

Matrix of Comments for Independent Accountability Mechanism Peers and Former Panel Members

Update of Inspection Panel Operating Procedures

<u>Issues</u>	<u>Comments</u>
1. <u>Pre-Request</u>	
2. <u>Submitting a Request</u>	
<ul style="list-style-type: none"> ▪ Contents of a request 	<p>IAM Peers 2, 6, 7, 8, 9: The operating procedures could act as an impediment to people seeking redress. A fear of harm resulting from a Bank supported project ought to be sufficient, without expecting people to form an opinion about Bank policies and procedures. It would help complainants to understand which of these elements are “must haves” vs “nice to have”. Letters to the Panel could be interpreted as a serious impediment to seeking redress. Our suggestion is to include the potential scenarios and talk about Bank supported projects rather than Bank's acts or omissions.</p> <p>IAM Peer 5: Do not require requesters to cite policy violations, or link the harm. Otherwise they need a lawyer to help with the claim.</p>
<ul style="list-style-type: none"> ▪ Form of Request 	
<ul style="list-style-type: none"> ▪ Delivery of Request 	<p>IAM Peers 2, 6, 7, 8, 9: Could requests be filed by email? Or only by mail or in person? In cases in which communities don't have the resources to send a registered or certified mail or to deliver it by hand, it may help to consider allowing email contact first, and in case resources are the limitation, the Panel can then facilitate/help with costs to send documentation to the Panel.</p> <p>IAM Peer 14: From our experience, we accepted the complaint through email. Our understanding is that the World Bank still allows making complaints only through written letter. If this is correct, the Bank might force some requesters to pay more postal costs and in some case, additional manpower. In our case the postal system of the requester's country was not good, so the requesters were forced to use courier and also they could not use a P.O. Box so we had to be careful that their safety was protected.</p>
3. <u>Procedures on Receipt of Request</u>	
<ul style="list-style-type: none"> ▪ Registration: Supporting due diligence and interaction with requesters at registration 	<p>IAM/Peer 1: The Panel currently operates outside [its operating procedures]. That has to be addressed. The Panel should register the complaint when it comes in. Registration has to happen the moment the Panel receives the request.</p> <p>IAM/Peer 4: The Panel should register the complaint when it comes in within five days—Operating Procedures should reflect what the Panel exactly expects/defines as “prior contact” criteria.</p>

	<p>IAM Peer 11. Management should be notified and receive a copy of the request and be asked to provide an opinion within 21 days (as is the case today based on the Notification of Registration). The Management’s response should be taken into consideration in the Panel’s determination of eligibility and subsequent registration. All requests, whether or not found eligible, should be registered and identified as eligible or not.</p> <p>IAM Peer 15: Registration soon after the request comes in is very important, not least as an indicator of independence. Before registering it is important to take a few days after receipt of claim to assure oneself that it is within the mechanism’s mandate, to seek any clarifying information from the complainants needed to make that determination and do a quick informal scan of available information on the project and the situation in the project area.</p>
<p>4. <u>Management Response</u></p>	<p>IAM Peers 2, 6, 7, 8, 9: Would Management’s response be shared with the requesters? If yes, when? If no, it may be helpful to specify it in order to manage Requester’s expectations.</p>
<p>5. <u>Eligibility Phase</u></p>	<p>IAM/Peer 1: Eligibility must be more fine-tuned and open up for “fast track”.</p> <p>IAM Peer 12: [There should be] requirement of consultation with country’s ED and government prior to eligibility and during investigation.</p> <p>IAM Peers 2, 6, 7, 8, 9: It may be helpful to clarify how the Panel makes the determination that efforts have been made to ask Management itself to deal with the problem, particularly when thinking of scenarios in which the severity of the perceived risk is significant, or if the complainants fear retaliation of some form.</p>
<ul style="list-style-type: none"> ▪ Ensuring clarity of information in describing findings on eligibility 	<p>IAM/Peer 1: The steps taken by the Panel to determine prior contact with Management does not need to be in the procedures. The Panel should be able to be flexible on this. This is irrelevant in the context of compliance and outcomes.</p> <p>IAM/Peer 3: If the purpose, powers and functions of the Panel remain unchanged, then the procedures relating to eligibility are sensible.</p> <p>IAM Peer 10: Perhaps in the form of simple guidance, standards or criteria [for prior contact] that would be</p>

applied.

IAM Peer 11: In most cases the Requestors are very much involved in the eligibility and investigation phases for a compliance review.

IAM Peer 13:

1) The strengths of the Panel system:

- a) are recognition of importance of the eligibility determination process (including field visit if the Panel considers it necessary);
- b) Requirement of Management response to allegations early on before eligibility has been determined;
- c) Management has an opportunity at the eligibility stage to admit non-compliance and explain remedial action it has taken or intends to take. This allows for early involvement and a more constructive relationship with Management; and
- d) Requirement of consultation with Country's ED and Government prior to eligibility and during investigation.

