

**Report and Recommendation  
on  
Request for Inspection**

**GHANA: Second Urban Environmental Sanitation Project  
(IDA Credit No. 3889-GH)**

1. On August 16, 2007, the Inspection Panel (“the Panel”) received a Request for Inspection (“the Request”) dated August 16, 2007, related to the Ghana: Second Urban Environmental Sanitation Project (UESP II) financed by an International Development Association (IDA) (Credit No. 3889-GH) (“the Project”). The Request was submitted by the Centre on Housing Rights and Evictions (COHRE) on behalf of the Agyemankata Community, which lives in an area known as Kwabenya in Ga District, Ghana.
2. The Panel registered the Request on August 22, 2007<sup>1</sup> and notified the Executive Directors, the President of IDA and the Requesters that it had registered the Request. The Panel received Bank Management’s Response to the Request on September 21, 2007 (“the Management Response”).
3. As provided in Paragraph 19 of the 1993 Resolution establishing the Inspection Panel (“the 1993 Resolution”),<sup>2</sup> the purpose of this report is to determine the eligibility of the Request and make a recommendation to the Executive Directors as to whether the matters alleged in the Request should be investigated.

**A. The Project**

4. **Project Objectives:** The objectives of the Project are to improve urban living conditions in Accra, Kumasi, Sekondi-Takoradi, Tamale, and Tema in regard to environmental health, sanitation, drainage, vehicular access, and solid waste management in a sustainable fashion, with special emphasis on the poor.<sup>3</sup>
5. **Project Components:** The Project consists of five components, which are the same as those of the first Urban Environmental Sanitation Project. Specifically, the objectives of the Project are to be achieved by: (i) reducing the susceptibility of low-lying areas to flooding by building adequate storm drainage systems; (ii) increasing access for low and middle-income residents to adequate sanitation; (iii) sustainable solid waste management; (iv) community infrastructure upgrading in low-income communities; and (v) institutional strengthening.

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<sup>1</sup> The Inspection Panel, Operating Procedures (August 1994) (“the Operating Procedures”), at p. 17.

<sup>2</sup> International Development Association (IDA) Resolution 93-6, dated September 22, 1993.

<sup>3</sup> See Development Credit Agreement (DCA) at p. 17.

6. **Implementation:** Partnership Agreements are proposed with the Nordic Development Fund (NDF) and Agence Française de Développement (AfD) for the funding of two components of the Project. Overall responsibility of the implementation of the Project is with the Ministry of Local Government and Rural Development (MLDRG). All components of the Project, except for the institutional strengthening, will be carried out by project teams formed in each of the aforementioned Metropolitan/Municipal Assemblies (MA).

## **B. Financing**

7. The Project is financed by an IDA Credit of 41.6 million Special Drawing Rights (SDR) (US\$64.39 million equivalent). At the time the Request was received, about 3.37 million SDR (US\$5.06 million equivalent) had been disbursed, approximately 8% of the Credit.

## **C. The Request**

8. The Requesters contend that their community will be detrimentally affected by the sanitary landfill that is being funded by the World Bank Project. They claim that the negative impact of the landfill on those living near it and the possible pollution of their water supply will result in an involuntary displacement of much of the community and leave many of the remainder of the community living in conditions detrimental to their health. The Request further states that the landfill has raised several potentially contentious environmental and social issues.
9. The Requesters claim that the proposed Kwabenya landfill project is based on a 1990 United Nations Development Program (UNDP) strategic plan for the Greater Accra Metropolitan Area, whereby a landfill site should be located 1 kilometer away from residential areas. The Requesters acknowledge that while the proposed site met the criteria at that time, the current project falls short of the requirement due to the changed residential conditions in the area. The Agyemankata Community, states the Request, live within the 1km limit of the proposed landfill.
10. The Request also claims that the Agyemankata Community was not meaningfully consulted during the Project design phase. The Request lists eight examples that illustrate the lack of meaningful consultation. Among these examples, they claim that the information provided to them by the responsible government authority, the Accra Metropolitan Assembly (AMA), was in the local newspapers and via radio announcements, often after the decision had already been made. They assert that the means of communications used was “*insufficient*” thereby disallowing them the chance to provide input. They also claim that they only gained knowledge of the Bank’s involvement in the Project through a newspaper article.
11. The Requesters claim that once they became aware of the Bank’s involvement, they wrote to the Bank requesting that it withdraw its support for the landfill subcomponent. The Bank responded by inviting the Agyemankata Community to see

the Environmental and Social Assessment (ESA) and the Resettlement Policy Framework (RPF), which had already been prepared. The Requesters claim that this is the first time they were made aware of these documents and were never consulted.

