



# Citizen-Driven Accountability for Sustainable Development

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**Giving Affected People a  
Greater Voice—20 Years On**

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## Citizen-driven Accountability for Sustainable Development: Giving Affected People a Greater Voice—20 Years On

*A contribution to Rio+20 by the Independent Accountability Mechanisms Network\**

**Abstract:** “Citizen-driven Accountability for Sustainable Development: Giving Affected People a Greater Voice—20 Years On” is a contribution to Rio+20 by the Independent Accountability Mechanisms Network, composed of accountability mechanisms at different international financial institutions (IFIs). The twenty-year experience of Independent Accountability Mechanisms (IAMs) at IFIs has shown that “citizen-driven accountability” is a critical element of governance for sustainable development.

The paper provides a brief history of IAMs and reviews some of their impacts over the last two decades. It describes the architecture of accountability mechanisms, particularly their underlying principles and core functions, and explores the limitations and challenges inherent in current IAM design. It reviews risks, issues, and trends evidenced in complaints from affected communities and concludes with recommendations of two sorts—those directed at ensuring the future effectiveness of the IAMs and those directed at other development actors wishing to strengthen their own accountability for equitable, sustainable development.

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## ACRONYMS

African Development Bank	AfDB
Asian Development Bank	AsDB
Compliance Advisor Ombudsman	CAO
European Bank for Reconstruction and Development	EBRD
European Investment Bank	EIB
European Union	EU
Inspection Panel	IPN
Inter-American Development Bank	IDB
International Accountability Mechanism	IAM
International Financial Corporation	IFC
International Financial Institution	IFI
Japan Bank for International Cooperation	JBIC
Multilateral Investment Guarantee Agency	MIGA
Nippon Export and Investment Insurance	NEXI
Non-Governmental Organization	NGO
Overseas Private Investment Corporation	OPIC
United Nations	UN
World Bank	WB

## **INTRODUCTION**

In the two decades since the 1992 United Nations Conference on Environment and Development in Rio de Janeiro, commonly known as the Earth Summit, International Financial Institutions (IFIs) have established Independent Accountability Mechanisms (IAMs) as part of their governance structures.<sup>1</sup> Though IAMs vary in their size, scope, and structure, their shared underlying *raison d'être* is to provide recourse for citizens and communities adversely affected by IFI-funded projects, particularly in instances when IFIs are alleged to have failed to follow their own social and environmental safeguard policies, guidelines, standards, or procedures.

IAMs reflect the principle of "citizen-driven accountability," which aims to give greater voice and rights of recourse to people with respect to actions that affect them. When an IFI-funded project imperils, or results in harm to, people or the environment, IAMs afford project-affected people a clear, independently administered channel to bring their grievances to the highest levels of IFI decision-making. "Harm" is defined broadly to include a range of adverse effects on people, communities, and the environment.

Examples of harm in complaints submitted to IAMs over the years include the following: inadequate compensation for forced resettlement; destruction of culturally significant or ecologically unique landscapes; loss of traditional user-rights to forest or other natural resources; loss of access to resources or livelihoods; environmental degradation; threats to community health or safety resulting from increased levels of air pollution or poor road design; loss of livelihood resulting from regulatory or policy reforms; and poor project implementation stemming from inadequate consultation, participation, or information-sharing.

Cases that come before IAMs commonly center on conflicts over control of scarce natural resources, disputes about the distribution of project risks and benefits, and socioeconomic impacts like the loss of livelihoods or threats to cultural identity. The rights of vulnerable people, including indigenous peoples, and the protection of forests and other unique ecosystems are, in a sense, "trademark" IAM issues. Their scope is far broader, however, extending over a host of issues that arise from the myriad trade-offs and competing interests that are invariably part and parcel of large, complex development projects and programs. When asymmetries of power, historical enmity among stakeholders, lack of capacity and/or due diligence, insufficient information, or a breakdown of trust make local-level resolution impossible, IAMs offer people affected by IFI-financed projects a way forward.

In giving citizens a right to recourse, the establishment of IAMs was an innovation in both global governance and international law, broadening the concept of accountability and creating a first-ever formal avenue for people themselves to challenge the decisions of international institutions and seek redress for harm done. The first such accountability mechanism was the World Bank Inspection Panel, created in 1993 by the Executive Directors of the World Bank in response to both mounting evidence that the Bank was failing to follow its own rules regarding social and environmental safeguards and public outcry from many quarters over high-profile Bank-funded projects that were deemed "development disasters." Accountability mechanisms at other IFIs soon followed, established to address similar gaps between stated IFI policy and

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<sup>1</sup> The term International Finance Institutions (IFIs) includes, for purposes of this paper, multilateral development banks and bilateral development and trade finance institutions.

actual practice on the ground as well as growing demands and heightened expectations from civil society for meaningful participation in the development process. Today, such accountability mechanisms can be found at, *inter alia*, the African Development Bank, the Asian Development Bank, the European Bank for Reconstruction and Development, the European Investment Bank, the Inter-American Development Bank, the International Finance Corporation and Multilateral Investment Guarantee Agency, Japan Bank for International Cooperation, the Overseas Private Investment Corporation, and Nippon Export and Investment Insurance as well as at the World Bank (See **Box 1: Members of the IAM Network**).<sup>2</sup>

**Box 1: Members of the IAM Network**

The Independent Accountability Mechanisms Network is a network of members and staff of the IAMs, who seek to identify and foster means for cooperation within their respective mandates, contribute to the regular exchange of ideas and best practices, and assist with institutional capacity-building in accountability as components of corporate governance. Members are staff of the IAMs listed below. The IAM Network has its roots in an inaugural gathering of IAMs in Washington, D.C. in May 2004, and its members meet in person periodically.

African Development Bank	Independent Review Mechanism
Asian Development Bank	Accountability Mechanism; the Office of the Special Project Facilitator and the Compliance Review Panel
European Bank for Reconstruction and Development	Project Complaint Mechanism
European Union and European Investment Bank	European Ombudsman and Complaints Mechanism
Inter-American Development Bank	Independent Consultation and Investigation Mechanism
International Finance Corporation and Multilateral Investment Guarantee Agency, World Bank	Office of the Compliance Advisor Ombudsman
Japan Bank for International Cooperation	Examiner for Environmental Guidelines
Japan Nippon Export and Investment Insurance	Objection Procedures on Environmental Guidelines
United States Overseas Private Investment Corporation	Office of Accountability
International Bank for Reconstruction and Development and International Development Association, World Bank	Inspection Panel

As of April 2012, the IAMs referred to in this paper have addressed more than 260 cases from 72 countries around the world. These cases span development investments as diverse as extractive

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<sup>2</sup> See description of the main characteristics of some of these mechanisms at the end of this paper.

industries, agribusiness, infrastructure (e.g. roads and transport, power plants, dams), water and/or forest resources management, and regulatory reform. IAMs have grappled with some of the world’s thorniest development dilemmas, often rooted in deep-seated social, cultural, and historical conflicts and replete with difficult trade-offs. Though not every issue that has come before the IAMs has been resolved to the satisfaction of all involved, IAMs have:

- Helped broker solutions to safeguard people’s health, livelihoods, rights, cultural heritage, and ways of life;
- Catalyzed actions necessary for IFIs to bring their projects into compliance with their own published policies and standards;
- Protected unique environments from damage, at times potentially irreversible;
- Provided people and communities adversely affected by IFI-funded projects redress to rebuild their lives and livelihoods; and
- Improved the social and environmental sustainability of development projects.

IAMs are in many ways “children” of the 1992 Earth Summit, products of a range of social, political, and institutional forces that came to a head in Rio and changed, in fundamental and beneficial ways, development practice. In particular, the 1992 Rio Earth Summit Declaration, in its Principle 10, called for the right of citizens to participate in the development process and access information, as well as to be provided with “effective access to judicial and administrative proceedings, including redress and remedy.”<sup>3</sup> Since IAMs provide a means to put this principle into practice at the international level, it is fitting that the twentieth anniversary of the historic Rio meeting provides the occasion for a review of the contribution of IAMs to sustainable development as well as a discussion of how IAMs can meet challenges ahead.

