

Matrix of Comments from CSOs/NGOs on Update of Inspection Panel Operating Procedures

<u>Issue Area</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>CSO Rep 4 & CSO Rep 5: Requirement to cite policy violations: The Panel in practice has moved away from the formal requirement of specifying which Bank’s Procedures has been violated. In other words, the Panel does not expect that the affected people/Requesters should know the Bank’s Ops, so this should be reflected in the updated operating procedures or on the website.</p> <p>CSO Rep 15: 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 	
3. <u>Procedures on Receipt of Request</u> Registration	<p>CSO Reps 9, 10, 11, 12, 13: The claimant should be able to control the Panel process. They trigger an investigation. They don’t want to wait while the Panel does problem solving at the registration phase.</p> <p>CSO Rep 9: Deferring to Management at this stage is not normal practice. It gives protection to Management and makes the Panel potentially subject to manipulation. Registration is a simple administrative process: it needs to be clear and straightforward. Whatever the Panel is intending to do at this stage needs to be in the procedures so that all stakeholders know what is going on. That is the CSOs criticism of the CAO: a lot of practices are going on that is not clear to the outside world because it is not in their procedures.</p>
	<p>CSO Rep 1 & CSO Rep 2: There should be more clarity in terms of what exactly the Resolution means on how “promptly” the Panel should inform the Board about receiving the new Request. The registration period can be used as part of problem-solving if it gives a chance to Management to respond to the Requesters’ concerns quickly.</p> <p>CSO Reps 9, 10, 11, 12, 13: The Panel needs to register the claim when it comes in. This is the first public acknowledgement. It is not appropriate to wait for Management to conduct problem solving. Waiting to register will affect the Panel’s transparency and accountability because the requesters, the public or the Board are prevented from knowing what is happening.</p> <p>CSO Rep 4: Claims should be registered when they come in to the Panel. The Panel should follow its stated procedures to avoid confusion. Registering a request should not be a very complicated or a strictly scrutinized process.</p>

<ul style="list-style-type: none"> Supporting due diligence and interaction with requesters at registration 	
<p>4. <u>Management Response</u></p>	<p>CSO Rep 1 & CSO Rep 2: After Management responds to the request, a summary of Management’s response should be sent to the Requesters, so that the Panel’s consultations and field visits are more meaningful.</p>
<p>5. <u>Eligibility Phase</u></p>	<p>CSO Rep 1 & CSO Rep 2: The Panel applies eligibility criteria too early in the pre-registration or registration phase.</p>
<ul style="list-style-type: none"> Ensuring clarity of information in describing findings on eligibility 	<p>CSO Reps 9, 10, 11, 12, 13: It is Firmly within the Panels authority to assess whether there was sufficient prior contact with Management. The Panel needs to be clear in the procedures that this is their jurisdiction as stated in the Resolution. The Panel should resist interference from Management and or the Board in this regard. A set of best practices (e.g. examples of letters, etc.) or examples for Requesters on how to approach Management in the first instance could help. This does not need to be in procedures but could be a “handout” to Requesters. In practice the Panel has not required Requesters to cite policy violations as a result of the 1999 clarification. This should be clearly stated in the updated procedures that there is no requirement to do so.</p> <p>CSO Rep 9: Procedures should also be clear that the ‘likelihood or potential of harm’ is also eligible.</p>
	<p>CSO Rep 9: The current problem is that Management “lawyers up” on their side and question eligibility when it is not their mandate. This “lawyering up” is a big problem because Management is responding to more than whether they complied or did not comply and wants to get into issues of eligibility.</p>
<p>6. <u>Panel Recommendation to Board</u></p>	
<p>7. <u>Investigation Phase</u></p>	<p>CSO Rep 9: The Investigation phase is closely connected to the practical outcomes of the Panel process.</p>
<ul style="list-style-type: none"> Shortening investigation phase 	<p>CSO Rep 8: There should be clear timelines for an investigation such as 6 or 8 months. If the Panel cannot finish in that time then it could extend, but the Requesters need to know. An Investigation phase should not go on endlessly and leave the Requesters in the dark. The Panel needs to be communicating on a monthly basis. The Panel should understand that the investigations and Panel field visits are a great investment in time and money for the Requesters. The Requesters pay for transportation to meetings with the Panel, and then the expectation is that the Panel should make themselves available.</p> <p>CSO Rep 4, CSO Rep 5: The investigation process (and issuing the Investigation Report) takes too much time—“Justice delayed is justice denied”. During such prolonged processes, it is important to keep the Requesters/affected communities informed on any developments.</p>

