddressed by dispute resolution to be evaluated through a compliance review.** This isn't a novel approach. The following accountability mechanisms either require or permit issues unresolved by a dispute resolution agreement to be investigated by the mechanism's compliance function: International Finance Corporation's Compliance Advisor Ombudsperson (paras. 70, 71); Green Climate Fund's Independent Redress Mechanism (paras. 37, 48); African Development Bank's Independent Recourse Mechanism (para. 57); European Bank for Reconstruction and Development's Independent Project Accountability Mechanism (para. 2.4(3)(iii)); Asian Development Bank's Accountability Mechanism Policy (paras. 153, 173); UNDP's Stakeholder Response Mechanism: Overview and Guidance (page. 18); UNDP's Investigation Guidelines: Social and Environmental Compliance Unit (para. 1(4)). Because so many accountability mechanisms

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<sup>2</sup> If you look at all IAM complaints for which the issues alleged are known, the numbers are **861** of **1066**.

<sup>3</sup> If you look at all IAMs for which the issues alleged are known, the numbers are **472** of **1066**.

<sup>4</sup> *E.g.*, the Inspection Panel case regarding the Transport Sector Development Project - Additional Financing.

permit issues unresolved by dispute resolution (either due to a partial agreement or no agreement) to go to compliance, there have been multiple cases that the World Bank Accountability Mechanism can review to see how to manage that process.<sup>5</sup>

- **Keeping the process ambiguous is unfair and unpredictable.** Since the Resolutions and draft operating procedures are presently silent on the handling of unresolved issues and partial agreements, we assume that unresolved issues will be the subject of a compliance investigation by the Inspection Panel. However, requesters in particular might be unaware of how or whether to request that unresolved issues be investigated precisely because the procedures are silent on this point. Worse, if the Accountability Mechanism were to determine unresolved issues do not go to compliance, then requesters might be unaware of what options they are forgoing when reaching an agreement on some issues but not all. Two core tenets of an effective accountability mechanism are predictability and fairness.<sup>6</sup> To comply with these tenets, the procedures should make explicit that unresolved issues after a dispute resolution process concludes will be investigated by the Inspection Panel.
- **Any argument that permitting unresolved issues to go to compliance will deter participation in dispute resolution are merely hypothetical.** In fact, knowing that a compliance review might occur after dispute resolution can serve as an incentive to reach a resolution on more issues. We have seen this in dispute resolution processes at other mechanisms, and we can share that experience in a conversation if helpful.
- **The scope of issues that will go to compliance review will have already been decided by the Inspection Panel and confirmed by the Board.** Although we are concerned that the current process means that the scope of issues that can be resolved are unduly limited by what issues the Inspection Panel certifies for investigation, one consequence of this limitation is that the Bank, borrower, and requesters are all aware of the scope of issues early in the accountability process. Both the Inspection Panel and the Board will have already had an opportunity to confirm the issues subject to investigation. Thus, the fact that some might not be resolved during dispute resolution should be of no concern. Rather, limiting the Inspection Panel's involvement with unresolved issues seems like an arbitrary restriction on the compliance review function, which is a critical governance process for the World Bank.

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<sup>5</sup> Examples include: At the Asian Development Bank's accountability mechanism: (1) People's Republic of China: Fuzhou Environmental Improvement Project; and (2) CAREC Transport Corridor 1 (Bishkek–Torugart Road), Project 2. At the IFC's CAO: (1) Agrokasa-01/Ica; (2) Bujagali Energy-04/Bujagali; and (3) Wilmar Group-01/West Kalimantan.

<sup>6</sup> United Nations Guiding Principles on Business and Human Rights, Principle 31.

- **Leaving these procedures as-is creates a culture of competition as opposed to collaboration, at the expense of the Requester.** The compliance and dispute resolution functions of accountability mechanisms should work together towards the same goals: redress for requesters and accountability for the bank. The Board Resolutions place problematic limitations on the interactions between the Inspection Panel and Dispute Resolution Service by prohibiting dispute resolution during or after compliance review. Requesters are forced to make a choice of whether to attempt dispute resolution early in the process and delaying or perhaps forgoing altogether a compliance investigation. However, and fortunately, under the Board Resolutions, the Inspection Panel and Accountability Mechanism are delegated the power to draft operating procedures that permit a compliance investigation on unresolved issues. This process needs to be explicitly written in the final operating procedures.

**Proposed language:**

**Accountability Mechanism Procedures:**

*13.c Upon conclusion of the dispute resolution process, the Accountability Mechanism Secretary issues a report to the Executive Directors, the Inspection Panel and Bank Management informing them of the outcome. The report indicates either that the Parties have reached agreement or have been unable to reach agreement within the stipulated period.*

*13.d. Upon conclusion of the dispute resolution process with agreement on some but not all issues, the Inspection Panel will enquire whether the requesters wish to transfer the unresolved issues to the Inspection Panel for investigation. The Panel will begin a compliance investigation where one (or more) requester provides explicit consent, or otherwise will close the case. In situations where the Panel is aware of concerns regarding threats and reprisals, to protect the requester, the Panel may determine to begin an investigation without the need for a requester's explicit consent.*

*de. When the Inspection Panel receives the report of the Accountability Mechanism Secretary, it takes the steps set forth in paragraph 33 of the Inspection Panel Resolution.*