12. Furthermore, the Requesters claim that they did not participate in the preparation of the Resettlement Action Plan (RAP), and that they have yet to see this plan. The Requesters acknowledge that the AMA did notify the Community by two radio announcements and a newspaper article that they would need to lodge their property documents to the Land Valuation Board. They assert that the reminder of the deadline for submission of documents, the failure of which would result in a forfeiture of compensation claims, was made via a newspaper article. The Requesters also claim that several letters were sent to the AMA, but no response as yet has been received. All communications have been either by radio or newspaper.
13. Additionally, the Requesters claim that they have, on several occasions, expressed their concerns to Bank officials in Accra, but feel that their concerns have not been dealt with satisfactorily.
14. In the Notice of Registration, the Panel noted that the above claims may, *inter alia*, constitute non-compliance by the Bank with various provisions of the following Operational Policies and Procedures:

OP/BP 4.01	Environmental Assessment
OP/BP 4.12	Involuntary Resettlement
OMS 2.20	Project Appraisal

## **D. Management Response**

15. On September 21, 2007, Management submitted its Response to the Request for Inspection.<sup>4</sup> The Response includes 9 annexes and 2 maps.
16. The Response provides background information on the Project, addresses the “*three key issues contained in the Request*”<sup>5</sup> and provides a response to the Request including the action plan that the Government of Ghana has agreed to regarding the Kwabenya subcomponent.
17. The Response states that poor sanitation, which is the result of inadequate water supply, sanitary facilities, drainage and solid waste management, is the key urban environmental issue that Ghana has been facing over the last 20 years. It further states that the Government has taken steps to examine the situation and set goals for better environmental management. Additionally, a 2003-2005 Ghana Poverty Reduction

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<sup>4</sup> Bank Management Response to Request for Inspection Panel review of the Ghana—Second Urban Environmental Sanitation Project (IDA Credit No. 3889-GH), September 21, 2007 (hereinafter “the Response” or “Management Response”).

<sup>5</sup> Management Response, ¶ 4.

Strategy, indicated that “*environmental sanitation and capacity to deal with solid and liquid waste have shown little sign of improvement.*”<sup>6</sup>

18. The Project is a repeater project of the first phase Urban Environmental Sanitation Project (UESP), which was satisfactorily closed on December 31, 2003, and was supported by a Regional Review Panel of experts, an additional step to the Bank’s normal procedures. Management therefore asserts that the Project was processed in line with the Bank’s guidelines and requirements, including the Bank’s environmental and social safeguard policies.
19. Management states that the Project has been rated as “*unsatisfactory for more than a year mainly due to the very slow disbursement level of the credit and the lack of progress in the solid waste management component, with the Kwabenya sanitary landfill subcomponent being the most delayed.*”<sup>7</sup> The Response goes on to say that the Bank has been in constant dialogue with the Government to get the Project back to satisfactory status.
20. The Response states that the Bank had, on several occasions, discussed the problems in the implementation of the project with the Government, indicating that it would likely cancel the financing for the Kwabenya sanitary landfill if evidence of further satisfactory progress on the drafting of a RAP is not available when the Bank visits the site in December 2007. It further states that the Bank indicated that it would restructure the Project with the possibility of either cancelling or reallocating some of the funding to other successfully implemented components.
21. Management lists four special issues in a separate section of the Response. The first relates to the historical background leading to the takeover of the financing of the Kwabenya Sanitary Landfill Project by IDA from DfID. It indicates that an Environmental Impact Study (EIS) was commissioned in 1999 for the proposed landfill site and construction of a roadway to the site was commenced, both with financial assistance from DfID. It further states that there were “*virtually no resettlement needs*” at that time. However due to the construction of the roadway, people began to move closer to the site, and construction of the landfill was delayed due to land right claims from the inhabitants of the land. DfID withdrew its financial support due to the delays in the project and also due to shifts in development policy at the time. This led the Government to request the Bank to finance the Kwabenya sanitary landfill, which the Bank agreed to, but with conditions.<sup>8</sup>
22. The second special issue relates to environmental assessment. Management considers that the Government and the Bank have fully complied with OP 4.01. The Government used the DfID funded EIS as the basis for preparing the ESA—a requirement under OP 4.01—for the UESP II. The ESA contained an updated EMP and the RPF, which Management states was “*deemed satisfactory*” at appraisal. An

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<sup>6</sup> Management Response, ¶ 8.