2) Weaknesses of eligibility phase

- a) [There is] no definition of 'Bank operational policies and procedures' that are within Panel mandate and eligibility for requests;
- b) No clarity whether the Panel can investigate compliance with other policies than those cited by requesters (e.g. complaint is about resettlement policy violation, but Panel finds other policy incompliance, for example cultural heritage, environment, etc.);
- c) Lack of definition on what constitutes 'materially adverse effects' (What about environmental degradation potentially or eventually affecting communities, sector loans etc.);
- d) Procedures need to clarify the meaning of 'material adverse effect';
- e) Procedures should clarify requirement of prior efforts to solve issues with Management (ex. country office, project team; external project monitoring agency management, new conflict mediation office etc.); and

	<p>f) Articulate relationship with newly created conflict mediation office which reports to Management.</p> <p>IAM Peer 12: Having to cite violations is a huge barrier for Requesters. If the Panel does not require it in practice then it should be explicit in the procedures. Eligibility should be as simple as possible. The more that is required the more difficult it is for affected people. Prior contact is a big burden for Requesters. This is an issue at [our mechanism] too. Because often the Bank offices are very far from where the project is. What do the affected people gain by going there? That is often the attitude. The Panel should use its good offices to help them figure out that piece and what prior contact means.</p> <p>IAM Peer 15: The Panel may want to consider framing this as a best practice that would offer a couple of example of adequate prior contact. It's important to avoid excess specificity in the best practices examples such as a requirement to contact the task team leader because how would the Requester know the name and contact information? Such a requirement would substantially raise the bar for the Requesters.</p> <p>IAM Peer 16: Requestors prior contact with Management should not be overemphasized by the procedures since experiences show that affected people do face challenges in communicating their complaints to management (the least logistical difficulties such as transport, ability to set meetings with Management to discuss their problem, if they do their technical knowledge of policies and procedures to convince the management of the legitimacy of their requests).</p>
<ul style="list-style-type: none"> ▪ Fostering opportunities for management to address problems during the early stages of the Panel process, building on or codifying recent practice and lessons from other IAMs 	<p>IAM Peer 4 Problem solving is not within the mandate of the Panel and the Panel should not be doing problem solving. Creating space for management to problem solve is fine but the Requesters need to be in agreement. However, this should not happen around registration. If the Panel does not register in a timely fashion then no one knows what is happening.</p> <p>IAM Peer 12: The procedures or the process should be clear should be explicit when the Panel is stepping back and letting management problem solve. This is important that the Requester have veto power over this. If Requesters don't want to problem solve then the compliance review should move ahead. The problem with putting anything about problem solving in the procedures is that it could be seen as the Panel overstepping its mandate.</p>
<p>6. <u>Panel Recommendation to Board</u></p>	<p>IAM Peers 2, 6, 7, 8, 9: Regarding the criteria for satisfactory response it may be helpful to develop further what those three criteria mean. Expressions such as “dealt appropriately” or “demonstrated clearly that” benefit by being explained or illustrated or exemplified.</p>

<p>7. <u>Investigation Phase</u></p>	<p>IAM/Peer 3: The treatment of site visits must also be regarded as a priority issue for accountability mechanisms. This is particularly so for the Panel as the Resolution and Procedures also stipulate “prior consent” is required for a “physical inspection in the country where the project is located”.</p> <p>IAM Peer 13 site visits should be the rule, the need for which is to be determined by Panel, any exceptions should be spelled out; protocol for interaction with Government should be spelled out.</p> <p>IAM Peer 11 The Inspection Panel is well recognized internationally as well as within the World Bank Group. This recognition has been achieved because the Panel over the years has been able to protect its independence and to deliver critical reports without compromising. The weakness, or rather a challenge, is that maintaining this high quality of the investigation and reports is costly and requires extensive use of external specialists. It looks like the costs of the accountability mechanisms is something that concerns many important stakeholders these days.</p>
<ul style="list-style-type: none"> ▪ Shortening investigation phase 	<p>IAM Peer 12: One of the weaknesses is that investigations are too long. This is partly the fault of Management, partly the fault of the procedures and partly the fault of the Panel. Senior management has not encouraged staff to see the whole process as beneficial; rather they have encouraged them to see it as adversarial. They should look at the Panel as less of an adversary and more of a helper.</p> <p>It is difficult for an investigation to be time bound. If an investigation is going on for long time then it is crucial that the Panel stay in touch with the Requesters and give them regular updates. The Panel should also seek updates from the Requesters. There should not be anything in the procedures about the investigation being time bound. This is more for best practices.</p>
<ul style="list-style-type: none"> ▪ Methods of investigation 	<p>IAM/Peer 1: Investigation phase needs to be clear on who/what are to focus of the investigation, and this has to be clarified in the context of sovereignty of member states.</p> <p>IAM Peers 2, 6, 7, 8, 9: It may be helpful to specify with whom the Panel members can consult with about the methods of investigation, etc. Additionally, it may help to specify time frame and to make public the initial work plan. It may be helpful to clarify process and timing of any review to the Resolution and/or Operating Procedures. Regarding, consultations the procedures may want to include some generic examples</p>