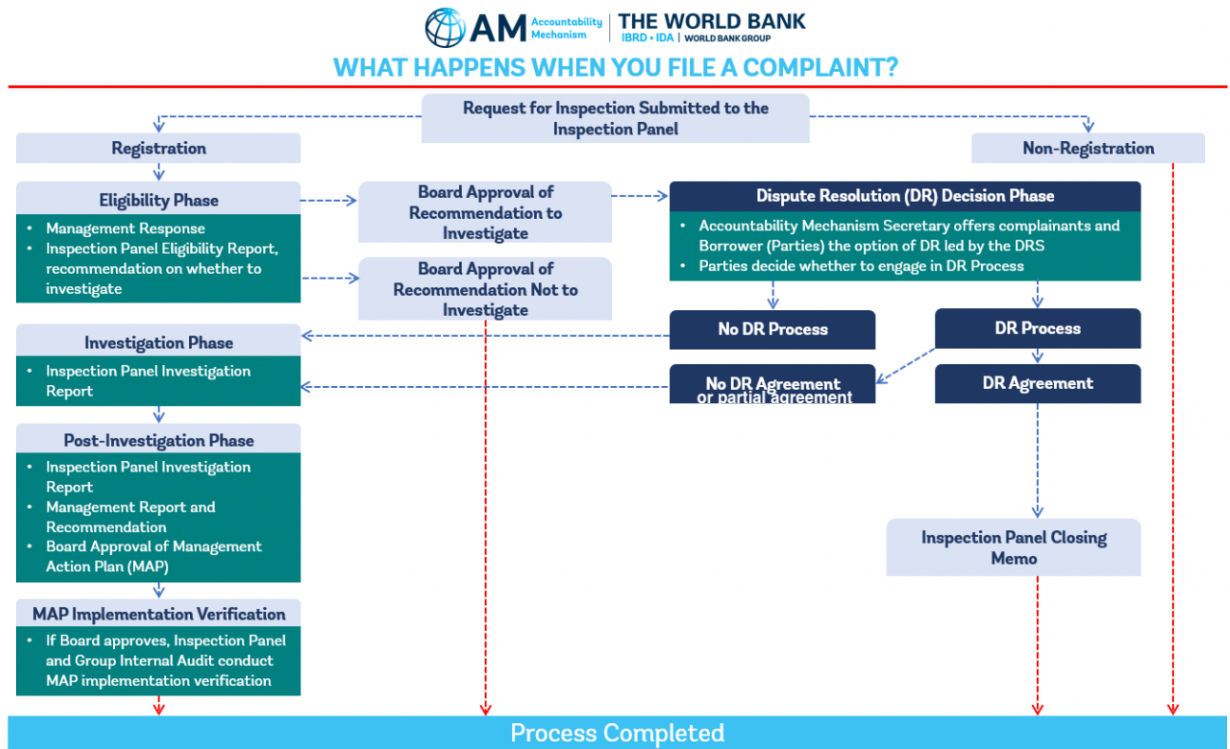
**Inspection Panel Procedures:**

***3.4 Investigation by the Panel of claims raised by the Request if dispute resolution is not agreed to, ~~or~~ does not result in agreement, or results in an agreement on some issues but not all – the investigation phase***

60. This section describes some of the key steps and outcomes of the investigation phase of the Panel process. It also addresses the organization and methodology of the investigation and the timeline for completing investigations.

61. When an investigation is approved and after the AMS informs the Executive Directors and the Panel that: (i) the Parties do not agree to engage in a dispute resolution process or (ii) a dispute resolution process has taken place but a ~~an~~ full agreement was not reached by the Parties within the stipulated period, the Panel will commence the investigation. The Panel Chairperson will designate a Panel Member as the Lead Inspector and promptly put in place an investigation team, including a lead staff member for the investigation.

The following graphic needs to be amended in both sets of procedures by adding a Partial Agreement category:



- Issue:** The current draft Accountability Mechanism and Inspection Panel procedures do not explicitly give the AM or Panel the power to recommend suspension of projects.

**Proposal:** The operating procedures should make explicit that the Accountability Mechanism and Inspection Panel can recommend suspension of projects when aware of imminent or irreversible harm.

**Reasoning:**

- **Pausing disbursements can be critical to ensuring compliance with bank standards and preventing harm.** One example of a project suspension early in an accountability mechanism process is a conservation project in Myanmar. UNDP's Social & Environmental Compliance Unit received a complaint from project-impacted communities in Myanmar alleging harm caused by UNDP's Ridge to Reef project. Within the month, UNDP Myanmar put activities relating to the Ridge to Reef project on hold indefinitely.<sup>7</sup> Through the accountability mechanism process and because the project activities were suspended, communities have been able to share their own conservation proposals. At other times, mechanisms recommend suspension of projects based on investigation findings. In Nepal, project-affected communities filed a complaint to the EIB's accountability mechanism alleging harm caused by a high-voltage transmission line.<sup>8</sup> The EIB's Complaints Mechanism conducted an investigation and recommended milestones for the bank to complete before the EIB should continue disbursements of funds.<sup>9</sup>
- **As implementation of a project progresses, it becomes less likely to prevent irreparable harm, leaving requesters without opportunities for any meaningful redress.** An Inspection Panel investigation and a DRS dispute resolution process can each take over a year, during which time project implementation can exacerbate or cause even further harm.

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<sup>7</sup> See [overview](#) of Ridge to Reef Conservation Project Case.

<sup>8</sup> See [overview](#) of 220 kV Marsyangdi Corridor Transmission Line Case.

<sup>9</sup> [Conclusions Report](#) for Complaint SG/E/2018/39.



- **Other mechanisms recommend project suspension.** The procedures of EBRD’s IPAM,<sup>10</sup> UNDP’s SECU,<sup>11</sup> AfDB’s IRM,<sup>12</sup> and the IDB’s MICI<sup>13</sup> all stipulate that the accountability mechanism can recommend a suspension of a project, and the GCF’s IRM can recommend remedial actions generally.
- At the very least, the DRS should be obligated to notify the Bank of imminent or irreversible harm, same as the Inspection Panel.<sup>14</sup> This information is not only relevant for deciding whether to suspend a project, but it also should signal to the Bank that it cannot close a case until harm is remedied without risking an irresponsible exit.

**Proposed Language:**

**Accountability Mechanism Procedures**

*17.3. As the dispute resolution progresses, the mediator/facilitator keeps the assigned DRS staff apprised of progress, including any issues resolved or other agreements reached.*

*17.4. During the course of the dispute resolution process, the DRS may encounter situations that require urgent attention, such as actions that may result in imminent or irreversible harm that may also pose the risk of serious non-compliance with Bank policies. The DRS brings these matters promptly to the attention of the Board and Senior Management to help ensure that appropriate responsive action is considered and taken.*

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<sup>10</sup> See, IPAM procedures, para 3.1(j): “**Effect of Requests on Bank Projects and Emergency Measures.** The Registration of a Request will not, on its own, have the effect of suspending the Bank’s interest in the Project. However, if at any time during the processing of a Request, IPAM believes that serious and irreparable harm will be caused by the Bank’s continued processing of the Project or disbursements in respect of the Project, IPAM may make an interim recommendation for remedial actions by the Bank, including a suspension of further Bank processing of the Project or the suspension of disbursements.”

<sup>11</sup> See, UNDP’S SECU procedures, para. 55: The SECU Guidelines allow the Lead Compliance Officer to “recommend to the Administrator that UNDP take interim measures pending completion of compliance review ... Such interim measures could include suspending financial disbursements or taking other steps to bring UNDP into compliance with its social and environmental commitments, or to address the imminent harm. The Lead Compliance Officer will endeavor to consult potentially affected people on these measures, depending on time and related constraints.”

<sup>12</sup> See IRM procedures, para. 27: “Notwithstanding any other provision in these Rules, the filing, assessment, registration or processing of a Complaint or the carrying out of a Compliance Review or Problem-Solving exercise shall not have the effect of suspending processing of, or disbursements in respect of the relevant Bank Group-Financed Operation. However, if at any time during the processing of a Complaint, the Director is of the opinion that serious, irreparable harm shall be caused by the continued processing or implementation of the Bank Group-Financed Operation, the Director may make an interim recommendation to the Boards of Directors and the President to suspend further work or disbursement.”

<sup>13</sup> See MICI procedures, para. 18: “If, based on the available information, the MICI Director determines that serious irreparable Harm may result from the continued execution of a Bank-Financed Operation, the MICI Director may recommend to the Board (or the Donors Committee) that execution be suspended.”

<sup>14</sup> See, Inspection Panel procedures: para 68: “On occasion, during the course of the investigation, the Panel may encounter situations that require urgent attention, for example actions that may result in imminent or irreversible harm and pose the risk of serious non-compliance with Bank policies. The Panel brings these matters promptly to the attention of the Board and Senior Management to help ensure that appropriate responsive action is considered and taken, without having to wait for the completion of the Panel’s investigation.”