<sup>7</sup> Management Response, ¶ 13.

<sup>8</sup> Management Response, ¶¶ 16–19.

update of the EMP and RPF were also proposed to be in accordance with the final design of the proposed landfill. Management further states that a “*significant amount of analysis had been undertaken related to environmental impact,*” the results of which were publicly disclosed.<sup>9</sup>

23. Management addresses the claim by the Requesters that the ISDS states that “*those living near the land fill will be negatively affected*” and that “*surface and groundwater pollution could extend 5 to 10 km downstream*” by stating that while the ISDS highlights some potentially negative environmental aspects, the statement quoted by the Requesters is a “*general statement that describes the environmental conditions that would prevail if appropriate mitigation measures were not taken in designing and operating the landfill facilities... .*”<sup>10</sup>
24. Management lists the RPF as its third special issue. The Response states that the RPF, which sets out the guiding principles and objectives governing resettlement issues, as well as eligibility criteria for compensation, was reviewed at appraisal and was found to be in line with the Bank’s resettlement policy. Management states that it is satisfied that the RPF satisfactorily meets the requirements of OP 4.12. Management further states that the Government and the Bank are aware that further information is needed in order to meet the requirements of the Bank’s policies on presenting an adequate RAP. It states that “*existing information on the social safeguards situation at the Kwabenya landfill site is ‘in part taken from [the DfID financed] Environmental Impact Study. It was deemed, however, that this information, and the consultation process with the affected population, are insufficient to present an adequate RAP for Kwabenya, which remains to be done, with adequate exploration of alternatives.’ [footnote omitted] Hence, it was clear that the Government would need to conduct further site-specific consultations for the RAP for the Kwabenya sanitary landfill.*”<sup>11</sup> Therefore Management states that Bank has not proceeded with the Kwabenya subcomponent, because a RAP for the subcomponent has yet to be prepared, in compliance with the provisions of OP 4.12.
25. The final special issue that Management discusses is the communication with affected communities. Management states that the consultations carried out during the drafting of the RPF are satisfactory. Management states that these consultations were carried out during field visits to the Kwabenya sanitary landfill site.<sup>12</sup> The Response further states that as part of the preparation of the RPF for the Kwabenya sanitary landfill, further consultations will have to take place.
26. Management states that after the dissemination of the RPF and the publication in the press of the agreement between the Bank and the Government, the Bank received a letter from the Agyemankata Kwabenya Community (AKC) requesting that it not to proceed with funding the landfill, as well as visits from the AKC on four separate

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<sup>9</sup> Management Response, ¶ 22.

<sup>10</sup> Management Response, Annex 1 at p. 17.

<sup>11</sup> Management Response, ¶ 25.

<sup>12</sup> Management Response, ¶ 22.

occasions, all preceded by protests. The Response states that the Bank “*responded to the letters [sic]*”<sup>13</sup> and *thoroughly explained during the meetings the obligation to implement a full RAP before commencing civil works on the site.*”<sup>14</sup>