**Part 1** of this paper provides a brief history of the IAMs and their general impacts over the last twenty years. **Part 2** looks in greater depth at the architecture of accountability mechanisms, particularly the underlying principles and core functions of the IAMs. **Part 3** reviews the types of environmental and social issues and trends evidenced in complaints to the IAMs from affected communities over the past twenty years, as well as both achievements and challenges in IAM operations. **Part 4** makes recommendations of two sorts—those directed at ensuring the future effectiveness of IAMs and those directed at other development actors wishing to strengthen their own accountability for equitable, sustainable development.

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<sup>3</sup> Principle 10 of the Rio Earth Summit Declaration states that: “*Environmental issues are best handled with participation of all concerned citizens, at the relevant level. At the national level, each individual shall have appropriate access to information concerning the environment that is held by public authorities, including information on hazardous materials and activities in their communities, and the opportunity to participate in decision-making processes. States shall facilitate and encourage public awareness and participation by making information widely available. Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided.*” The IAMs provide a means for redress at the international level.

## **1. BRIEF HISTORY OF IAMs**

Several simultaneous trends set the stage for the creation of IAMs. Beginning especially in the 1980s, these trends included a growing disquiet with the gap between IFI social and environmental guidelines and policies and IFI practices on the ground; the emergence of new thinking about questions of accountability, transparency, democratic governance, and rights; and the growing strength of transnational social movements and alliances of civil society groups.

### **1.1 Setting the stage for the creation of IAMs**

The 1980s and early 1990s saw the emergence of new definitions of development that moved beyond economic growth alone as the gauge of progress to explicitly capture questions of human well-being, human freedoms, and human rights. There was greater focus on community involvement and popular participation in decision-making, which became dominant in development thinking and was gradually embraced by many United Nations agencies and developing countries.

The rethinking of development was taking place in many corners. It characterized debates among development economists and other social scientists around the neo-liberal growth model ascendant in the 1980s. In addition, international organizations charged with promoting development were themselves grappling with questions about the proper aims of development. For example, the influential first Human Development Report, commissioned by the United Nations Development Program (UNDP) and released in 1990, explored the extent to which economic growth had translated into human progress, argued that the real goal of development should be expanding people's choices and freedoms, and introduced an alternative measure of progress to counter the hegemony of GDP, the Human Development Index.<sup>4</sup>

There was, in parallel, growing concern about the negative impacts on people and the environment of some of the projects and activities financed by IFIs. One prominent example was the World Bank-funded Sardar Sarovar Dam project on the Narmada River in India, discussed further below. Viewed by many as a "development disaster" with irreparable harms to people, ways of life, cultural heritage, and the natural environment in the name of progress,<sup>5</sup> the project was the object of numerous civil society protests.

As the largest IFI, the World Bank was a lightning rod for those critical of the current development process. A central concern was that the Bank was failing to respect its own social and environmental safeguards designed to help ensure that Bank-funded projects were sound and sustainable. These safeguards called for preventing, minimizing, mitigating, or compensating for adverse environmental impacts, and for prioritizing preventive measures over compensatory measures whenever feasible. In addition, safeguards were also built into procedures that called for meaningful consultation with, and participation of, affected peoples.

Two independent reports released in 1992, the Morse Commission report and the Wapenhans report, confirmed what critics maintained: namely, that the Bank often did not follow these safeguard policies and procedures. Together, the reports painted a damning picture of certain

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<sup>4</sup> UNDP, *Human Development Report*. 1990.

<sup>5</sup> Maartje van Putten, *Policing the Banks: Accountability Mechanisms for the Financial Sector*. 2008.

aspects of World Bank operations. The first, the report of the Morse Commission (named for the former head of the United Nations Development Program, Bradford Morse, who was the commission's chair) was constituted in response to growing public outcry over the Sardar Sarovar Dam project on the Narmada River. The project, which the Bank had approved in the mid-1980s, called for the resettlement of 120,000 people, most of whom were ethnic minorities (classified in India as scheduled tribes), as well as the inundation of more than 200 villages, countless temples, shrines and pilgrimage sites, and rich farmland that had supported the population for centuries.<sup>6</sup> The Morse Commission found serious failures on the Bank's part to comply with its safeguard policies and identified a series of "*devastating human and environmental consequences of these violations.*"<sup>7</sup>

Why did the World Bank fail to comply with the safeguard policies it had itself put into place? The answer was found in the second report, an internal review of the Bank's investment portfolio known as the Wapenhans report.<sup>8</sup> The Wapenhans report found that more than one-third of Bank projects were ranked as "unsatisfactory" and that violations of loan agreements and internal policies were endemic. It showed that the Narmada experience was not an isolated incident but rather part and parcel of a larger "performance crisis" within the Bank.<sup>9</sup> The report identified a "culture of approval" in which various Bank incentives, such as year-end lending targets, compelled staff to focus on "moving money out the door," in some cases with little concern for risks, potential impacts, country capacity, feasibility, or long-term sustainability, either financial or environmental. As a result, safeguard policies were too often not complied with.

## 1.2 The 1992 Earth Summit: A watershed moment

Contemporaneous with the release of these critiques was the 1992 Rio Earth Summit. The Earth Summit was an international meeting of unprecedented scope and scale, covering a larger range of issues and involving greater numbers of people than any such gathering before. The meeting ushered in a new era of participation for civil society in international fora, creating a model that would be followed in the subsequent conferences of the 1990s, including those on human rights (Vienna, 1993), population (Cairo, 1994), social development (Copenhagen, 1995), women's equality (Beijing, 1995), and human settlements (Istanbul, 1996). Some characteristics of the 1992 Rio Earth Summit include the following:

- **Calls for greater transparency, participation, and the right to redress.** Principle 10 of the Rio Declaration was the first international declaration to recognize the right of people to hold their governments accountable for their environmental policies and the impacts of those policies. By asserting that "environmental issues are best handled with participation of all concerned citizens," Principle 10 opened the door for greater popular participation not just in environmental issues, but a host of other issues as well, in essence ushering in new

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<sup>6</sup> Dana Clark et al., Demanding accountability: civil-society claims and the World Bank Inspection Panel. 2003.

<sup>7</sup> Morse Commission. *Sardar Sarovar: The report of the independent review.* 1992

<sup>8</sup> World Bank, *Effective implementation: Key to development impact. Report of the Portfolio Management Task Force.* 1992

<sup>9</sup> Dana Clark et al., Demanding accountability: civil-society claims and the World Bank Inspection Panel. 2003.

norms related to access to information, transparency, and openness in the development process. It also championed the rights of people harmed by development projects to effective access to judicial and administrative mechanisms for redress and remedy. Governments of the world later reaffirmed Principle 10 at the 2002 World Summit on Sustainable Development in Johannesburg.

- **Calls for safeguards.** The Earth Summit broke new ground in its calls for environmental safeguards and protection of the rights, knowledge, resources, and participation of indigenous peoples; future conferences built on and expanded these ideas, increasingly situating these issues in a human rights framework.
- **Recognition of “major groups.”** Documents and discussions at the Earth Summit identified “major groups,” among them women, youth, and indigenous peoples, whose voices and visions must be taken into account in the development process.
- **A robust and influential parallel event for civil society.** In Rio, the parallel NGO Forum, which 17,000 people attended, had significant impact on the official proceedings. The connection between the NGO event and the official summit and the successful efforts and organization of civil society groups helped to bring the calls for safeguards, participation, and a holistic approach into the official plan of action that resulted from the summit: Agenda 21.
- **Calls for a holistic development framework.** The Rio Summit introduced a new focus on the inter-relation between social, environmental, and economic issues in support of sustainable development (including issues of poverty and equity); this idea was articulated in Agenda 21. This document presented the new demands and trends in an accessible way that galvanized public awareness and calls for action, which in turn helped lay the groundwork for strengthening the accountability of IFIs.

### **1.3 The establishment of the IAMs**

As noted above, the first major step in the development of the independent accountability mechanisms occurred in 1993, in the wake of the Earth Summit. The World Bank’s Board of Executive Directors established an independent mechanism, the Inspection Panel, with a mandate to investigate complaints from people about social and environmental harm linked to Bank-financed operations.