	<p>of the types of questions and topics that are addressed in the “consultations” field.</p> <p>IAM Peer 13: Investigation methods: site visits should be routine both at eligibility and investigation phase; further discussion with requesters via distance communication should be encouraged.</p>
<ul style="list-style-type: none"> ▪ Participation of Requester: Improving transparency, including access of requesters to panel investigation findings when action plans to address the findings are being developed. 	<p>IAM Peers 2, 6, 7, 8, 9: [During the investigation] the Panel is the recipient of information, but not much is said about other “participation”, or at least the Panels’ role in sharing information and explaining their process. It would be helpful for Requestors who will take a great interest in the Panel process and Requesters should receive information and updates.</p> <p>IAM Peer 5: The Panel needs to maintain continuous communications with Requesters and affected people during the investigation phase.</p> <p>IAM Peer 12: The ideal is that the Requesters would get an oral briefing or a summary of the Panel’s report at the same time that Management gets it so they could send comments before it goes to the Board. This would be the most fair. There is nothing in the resolution that stops the Panel from giving the Requesters an oral briefing about their report. This is important because Requesters could see flaws in the report and identify them. There has to be transparency during the investigation for Requesters.</p> <p>IAM Peer 11: My impression is that the Requestors are not much consulted by Management when it is preparing the response to the registration of a complaint or the action plans based on the investigation. An exception is a case that we are currently handling in _____ through a problem solving exercise. In this case Management and the project promoter worked closely with the Requestors when preparing the Management response and came up with an action plan to resolve the problems. We used this action plan in our problem solving exercise, but through the facilitated exercise, the parties refined it and firmed it up with time bound commitments. Our experience with the ____ case is positive with respect to the Management’s consultation. However, such Management consultations with the Requestors prior to an investigation or problem solving exercise may also cause problems as the outcome of the Management’s consultations may not always be in the best interest of the requestors. What is important in such cases is that [the] mechanism can verify whether or not the actions proposed are in compliance with the Banks’ policies and in the best interest of the complainants.</p> <p>IAM Peer 15: Maintaining contact with requesters during the Panel process would go a long way toward improving user-friendliness. This could be framed as a best practice. This could help focus both the</p>

	mechanisms and the institutions responses to the complaint and their inter-action with each other.
<ul style="list-style-type: none"> ▪ Participation of Third Parties 	
8. <u>Panel Report to the Board and President</u>	
9. <u>Management Response and Action Plan</u>	<p>IAM Peer 1: The Panel should not approve, disapprove or agree with Management’s action plan. This creates a conflict of interest for the Panel especially if it goes back to monitor or follow up.</p> <p>IAM Peer 5: The Panel should evaluate Management’s action plan and ask whether Management has involved Requesters in the preparation of actions plans.</p> <p>AIM Peer 10: Provide the draft [or summary of] report to the Requesters in a more timely way and discuss the results prior to the phase where requesters can engage with management regarding the action plan.</p> <p>Provide for the ability of an Inspection Panel member (maybe the one that did not do the inspection) to convene and facilitate a meeting between the Requester and Management for the purpose of dialogue and gaining input into the action plan that considers the requesters’ experiences, preferences, and knowledge.</p> <p>IAM Peer 13: Weakness in the Panel system:</p> <p>a) Panel does not make recommendations on remedial action, nor is it involved in the preparation of the general Management report on compliance and the specific Action Plan agreed with Government. The only exception is the opportunity to review Action Plan on ‘adequacy of consultation with affected parties’. Should the Board not benefit from Panel input in the review of Action Plan?</p> <p>b)Regarding the ‘Action Plan’ the Bank should be responsible for bearing the costs of its own mistakes, not the borrower;</p> <p>c)consider greater Panel follow-up on action plans for remedial action;</p> <p>d) [The procedures] should explain the two reports referred to in para 15 of 1999 Clarification of Resolution;</p>

	<p>e) The Panel should be consulted and participate in the design of joint Government-Management Action Plan; and</p> <p>f) The Action Plan should clearly spell out specifics of consultation and participation. The Panel team should directly participate in consultations; monitoring by external Monitor and frequent reporting. A resident mission staff should act as local focal point. Periodic reporting to the Board must include specific information on consultation and participation.</p>
<p>10. <u>Board Decision and Public Release</u></p>	
<p>11. <u>Return Visits</u></p>	<p>IAM/Peer 5: Return visit should be included in the procedures. There should be ongoing communication with Requesters throughout Panel process in the procedures.</p> <p>IAM Peer 12: Return visits should be in the procedures. [The Panel] needs to make an effort to inform the Requesters about the outcome of the case. It should be drafted very broadly.</p>
<p>12. <u>Panel Follow-up (When requested by the Board)</u></p> <ul style="list-style-type: none"> ▪ Fact-finding follow-up investigations to check results on the ground, and invite inputs from all parties on the effectiveness and outcomes of the process. 	<p>IAM Peer 1: If the Panel is not allowed to monitor, introduce monitoring to the Requesters and show them how to do it.</p> <p>IAM/Peer 5: Fundamental weakness of the Panel is lack [a mandate] of follow-up and monitoring. The requesters go thru all the trouble to file a claim and then the outcome is so uncertain. This goes to the need for the Panel to follow-up.</p> <p>IAM Peer 11 Our mechanism also has a mandate to monitor the implementation of its findings, and I believe this option should be considered by the Panel.</p> <p>IAM Peer 13: Follow up [by our mechanism] on implementation of recommendations has been very useful (and recognized by requesting parties, the government and the Bank.</p>
	<p>IAM/Peer 4: The Panel has to be able to go back to the site. This is very important for monitoring what happens.</p> <p>IAM Peer 12: Follow up: this should not be in the procedures as it could open up critics of what the panel does. Or if it is put in there it should be very well drafted so that it's clear that it is if the Board approves it. The language would need to be worded so that the panel can interpret it as broadly or as narrowly as it needs</p>