27. The Response also states that the Government had undertaken, on several occasions to, “*reach out to and consult the local communities about the Project, including the AKC.*”<sup>15</sup> The Government established a Technical Advisory Committee (“the Committee”) to address the concerns of property owners. The Committee issued press releases inviting the general public to submit their concerns on the landfill project, and held “*brainstorming sessions*” with land agencies, social groups, traditional authorities, other Kwabenya residents, and Government and project officials. The Response states that the AKC declined to attend these sessions. The Response further states that when the Bank and Government officials attempted to deliver letters to the community, “*they were detained for several hours, confronted with death threats should they ever return, and the letters were returned unopened.*”<sup>16</sup>
28. Management states that due to the complex social situation and the difficulties in seeking meaningful consultations with the affected parties, the Government issued an Executive Instrument, which provided six months for any affected person or person to submit a claim for compensation. The Government notified the Bank that it had “*no intention of requiring the forfeiture of compensation*”<sup>17</sup> and will abide by the Bank’s policies on preparing the RAP.
29. Management states that they are aware of the Government’s urgent need to construct a sanitary landfill. The Bank has consulted with the Government and have come up with the following commitments:
- a. Preparing an acceptable RAP not later than March 31, 2008;
  - b. Not to resettle any people prior to the approval of the RAP by the Bank;
  - c. Take all necessary measures to avoid new occupation of the land already acquired by the Government;
  - d. Develop a public awareness campaign;
  - e. Organize bi-monthly progress review meetings in the preparation status of the RAP until December 2007 and monthly meetings thereafter; and discuss progress reports on the preparation of the RAP; and
  - f. Update the Environmental Management Plan, specifically for the Kwabenya sanitary landfill.<sup>18</sup>

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<sup>13</sup> Note: in the Response, Management states that they received “*a letter*” but responded to “*the letters*”.

<sup>14</sup> Management Response, ¶ 27.

<sup>15</sup> Management Response, ¶ 28.

<sup>16</sup> Management Response, ¶ 28.

<sup>17</sup> Management Response, ¶ 30.

<sup>18</sup> Management Response, ¶ 32. Note : Management received a letter from the Government of Ghana in this regard, which it provided to the Panel. The letter, dated September 13, 2007 and attached as Annex 9 to the Management Response, indicates the Government’s commitment to progress. The letter states, *inter alia*:

“*Until the RAP is completed:*

(i) *the Government will ensure that no new development takes place on the acquisition site...*”

and

## E. Eligibility

30. The Panel must determine whether the Request satisfies the eligibility criteria for an Inspection, as set forth in the 1993 Resolution establishing the Panel and the 1999 Clarifications,<sup>19</sup> and recommend whether the matter alleged in the Request should be investigated.
31. The Panel has reviewed the Request and Management's Response. The Panel Chairperson Werner Kiene, together with the Panel's Executive Secretary Peter Lallas, visited Ghana from October 09–12, 2007. During their visit, the Panel Team met with numerous members of the affected community living in and around the site proposed for the sanitary landfill, as well as representatives of the Centre on Housing Rights and Evictions (COHRE). The Panel also met with Government officials and with local authorities in Accra, with representatives of the Project coordination unit, and with Bank staff including the Country Director and Country Program Manager and others engaged on aspects of the Project. The Panel Team visited the proposed site of the Project and surrounding areas.
32. The Panel wishes to express its appreciation to the Requesters and members of the locally affected community for showing areas of concern to the Panel. The Panel also wishes to thank officials of the Ministry of Finance and Economic Planning, the Ministry of Local Government and Rural Development, the National Land Authority and the Valuation Board, the Greater Accra Municipal Authorities and the Mayor of Accra. The Panel also wishes to thank the World Bank Country Office in Accra for providing relevant information and assisting with logistical arrangements.
33. During the visit, the Panel confirmed that the Requesters are legitimate parties under the Resolution to submit a Request for Inspection to the Inspection Panel. The COHRE office in Accra is acting on behalf of the Agyemankata Community located in and around the proposed landfill site. The Panel team met with the representative of COHRE and numerous people from the local community who voiced and reiterated their concerns about the Project and proposed landfill site. The Requesters, and the people they represent, have common interests and concerns related to the Project and reside in the Borrower's territory, as required by Paragraph 9(a).
34. The Panel notes that facts stated in the Request "*assert[s] in substance that a serious violation by the Bank of its operational policies and procedures has or is likely to have a material adverse effect upon the requesters*" as required by Paragraph 9(b).
35. The Panel has reviewed the claims and the Management Response carefully in relation to this criterion. The Panel also gathered relevant information during its eligibility visit to Ghana, particularly through its visit to the Project area and its

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*"We have completed negotiations to recruit a consultant to update detailed design studies and actions for the preparation of environment assessment are in progress."*

<sup>19</sup> Conclusions of the Board's Second Review of the Inspection Panel ("the 1999 Clarifications"), April 1999.

meetings with Requesters and the local community, who reiterated and elaborated upon the claims of non-compliance by the Bank with its own operational policies and procedures.