This pioneering approach of “citizen-driven accountability” provided a direct channel for citizens affected by projects to voice their concerns at the highest levels of decision-making (see **Box 2: Citizen-driven Accountability**). Since then, most major IFIs around the world have established their own IAMs, each based on a simple premise: giving affected citizens a greater voice in the international development decisions that affect their lives.

The decision-making bodies of the IFIs deserve credit for recognizing the need for and establishing these bodies. Many of the principles of citizen-driven accountability that today are key components of what is understood as “good development practice” were, in the early 1990s, a significant departure from business-as-usual. For IFIs to set up these potentially intrusive bodies to examine their own practices was farsighted.

Twenty years on, these mechanisms constitute an effective architecture to promote accountability, participation, and sustainability in the work of IFIs. Through their efforts to address the concerns of affected communities in diverse regions, sectors, and environments, the IAMs have developed a solid body of findings related to IFI-financed projects, discussed further below. For their part, the IFIs have begun to appreciate that the IAMs serve an important risk management function.

**Box 2: Citizen-driven Accountability—a pioneering step in international law**

**In the context of IFIs**, the creation of the World Bank Inspection Panel and other IFI accountability mechanisms that followed represented a significant change in international development cooperation. International law was long the realm of state actors alone, and decision-making about IFI-funded projects involved only borrowing governments and IFI decision-making bodies and management; the people on the other side of development tradeoffs whose lives were to be affected by the project in question had no standing, no recourse, and no ability to hold the IFI to account for any harm done. The creation of the Inspection Panel for the first time gave affected people and communities, as non-state actors, standing in international development relations, access to decision-makers, a forum to voice their concerns, and a chance to influence the international decisions that so affected their local contexts. In short, the creation of the IAMs made IFIs accountable to people, not just to governments, for the first time. Write legal experts Eisuke Suzuki and Suresh Nanwani, “*It is now clear that the legal character of international organizations entails a responsibility for their conduct.*”<sup>10</sup>

The establishment of IAMs also broadened the conception of accountability by asking not just “accountable to whom?”—communities and affected people themselves—but also “accountable for what?” Previously IFIs were accountable chiefly for delivering loans and for ensuring that those loans were used for the purposes for which they were intended and had the desired results. IAMs created the potential for people to voice their ideas of the “for what” of development lending at the highest level. Who contributes to decisions that define the aims of a development project? Who will be part of the process in weighing highly consequential trade-offs, such as those between the needs of urban communities that stand to benefit from electricity generated by a new hydropower dam and the wish of upstream communities to retain their productive assets and way of life along the river banks? “Whose reality counts?” as development thinker Robert Chambers asked famously in his book of that name.<sup>11</sup> These questions of “who decides” and “who counts” are central, as is the process by which the decision is made (i.e., behind closed doors, or through a transparent and participatory process). IAMs create space for people themselves to assert their own development priorities as well as gain redress when requirements for meaningful consultation with project-affected peoples are bypassed.

**In the context of the European Union**, the accountability framework within which EU institutions (including the European Investment Bank) operate was profoundly affected by the 1992 Maastricht Treaty. The Treaty strengthened the openness and democratic accountability of the Union’s Institutions in various ways, including through the establishment of the European Ombudsman (EO). At the request of EU citizens, the EO investigates allegations of maladministration committed by EU institutions and bodies. Such allegations include administrative irregularities, unfairness,

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<sup>10</sup> Quoted in Maartje van Putten, *Policing the Banks: Accountability Mechanisms for the Financial Sector*. 2008.

<sup>11</sup> Robert Chambers, *Whose Reality Counts: Putting the First Last*. 1997.

discrimination, abuse of power, failure to reply, refusal of information, or unnecessary delay.

With the entry into force of the Lisbon Treaty in December 2009, the Charter of Fundamental Rights of the European Union became legally binding. Article 41 of the Charter defines the fundamental right to good administration as the right to have one's affairs handled "*impartially, fairly and within a reasonable time by the institutions, bodies, offices and agencies of the Union.*" The concept of good administration also includes the right of all people to be heard before a decision on any individual measure that could affect them is taken and the right to have access to their file. The Charter recognizes the right of every person to have the European Union make good any damage it causes.

The EIB, as an IFI and a European institution, implements the EU model of accountability with a two-tier mechanism – the internal Complaints Mechanism and the European Ombudsman. The latter is fully independent from the EIB (the European Ombudsman is elected by the European Parliament) and part of the EU institutional framework. Both bodies are part of the IAM network.

## **2. THE ARCHITECTURE FOR CITIZEN-DRIVEN ACCOUNTABILITY**

This section describes the core principles of citizen-driven accountability and their main functions, taking into account differences in their mandates and roles. Appendix A contains a brief summary description of some IAMs.

### **2.1 Core principles of citizen-driven accountability**

Citizen-driven accountability rests upon several core principles: independence, impartiality, transparency, integrity and professionalism, accessibility, and responsiveness. While the structure and functions of IFI accountability mechanisms vary somewhat from one institution to another, each of these principles is essential to all aspects of IAM operations, in large measure because all are critical to creating an atmosphere of **trust**—something which may have badly broken down by the time complainants contemplate contacting the IAM, and which is essential to forging a path forward.

**Independence.** The independence of IAMs, particularly their independence from IFI management structures, is fundamental to their effectiveness.<sup>12</sup> For IAMs to work, all parties—project-affected peoples, IFI staff involved in the project, potential whistleblowers, IFI government or private sector borrowers, the media, activists, and others—must trust that the IAM is not constrained or influenced by reporting relationships, control of budgets, and the like. Thus the operational independence of IAMs is clearly set forth in the policies that establish them. Overall, changes to IAM mandates since their inceptions have brought IAMs more rather than less independence. IAMs report either to the IFI board of directors or directly to the IFI president. The EIB is the only IFI with a second-stage recourse mechanism – the European Ombudsman – which is an independent institution. In recent years, boards and presidents have not sought to undermine the principle of independence of the IAMs, though there have been serious disagreements and tensions in concrete cases. Threats to their independence were a significant problem in the early years of IAMs, however, and there is continued need to be vigilant in protecting the right of access to IFI decision-making bodies and to grievance redress by project-affected people. Civil society plays a vital watchdog role in monitoring IAM independence, drawing attention to potential threats, and putting pressure on IFIs that seek to weaken IAMs.

**Impartiality.** Parties to a dispute must feel confident that investigators and mediators are not predisposed to favoring one position or another, beholden to a particular institution, sector, or movement, imbued with the institutional culture and values of the IFI in question, or likely to face a conflict of interest. While IAM principals are appointed by the IFI governing bodies, IAM staff are chosen in large part based on their ability to deal fairly with the requests brought before them, and are in best practice recruited not by the IFI but rather the IAM itself, in some cases with extensive participation from civil society. In addition, IAM principals are generally barred from IFI employment or consultancies for a significant period of time following their IAM service (for life, in the case of the World Bank Inspection Panel) to prevent potential conflicts of interest. In investigations, IAMs are guided by a commitment to following investigations

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<sup>12</sup> For a thorough discussion of the importance of independence for IAMs, see Maartje van Putten, *Policing the Banks: Accountability Mechanisms for the Financial Sector*. 2008.

wherever they may lead, to listening to the voices of affected people, to analyzing thoroughly the facts and evidence, and to considering, with equal fairness, the actions and responses of IFI staff and management. Identifying and documenting where IFIs have in fact followed their policies and procedures and acted appropriately in response to claims of harm is as important to IAM effectiveness as discovering where they have failed to do so.

**Integrity and professionalism.** The personal integrity of IAM principals and staff and the avoidance of impropriety or the appearance of impropriety in the conduct of investigations and mediation are vital components of IAM effectiveness. Similarly, the professional conduct of IAM principals and staff, in terms of both their substantive credibility (stemming from their qualifications and experience) and their comportment during the day-to-day operations of the IAM and, in particular, during problem-solving and investigation processes, is fundamental to the mechanisms' effectiveness.