	<p>to. There is no need to get too specific.</p> <p>IAM Peer 16: The Panel should have a monitoring role to ensure Management implementation of its findings and recommendations after their approval by the Board and to report on progress made by Management to bring the complaint about project into compliance.</p>
<p>13. <u>General Procedures</u></p>	<p>IAM Peers 2, 6, 7, 8, 9: Legal Advice: If the Panel needs legal advice, it should probably be independent. It may be helpful to define more specifically what is recorded in the Register, or another suggestion would be to change “all actions” to “key actions”.</p> <p>IAM/Peer 3: The <u>strengths</u> of the Procedures include the following:</p> <ul style="list-style-type: none"> • Comprehensive • Relatively clear, using precise, though somewhat legalistic language • Since adoption by the Panel in 1994, it appears that the Procedures have served their purposes well enough without the need for wholesale revision and, therefore, have probably provided certainty and consistency. <p>IAM Peer 10: Make the procedures much more simple and straightforward. Make a simple, engaging graphic that affected people would understand that shows what the steps of the process are, what the timeframe for each step is, etc.</p> <p>IAM Peer 12: The strength of the Panel is that it is a vehicle that allows affected people to get their concerns to the Board. It provides an independent voice and helps to get their issues resolved. It also gives Bank staff increasing awareness of Bank policies and procedures, particularly safeguards. The Bank policies are viewed now in a much more serious way.</p>
<p>14. <u>Cross-cutting general categories and themes</u></p>	
<p>▪ <i>Improving public awareness of Inspection Panel</i></p>	<p>IAM/Peer 1: The Panel’s outreach and communications should not be in procedures. It needs to be more flexible than that.</p> <p>IAM/Peer 3: Inspection Panel procedures pay little if any attention paid to the need for engagement and outreach at all times as a matter of accountability policy at World Bank. It is important for the Procedures to</p>

recognize, emphasize and embrace the fundamental importance of public outreach and communications. This also serves to lay down a marker for resources, both staffing and financial, to enable the Panel to run a comprehensive, professional outreach program. If the Procedures are to remain concise and manageable, it would not be wise to include too much of the outreach and communications detail in the Procedures. Such matters are better covered in a separate “living document” of administrative matters that can be updated, revised, improved and adjusted by the Panel based on your experience.

IAM/Peer 4: The Panel needs to do more public outreach, but this does not necessarily need to be in the procedures. There is a need to clarify [relationships with governments] this so that it improves the relationships. There should be a protocol.

IAM/Peer 5: Communications and outreach strategy should be in the procedures to make it clear what the process is. This will help the Panel’s budget.

IAM Peer 10: 1) Like all the accountability mechanisms, people do not know the Inspection Panel exists. In addition, the procedure itself seems extremely cumbersome and inaccessible. It appears difficult for a community to submit a complaint on its own without access to a knowledgeable representative. Furthermore, representatives often have their own agenda that is not always in line with project affected people’s interests.

2) With regard to outreach and publicizing the accountability mechanism - I have noticed that the project descriptions on ____ website, in addition to capturing specific project information in an abbreviated form, also describe the Project Accountability Mechanism and link directly to their web page.

3)Public outreach and communications strategy should be in procedures

IAM Peer 11: a mandate to undertake outreach should be included in the procedures of the Panel. Having such a core mandate helps avoiding possible criticism from Management and others that our contact with NGOs and project affected communities is a form of sourcing for complaints.

IAM Peer 13:

1)Clarity in policy and guidance terms and definitions;

2)Provide simple summary in local language, form and manner;

3) Improve outreach: during information and consultation in project preparation phase; and during Panel

outreach activities on role, scope, eligibility, procedures, process etc. This should be linked to information on Bank policies;

4) Annual Meetings and other important bank and non-Bank events should be piggybacked on;

5) Outreach should be at different levels (national, regional, international, local) language, format, manner should be appropriate for each level. Especially at the national and local level, socio-cultural information on local communication mechanism should underpin outreach strategy. National or Local NGOs could help with outreach. Resident missions can also help;

6) Joint outreach with other MDBs;

7) Yes, [outreach and communications strategy should be in procedures] with necessary flexibility to allow for country and project difference, and appropriate references should be made to Bank's information disclosure policy; and

8) There should be an explicit role of Bank country office in making information available on respective IAM cases.

IAM Peer 12: This could be in the procedures but you don't want to create unrealistic expectations of the Panel. The communications person can mitigate the unrealistic expectations. The Panel could do a better job of articulating what it does, but that goes for all the IAMs as well.