36. In particular, Requesters and members of the affected community reiterated their view that their interests and rights under the Bank's policies and procedures, including the Policy on Involuntary Resettlement, have not been adequately taken into account. They contend that they have yet to see a RAP, and have not been allowed or enabled to participate in the development and completion of such a Plan, as required by Bank policy, even though this is critical to their rights and interests. They also contend that alternatives to the proposed site, which could obviate the need to displace them from their homes, have not been adequately considered.
37. The Panel was informed that local community members wrote to the World Bank some months before Credit approval (April 2004), requesting the Bank not to support the landfill component, and that the Bank responded by inviting the community to see the already prepared ESA and RPF. The Requesters and members of the community contend that the preparation of the RPF was done in consultation with the chiefs and people of Kwabenya, who are 2 kilometers away from the landfill site and did not represent their interests. They contend that the immediate community near the landfill site who are to be compensated or resettled were not adequately consulted or sensitized in the preparation of the RPF.
38. The Panel was informed that the RPF states as follows: "*After the compensation and resettlement have been carried out an Executive Instrument should then be passed to confirm the acquisition.*" However, during its visit to the community, the Panel was told that, instead, the authorities came to their communities accompanied by "*armed policemen and national security*" during January 2007, mostly when people were away, and marked their houses to be vacated. The Panel heard claims that this action occurred before the publication of the Executive Instrument regarding acquisition, which occurred on January 29, 2007, and without meeting the requirements of Bank policy on resettlement. It is also contended that in July 2007, the people were told to deposit their documents for compensation or forfeit their right to compensation. The Requesters and affected people believe that these actions contravene World Bank Policy on Involuntary Resettlement.
39. The Requesters and affected people also reiterated their concerns that inadequate consideration has been given to the dangers and risks to them of the proposed landfill. They consider that there is a lack of administrative and technical capacity of local authorities to ensure that it will be operated safely for the people and the local environment. They contend that the analysis of alternative sites and potential impacts used by the Project is outdated, because it is based on documents prepared years earlier, and conditions on the ground (including occupancy) had changed substantially during those years. They also contend that there has been inadequate attention to the possibility of recycling as a means to avoid the need for the landfill within the community.

40. The Requesters and affected people took the Panel Team to an area that they say is a stream (surface water) that runs through the proposed site for the landfill and, with the rains, connects to a river and source of drinking water. The Panel notes that the Management Response states that *“for the particular case of Kwabenya, there are no surface streams in its surrounding area; and thus the focus will be mainly on issues related to protecting groundwater and properly managing landfill gas.”*<sup>20</sup>
41. The Requesters and affected people reiterated their request to the Inspection Panel to examine these matters, and their belief that non-compliance with Bank policies has worsened their situation and put them at risk of serious harm if the landfill is developed and displacement occurs. In light of the above, many members of the affected community expressed that their community is not an appropriate site for the landfill, and that there are other alternative sites that should be considered that will generate less social and environmental harms.
42. The Panel notes, by comparison, views and documentation presented by Management in its response that due diligence required under the Bank’s social and environmental policies were adequately carried out and appropriately reflected in the Project appraisal document. Management highlights that the existence of a RAP, acceptable to the Bank, is a condition of the DCA, prior to commencing work on the subcomponent and prior to displacement of any affected persons.
43. Management also noted the importance attached to the development of the sanitary landfill by the government, in order to ensure that there remains capacity to meet the critical needs of refuse disposal in the city of Accra. Management reiterated its intent to carry out the actions and steps identified in the Management Response to address issues relating, especially, to resettlement, and has provided an update to the Panel on actions that have been taken in this regard since the issuance of the Management Response.
44. During its visit, the Panel also learned that consultation between the community and Project officials is now very difficult and contentious, and the Panel heard of various events that have occurred in the past relating to the Project and visits to the area. Members of the community indicated to the Panel that they have lost trust in the process, and do not believe that consultations will provide a basis to protect their rights and address their concerns. They believe that this unfortunate situation stems at least in part from failures by the Bank to meet its basic policies and procedures. Some with a responsibility to carry out and/or supervise consultations and Project activities expressed significant concerns about difficulties in being able to do so in the current environment, and alternative explanations for this situation.
45. The Panel notes the conflicting assertions between the Requesters and Management on whether the Project directly or indirectly has or is likely to cause harm to

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<sup>20</sup> Management Response, Annex 1 at p. 18.