**Transparency.** Transparency and public disclosure of information are fundamental to an institution's trustworthiness. Though confidentiality is sometimes necessary, and is required when a complainant has requested it, in general IAMs are committed to public disclosure of their findings and reports. IAMs' mandates are institutional, and thus do not target specific staff members. The focus is on the IFI's management of a specific project as a whole, and information is not attributed to individual staff members. All the IAMs maintain public websites; though they vary somewhat, IAMs typically post the legal documents that established them, their contact information, their policies and procedures, biographical information about principals, a registry of cases for claims submitted, reports on problem-solving and compliance cases, and any final decisions and recommendations.

**Accessibility.** A recourse mechanism is not effective if affected people either do not know it exists, or are unable to access its services. All IAMs take considerable steps to make affected people aware of their existence, to make the barriers to access as low as possible, and to make the process as simple and user-friendly as they can. Affected individuals and communities as well as local organizations and other representatives can file complaints by simply sending a letter to the IAM; in general, it can be in any language, and can be handwritten, as long as it contains the name of the requester, a description of the harm or potential harm, a description of attempts to resolve the issue with IFI staff, and a direct request for redress or investigation. Identities of those fearing reprisal can be kept confidential. Despite the many measures taken to make the IAMs accessible to those who need them, however, this area presents a challenge for all IAMs, as discussed further below. The responsibility for making IAMs well known has to be shared with the IFI managements themselves.

**Responsiveness.** Crucial to the credibility of IAMs is their responsiveness; affected peoples must have faith that the IAMs will acknowledge their requests and make a decision about whether or not to pursue their case in a timely manner, and then move with due dispatch toward a solution. The responsiveness of IAMs is also required if IAMs are to have a deterrent effect on non-compliance. IAMs generally have guidelines that require decisions about whether or not to register a case to be made within a very short period of time, and some even try to impose a timeline for dispute resolution or investigation, though this is not always possible.

## 2.2 Core functions of IAMs

The section below describes core IAM functions. Broadly speaking these can be summed up as serving two broad objectives, namely providing redress for the complainants bringing their concerns to the IAM, and providing institutional correctives and lessons for the IFI. The IAMs do not all have the same approach and mandate with respect to these objectives. Key functional elements are “compliance review,” “problem-solving or dispute resolution,” and “advisory role,” and not all mechanisms engage in all three functions.

In addition, functions that may not be directly performed by IAMs themselves are integral to the overall operations of IAMs. Or in other words, the IAMs function in a process where IFI management and decision-making bodies also have prescribed duties and responsibilities. For instance, in responding to a compliance review, management within each of the IFIs has responsibility for responding to the independent findings and/or recommendations of the IAMs.

**Compliance review and problem-solving.** The broad mission of the IAMs is to provide project-affected people a fair, effective, and efficient mechanism for securing redress for harm done, or to address risk of serious harm before it materializes. IAMs pursue this goal by helping the parties find a mutually satisfactory solution (problem-solving), or by conducting an investigation about IFI compliance with its own policies (compliance review), or by a combination of the two. An IAM’s mandate, to this effect, may include investigation of whether the IFI has complied with its own policies as well as capacity to engage parties in problem-solving through mediation.

A “compliance review” function and a “problem-solving/dispute resolution” function both have the same grievance redress goal. With the former approach, the actual redress is carried out by the IFI, through their action plans in response to compliance reviews. With the latter approach, one seeks to address the issues raised in the complaint through a flexible and collaborative process with the key stakeholders. Some mechanisms require a sequenced approach—complainants must first attempt to resolve the issues through IAM-facilitated mediation and only after exhausting this avenue is a compliance review initiated—whereas others allow complainants to ask for a compliance review from the start or allow for parallel processes. Different mechanisms have their own specific approaches to addressing problem-solving and compliance review. For instance, the World Bank Inspection Panel through its overall process is designed to provide grievance redress and recourse for the affected people.

**Advisory role.** Importantly, some of the IAMs have a mandated “advisory” role to their respective institutions. The European Investment Bank’s Complaints Mechanism, the Compliance Advisor Ombudsman (CAO) for IFC and MIGA, the Inter-American Development Bank’s Independent Consultation and Investigation Mechanism, the Office of Accountability of the Overseas Private Investment Corporation, and the Office of the Special Project Facilitator of the Asian Development Bank’s Accountability Mechanism; provide advice in a formal capacity to the president and IFI management. Cases brought to the IAMs can glean learning about broad emerging trends, issues, and systemic concerns in development as well as pitfalls and risks inherent in the design and implementation of development projects and programs. Thus IAMs are well placed to provide advice on a variety of social and environmental issues, particularly regarding interpretation of policies and procedures. Knowledge-sharing supports one of the underlying aims of the IAMs—namely to make development projects better. A risk could exist in providing advice to IFI management, namely, if the IFI follows (or fails to follow) IAM advice on a

specific project and then becomes subject to complaint before the same IAM. The IAMs in question could be then perceived with a compromised impartiality or independence vis-à-vis this complaint. IAMs tend to mitigate this risk by not providing advice on specific projects but rather on overall policies, sectors, trends, and systemic risk issues.

**Reviewing compliance with operational policies and procedures designed to avoid or minimize harm to people or the environment.** All IAMs are charged with reviewing compliance with existing safeguard policies and procedures. The policies and procedures typically in question are designed to avoid or mitigate harm to people and the environment and, more broadly, to support what can be loosely understood as “good development practice”—in other words, development that is participatory, just, sustainable, equitable, and in line with peoples’ own priorities and visions for their future. IAMs generally may look at compliance with IFI policies on topics such as involuntary resettlement, indigenous peoples, information disclosure, protection of cultural resources, environmental impact, disaster risk management, and gender equality.

Each IAM carries out independent fact-finding to investigate whether the IFI management has complied or not with applicable operational policies and procedures. Such fact-finding typically includes the hiring of one or more experts in the field relevant to the project and the complaints; this person or team takes part in research, field visits, and report drafting. IAM staff then engages in desk research and field research. Desk research focuses on written project documents, from meeting minutes to project proposals to impact assessments of various sorts. During field research, IAM team meets with the complainants and other affected people, IFI and borrower staff, and a range of other stakeholders, including relevant government officials, civil society organizations, professional associations, substantive experts, and others involved in the project. In addition to interviews, the IAM team may hold focus group sessions and public meetings and conduct site visits. Meeting with a broad range of stakeholders in a variety of settings, both formal and informal, allows IAM staff to learn about the issues and concerns, the status of the project, potential harm, and even possible solutions. The combination of desk and field research allows the IAM team to reconstruct the project history through written institutional memory and personal memories; to assess and verify first-hand the complainants’ claims; to understand underlying constraints, tensions, and motivations; and to gain the perspectives of those not directly involved in the project—all vital to assessing compliance or non-compliance and links to the harms alleged.

Findings of non-compliance lead to a responsibility on the part of the management of the institution to take responsive actions to restore compliance and—as noted below—provide redress for harm that may have occurred. In some cases, projects are redesigned or cancelled, particularly where the complaint was received at early stages. Other actions may include strengthened supervision and monitoring, changes in project implementation, and measures to avoid or mitigate adverse impacts. The compliance review may also lead to lessons learned for future cases, including in cases where the complaint was received at late stages of implementation.

**Providing redress for harm done.** Redress for harm can be provided in different ways. When IFIs have been found to have not followed their own policies and harm has resulted as a consequence, it is incumbent upon the IFI to provide redress. Redress can take a number of forms, such as direct monetary compensation to affected peoples, support for the development of local institutions, the provision of health, education or other services, and the creation of new

livelihood opportunities (see **Box 3: Providing Redress in Uganda**). Information gathered through the IAM investigation process as well as IAM recommendations inform the provision of redress. However, none of the IAMs presented in this paper has the authority to compel the IFI to respond in a specific way to the instances of non-compliances and their effects. Such decisions remain the prerogative of the board or the president. More typical in the experience of the Compliance Advisor Ombudsman is that redress in the form of monetary compensation, livelihood provisions, and the like are typically catalyzed by the dispute resolution process, and providing this compensation is the responsibility of the borrower.