*The DRS may make an interim recommendation for remedial actions by the Bank, including a suspension of further Bank processing of the Project or the suspension of disbursements.*

### **Inspection Panel Procedures**

68. *On occasion, during the course of the investigation, the Panel may encounter situations that require urgent attention, for example actions that may result in imminent or irreversible harm and pose the risk of serious non-compliance with Bank policies. The Panel brings these matters promptly to the attention of the Board and Senior Management to help ensure that appropriate responsive action is considered and taken, without having to wait for the completion of the Panel's investigation. The Panel may make an interim recommendation for remedial actions by the Bank, including a suspension of further Bank processing of the Project or the suspension of disbursements.*

### **Recommendations for Accountability Mechanism Procedures**

1. **Issue:** Although we interpret “follow-up” to include monitoring, the Dispute Resolution Service is not given an explicit monitoring mandate.

**Proposal:** The procedures should be amended to use the word “monitoring” in addition to or instead of “follow-up,” and the requirement for parties to consent to monitoring should be removed.

**Reasoning:**

- **Monitoring agreements is critical to ensuring their implementation and therefore the effectiveness of a dispute resolution function itself.** Communities who have engaged in dispute resolution through accountability mechanisms know that implementation of agreements is not guaranteed. And in fact, it often falls on community members to mount campaigns to see their agreements on paper put into practice. If the World Bank’s Dispute Resolution Service wants to be effective, it should learn the lessons of other dispute resolution processes and ensure that it has a clear monitoring mandate.
- **Given that effective monitoring is critical to the effectiveness of dispute resolution, it is no wonder that every other dispute resolution mechanism has a monitoring mandate.**<sup>15</sup> If the DRS does not have a clear monitoring mandate,

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<sup>15</sup> The following institutions’ accountability mechanisms have monitoring mandates: International Finance Corporation’s Compliance Advisor/Ombudsman (CAO); Inter-American Development Bank’s Independent Consultation and Investigation Mechanism (MICI); African Development Bank’s Independent Recourse Mechanism (IRM); European Bank for Reconstruction and Development’s Independent Project Accountability Mechanism (IPAM); European Investment Bank’s Complaint Mechanism (CM); Asian Development Bank’s Office of the Special Project Facilitator (OSPF); Asian Infrastructure Investment Bank’s Project-Affected Peoples’ Mechanism (PPM); United Nations Development Programme’s Stakeholder Response Mechanism (SRM); Green Climate Fund’s Independent Redress Mechanism (IRM); German Investment Corporation/Netherlands Development Finance

it will be an outlier among every other multilateral development banks' accountability mechanisms. Further, data from other mechanisms shows that accountability mechanisms regularly exercise their monitoring mandates; most dispute resolution cases at all IAMs that produced an agreement were, or are being, monitored (about 77%).<sup>16</sup>

- **Monitoring of dispute resolutions is common even when government parties are involved.** To the extent there is a perception that an accountability mechanism cannot monitor a government agency's actions within its own territory, this is proven untrue by cases. Notably, the IAMs of EBRD and AfDB have monitored every agreement reached through their dispute resolution processes, and in every one of these cases a government actor or agency was a party.<sup>17</sup> At both EIB's and ADB's mechanisms, 100% of the agreements that were monitored included a government actor as a party.<sup>18</sup> At IDB's MICI, 90% of monitored agreements included a government actor as a party.<sup>19</sup>
- **Simply put, monitoring works.** It's not uncommon for banks, borrowers, and clients to commit to actions on paper and then not implement them. Case examples demonstrate how critical monitoring is to achieving implementation of dispute resolution agreements.
  - In 2018, after Haitian communities used MICI's dispute resolution process to negotiate an agreement with the IDB and government of Haiti, implementation of the agreement would have been impossible without MICI's authority to monitor and publicly report when the government failed to meet implementation schedules. Monitoring meetings have given the parties opportunities to constructively troubleshoot solutions to obstacles affecting the agreement's implementation, including current economic and political turmoil in Haiti.<sup>20</sup>
  - Monitoring also played an important role in the implementation of an agreement facilitated by the CAO between Mongolian herders, a gold mine, and the local government. The dispute resolution process resulted in agreements that include important commitments to compensate herders, provide scholarships, conduct land surveys, plant trees, preserve and pass on local traditions, building wells, opening new pasture areas, and providing job skills trainings. The CAO and the affected communities monitored implementation of the agreements, and therefore the

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Company/(French) PROPARCO's Independent Complaint Mechanism (ICM). See Annex II for language from each mechanism's policy setting out the monitoring mandate for dispute resolution.

<sup>16</sup> According to the [Accountability Console](#), a total of [102](#) IAM cases have resulted in dispute resolution agreements. Of those, [79](#) either were or currently are being monitored.

<sup>17</sup> Console data on [EBRD's](#) and [AfDB's](#) monitored dispute resolution cases.

<sup>18</sup> Console data on [EIB's](#) and [ADB's](#) monitored dispute resolution cases.

<sup>19</sup> Console data on [IDB's](#) monitored dispute resolution cases.

<sup>20</sup> See [The Strength of a Community: Haitian Farmers Begin Receiving Compensation, Demanding Swift Progress](#).

communities were able to prove that some of these commitments went unimplemented. Having this record helped move implementation ahead on some of the unimplemented commitments.<sup>21</sup>

- Nicaraguan sugar mill workers suffering from chronic kidney disease embarked on a dispute resolution process at the CAO in 2015. The agreement reached between the workers and the Montelimar company in 2019 ensured short-term actions to support health and food needs but also medium-term actions to create employment and income generation projects for former workers. The parties also agreed to collaborate with national authorities to improve health care services in the region. Even with a strong commitment by both parties, the monitoring by CAO proved instrumental in ensuring implementation of the agreement as the political crisis worsened and the pandemic reached Nicaragua.<sup>22</sup>
- **The term “follow-up” is not consistently defined and risks ambiguity.** While we assume that the DRS’s “follow-up” work will include monitoring the implementation of agreements, we are not convinced that all requesters or borrowers will make that same assumption. This ambiguity risks leading to confusion about whether the DRS has monitoring authority, which could make the dispute resolution process ineffective. When peer IAM policies use the term “follow-up,” they typically use it to describe a range of activities *separate from monitoring*. These activities include, but are not limited to: implementing a management action plan or DR agreement<sup>23</sup>; checking to ensure that a complaint redirected to a management office is being addressed<sup>24</sup>; and communicating internally about the status of a complaint.<sup>25</sup> In contrast to the flexible term “follow-up,” “monitoring” is a well-defined term that clearly describes a mechanism’s authority to evaluate and report on how well an agreement is being implemented.
- **Requiring parties to agree to “follow-up” limits the AM’s powers, risks the implementation of an agreement, and is inconsistent with the spirit of the Board Resolution.** To be most effective, the DRS should have independent monitoring authority. Neither of the parties should be allowed to block the mechanism from reporting on implementation. Indeed, the majority of peer accountability mechanisms—including those that govern public financing—have independent authority to monitor the outcomes of dispute resolution, without

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<sup>21</sup> See *From Paper to Progress*.

<sup>22</sup> See [Nicaragua: Ingenio Montelimar-01/Montelimar Environs](#).

<sup>23</sup> See, e.g., DEG/FMO/PR ICM Policy, Appendix 1 (Flowchart).

<sup>24</sup> See, e.g., AIIB PPM Rules of Procedure para. 6.4.5(e); UNDP SRM Overview and Guidance p. 18.