IAM Peer 15: We developed a country outreach model based on a carefully vetted and highly networked national convener (usually a CSO) which would convene national, provincial and community based participants in a central location and pay outlying participants travel costs. The greater accessibility enhanced our user-friendliness. Outreach could be a best practice note and then framed with a brief reference in the operating procedures. It is important the Panel has someone on staff to do outreach and communications.

IAM Peer 16: Affected people in remote areas most of time have no access to internet or technical knowledge of application of procedures; hence the rules should allow the Panel to conduct community sessions in areas where the Bank is financing especially high risk projects to educate people on the Panel procedures without compromising the independence of the Panel. It is important to entrench the outreach in

	the [procedures] to permit the Panel undertakes public communications as part and parcel of its functions.
<ul style="list-style-type: none"> ▪ <i>Transparency and Disclosure during Panel Process</i> 	<p>IAM Peers 2, 6, 7, 8, 9: Specifying methodologies or steps taken by the Panel through all its process interventions is important.</p> <p>IAM/Peer 3: Once an Inspection commences, the Procedures should indicate how regular updating will be accomplished and the information that will be provided to the Requestors and the timetable for doing so. (This may have to be flexible to take into account the particular circumstances of each inspection; but, there should be a clear commitment to communicate regularly with Requestors during the pendency of an inspection).</p>
<ul style="list-style-type: none"> ▪ <i>Early Problem Solving</i> 	<p>IAM/Peer 1: The unclear approach/ quasi soft “established unwritten” procedure of promoting “problem solving” by Management should either be institutionalized or preferably get rid of all together, as current it poses a huge liability to the integrity of the Panel. Remove the interaction with Management on problem solving; Management can deal with that by themselves, ideally before it even gets to the Panel, or in parallel to the panel process. [The panel] has interpreted that they should do problem solving. This is wrong. Let Management scramble and do problem solving if they want but it should not interfere with or influence the Panel process] This would clarify the process for Requesters. The current problem solving efforts by Panel makes them vulnerable to criticism.</p> <p>IAM/Peer 5: The Panel should be doing some problems solving, but it should not preclude looking at the compliance issues. Problem solving by itself is insufficient. The Panel should look at the reason the problems are there in the first place and ask if they are related to noncompliance. The Requesters should have the last word on problem solving. If they want to do it... fine, but if not it should go to inspection.</p> <p>IAM Peer 11: I believe that in most cases the Requestors are very much involved in the eligibility and investigation phases for a compliance review. On the other hand, my impression is that the Requestors are not much consulted by Management when it is preparing the response to the registration of a complaint or the action plans based on the investigation. An exception is a case that we are currently handling in ____ through a problem solving exercise. In this case Management and the project promoter worked closely with the requestors when preparing the Management response and came up with an action plan to resolve the problems. We used this action plan in our problem solving exercise, but through our facilitated exercise, the parties refined it and firmed it up with time bound commitments. Our experience with ____ case is positive with respect to the Management’s consultation , however, such consultations by Management with the</p>

	<p>Requestors prior to an investigation or problem solving exercise may also cause problems as the outcome of the Management’s consultations may not always be in the best interest of the requestors. However, we cannot prevent the Management from contacting the requestors and try to resolve the problems before an investigation or problem solving exercise. What is important in such cases is that our mechanism can verify whether or not the actions proposed are in compliance with the Banks’ policies and in the best interest of the complainants.</p>
<ul style="list-style-type: none"> ▪ <i>Affected People’s Access to the Panel</i> 	<p>IAM/Peer 1: Allow CSOs to file on behalf of affected communities when [there are] political/ security/ regional concerns, communities can’t approach the Panel.</p> <p>IAM Peers 2, 6, 7, 8, 9: Suggestion for making process more friendly and accessible: Outreach program/continuous exchange with civil society organizations globally/accept complaints by email submission. Keep [affected people] updated with process and provide spaces for feedback. However, operating procedures seem not to allow for any disclosure of information beyond Panel’s recommendation to the Board and final investigation report, nor does there seems to be a space for feedback on process. Make processes more participatory and inclusive in order to receive feedback from parties, and by establishing a Monitoring and Evaluation tool/mechanism.</p> <p>IAM/Peer 3: Procedures are probably not easily accessible by parties outside World Bank, particularly the intended beneficiaries of the rights enshrined in the Resolution, namely “people directly and adversely affected by a Bank-financed project”. Suggestion that the language be reviewed to render the Procedures in “plain English” drafting wherever possible. This should also make translations easier. Assume that the Procedures will not be read by affected persons online, but must be made available, in the local language, as a pamphlet or brochure easily distributed locally to all affected persons.</p> <p>IAM/Peer 4: The procedures should not be too formal. They need to be accessible to affected people.</p> <p>IAM Peer 10: It does not appear that a request for inspection will necessarily lead to an outcome that addresses individual requesters’ needs and concern. The Mandate (which I recognize is not part of the exercise) and Procedure make it difficult to provide effective remedies to individual people on the ground who requested the Inspection. For example, the process seems to be dominated by Bank Management participation and not by participation of project affected people. It is not clear to me how project affected people influence the outcome of the investigation. Can Requesters comment on remedies? How much</p>