**Box 3: Providing redress in Uganda\***

In May of 2007, the Independent Review Mechanism (IRM) of the African Development Bank (AfDB) received a complaint from local NGOs and individuals about the Bujagali Hydropower and Transmission Lines Project in Uganda. The project called for the construction of a 30-meter-high dam, spillway, and powerhouse at Bujagali Falls as well as power transmission lines to connect the plant to the grid, and would result in the resettlement of some 14,000 people. Complainants argued that the project was characterized by numerous deficiencies. Among them were insufficient social and environmental impact assessments, inadequate consultations with affected peoples on resettlement and compensation as well as cultural and spiritual matters, and deficiencies in the projects' economics and affordability analysis. The AfDB Board of Directors authorized a compliance review on September 7, 2007.

The Compliance Review Panel of the IRM carried out its investigation of the project, and found instances of both compliance and non-compliance with Bank policies and procedures. The Board of Directors accepted the findings and recommendations of the Compliance Review Panel and directed the Bank's management to develop two action plans, one on compliance and the other for findings specific to issues of resettlement and compensation, consultations to resolve cultural and spiritual issues, and sustainable management of areas designated to offset the loss of habitats due to the power plant; the Kalagala Offset and Forest Reserves.

As a result of IRM efforts, the AfDB increased the number of supervision missions to the projects, increased the number of safeguards experts, updated its staff operational manual, and facilitated access to information about the AfDB policies on its website. In addition, concrete redress was provided to project-affected people in the following areas:

- **Resettlement and compensation.** Affected people in resettlement villages received additional social services and benefits, among them a primary school, a clinic, piped water, and fish ponds. Nonetheless, 557 affected people living along transmission lines have filed a lawsuit in national courts.
- **Cultural and spiritual issues.** Thanks to IRM involvement, the construction of cultural shrines was completed. A memorandum of understanding was signed between the project implementing entity, the Government of Uganda, and the Busoga kingdom in January, 2011, setting out the modalities of the final relocation and appeasement of the spirits in accordance with local practices.
- **Kalagala Offset:** National authorities removed part of the fences built by a tourism business owner to allow the local people access to the river banks. In addition, actions are underway to ensure effective implementation of the sustainable management plan.

\* The Inspection Panel received a similar complaint related to the same Project and signed a Memorandum of Understanding with the IRM to cooperate on their parallel investigations. This is not the only case in which two IAMs cooperated. The IRM also cooperated with the EIB Complaints Mechanism on a different case. Cooperation between IAMs is likely to increase as more and more projects are co-financed by multiple IFIs.

**Fostering problem-solving; the ombudsman role.** Problem-solving, or acting as an ombudsman, is designed to foster the development of locally acceptable solutions to social and environmental problems caused by development projects. Those charged with carrying out IAM problem-solving and ombudsman roles work with complainants and other project stakeholders to help resolve grievances. The approaches adopted across IAMs vary depending on the concerns raised, whether it is stemming from a project-impact or whether it relates to a dispute between various stakeholders. Through facilitated dialogue, ombudsmen help the parties decide how best to resolve their concern and monitor implementation of any agreements reached until both parties agree that the issue is resolved. IAM staff charged with problem-solving are trained in alternative dispute resolution techniques. They take into account local governance structures and customary methods of resolving disputes; however, they are also expert in creating ways to bring unheard voices to the table in situations where traditional power structures silence them (see **Box 4: Avoiding harm through problem-solving in Pakistan**).

#### **Box 4: Avoiding harm through problem-solving in Pakistan**

The National Highway Development Sector Investment Program in Pakistan, a project funded by the Asian Development Bank (AsDB), to connect different parts of Pakistan and thus contribute to economic growth. This program involves both institutional and policy reform and physical improvements to critical bottleneck sections of the national highway network.

The AsDB Office of the Special Project Facilitator (OSPF) received a communication in September 2006 concerning access by project-affected people to information from the executing agency and their potential displacement due to a road alignment. A local consultant recruited to conduct a pre-eligibility check explained to the affected persons about OSPF and its consultation phase and confirmed that they wanted to file a complaint.

In January 2007, the OSPF conducted an eligibility mission, visiting the executing agency and the affected villagers and meeting with the latter one-on-one to understand what their concerns were and how they suggested solving the problems. The interviews revealed that fifty-three villagers from two different villages and a small settlement were concerned about the government's plans to construct a bypass, fearing that they would be displaced without consideration. They did not know much about the land acquisition process and the time frame, and they had not been informed about what would happen to them. They worried about the losses they would have to bear and whether they would ever receive compensation. Surveyors had already come and placed markers in the villages and in the fields; even the cemetery seemed to be affected.

A one-day multi-stakeholder consultation was conducted to work out a course of action. All parties had a chance to voice their concerns and listen to each other. At the end of the consultation, an agreement on a course of action was signed by all parties. It included agreements on the disclosure of the updated list of affected persons and details concerning the construction of two underpasses. The executing agency also agreed to communicate with the complainants, to explain preliminary compensation rates and the methods of calculation, and to collect applications for higher rates. It was further agreed that the revised resettlement plan would be disclosed.

The OSPF monitoring of the agreement started immediately after its signing. Contacts between OSPF and the different parties were frequent from May 2007 to end of July 2008. An OSPF consultant conducted a satisfaction survey on the agreement's implementation. It found that affected persons

appreciated that the land rates had been reassessed and adjustments made, that compensation was disbursed without difficulty, and that they had received information about the different steps and the time frame. The disbursement of compensation took place in the villages, which was more convenient for the villagers and much appreciated. The project-affected people also considered that the underpasses made it safer to cross the road.

This problem-solving interaction was successful for several reasons, chief among them the willingness of all parties to work together to find a solution. Because the project and the resettlement plan were in the early stages of implementation, no harm had been done yet and a consultative process was still possible. The resettlement specialist provided close and timely guidance to make sure that the resettlement plan would be implemented step-by-step, and the implementation of the resettlement plan was closely observed by local monitors as well as through regular missions from Manila by the OSPF. The villagers received more timely information, thanks in part to regular executing agency consultations in the villages.

**Reporting back to decision-making bodies within the IFIs.** On the basis of their fact-finding, the mechanisms develop independent reports and submit them to the highest levels of decision-making at their institutions. All IAMs have the responsibility to report back to the board or the president of the IFI the results of investigations or mediations. In addition, management within each of the IFIs has duties and responsibilities to respond to the independent conclusions and compliance review findings of the IAMs as part of the overall IAM process. Some IAMs may produce recommendations to which IFI management needs to respond. Several IAMs require that management create an action plan to address IAM findings of non-compliance, and one, the World Bank, requires in addition that complainants be consulted in the creation of such action plans. Some mechanism consults the complainants regarding its conclusions, findings and recommendations.

**Reporting back to the complainants.** Reporting back to those who brought a complaint is clearly a critical component of accountability. All mechanisms call for the results of their work to be communicated to the complainants. Some IAMs make it practice to return to the project site to directly provide complainants with an account of their findings as well as the IFI management response. Closing the loop in this way ensures that requesters hear for themselves both the IAM findings on harm and noncompliance as well as the commitments made by IFI management to provide redress for harm done or to take corrective measures to bring the project into compliance.

**Post-intervention monitoring and evaluation.** Post-investigation monitoring of some sort is part of the process for most IAMs. Such a monitoring role provides important safeguards for claimants, ensuring that the redress measures agreed to are actually delivered. It also helps closing the loop on any given complaint. Some IAMs are able to make monitoring decisions on their own, while others require that the board or president of the IFI requests such a monitoring process. Ideally claimants themselves take part in monitoring (see **Box 5: Improving project quality and providing redress in Sri Lanka**). The Compliance Advisor Ombudsman for IFC and MIGA has systems in place for robust monitoring of outcomes. All dispute resolution and compliance cases are monitored by CAO for implementation of agreements and findings before a case is closed. In addition, CAO's "Management Action Tracking Record" closes the loop on implementation of CAO's compliance findings by IFC and MIGA; and a Monitoring and Evaluation tool allows for feedback to be gathered from all stakeholders involved in a case with the goal of

improving CAO's overall effectiveness. CAO reports progress on monitoring to the President and Board.

**Box 5: Improving project quality and providing redress in Sri Lanka**

The Compliance Review Panel (CRP) of the AsDB conducted a compliance review of the Southern Transport Development Project in Sri Lanka in response to a request from the Joint Organization of the Affected Communities of the Colombo-Matara Highway. The review found compliance lapses in several areas, such as inadequate environmental impact assessment, lack of required gender action plans, and inadequate attention paid to vulnerability of certain population groups and households.