<sup>25</sup> See, e.g., EIB CM Procedures para. 3.1.2.A. For other instances of the term “follow-up” being used to mean something other than “monitoring,” see IFC CAO Policy para. 153; IDB MICI Policy para. 61.

requiring the parties' consent.<sup>26</sup> The Board Resolution requires that all dispute resolution agreements be memorialized and "contain[] a time-bound implementation schedule for agreed actions."<sup>27</sup> Given that implementation is a required component of agreements, it makes sense for the DRS to monitor it.

- **Clearly stating that the DRS has a monitoring mandate helps ensure it also has an adequate budget for monitoring activities.** The DRS will need a sufficient budget to undertake monitoring effectively. To the extent that "follow-up" might be interpreted differently by different people, it could risk the Accountability Mechanism not having the budget it requires to effectively administer its cases.

**Proposed language:**

**Accountability Mechanism Procedures:**

**24. Implementation of Dispute Resolution Agreements**

*24.1 ~~Where the Parties so agree in the Dispute Resolution Agreement, the DRS may follow up periodically on its implementation.~~ Where the Parties have reached an agreement through the dispute resolution process, the DRS will monitor the implementation of the agreement. The DRS will inform the Parties and the Bank when the case has formally moved to the monitoring phase and will consult with the Parties throughout the monitoring phase. The DRS will share interim updates with Management and the Board and will publish such updates on the Accountability Mechanism's website every six months during the monitoring phase.*

*24.2 Monitoring will continue until dispute resolution agreements are implemented. Dispute resolution agreements will be considered implemented if they fulfill the following criteria: i. the commitments made by the Parties in such agreements are being effectively carried out; and ii. implementation timetables are being met.*

2. **Issue:** The draft Operating Procedures permit parties to object to each other's advisers.

**Proposal:** Language should be amended to clarify that requesters have a right to the representation of their choice.

**Reasoning:**

- **Requesters have the right to representation of their choice.** While ideally IAM processes should be sufficiently accessible to communities so that they do not need advisers, in practice, community members face language, resource, technological, and information barriers that make it difficult if not impossible for them to pursue a complaint independently. Given this reality, communities

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<sup>26</sup> These mechanisms include: EBRD's IPAM; EIB's CM; ADB's OSPF; AIIB's PPM; UNDP's SRM; GCF's IRM; and IFC's CAO.

<sup>27</sup> AM Resolution, para. 13(b).

frequently seek advice and representation from local, national, or international civil society organizations, lawyers, economists, scientists, negotiation experts, and others. It is critical that IAMs protect communities' right to involve any and all organizations as advisers and representatives. While an IAM may seek evidence of the community's authorization for an advisor to represent it, the IAM should not obstruct individuals' access to remedy by limiting their choice of representatives. To do so would establish an unequal and unfair requirement for communities vis-à-vis financial institutions and their clients, which are advised and represented by sizable legal teams and international consulting firms.<sup>28</sup>

- **In practice, it's often the borrower, bank client, or bank who pressures project-impacted communities not to seek advice of representatives; rarely, if ever, do communities object to borrowers, bank clients, or the banks themselves from seeking legal advice.** Not only should another party not have the power to object to advisers, in practice, objections limit the rights of communities, not institutions. Banks, borrowers, and bank clients have objected to, refused to speak to, and threatened people for using representatives in many accountability mechanism cases. On one occasion the CSO advisor to a group of requesters was completely denied entry into the mediation discussion by the bank client, even after requesters had expressed that they wanted their advisers present. The requesters nevertheless engaged in the mediation alone even though the client was being supported by an entire legal team. In fact, in Inspection Panel cases, the World Bank has refused to engage with Requesters' advisers even when written authorization exists. Because of this experience, we know that the right to advisers must be enshrined explicitly and without reservation in the operating procedures.

**Proposed language:**

*21.3. The Parties and their representatives have a right to participate in the process. Representatives cannot exclude direct communication between the Parties, or between the Parties and the DRS at any stage during the dispute resolution process. The Parties may engage additional advisers, ~~who may participate subject to no objection of the other Party.~~ Subject to para 12.3 and taking into account the method of dispute resolution selected, the mediator/facilitator may recommend to the Parties that parts of the process be conducted directly between the Parties only.*

3. **Issue:** The procedures do not set out guiding principles nor the Accountability Mechanism and Inspection Panel's role in facilitating remedy.

**Proposal:** Language should be amended to clarify that the World Bank Accountability Mechanism process is committed to the effectiveness criteria in the UN Guiding Principles on Business and Human Rights and assists in facilitating remedy.

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<sup>28</sup> See [Good Policy Paper: Guiding Practice from the Policies of Independent Accountability Mechanisms](#), page 41.

## Reasoning:

- **Setting out guiding principles can help project-affected communities understand what to expect from the accountability process.** All independent accountability mechanisms must be guided by Principle 31 of the UN Guiding Principles on Business and Human Rights. Many communities who are considering whether to submit a request or complaint to a mechanism would not know of these principles if they are not included in the mechanism procedures, and assurance of these principles can increase communities' trust in the process. The Inspection Panel procedures set out the principles of independence and fairness. The CAO policy sets out “core principles” of independence, impartiality, transparency, accessibility, responsiveness, fairness, equitability, predictability, consistency with good practice, and continuous learning. The Green Climate Fund's Independent Redress Mechanism sets out the principles of responsiveness, fairness, equitability, expeditiousness, independence, transparency, and consistency with international best practices. The Inter-American Development Bank's MICI sets out the principles of independence, efficiency, effectiveness, objectivity, impartiality, transparency, cost-effectiveness, and the highest professional and technical standards of the IDB. These principles are missing from the Accountability Mechanism procedures.
- **Accountability mechanisms play an important role in facilitating remedy.** As the United Nations asserted, “the right to remedy is connected with principles of sustainability and equity that are at the heart of DFI mandates and missions.”<sup>29</sup> Accountability mechanisms have an important role to play in facilitating this remedy as they receive complaints alleging harm caused by DFI projects.
- **Indeed, it is increasingly common for accountability mechanism procedures to state the mechanism's role in facilitating remedy.** Providing clarity about the role of accountability mechanisms in facilitating remedy helps ensure predictability and avoids confusion among the bank, borrowers, and requesters. The CAO policy states that “In executing its mandate, CAO facilitates access to remedy for Project-affected people in a manner that is consistent with the international principles related to business and human rights.”<sup>30</sup> The AfDB's IRM procedures also note their process is related to “achieving remedy.”<sup>31</sup>

## Proposed language:

*2.1. The Accountability Mechanism was established by IBRD Board Resolution No. 2020-0005 and identical IDA Board Resolution No. 2020-0004 (the “AM Resolution”). The Accountability Mechanism comprises two constituent parts, the Panel, originally established in 1993, and the DRS, established by the AM Resolution in September 2020*

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<sup>29</sup> *Remedy in Development Finance: Guidance and Practice*, <https://www.ohchr.org/sites/default/files/2022-03/Remedy-in-Development.pdf#page=24>.

<sup>30</sup> IFC CAO Policy, para. 5.

<sup>31</sup> AfDB IRM Policy, para. 69(b).



and operationalized in October 2021. The Panel process is governed by IBRD Board Resolution 2020-0004 and identical IDA Board Resolution 2020-0003 (the “Panel Resolution”).