	<p>leverage do they have in advocating particular preferences? Can they comment on remedial measures?</p> <p>IAM Peer 13: The strength of the Panel system is that 1) it is easy to explain the Panel role to potentially affected people, governments and civil society, the Board, Management (even some Board members!);</p> <p>2) filing processing of requests is easier for requesters;</p> <p>3) Detail in the guidance: ‘how did you determine that Bank is responsible for adverse impact?’ (this seems to be very helpful information for the Panel [requester]);</p> <p>Weaknesses: 1) There is no support to requesters (compensation of costs incurred, legal counsel) etc.; This can be strong obstacle to file and follow-up on investigation process;</p> <p>2) lack of provisions for whistleblower protection (starting with Panel withholding names of requesters upon demand);</p> <p>3) Question in guidance note for Requesters: ‘have you tried to resolve your problem through any other means?’ What is meant here? Local courts? If so, that is not the venue for a compliance issue on Bank policy;</p> <p>4) there is no requirement that information be communicated to Requesters consistent with local manner and form – in addition to local language);</p> <p>IAM Peer 13: Share draft report with requesters at the same time Management is requested to provide comments on draft report. The Problem with this is that it could raise expectations. The Panel could consider financing a local meeting and participate directly or by means of a Panel hired consultant. Panel, Project Team, Government could be observers.</p>
<ul style="list-style-type: none"> ▪ <i>Promoting Effective Panel Interaction with Management, the WB Board, and Borrower Countries</i> 	<p>IAM/Peer 1: Management interference in early phases is not controlled or clear. This poses a major risk to the Panel’s perceived independence and integrity. The Panel should brief the President on what they are doing. [Panel] should be clear to borrowers on what they are investigating.</p> <p>IAM Peers 2, 6, 7, 8, 9: Describing in general terms processes used for dealing with the institution and government is always helpful, particularly to promote transparency and to help managed parties’ expectations of interventions.</p> <p>IAM/Peer 3: Procedures fail to provide proper and/or helpful emphasis in dealing with World Bank staff,</p>

host country governments and outreach. Staff and host countries are, at best, confused about the work of the Panel and, at worst, ignorant of what we are supposed to do and our contributions to governance. Staff tend to regard this work as the equivalent of the Spanish Inquisition with a punitive purpose and no redeeming characteristics; they see no contribution to knowledge management at the institution. The Panel should make a purposeful effort to debrief the host country, staff, the Requesters and other concerned parties, respectively, on the details of the inspection. The Panel should share “lessons observed” with Management – not just regarding the subject of the case, but also the conduct of its investigation (what went well, and what did not). The Panel should release details of each case to concerned NGOs and civil society, as well as to the public generally. There is a need to define relationships and processes for dealing with Bank stakeholders. Our experience suggests that the failure to communicate properly and effectively with Management, staff and host government representatives – before, during and after a compliance review - caused misunderstandings about the role, functions and powers of our mechanism and contributed to unnecessary friction on all sides. As a result, the process was not as effective as it might otherwise have been. It is vital to observe the lessons of experience, to learn those lessons and to inaugurate a systematic learning and development program at all levels.

IAM/Peer 5: The independence of the Panel process is absolutely critical but it is also important that the Panel engage with all sides.

IAM Peer 10: [Procedures should clarify process for dealing with management and governments]

IAM Peer 11: It is important to have clearer (but also simpler) rules regarding the various Management responses and the role of the General Counsel with regard to advising the Board on the eligibility and handling of a request. Management will always challenge the issues raised by the requestors and the eligibility of the request. Board members (representing governments) may also need to be educated on how to best protect the independence of the mechanisms and in that respect to avoid inviting the opinions of Management or the General Counsel unless so specified in the rules.

IAM Peer 13 Inspection Panel (IP) has more independence than any other IAM: (not muddled by relationship with management which is a problem in other IAMs which include a mediation phase) Example: no limitation in number of secretariat staff (as per resolution) I understand that in practice there is a large measure of autonomy in selecting, supervising and evaluating Secretariat staff, as well as budget allocation and management.

	<p>IAM Peer 12: Interaction with governments and management: This should probably not be in the procedures. If it is-- it should give the panel wide latitude and be carefully crafted. This could also be a best practice.</p> <p>IAM Peer 16: Implementation of any remedial actions squarely lies on management and governments, it will be therefore important to elaborate the relationship in dealing with them in that context.</p>
<p>▪ <i>Promoting Corporate Learning based on the experiences of Panel Investigations</i></p>	<p>IAM/Peer 1: Lessons learned is a matter for the Board and for management more than for the Panel. If the Panel introduces monitoring and Management Action Tracking Record type follow up, this will be captured.</p> <p>IAM/Peer 4: The Panel does not have an overall assessment of certain systemic changes/systemic impact it has made on the Bank as a whole. The panel should be concerned with systemic change. It should design and implement something similar to the CAO’s Management Action Tracking Record (MATR). This way the Panel could hold management accountable for what it said it was going to do. Panel should have some system to close the loop after the investigation and the Board meeting is over. The panel should be concerned with positive outcomes on the ground.</p> <p>IAM/Peer 5: The systemic outcomes of what the panel does should be incorporated back into operations.</p> <p>IAM Peer 10: ways to increase lesson learned:</p> <p>1)“Post mortem” debriefings with Panel and Management and/or Panel and Requesters that capture and distribute lessons learned;</p> <p>2)Case studies whose focus is on gathering pertinent lessons;</p> <p>3) Assessments that collate and integrate internal and external experiences of compliance and problem solving from other institutions including IFIs, and feed them back to World Bank management. Experiences should be focused on those issues that operations are facing that may have the potential to trigger a request for inspection.</p> <p>IAM Peer 11: 1) On the other hand, in our annual reports, we provide lessons learned on the challenges the Bank is facing with regard to implementing its policies. I believe these generic lessons learned based on several investigations or problem solving exercises would be more constructive and useful for the Boards in its oversight function.</p>