The compliance review as well as the ongoing post-inspection monitoring conducted by CRP had several beneficial effects:

- It was instrumental in the creation of new legislation and procedures on land acquisition and compensation, and on instituting local grievance and conflict resolution mechanisms.
- It lead to resettlement and compensation issues being dealt with in a more methodical and rational manner, which was beneficial to affected people in terms of improved compensation and livelihood rehabilitation.
- It highlighted project design flaws and was instrumental in correcting them and facilitating the implementation of the project by the government and by the AsDB office in Sri Lanka.
- It raised the awareness of AsDB headquarters as well as the Sri Lankan government about the importance of safeguard compliance as a tool for project improvement and success. The positive resolution of these issues ultimately contributed to the success of the project as a whole.

### **3 OUTCOMES AND TRENDS IN THE WORK OF THE IAMs**

#### **3.1 Analysis of complaints to the IAMs**

IAMs have made substantial contributions to the evolution of the IFI's social and environmental performance by pursuing issues of compliance and the responsible application of standards. Giving affected communities a voice and ensuring that their concerns are heard and acted upon by IFI senior management, local and national decision-makers, and public- and private-sector operators has led to better development projects. Harnessing knowledge about common problems and pitfalls is critical to improving future development outcomes and ensuring that the good intentions of IFI's are delivered on the ground. IAMs are a key part of this work.

Twenty years of experience among the IAMs has produced a solid body of independent findings spanning multiple regions, development activities, social contexts, and environments around the world. This experience affords a unique glimpse into the practical challenges of sustainable development and poverty reduction from a grassroots perspective.

The following analysis of the aggregated body of complaints to IAMs identifies the types of environmental and social issues that give rise to complaints and what the underlying cause for these grievances might be. For the purpose of this paper, the analysis focused solely on issues raised by communities and NGOs in the actual letters of complaint (those deemed admissible), and did not analyze additional issues possibly uncovered or addressed during the IAMs' subsequent interventions.

#### **3.2 Profile of complaints and regional distribution**

**Profile of complaints.** IAMs that took part in this exercise have together handled a total of 262<sup>13</sup> complaints or cases since the establishment of the first mechanism in 1993. These complaints span 72 countries from all regions of the world. The complaints were filed by a mix of local, national, and international civil society organizations on behalf of project-affected people, or by community members acting on their own behalf without the support or representation of another organization.

The complaints relate to both public-sector and private-sector development projects consistent with the mandates of the development finance institutions involved. IFI activities that have been subject to complaints include the full spectrum of development financing—from traditional loans, credits, guarantees, and equity investments to trust funds, technical assistance, advisory services, and political risk insurance. Analysis of the data reveals patterns in their distribution by region and sector, as well as the types of environmental and social issues that predominate.

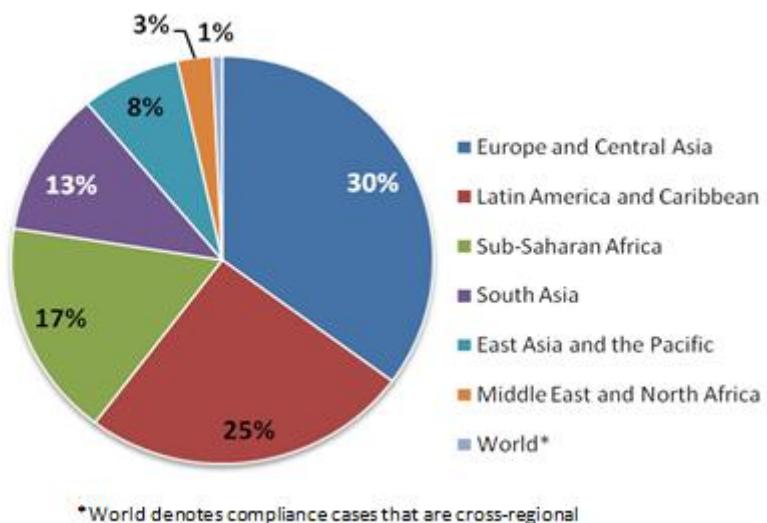
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<sup>13</sup> Data in this section is based on information provided by the following Independent Accountability Mechanisms: African Development Bank – Independent Review Mechanism; Asian Development Bank – Accountability Mechanism; European Bank for Reconstruction and Development – Project Complaint Mechanism; European Investment Bank – Complaints Mechanism; Inter-American Development Bank – Independent Consultation and Investigation Mechanism; International Finance Corporation and Multilateral Investment Guarantee Agency – Office of the Compliance Advisor Ombudsman; Overseas Private Investment Corporation – Office of Accountability; and the World Bank – Inspection Panel.

**Regional distribution.** Projects in Europe and Central Asia accounted for 30 percent of complaints to IAMs, with 25 percent from the Latin American and the Caribbean region. Asia, including East and South Asia, accounts for 19 percent of complaints, and Sub-Saharan Africa accounts for a slightly lower share, 16 percent. Only 3 percent of complaints have been filed from the Middle East and North Africa, despite the large regional portfolios of some IFIs and the IAMs' own outreach activities.

Regional diversity in the numbers may be explained in part by the level of mobilization of national and regional civil society networks, awareness of the IFIs and their projects, and awareness of the IAMs themselves. Feedback from external stakeholders gleaned from IAM outreach over the years suggests that lower numbers of complaints in some regions is due to minimal awareness of the IFIs as financiers of the projects, little awareness that options for recourse exist as well as a lack of trust in the credibility of those options by those who know about them, insufficient civil society capacity, and political and cultural barriers of various sorts. Accessibility to potential requesters and complainants in light of these obstacles is one of the biggest challenges for the IAMs.

**Figure 1: Complaints by Region**



### 3.3 Project categorization and sector distribution

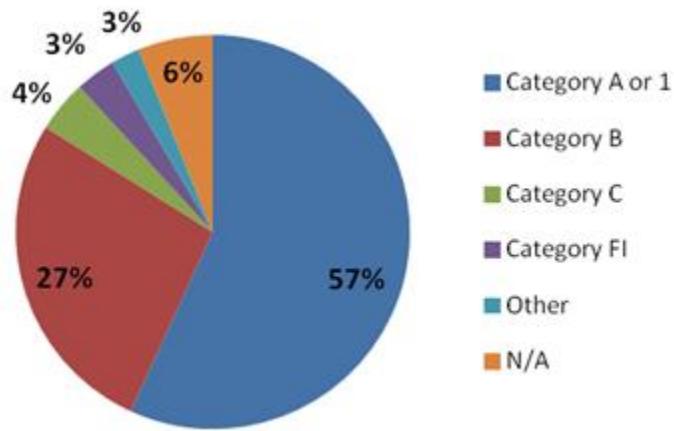
**Project categorization.** While the IFIs differ in the methodologies used for appraising projects, a form of “categorization” is typically used to assess projects for potential environmental and social impacts and therefore inform mitigation strategies, disclosure, and consultation. Many IFIs assign projects (or financial intermediaries that “on-lend” to clients whose activities may present environmental and social concerns) a category of A, B, C or 1, 2, 3 in descending order of environmental and social sensitivity. Analysis of IAM complaints relating to IFI projects that do use such categorizations<sup>14</sup> reveals that over half (57 percent) of IFI projects cited in

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<sup>14</sup> This includes complaints related to Projects financed by the AsDB, AfDB, EBRD, IDB, OPIC, and WB. Complaints related to EIB are not included in the sample.

complaints to the IAMs are Category “A” or “1” projects, meaning that they have been identified as having potentially significant adverse environmental and/or social impacts. Another 27 percent are Category B or 2 projects, with potentially limited environmental and social impacts that can be mitigated. Category C or 3 projects (minimal or no impacts) account for just 4 percent of complaints, and financial intermediary projects account for only 3 percent of complaints. It stands to reason that projects identified by IFIs as potentially posing significant adverse impacts are those that turn out to be most likely to do so in the view of project-affected peoples.