*2.2 The Accountability Mechanism and the Inspection Panel are committed to legitimacy, accessibility, predictability, equitability, transparency, rights-compatibility, being a source of continuous learning, and being based on engagement and dialogue. In executing their mandates, the Accountability Mechanism and the Inspection Panel facilitate access to remedy for Project-affected people in a manner that is consistent with the international principles related to business and human rights.*

*2.23. The Accountability Mechanism is headed by the AM Secretary, who is independent from Bank Management and reports directly to the Board. The AM Secretary supports the work of both constituent parts of the Accountability Mechanism, the Panel and the DRS.*

4. **Issue:** The operating procedures do not set out the process for hiring the Accountability Mechanism Secretary.

**Proposal:** The operating procedures should include language enshrining a good hiring process.

**Reasoning:**

- **The process for selecting the head of an accountability mechanism should be transparent and inclusive.** This is why mechanisms are increasingly setting out hiring procedures that include involvement of external stakeholders, including civil society representatives. As noted in the *Good Policy Paper: Guiding Practice from the Policies of Independent Accountability Mechanisms*, consulting with external stakeholders in the hiring the heads of independent accountability mechanisms is good practice and helps ensure legitimacy.<sup>32</sup> Many IAMs have adopted this practice: The ADB included a CSO observer in the hiring process for the CRP Chair in 2019, and the IDB involved civil society representatives in the selection of MICI’s chair in 2021. The independent Examiners for the Guidelines of the Japan International Cooperation Agency (JICA) and the Japan Bank for International Cooperation (JBIC) are chosen through a process that includes a selection committee that has members from academia and NGOs, among others. The European Bank for Reconstruction and Development (EBRD) creates a nomination committee composed of members internal and external to the EBRD to select the head of the Independent Project Accountability Mechanism (IPAM).

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<sup>32</sup> See Accountability Counsel, Bank Information Center, Center for International Environmental Law, et al., *Good Policy Paper: Guiding Practice from the Policies of Independent Accountability Mechanisms*, pgs. 19, 21-22 (Dec. 2021), available at <https://www.accountabilitycounsel.org/wp-content/uploads/2021/12/good-policy-paper-final.pdf>.



This committee is composed of external stakeholders who have expertise in the accountability and social or environmental fields, demonstrated integrity and independence, the ability to interact effectively with parties and civil society, and experience with the operations of the EBRD or similar institutions. Similarly, in the selection process for the IFC's Compliance Advisor Ombudsman Director General, the external stakeholders on the selection committee are tasked with reviewing applications, determining a shortlist, and conducting interviews with shortlisted candidates. Just as the CAO policy includes the hiring process for its Director General, the Accountability Mechanism Procedures should enshrine the hiring process for the Accountability Mechanism Secretary.

**Proposed language:**

The following language from the CAO Policy should be included in the Accountability Mechanism Procedures for the hiring of the Accountability Mechanism Secretary:

***Selection process***

*15. To maintain the independence of the ~~CAO-DG~~ **Accountability Mechanism Secretary**, a selection committee will be established to conduct an independent, transparent, and participatory selection process that involves stakeholders from diverse regional, sectoral, and cultural backgrounds, including civil society and business communities. ~~The Accountability Mechanism, Inspection Panel, and World Bank CAO, IFC, and MIGA~~ will solicit nominations for the selection committee from stakeholders and forward them to the CODE Chair and Vice-Chair for their consideration. The CODE Chair and Vice-Chair will appoint six people to form the selection committee, including two Executive Directors, two senior representatives from the global business community, and two senior representatives from the civil society community, and appoint one of these Executive Directors as chair of the selection committee. World Bank Group Human Resources will provide administrative support to the selection committee, including identifying and engaging a reputable and recognized recruitment firm, but will not provide any view or advice on any candidate. The selection committee will review applications, determine a shortlist, and conduct interviews with shortlisted candidates.*

*16. The selection committee will establish a process for receiving formal input from ~~CAO~~ **the Accountability Mechanism, the Inspection Panel**, Management, and the CODE Chair and Vice-Chair, including the conduct of interviews with shortlisted candidates. ~~CAO~~ **The Accountability Mechanism, the Inspection Panel**, and Management may be invited to interview shortlisted candidates.*

*17. The selection committee will recommend the finalist candidate(s) to the President, with ranking if needed, for further consideration. The President will select the final candidate and/or may request additional information. World Bank Group Human Resources will ascertain the candidate's interest and availability and conduct necessary reference checks. Following further consultation with the selection committee as necessary, the President will put forward the nomination to the Boards for their decision.*

5. **Issue:** The operating procedures do not explicitly state that Bank representatives can participate in dispute resolution in addition to being observers.

**Proposal:** The operating procedures should state that the World Bank can participate in the dispute resolution process with the consent of the Requesters.

**Reasoning:**

- **When consented to by complainants, bank engagement in dispute resolution has proven critical to resolving disputes adequately and effectively.** For example, the policy of the IDB MICI expressly allows Management to participate as a party in dispute resolution processes,<sup>33</sup> which has resulted in Management joining dispute resolution dialogues to assist in developing holistic solutions for remediation, and to help Clients deliver on remediation commitments more efficiently.<sup>34</sup> The IDB [agreed](#) to participate *as a party* in a MICI dialogue process along with representatives of complainants and the Haitian Government.<sup>35</sup> All three parties, including representatives of the IDB, attended and actively participated in multiple dialogue meetings over the course of a year and a half. The parties (including the IDB) signed a [final agreement](#) to resolve the complaint regarding the taking of farmland for the construction of an industrial park. As a result of their active role, the IDB was at the table to agree to monitor the outcomes of the agreement and assist in the last mile of implementing remedy. In this instance, the IDB's engagement and participation in the process was integral to more holistically addressing adverse social impacts to improve sustainable project outcomes. Moreover, the IDB's continued engagement in the implementation of the agreement has been instrumental in addressing unforeseen issues and has contributed to creative problem-solving to push through stalls in implementation.

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<sup>33</sup> IDB MICI Policy, "Glossary" ("Parties: The Requesters, Management, the Borrower, the Client and/or the Executing Agency, if applicable."), para. 24 ("The objective of the Consultation Phase is to provide an opportunity to the Parties to address the issues raised by the Requesters related to Harm ...").

<sup>34</sup> See, e.g., MICI Consultation Phase Report, MICI-BID-HA-2017-0114 (Productive Infrastructure Program, Caracol, Haiti), "Acronyms and Abbreviations" ("Parties: The Requesters, IDB Management, and the Executing Agency"), para. 2.9 ("In order to ensure effective participation in the process .... IDB Management ensured the translation, and shared electronic and hard copies of the documents during the first round of dialogue."), para 2.18 ("A central aspect of the process was to develop an agenda and preliminary format in conjunction with the Parties. The participation of IDB Management ... in this exercise was essential to creating a sense of legitimacy and ownership of the process."), 2.24 ("Measures concerning the environmental and social impacts of the PIC .... Bank Management has followed up on several of the different aspects ... in connection with social and environmental matters. In particular, it pledged to continue to monitor the contracting ... to perform water quality tests and to request that the results be shared .... It will also provide a detailed update ... on environmental and social issues during the meetings held as part of the Monitoring stage."), 3.1 ("The Parties agreed to create a Monitoring Committee to monitor compliance with the agreements. The Committee will include representatives of ... IDB Management ... if there is no objection from the Board of Directors."), available at <https://www.accountabilitycounsel.org/wp-content/uploads/2019/06/mici-consultation-phase-report-eng.pdf>.