	<p>2) To providing lessons learned in the annual report, I think an annual or semi-annual informal session with the Boards and Senior Management could be useful and constructive.</p> <p>IAM Peer 13: The Panel should specify its role for outreach to Bank staff (and Management and Board) through seminars, ad hoc information and advice to Bank staff, dissemination of use of best practices etc. to help staff realize the benefit of the Panel as learning process for the Bank.</p> <p>IAM Peer 12: We use Annual reports for lesson learned. The Panel’s Annual report is underutilized. They need to list the lessons learned in there. The annual report should stress the role of the Panel and how it relates to governments and Management.</p> <p>IAM Peer 12: This is partly the job of Management. The President and the General Counsel should send a message to the rest of the bank that the Panel experiences, systemic issues, and lessons learned should be incorporated back into operations. Ibrahim Shihata set the initial negative tone and it has been that way ever since. How to find way to reach Management and ensure that lessons learned are put back into operations? The problem at our mechanism is we are not there full time so we are “outsiders” in terms of Bank Management. At least the Inspection Panel has that advantage of being in the Bank full time. The Board should also send the message that lessons learned from the Panel should be implemented.</p> <p>IAM Peer 16: Introducing the monitoring function can contribute to improving corporate learning by allowing the Panel to assess and report on the stock of institutional steps undertake to correct previous weaknesses.</p>
<ul style="list-style-type: none"> ▪ <i>How to Prepare a Request for Inspection</i> 	<p>IAM Peers 2, 6, 7, 8, 9: The key questions are generally a “yes” or “no” answer, below are some suggestions of a more open/descriptive questions:</p> <ol style="list-style-type: none"> 1. Please describe the nature and importance of the damage caused by the project to you or those you represent. 2. How the Bank is is responsible for the aspects of the project that has or may affect you adversely? How did you determine this? 3. How familiar are you with Bank policies and procedures that apply to this type of project? How do you believe the Bank may have violated them? 4. No suggestions for consideration 5. What other means have you used to try to resolve your problem?

6. If you know that the Panel has dealt with this matter before, what new facts or evidence do you have to submit?

15. Comments Outside The Scope of this Operating Procedure Update

IAM/Peer 3: First, access to the Panel to raise an issue of non-compliance should not be confined only to affected persons (a community or their representative). It seems to me that *anybody* should be able to bring to the Panel a genuine issue of the World Bank’s possible non-compliance (i.e. a failure to comply with its own operational policies and procedures), subject to the Panel having the power at the outset to dismiss any frivolous or vexatious requests. The validity of a request should not hinge on the demonstration of actual or potential “material adverse effect”. If we are serious about compliance, any act or omission of non-compliance should be objectionable, whether material adverse effect can be shown to exist or not. It is the non-compliance *per se* that should be remedied. Our experience demonstrated that this issue was polarizing, particularly as some parties incorrectly characterized the grant of permission for a site visit as offending host country sovereignty. In the context of an investigation of the compliance of an international finance institution (“IFI”) in relation to a project financed by that IFI, a site visit is no more an offence to sovereignty than the financing itself. However, because the IFI-financed project is the host country’s project, the leap from voluntary borrowing to the shibboleth of sovereignty is easily made. To avoid this polarizing debate, and for the avoidance of any doubt, site visits for the purpose of compliance reviews must be seen and documented as integral to IFI financing. If this is not accepted, then effective IFI accountability will continue to be placed under a cloud. This would require revisions in your Resolution and Procedures. Having said this, it is also important to recognize a host country’s legitimate concerns over the dimensions, limits and possible consequences of a site visit. It does not help simply to say “we’re investigating the Bank only”. Therefore, while compliance site visits should not require any special prior approvals (any more than, say, other project-related missions), the Panel should be willing to enter into appropriate protocols with a host country for the purpose of a compliance site visit. Such protocols would cover terms of reference, duration, timing, number of investigators, caveats on dealing with the press and so on. Such protocols would, in my view, go a long way towards defusing the sovereignty issue that seems to underpin most host country objections to site visits. At the time of project identification and design and especially at the time of consultation with local populations and their representatives, it should be **mandatory** for World Bank staff to inform *potentially* affected persons about the Panel and their rights to request the Panel to undertake inspections. Affected persons should be aware of these rights before the project commences. Like the Panel, [our accountability mechanism] is still required to obtain legal advice from the General Counsel, who also advises the Board and Management. Notwithstanding internal rules to avoid conflicts of interest (“Chinese

walls”), this current arrangement is unacceptable and offends the appearance of independence. The legal advice to [all accountability mechanisms] must be, and must be seen to be independent. (In the case of the Panel, this would require an amendment to the Resolution.)