<ul style="list-style-type: none"> ▪ Methods of investigation 	<p>CSO Rep 1 & CSO Rep 2: The issues raised by the Requesters in _____ claims were not all investigated by the Panel. There is concern that the Panel “shrinks down” some of the Request and does not investigate all of the compliance issues in the Request.</p> <p>CSO Rep 8: The Panel needs to talk to all the different stakeholders, and consider gender issues. For example in many cultures women won’t speak out in front of men or even attend male meetings. The investigation phase is too long. Requesters were furious that the Panel waited for a report for information from Management instead of finishing its report.</p> <p>CSO Rep 6: The Bank’s Gender Policy is critically important and the Panel should make an effort to review requests through the prism of Gender policy.</p> <p>CSO Rep 3: The background of consultants and experts commissioned by the Panel is important to strengthen the Panel’s fact-finding capabilities.</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>CSO Rep 1 & CSO Rep 2: Studies commissioned by Management should be disclosed in advance giving a reasonable timeframe to the affected communities to get familiar with their content. The rationale for delaying an investigation should be explained to the Requesters and the public. The Panel should regularly proactively update the Requesters on what is going on with their Request.</p> <p>CSO Reps 9, 10, 11, 12, 13: The Panel needs to be careful that it is responding to the Requester and not just what Managements needs. Of course Management wants to stop the investigation and issue action plans or do more studies but the Panel has to be accountable to the Requesters. The communities should know what the Panel is doing during the investigation phase. There should be regular updates from the field. Requesters need information about what is going on. They should be periodically informed. If the investigation period goes on for a long time then they should just inform the Requesters that it is taking longer and they are still working on it.</p> <p>CSO Rep 9: The Resolution is actually silent on whether the Panel’s report to the Board could be released.</p> <p>CSO Rep 3 & 5: The investigation process could be improved by providing the Requesters access to Management’s first response so they can reflect upon case developments on time.</p> <p>CSO Rep 15: The Panel needs to maintain continuous communications with Requesters and affected people during the investigation phase.</p>
<ul style="list-style-type: none"> ▪ Participation of Third Parties 	

<p>8. <u>Panel Report to the Board and President</u></p>	<p>CSO Rep 10, 11, 12, 13: The Requesters should have access to information in the report that goes to the Board, but there is a restriction because it's considered a Board paper. There should be an exception to this or the information should be summarized in a separate document and sent to the Requesters.</p>
<p>9. <u>Management Response and Action Plan</u></p>	<p>CSO Rep 1 & CSO Rep 2: Requesters should be involved in the actions plans and the Panel should use its powers (1999 clarification) to monitor the extent to which Management has involved the Requesters in the creation of action plans.</p> <p>CSO Rep 15: The Panel should evaluate Management's action plan and ask whether Management has involved Requesters in the preparation of actions plans.</p>
<p>10. <u>Board Decision and Public Release</u></p>	<p>CSO Rep 9, 10, 11, 12, 13: Requesters should be able to go to the Board meeting or send a representative. All other stakeholders: Management, Board and the Panel are there, but the Requester is absent. People assume the Panel is representing the Requesters, but they are not. The Panel is representing their own view on compliance and non-compliance.</p> <p>CSO Rep 1 & CSO Rep 2: The Requesters should have a right to know the substance of the Board's decision even before the press release and relevant reports are officially posted on the Bank's and the Panel's websites. There should be Disclosure of Information promptly to the public and the Requesters.</p>
<p>▪ Requester's participation in Board Meetings</p>	<p>CSO Rep 3, CSO Rep 4, CSO Rep 5, CSO Rep 6, CSO Rep 7: Requesters should be able to observe and participate in the Board meetings about the Panel's final report.</p>
<p>11. <u>Return Visits</u></p>	<p>CSO Reps 9, 10, 11, 12, 13: Return visits are an important part of closing the loop. This practice should be detailed in the procedures.</p> <p>CSO Rep 8: Return visit should be included in the procedures.</p> <p>CSO Rep 3, CSO Rep 4: It is important to explain Management Action Plans to the Requesters as part of follow-up, or post-investigation activities.</p> <p>CSO Rep 15: Return visit should be included in the procedures. There should be ongoing communication with Requesters throughout Panel process in the procedures</p>
<p>12. <u>Panel Follow-up if requested by the Board</u> Fact-finding follow-up investigations to check results on the ground, and invite inputs from all parties on the</p>	<p>CSO Rep 8: Monitoring methodology should be in the operating procedures. It would be easier for the Board to request monitoring if they know exactly what is involved. The Requesters can also hold the Panel to what their stated monitoring practice is.</p> <p>CSO Reps 9, 10, 11, 12, 13: The Panel should have a best practice about follow-up visits and return visits so that the Board knows what their established practice is.</p>