<sup>35</sup> The Glossary of [MICI's Policy](#) expressly identifies IDB management as a potential "party" for the purposes of consultation/dispute resolution.

- **Many requesters will not be aware of this good and common practice without it being explicitly noted in the procedures.** Although civil society organizations who have been involved in multiple accountability mechanism cases know that bank participation in dispute resolution processes can help the process produce stronger agreements, Requesters engaging with the Accountability Mechanism for the first time might not know this option exists. By making this option explicit in procedures, it will help ensure that Requesters understand their options and therefore offer a more predictable process. In fact, the CAO policy offers relevant language that could be adapted for the Accountability Mechanism procedures: “Where appropriate and agreed by the Parties, IFC/MIGA may be invited to participate in a CAO dispute resolution process. IFC/MIGA will consider its participation on a case-by-case basis.”<sup>36</sup>

**Proposed language:**

**22. Bank Management**

*22.1. Where appropriate and agreed by the Parties, the Bank may be invited to participate in the dispute resolution process. Further, ~~if~~ the Parties agree, Bank Management may be present as an observer in the dispute resolution process. The AM Secretary notifies Bank Management when such participation is requested. **The Bank will consider its participation on a case-by-case basis.***

6. **Issue:** The current draft AM procedures weakened language in the interim procedures about consistency with policies and law.

**Proposal:** The operating procedures should include language regarding consistency with Bank policies and law.

**Reasoning:**

- **The draft Accountability Mechanism procedures are weaker than the interim procedures.** The draft AM procedures weaken a provision in the interim AM procedures concerning the consistency of DR agreements with relevant standards. The interim procedures concretely stated that agreements should be consistent with World Bank policies and relevant domestic and international law. However, the draft procedures weaken this language by removing the reference to World Bank policies and only stating that “[i]f the AM Secretary has reason to believe that a Dispute Resolution Agreement is inconsistent with relevant domestic and international law, it will be referred to the Parties. ”
- **Ensuring consistency with World Bank policies and the law helps ensure that Requesters do not negotiate away their rights:** The circumstances that motivate requesters to engage in dispute resolution processes can also lead them to accept any form of redress, even if it doesn’t fully remediate the harm or is inconsistent with their rights under domestic and international law. Moreover, the agreement

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<sup>36</sup> CAO Policy, para. 75.

could violate the World Bank’s policies, which should be followed in all projects, whether the project is subject to a dispute resolution process or not.

- **Ensuring consistency with World Bank policies and relevant laws is not akin to a compliance review.** It does not require a full compliance review to ascertain whether an agreement meets relevant standards. In fact other IAMs, including the IFC CAO and the African Development Bank’s Independent Redress Mechanism,<sup>37</sup> do not permit agreements to be contrary to laws and bank policies.

**Proposed language:** The DRS should adopt the language of the CAO policy:

**CAO Policy:** *In pursuit of a resolution, ~~CAO~~the Accountability Mechanism will not knowingly support agreements that would coerce one or more Parties, be contrary to IFC/MIGA-World Bank policies, or violate applicable domestic laws or international law.*

### ***Recommendations for the Inspection Panel Procedures***

1. **Issue:** Criterion (f) of the technical eligibility criteria is written in such a way that risks requiring a substantive determination at a procedural stage.

**Proposal:** The operating procedures should be amended slightly to better align with the Board Resolution and clarify that the Inspection Panel will confirm that new facts and circumstances have been alleged as opposed to substantiated.

**Reasoning:**

- **Criterion (f) contains language that risks misinterpretation.** For a complaint to be eligible, it must contain allegations that meet technical criteria, but the Inspection Panel does not undertake an analysis of the veracity of the allegations. Unfortunately, Criterion (f) includes language that incorrectly suggests that the Panel must confirm whether facts or circumstances are “new” instead of confirming that new facts or circumstances are alleged. A small correction to the language can clear up this confusion.
- **The Board Resolution language only requires requesters to assert there is new evidence.** The Board Resolution states, “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.”

**Proposed Language:**

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<sup>37</sup> IFC CAO procedures para. 67: “In pursuit of a resolution, CAO will not knowingly support agreements that would coerce one or more Parties, be contrary to IFC/MIGA policies, or violate applicable domestic laws or international law.” AfDB IRM procedures para. 49: “The IRM will only support Problem-Solving resolutions or agreements that are non-coercive, align with AfDB policies, and do not violate domestic laws of the parties and or international law.” See also, EBRD IPAM para. 2.4(b)(iii) and IDB MICI para. 32.

- *Criterion (f): “The Panel has not 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.” If a Request raises concerns about the same project and substantive matter as in a previous Request about which the Panel already made a recommendation on whether an investigation was warranted, the Panel confirms that new facts or circumstances not known at the time of the prior Request are **alleged** submitted to the Panel that distinguish the new Request from the previous one.”*

**3. Issue:** If a dispute resolution agreement goes unimplemented, there is no explicit process for requesters to seek a compliance review.

**Proposal:** Language should be amended to clarify that requesters may come back to the Inspection Panel for investigation if an agreement is not implemented.

**Reasoning:**

- The Board Resolutions and the Draft Operating Procedures are silent on what happens when an agreement achieved through the dispute resolution process is not implemented. We know from our case experience that not all agreements are implemented, and this feels especially likely to occur if the DRS does not have an independent and explicit monitoring mandate. If this were to happen, requesters should be able to file a new complaint to the Inspection Panel seeking an investigation. The DRS should tell requesters and borrowers of this option during the dispute resolution process.

**Proposed language:**

**Inspection Panel Procedures:**

*44. Criterion (f): “The Panel has not 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.” If a Request raises concerns about the same project and substantive matter as in a previous Request about which the Panel already made a recommendation on whether an investigation was warranted, the Panel confirms that new facts or circumstances not known at the time of the prior Request are submitted to the Panel that distinguish the new Request from the previous one. **New facts or circumstances can include that a dispute resolution agreement has not been implemented.***

**2. Issue:** Although it is undisputed that the investigation process should result in remedial actions, the Inspection Panel’s procedures do not set out Management’s obligations to propose actions that achieve remedy for requesters.

**Proposal:** Language should be amended to clarify that the Management Report and Recommendation (MRR) will include remedial actions.

**Reasoning:**

- In addition to the recommendation above that facilitating remedy be noted as an objective of the Accountability Mechanism and Inspection Panel, the Inspection Panel’s procedures can better explain that the investigation process facilitates remedy.