**Figure 2: Environmental Categorization of IFI Projects in Complaints**



**Sector distribution.** A wide variety of sectors is represented in complaints to the IAMs, but those projects with relatively larger physical footprints predominate, such as extractive industries (oil, gas and mining), infrastructure (transportation), and energy (hydropower). Some IAMs in recent years have witnessed an upswing in complaints related to large scale agriculture projects. These sectors are typically resource-intensive, particularly in terms of land and water use, and have implications for local communities that depend on these resources for their livelihoods. These livelihood concerns are echoed in complaints specifically filed to the IAMs regarding water and land management projects, land reforms, waste management, and broader environmental programs.

### 3.4 Environmental and social issues

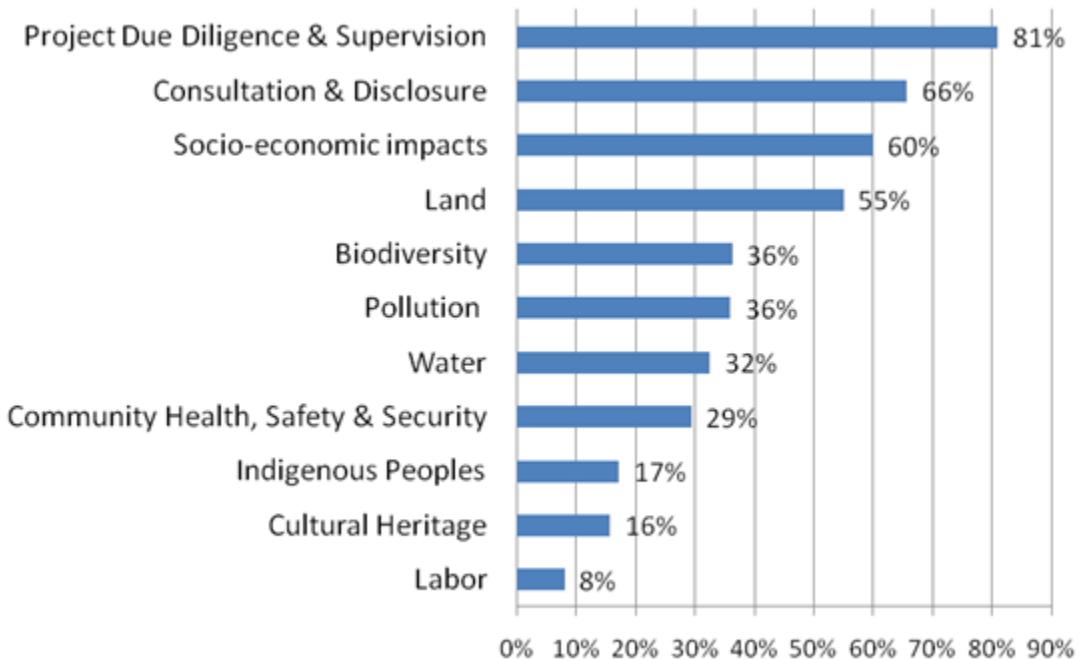
Many of the issues articulated in complaints to the IAMs are cross-cutting, with a level of complexity that requires deeper analysis. However, initial findings reveal three dominant themes in grievances to the IAMs: concerns related to project processing and supervision; issues related to project-level consultation and disclosure; and the distribution of socio-economic benefits at the project level.

The majority of complainants—80 percent—cite concerns related to project due diligence—roles and responsibilities that are often shared by an IFI and the public- or private-sector entity implementing the project. Specific due diligence concerns include project siting and the assessment, mitigation, and management of environmental impacts. In just over 65 percent of complaints, communities identify what they see as inadequate project-level consultation and

information disclosure, which includes engagement in decision-making and concerns about how free, prior, informed consent or broad community support are determined. Socio-economic issues are raised in 60 percent of complaints, chiefly related to negative impacts to peoples' livelihoods and the access to, and the distribution of, project benefits.

Impacts to natural resources—specifically land and water—are raised in 55 percent and 32 percent of complaints respectively. Community grievances related to land are predominantly related to land acquisition, resettlement, and compensation. Water grievances are focused on access to water as well as quantity and quality issues that have impacts on community health and productivity. Pollution to air, land, and water is specifically raised by complainants in 36 percent of cases. Other issues include community health, safety, and security (29 percent) and impacts to indigenous peoples and cultural heritage. Labor is an emerging issue for some IAMs, particularly around rights to association and worker compensation.

**Figure 3: Environmental and Social Issues Cited in Complaints**



### 3.5 Summary of trends

As global development increases, so, too, do risks associated with it, and the work of the IAMs reflects the greater pressure that exists on vulnerable communities as they compete with others for scarce resources essential to support livelihood needs. The underlying issues driving many complaints are competition over natural resources, public and private goods, and socio-economic priorities. Through the IAMs, affected communities have sent a clear message about the need for sufficient consultation and information disclosure as well as competent project processing and adequate supervision, all of which points to the importance of good local implementation for development projects to be successful.

### **3.6 Achievements of the IAMs**

The IAMs make contributions not just for affected peoples but also for the IFIs themselves and by supporting sustainable development outcomes more generally. Their accomplishments can be summarized as follows:

#### ***For project-affected people***

- Prevented harm from occurring and provided redress for harm done (see **Box 6: Preventing harm in South Sinai**).

#### **Box 6: Preventing harm in South Sinai**

On May 19, 2009, the European Investment Bank Complaints Mechanism (EIB-CM) received the first of twenty-four distinct complaints about the proposed construction of a natural gas-fired power generation plant in Nuweiba, Egypt, a town on the west coast of South Sinai about 200 kilometers north of Sharm-el-Sheik. The proposed site for the plant was a pristine stretch of beach along the Aqaba Gulf. Known as the “Pearl of the Gulf of Aqaba,” Nuweiba’s beach is among the most beautiful in Egypt, boasting silvery sands, mountain scenery, and shallow coral reefs.

Those challenging the environmental and social impacts of the project were the citizens of Nuweiba, hotel owners, owners of scuba diving centers, beach-side camp owners, local NGOs, tourist operators, and two of the areas major Bedouin tribes. An online petition to the Egyptian government demanding that the project stop garnered 2,300 signatures. Complainants alleged serious deficiencies in the process, among them a lack of proper public consultation; insufficient consideration given to local economy, tourist resources and local communities; and disregard for the preservation of local biodiversity and marine habitats.

The Egyptian Electricity Holding Company (EEHC), which was to implement the project, argued that the project was in the national interest, as it would address insufficient electricity supply, reduce the risk of blackouts, and balance the overall electricity grid. They identified the project site in part because of the existence of a gas pipeline, an electricity substation, and transmission lines along the Gulf of Aqaba.

The EIB-CM conducted its initial assessment, which included extensive stakeholder engagement and an on-site fact-finding visit to determine the appropriate next steps, namely either a mediation process or a compliance review. The visit made clear that the concerns raised by the claimants were grave. EIB-CM commissioned independent expert reviews in three areas: the project’s impact on marine biodiversity; the economic impact of the project on the local tourist industry; and the social impact of the project on local communities, particularly the Bedouins.

The EIB-CM, supported by the three independent experts, concluded that the complainants concerns were well founded and that, should the plan go ahead, the damage to the environment and the local tourist industry as well as the negative social impact on local communities would be serious and likely irreparable. Moreover, the EIB-CM took the view that these impacts could lead to conflict and even violence. For these reasons, the EIB concluded that it could not fund the project.

EEHC and the Egyptian authorities contested the findings, but nonetheless withdrew their request

for EIB support. A new project, Giza North II power plant, was approved by the EIB Board on September 20, 2011. This project is adjacent to an already-existing power plant in an area without human occupation, a solution that addresses Egypt's power needs without undue harm to people and the environment.

- Provided projected-affected people access to decision-making bodies in IFIs, giving visibility and voice to poor and marginalized people on the wrong end of development trade-offs (see **Box 7: Giving indigenous forest communities a voice**).

#### **Box 7: Giving indigenous forest communities a voice**

The World Bank Inspection Panel has received several complaints from indigenous peoples and civil society groups that represent them about Bank-financed land and forest management projects. Claimants included Pygmy people in the Democratic Republic of Congo, Garifuna people in Honduras, the Naso and Ngobe-Bugle people in Panama, and, representatives of indigenous groups from the Preah Vihear, the Stung Treng and the Oddar Meanchey Provinces in Cambodia. Violation of land rights, loss of livelihood, loss of access to culturally and spiritually significant places, and inadequate participation and consultation were among the harms for which they sought redress.