IAM Peer 10: Unintended consequence, incentives and risk-aversion. What kind of management behavior is the Panel procedure incentivizing and dis-incentivizing? In an assessment I conducted for another accountability mechanism concerning involuntary resettlement, accountability and problem solving, a number of resettlement experts suggested that the creation of the Inspection Panel in 1995 deterred innovative resettlement and put a crimp in the application of new approaches. The view was that operations staff at some IFIs are averse to many of the innovative ideas that have emerged from the research and practice due to risk-aversion and a tendency on the part of project designers to be more conservative in order to avoid allegations of non-compliance. In the case of the World Bank, they speculated that this has led to the mentality of “How much compensation do we need to pay to be in compliance so we can avoid a complaint to the Inspection Panel. Tell us how much we should pay and we’ll pay it”. The risk of trying something different proved to be too great when heads began to roll. The issue of accountability mechanisms as stimulus to risk-aversion is an issue that invites more evidence and research.

IAM Peer 10: The Panel should set up an informal group of independent strategic advisors to help guide and advise the Panel on the many strategic issues that the IAM’s face. The Group should be composed of leaders from various disciplines related to the Panel’s work who are outside the World Bank Group.

IAM Peer 11: a) The procedures for registration of requests should be simplified *inter alia* by skipping the requirement that the Requesters must provide evidence that they have tried to resolve their problems with Management. Instead of having two separate processes for registration and eligibility assessment, the two phases could be combined.

b) Ideally, the Board should only be notified about the eligibility and not be asked to approve an investigation, but that is a more challenging debate. At some point I think the mechanisms have to take that debate. The practice established by our IAM is that we do not notify the Board member of the country where the project complained about is located when we go on missions for eligibility assessments, problem-solving exercises or compliance reviews. So far we have had no problem with undertaking site visits.

c) The requirement of prior contact with Management by the requestors should be removed. The prior engagement with Management is also included in our rules, with the exception that if the Requestors ask for

confidentiality the prior consultations with Management is not necessary

IAM Peer 13:

- a) There is a lack of [panel jurisdiction] over new lending instruments such as sector loans; policy-based loans; emergency loans; country-based systems with equivalency requirements, etc.
- b) There is lack of clarity whether Panel can hire its own legal counsel;
- c) Why is there no time limit for filing requests up to 95% of disbursement?
- d) There is no “champion” in the Board for the Panel (for example: ADB’s Board Compliance Review Committee). Such a committee facilitates communication with the Board.
- e) Define or review ‘other problem resolution’ avenues for requesters.
- f) Consider whistleblower protection measures to requesters who may face retaliation.
- g) Consider measures to reduce obstacles or facilitate potential requesters to file a request (legal counsel, coverage of costs incurred etc., access to information etc.)
- h) Review time limit for filing request (95% of disbursements).
- i) Further harmonization of procedures on IAMs among MDBs.
- j) Merge resolutions and subsequent clarifications into 1 document.

IAM Peer 16: Simplify requirements for request submission that could be highly technical for people to provide such as the requirement of providing a diagram should be removed. In addition, the rule should be rephrased to spell out that at least two Panel members should be involved in the eligibility phase.

IAM Peer 14: Regarding the registration and eligibility (stage), we think that it would be better if the Panel can accept the request which would be handed even after the timing of 95% disbursement completed or later. There are several reasons that we can maintain for this change: (A) New issues regarding environmental and social aspect can occur even after the 95% disbursement period reached. (B) We are wondering whether your "95% disbursement" limit might cause some kind of "moral hazards" as some loan officers would be motivated to disburse the loan as quickly as they can so that they can avoid being the target of

	<p>"complaints". We are not sure how the World Bank's disbursement procedure actually works, so this argument might be irrelevant, but at least from theoretical point of view, I think we can point this out. (C) It can be argued that even after full disbursement, as long as the World Bank has some outstanding in the project/borrower, the Bank might be responsible (through the provisions/covenants related to environmental and social issues in the loan agreement) for some environmental and social issues related to the project. Then, how can the Bank justify the "95% disbursement" limit?</p>
	<p>IAM Peer 10: 1) The Panel's findings and recommendations are not binding on the Bank. In addition, there is no ability of the Panel to conduct ongoing monitoring of management action plans, although other IAMs have this authority. 2) In terms of remedies and outcomes, what happens under the current procedure if the policies of the bank have been complied with but there are still negative impacts on project affected people?</p> <p>IAM Peer 11: Our Rules provides that the Review Panels can make recommendations related to improving the project as well as with regard to systemic and policy issues. While making project related recommendation have turned out to be very useful, I would, for the reason of potential "conflict of interest", be hesitant to recommend that the Panel be given a mandate to make recommendations on policy matters. In practice this has been difficult for our accountability mechanism, thus our recommendations on policy and systemic matters have been very general.</p>