**Proposed Language:**

- Consistent with good practice, the draft procedures state that the Panel exercises its judgment as to whether remedial actions proposed by the Bank are adequate to address matters raised by Requesters.<sup>38</sup> This language should remain in the final procedures.
- *80. The MRR shall include a management action plan, comprising actions that Management proposes for addressing Panel findings of non-compliance and achieving remedy and for which it seeks the Executive Directors’ approval. Management shall consult with the affected parties during the preparation of the management action plan and shall communicate to the Panel the nature and outcomes of consultations with affected parties. Management shall also confirm to the Executive Directors that it has reached agreement with the borrower with respect to those actions in the management action plan that require the borrower’s collaboration to implement.*<sup>39</sup>

**3. Issue:** The Inspection Panel procedures do not explicitly permit Requesters to work with advisors.

**Proposal:** The operating procedures should note that Requesters may select advisors to participate in the case process.

**Reasoning:**

- **Requesters have a right to advisors.** While all accountability processes should be effective for requesters regardless of whether they seek representation or advice, often communities engage representatives or advisors. In fact, for all complaints filed to IAMs since January 1, 2010, we have identified at least 287 (24%) in which a civil society organization was engaged as a filer or advisor; that number could be higher because not all advisors are recorded publicly. This should be unsurprising given that borrowers, clients, and international financial institutions also rely on representatives and advisors when they participate in accountability mechanism processes. The below figure from the Accountability Console shows cases to all IAMs as of December 2021 at different stages and

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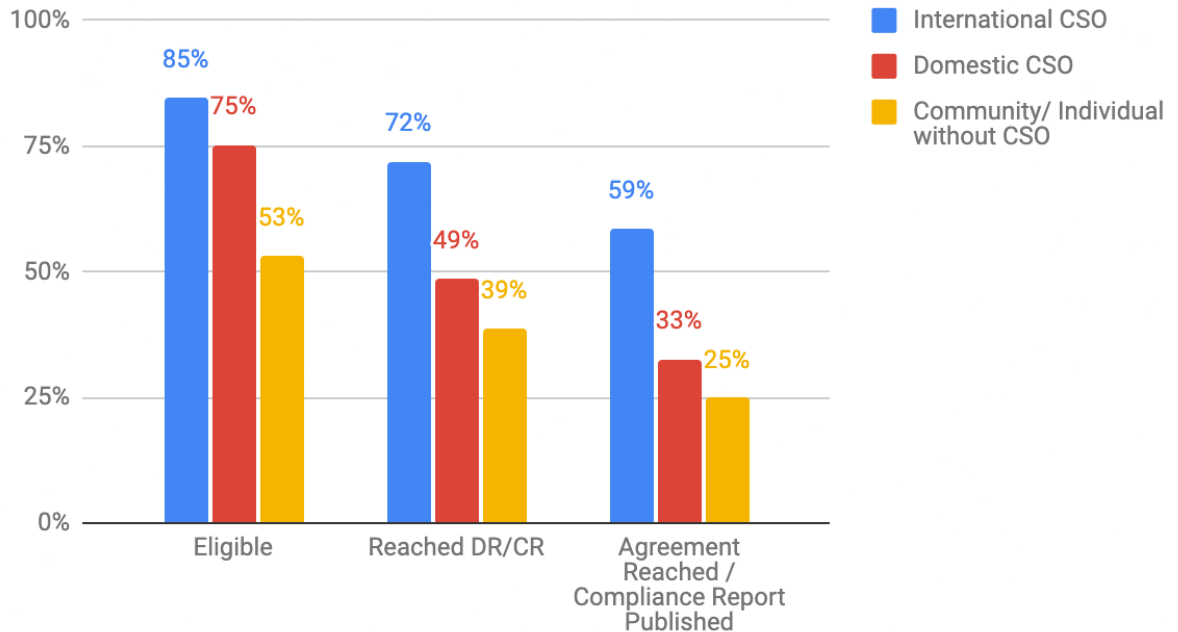
<sup>38</sup> Para. 48(d) Gives Panel this authority: “Whether Management has provided a statement of specific remedial actions, and whether, in the judgment of the Panel and taking into account the view of the Requesters, these proposed remedial actions may adequately address the matters raised by the Request.”

<sup>39</sup> As an example of similar language, see the AfDB IRM procedures: “Management Response and Action Plan: 69. If IRM finds the Bank to be non-compliant, Management shall: (a) Prepare a Management Action Plan based on the recommendations of the Compliance Review within sixty (60) Business Days of submission of the Compliance Review Report. (b) Include in the Management Action Plan clear time-bound actions for returning the Bank to compliance and achieving remedy for affected populations.”



notes whether project-impacted communities engaged civil society organizations in their cases.

## CSO Involvement in Complaints



- **The right to advisors should be explicit.** Given the Board Resolution’s harmful limitation on who Requesters can select for representatives for the purposes of filing a request, it is all the more important for the procedures to explicitly note that requesters can also rely on advisers. This is already standard practice at the Panel, as Requesters have worked with local and non-local advisers on many cases, so amending the procedures would merely be enshrining an existing practice. However, because not all Requesters will know that this option is permitted, and because Requesters regularly face pressure to not work with advisers or representatives, the option of having an advisor should be made explicit.
- **The AM procedures already include a provision permitting advisors.** Paragraph 21.3 states that “The Parties and their representatives have a right to participate in the process” and that “The Parties may engage additional advisers.” For consistency and ease of understanding, this provision should also be included in the Inspection Panel procedures. In addition, the African Development Bank’s IRM procedures state that complainants can seek advice from both representatives and advisers.<sup>40</sup>

<sup>40</sup> AfDB’s IRM procedures, para. 25: “Complainants can have both representatives and advisers. Both roles can have new people designated as the process moves forward as availability can change as well as the nature of support needed. Complainants are free to choose who to represent them be they local or international organizations. Both

**Proposed language:** The Inspection Panel procedures should include the following language that is already in the Accountability Mechanism procedures.

*21. Representatives. If desired, Requesters may identify a representative or multiple representatives who will assist them in the Case handling process. Requesters may also engage additional advisers.*

4. **Issue:** The verification process does not explicitly state that it will involve requesters.

**Proposal:** Language should be added to confirm that requesters will be involved in the Panel’s verification process.

**Reasoning:**

- **All steps of the Inspection Panel process should prioritize the agency of requesters.** We continue to maintain that the Inspection Panel should simply have a monitoring mandate similar to the CAO’s and remain concerned that the Framework for Proportionality Criteria and Modalities for Independent Verification of Management Action Plan Implementation<sup>41</sup> is overly complicated and rigid. The Inspection Panel should exercise its own discretion as to what actions need to be taken to properly verify implementation of a Management Action Plan. The current framework, however, is vastly better than having no verification power at all. To help ensure that every aspect of the Inspection Panel process centers requesters, we recommend that the procedures note that the Panel will communicate with requesters as a part of the verification process.

**Proposed language:**

100. During verification, the Panel reviews the implementation status of Management’s actions set forth in the MAP as identified in the verification recommendation approved by the Executive Directors.

**The Panel communicates with Requesters and considers their views.**

The Panel reports on the status of such actions.

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advisors and representatives are subject to Complainant’s decision-making authority. Where the Complainants are entities representing affected people/communities they shall provide evidence of representational authority and include the names and contacts of the affected parties.”