Requesters and the affected community, and whether there is a violation by the Bank of its operational policies and procedures.

46. The Panel confirmed that the Request “*does assert that the subject matter has been brought to Management’s attention and that, in the Requester’s view, Management has failed to respond adequately demonstrating that it has followed or is taking steps to follow the Bank’s policies and procedures.*” During its visit, the Panel Team was presented with documentation, including among other documents a letter from the community to the World Bank dated January 16, 2004, and copies of minutes of a meeting between members of the community and World Bank officials at the World Bank Ghana Office in February 27, 2004, during which, community members voiced their concerns. The Requesters contend that the Bank has not adequately addressed their concerns.
47. The Panel notes that the subject matter of the Request is not related to procurement, as required by Paragraph 9(d).
48. The Credit financing the Project was approved by the IDA Board of Executive Directors in April 2004. The expected Closing Date of the Project is March 31, 2010. As of August 16, 2007, \$5.06 million or about 8% of the IDA Credit has been disbursed. The Request satisfies the requirement in paragraph 9(e) that the related loans has not been closed or substantially disbursed.
49. Furthermore, that Panel has not previously made a recommendation on the subject matter of the Request, thereby satisfying paragraph 9(f).

## **F. Additional Observations**

50. As described above, the Panel considers that the Request meets the eligibility criteria set forth in the Resolution establishing the Inspection Panel and the 1999 Clarifications. The Panel notes, moreover, that significant concerns and differences of view exist as to whether the Bank has complied or not with core provisions of its operational policies and procedures, including those on Involuntary Resettlement and Environmental Assessment.
51. The Panel further notes, however, that there are additional circumstances relevant to its determination in the present matter.
52. In particular, the Management Response indicates Management’s awareness that key issues raised in the Request still need to be addressed, including those relating to resettlement, compensation, and environmental aspects of the Project. In this light, Management states that it has agreed with the Government that a series of steps will be carried out to address key issues raised by the Request. One of the key agreed actions is the completion, within a specified time frame, of an acceptable RAP, accompanied by a commitment not to resettle any affected people prior to approval of the RAP by the Bank.

53. In its Response, Management also states that it will monitor implementation of these actions to ensure that they materialize. Management states that as part of the December 2007 Mid-Term Review (MTR), the Bank and the Government “*will make an in-depth assessment of compliance with the agreed action plan by the Government . . .*” which will pay particular attention to progress made in preparing an acceptable RAP. At the end of its Response, Management reiterates that “. . . *lack of progress in preparing an acceptable RAP according to the agreed action plan and in full compliance with the relevant Bank policies will preclude its financing. This decision will be made at the time of the MTR.*”
54. The Panel notes that the commitments set forth in the Management Response are intended to address some of the critical issues and concerns raised by the Request. The Panel further notes the statements of Management that lack of the indicated progress in achieving full compliance will preclude financing by the Bank of the sanitary landfill at Kwabenya. As indicated above, Management recently provided to the Panel an update on efforts to implement these actions.
55. The Panel appreciates these proposed actions and commitments. The Panel also appreciates and notes that the current situation on the ground with respect to these matters is, in some respects, contentious and subject to a variety of different pressures and forces. The Panel also notes that the proposed actions may not address certain issues raised by Requesters, including concerns about the Bank’s compliance with its own environmental policies and procedures.
56. In this context, given that the eligibility criteria are met, the Panel believes that an investigation is warranted. The Panel further notes that the investigation would take into account progress in the implementation of the actions proposed by the Bank to address issues of compliance and potential harm.

## **G. Conclusions**

57. The Request meets the eligibility criteria set forth in the Resolution that established the Inspection Panel and the 1999 Clarifications. The Request and the Management Response contain conflicting assertions and interpretations about the issues, the facts, and compliance with Bank policies and procedures relating to critical issues involving resettlement and compensation, environmental assessment and mitigation, consultations, and harm or potential harm, among other elements.
58. In light of the foregoing, the Panel recommends an investigation of the matters raised by the Request for Inspection.