effectiveness and outcomes of the process	CSO Rep 15: 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.
13. General Procedures	
14. <u>Cross-cutting general categories and themes</u>	
<ul style="list-style-type: none"> ▪ <i>Improving public awareness of Inspection Panel</i> 	<p>CSO Rep 1 & CSO Rep 2: Improving public awareness many potentially affected communities are unaware of the Panel’s existence, and more engagement of the Panel with Management needed in order for the latter to deliver the information about the Panel’s existence at the beginning of any Bank-financed Project.</p> <p>CSO Rep 8: The Panel’s outreach strategy needs to be made more explicit. Panel members know what they are doing but no one else does. There should be an effort to make the whole Panel process more clear and transparent.</p> <p>CSO Rep 9 & 12: The Banks portfolio is rapidly changing from project based lending to country systems, development policy lending and financial intermediaries. PR4 will also have an impact on the panel’s jurisdiction. While the Panel still has jurisdiction the standards will vary from loan to loan it will be impossible for affected people to know that the Bank is involved in the sub-projects or programs. The Panel and the Bank need to find ways to inform potentially affected people about the Panel’s existence and availability as a recourse mechanism in the new Bank scenario.</p> <p>CSO Rep 9: The Panel’s mandate to conduct public outreach and awareness activities is not as clear as other IAMs. The Panel needs to be more assertive and use every opportunity to reach out to the public and communities in borrower countries. The Panel seems “shy” about doing public outreach.</p> <p>CSO Rep 15: Communications and outreach strategy should be in the procedures to make it clear what the process is. This will help the Panel’s budget.</p> <p>CSO Repts 9, 10, 11, 12, 13: General outreach should be a budget line item that is submitted to the Board Annually. Management is supposed to conduct outreach about the Panel but it never has. There should be a way to compel/require management or operations to conduct outreach or include information about the Panel.</p> <p>CSO Rep 7: The role of NGOs can be important because it gives affected people an access to the Panel process. Moreover, NGOs can assist the affected communities in formalizing, or drafting, the complaint.</p> <p>CSO Rep 9 & 12: There should be a phone app for new programs under the Banks new lending schemes.</p>

<ul style="list-style-type: none"> ▪ <i>Transparency and Disclosure during Panel Process</i> 	
<ul style="list-style-type: none"> ▪ <i>Early Problem Solving</i> 	<p>CSO Rep 8: The Panel’s mandate is not to solve problems but instead to look at compliance issues. Problem solving should take place before the claim is filed when the Requesters have tried to deal with their issues through Management. If the Requesters did not contact Management then the claim should be rejected. Waiting to register a claim is outrageous. This undermines the transparency of the process. It means the Board does not know and the public and requesters don’t know what is happening. Credibility of the Panel will be badly affected if they continue to do this. Problem Solving is outside the Panel mandate.</p> <p>CSO Reps 9, 10, 11, 12, 13: The Panel can give and create space for Management to improve the project but the Requesters need to be in agreement on this. The Requesters should have the ultimate say.</p> <p>CSO Rep 9: The Panel does not have a mandate to problem solve like the other IAMs, nor does it have a mandate to sit back and let management problem solve. The Panel’s business is compliance.</p> <p>CSO Rep 3, CSO Rep 4: The problem-solving approach is very important and might be helpful at the initial stages of the Panel process but it should be formally reflected in the Panel operating documents so that the Requesters know what is happening.</p> <p>CSO Rep 4: The Requesters should be informed if there are potentially ways to solve problems that are not related to compliance issues.</p> <p>CSO Rep 15: 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>
<ul style="list-style-type: none"> ▪ <i>Affected People’s Access to the Panel</i> 	
<ul style="list-style-type: none"> ▪ <i>Promoting Effective Panel Interaction with Management, the WB Board, and Borrower Countries</i> 	<p>CSO Rep 8: There is no need to clarify relationships. This should be case specific. The Panel should start doing regular presentations to management about systemic and recurring issues and trends in the Panel cases. Ultimately the Bank’s incentive structure needs to change to allow for lessons learned to be incorporated.</p> <p>CSO Rep 6, CSO Rep 7: Productive interaction between the Panel and Management could help Management’s willingness to specifically ensure that the Bank field offices are trained/have clear information on the Panel processes. The Panel process could be included in orientation program for the newly hired staff.</p>

	<p>CSO Rep 15: The independence of the Panel process is absolutely critical but it is also important that the Panel engage with all sides.</p>
<ul style="list-style-type: none"> ▪ <i>Promoting Corporate Learning based on the experiences of Panel Investigations</i> 	<p>CSO Rep 15: The systemic outcomes of what the panel does should be incorporated back into operations.</p>
<p>15. <u>Comments Outside The Scope of this Operating Procedure Update</u></p>	<p>CSO Rep 9, 10, 11, 12, 13: The Panel should have an advisory role so that it can have an impact on lessons learned in the Bank.</p> <p>CSO Rep 4 & 7: The “95% disbursement” rule is far too technical to be eligibility criteria, as some aspects of harm and policy non-compliance might be discovered after the project finances have been disbursed.</p> <p>CSO Rep 9, 10, 11, 12, 13: The Panel should have a mandate to conduct follow-up and monitoring. All other mechanisms have this.</p>