<sup>41</sup> The Framework for Proportionality Criteria and Modalities for Independent Verification of Management Action Plan Implementation, dated February 3, 2021, is available at: <https://www.inspectionpanel.org/sites/www.inspectionpanel.org/files/documents/Framework-for-Proportionality-Criteria-and-Modalities-for-Independent-Verification-of-Management-Action-Plan-Implementation.pdf>



### Annex I: List of All Recommendations

#	Recommendation	Relevant Set of Procedures
1.	The procedures should be amended to explicitly state that issues left unresolved by dispute resolution will be subject to a compliance investigation by the Inspection Panel. In other words, a partial agreement means that unresolved issues are subject to a compliance review.	Accountability Mechanism Procedures Inspection Panel Procedures
2.	The operating procedures should make explicit that the Accountability Mechanism and Inspection Panel can recommend suspension of projects when aware of imminent or irreversible harm.	Accountability Mechanism Procedures Inspection Panel Procedures
3.	The procedures should be amended to use the word “monitoring” in addition to or instead of “follow-up,” and the requirement for parties to consent to monitoring should be removed.	Accountability Mechanism Procedures
4.	Language should be amended to clarify that requesters have a right to the representation of their choice.	Accountability Mechanism Procedures
5.	Language should be amended to clarify that the World Bank Accountability Mechanism process is committed to the effectiveness criteria in the UN Guiding Principles on Business and Human Rights and assists in facilitating remedy.	Accountability Mechanism Procedures
6.	The operating procedures should include language enshrining a good hiring process.	Accountability Mechanism Procedures
7.	The operating procedures should state that the World Bank can participate in the dispute resolution process with the consent of the Requesters.	Accountability Mechanism Procedures
8.	The operating procedures should include language regarding consistency with Bank policies and law.	Accountability Mechanism Procedures
9.	The operating procedures should be amended slightly to clarify that the Inspection Panel will confirm that new	Inspection Panel Procedures

	facts and circumstances have been alleged as opposed to substantiated.	
10.	Language should be amended to clarify that requesters may come back to the Inspection Panel for investigation if an agreement is not implemented.	Inspection Panel Procedures
11.	Language should be amended to clarify that the Management Report and Recommendation (MRR) will include remedial actions.	Inspection Panel Procedures
12.	The operating procedures should note that Requesters may select advisors to participate in the case process.	Inspection Panel Procedures
13.	Language should be added to confirm that requesters will be involved in the Panel's verification process.	Inspection Panel Procedures

## **Annex II: Dispute resolution monitoring mandates at peer accountability mechanisms**

### **International Finance Corporation’s Compliance Advisor/Ombudsman (CAO):**

“Monitoring Implementation of Agreements. Where the Parties have reached an agreement through the CAO dispute resolution process, CAO will monitor the implementation of the agreement. CAO will inform the Parties and IFC/MIGA when the case has formally moved to the monitoring phase. CAO will share interim updates with Management and will publish such updates on CAO’s website every six months during the monitoring phase.” (CAO Policy para. 68)

### **Inter-American Development Bank’s Independent Consultation and Investigation Mechanism (MICI):**

“MONITORING. When applicable the MICI will develop, in consultation with the Parties, a monitoring plan and time frame for the agreement reached, which will be included in the Consultation Phase report. The monitoring plan will be considered by the Board (or the Donors Committee) under Short Procedure, and its duration, not to exceed five years from the date the agreement was signed, will be determined on a case-by-case basis consistent with the terms of the agreement. The MICI will submit a monitoring report to the Board (or the Donors Committee) for information at least annually, which will be published in the Public Registry. The monitoring plan will include: a. That there is direct or outside monitoring of any agreement reached by the Parties; b. That there are adequate measures to determine whether such agreement is being implemented appropriately.” (MICI Policy para. 35)

**African Development Bank’s Independent Recourse Mechanism (IRM):** “Monitoring implementation of Problem-Solving agreement(s): Based upon the parties’ agreement IRM will help to monitor the implementation of the agreement(s). This may be achieved by setting mutually agreed timelines for implementation of the action items within the body of the agreement. The IRM will monitor whether the agreements have been implemented, and with the agreement of the parties publicly disclose the outcomes on the IRM page.” (IRM ORPs para. 53)

### **European Bank for Reconstruction and Development’s Independent Project**

**Accountability Mechanism (IPAM):** “Problem Solving Monitoring. Objective. IPAM will monitor the implementation of any agreements reached by the Parties through Problem Solving. Criteria. Problem Solving agreements will be considered implemented if they fulfill the following criteria: i. the commitments made by the Parties in such agreements are being effectively carried out; and ii. implementation timetables are being met.”

### **European Investment Bank’s Complaint Mechanism (CM):**

- a. “Follow-up/Monitoring of implementation. The EIB-CM, in collaboration with the relevant EIB Group services, will follow up on further developments and implementation of agreed corrective actions and recommendations, whenever appropriate and in any case no later than 24 months after the date of the Conclusions Report.” (CM Procedures para. 1.10.1) *Note that this provision applies to both DR and CR functions.*
- b. “Monitoring Function – the EIB-CM monitors further developments and the implementation of agreed corrective actions and recommendations in the context of closed complaints, including agreements reached through mediation, as well as the EIB Group’s response to its advisory opinions.” (CM Policy para. 5.3.1(d))

**Asian Development Bank’s Office of the Special Project Facilitator (OSPF):** “Step 4: Implementation and monitoring. The relevant parties will implement the agreed upon remedial actions, and the SPF will monitor the implementation. The SPF will report annually to the President, with a copy to the Board, regarding the status of implementation. As part of the monitoring process, the SPF will consult with the complainants, the borrower, and the operations department concerned. The monitoring time frame will be project specific depending on the implementation of the remedial actions, but will generally not exceed 2 years. All stakeholders, including the public, may submit information regarding the status of implementation to the SPF.” (ADB AM Policy para. 174)

**Asian Infrastructure Investment Bank’s Project-Affected Peoples’ Mechanism (PPM):**

- c. “The PPM shall monitor the implementation of the dispute resolution agreement in accordance with the agreed schedule.” (PPM Policy para. 6.7.5)
- d. “Monitoring of the Dispute Resolution Agreement. The PPM monitors and reports to the Board of Directors on the implementation of actions agreed in the Dispute Resolution agreement (including for Project scoping or other changes) in accordance with the agreed schedule, and publicly discloses these reports within ten (10) Working Days following their circulation to the Board.” (PPM Rules of Procedure para. 6.6.4(f))

**United Nations Development Programme’s Stakeholder Response Mechanism (SRM):**

“When there is agreement between a requestor and the SRM to move forward with the proposed action, or a relatively simple direct dialogue or negotiation process, then the response should be implemented, with SRM monitoring to ensure that the response resolves the issues raised by the requestor.” (pg. 22)

**Green Climate Fund’s Independent Redress Mechanism (IRM):** “The IRM will monitor the implementation of: (a) agreements concluded through problem solving...” (GCF Procedures and Guidelines para. 73)

**German Investment Corporation/Netherlands Development Finance**

**Company/(French) PROPARCO’s Independent Complaint Mechanism (ICM):** “The monitoring role in Dispute Resolution is determined on a case-by-case basis. Any agreements reached by the parties involved in the Dispute Resolution will usually contain a mutually agreed program with timelines for implementation as well as roles and responsibilities to monitor the progress made. On the basis of the monitoring agreements made, the ICM will publicly disclose the outcomes on the FMO website.” (ICM Policy para. 3.2.11)