Panel investigations confirmed that land and forest management projects, if not appropriately planned, appraised, monitored and supervised, inherently risk having serious negative impact on the livelihoods and cultures of indigenous peoples. The issue of collective land rights and their adequate protection were at the core of these complaints. The Panel highlighted risks to collective land rights while noting that land and forest management is complex, difficult to implement effectively, and often politically controversial.

The Panel found in several cases that land titling in itself cannot be expected to spur social and economic development, particularly in the case of indigenous peoples. Forests are their cultural and spiritual home, not merely a place where they obtain material benefits. Forest plants and animals are used for spiritual as well as material purposes. Special attention should be paid to areas of forests that are of particular cultural and spiritual significance to the indigenous peoples living there.

The Panel found that participatory mapping of indigenous peoples' customary forest uses is critical. The economic value from timber production is only one part of the total economic value produced from a forest. Indigenous peoples have to participate in planning to reduce and possibly avoid restricting their access to non-timber resources, such as firewood, bush meat, forest fruit, and medicinal plants. In most cases there is no way of compensating for such losses.

A repeated concern from the indigenous peoples was that their voices and their right to participate are being ignored and their consent is not sought. Indigenous peoples tend to live in remote, isolated areas and exist outside established political systems of representation. The time and resources assigned for consultations have to reflect these circumstances.

- Fostered dialogue and dispute resolution among the parties to address issues of concern to affected communities (see **Box 8: Creating a forum for dialogue in Nicaragua**).

#### **Box 8: Creating a forum for dialogue in Nicaragua**

In March 2008, some 600 people in Chichigalpa, a small agricultural town in Nicaragua, filed a complaint to the Compliance Advisor Ombudsman (CAO) with support from the US-based Center for International Environmental Law, about an epidemic of chronic kidney disease among former workers of Nicaragua Sugar Estates Limited (NSEL), an IFC client and operator of an agro-energy complex. Many of those affected are members of the Chichigalpa Association for Life (ASOCHIVIDA) and believe that this life-threatening disease was caused by working at NSEL's sugar mill (Ingenio San Antonio), a claim which the company has strongly denied.

Confronted with a desperate situation for sick and dying workers and their families, the CAO convened a dialogue table in February 2009 composed of representatives from ASOCHIVIDA and the company, NSEL, to address the issues. Initially, the parties developed a framework agreement which defined their shared desire to understand the cause of the disease in a way that was trusted and credible to both sides and options for supporting those with the disease, including medical attention and income generating opportunities.

#### **Independent Study to investigate the cause of chronic kidney disease**

A critical concern for the parties was to understand the cause of chronic kidney disease through a credible and independent investigation. In a competitive process facilitated by the CAO, the community and company representatives jointly chose Boston University from a pool of nine highly qualified institutions to conduct an independent scientific study. Boston University's work builds on that of other researchers and indicates that the unusual form of chronic kidney disease observed in former NSEL workers is prevalent throughout the Pacific zone of Central America, goes beyond sugarcane workers to impact workers in other industries, and has also been identified in Asia. The disease appears predominantly in males and is likely exacerbated by work under strenuous conditions, such as heat. Boston University's work is unprecedented in Nicaragua considering its scope, rigor, and unrestricted access to the company's operations.

#### **Outcomes for affected community members**

Medical needs for the sick are profound, particularly in light of the lack of options for medication, dialysis, and kidney transplant. These needs are being addressed by improvements to local health services in Chichigalpa, supported by the company and other donors with the approval of the Ministry of Health in Nicaragua. In addition to the US\$ 200,000 provided yearly by the company to help sustain the local health center in Chichigalpa, the CAO's intervention has catalyzed an investment of \$320,000 to build a new clinic with access to dialysis treatment. The dialogue table has also prioritized urgent livelihood needs of community members who are sick and unable to work, and families of workers who have died. Since June 2009, the company has provided basic food provision for more than 2000 members of ASOCHIVIDA on a monthly basis and income generation opportunities for them are being pursued through a \$165,000 microcredit fund and a capacity-building initiative. The company has also committed to donate 100% of the annual profits of a poultry farm to ASOCHIVIDA, starting this year. Additionally, 100 new houses for ASOCHIVIDA members will have been built by September 2012. Total aid provided to affected community members by the company and associated organizations since 2009 is \$4 million, with a further \$1.8 million committed through 2013.

#### **From local to regional solutions**

The community and company continue to meet regularly with the assistance of CAO, and are now finalizing an agreement for continued engagement after CAO concludes its involvement. Given the scope and magnitude of the disease, long term solutions will likely require a regional framework for

research into its cause, inevitably linked to public policy and treatment. All the parties have expressed interest in continuing research into the disease and finding the appropriate avenues to fund it. As a result of this case, public and private entities in Central America have started discussions on organizing a regional conference to prioritize prevention, diagnosis and treatment of the disease, including the Pan-American Health Organization (PAHO) and regional health ministries.

#### ***For IFIs themselves***

- Promoted compliance with policies designed to support sustainability and avoid harm to people and the environment.
- Provided an independent check-and-balance for the boards and management of the IFIs relating to the situation on the ground for the projects that they finance, in support of their fiduciary responsibilities and the larger overall mission of the institutions.
- Provided an overall framework which allows appropriate risk-taking in development projects by establishing a safeguard system to protect against harm to people and the environment in case risks materialize.
- Provided credibility to the IFIs and helped safeguard them against reputational risk.

#### ***For sustainable development more broadly***

- Improved the social and environmental sustainability of projects, both by prompting changes in projects under investigation and by having a deterrent effect on those who would otherwise be less-than-rigorous in the application of safeguards policies, thus supporting broader poverty reduction and sustainable development objectives.
- Created a way for local project-affected peoples, including indigenous peoples, to bring their knowledge, information, expertise, and insights to bear on project design, resulting in efforts that better meet the needs of people living in poverty.
- Improved accessibility and participation by pressing IFIs to adopt widened translation and disclosure practices.
- Supported the intrinsically important right of voice and participation on the part of local people and communities in actions that affect them.

### **3.7 Limitations and challenges in IAM operations**

Despite their achievements, IAMs face both limitations and challenges. There are certainly limitations associated with architecture of the different IAMs presented in this paper. IAMs have also experienced attempts to compromise their independence, hamstring their ability to function, and frustrate their overall aims and objectives; some within IFI management and staff do not readily accept independent oversight without mounting a defense. The existence of IAMs

has triggered an extensive debate in the literature on these limitations and challenges, and some of the points made below draw on this literature.<sup>15</sup>

**Mechanisms are not known to all who could benefit from them.** Most potentially affected communities in borrowing countries, as well as non-governmental organizations (NGOs) that may support and/or represent them, are not aware of IAMs and their roles. What NGOs and project-affected people see on the ground is the government, a company, or a subcontractor implementing a project. Where the financing is coming from is generally quite opaque to them. Research by the Compliance Advisor Ombudsman found, for instance, that most NGOs surveyed did not even know that IFC and MIGA existed. Survey respondents who do not know that a given IFI exists clearly cannot know that a concrete independent accountability mechanism exists within it, or that it has safeguard policies designed to prevent harm to people and the environment. NGOs typically have greater access to information than project-affected people themselves.

This area presents a challenge for all IAMs. Though their websites make clear their roles and ways to contact them, many project-affected people, especially those who most need IAM services, among them indigenous peoples, displaced people, people living in poverty, people living in remote areas, and other socially excluded and disadvantaged populations, tend to lack physical access to computers, language and literacy skills, and other requirements of accessing online information available primarily in English, French, and Spanish. Because IAM staffs are small, they depend upon NGOs and advocacy groups as well as IFI and borrower staff to share information on the IAMs with such populations. In some cases, the involvement of such groups may lead to consideration of broader public interest issues.

The IFIs themselves have a major role to play in making sure that the mechanisms that they created are known to all who could benefit from them, but evidence show that IFI and borrower staff are reluctant in sharing information on accountability mechanisms with people in project affected areas. Also, there have been instances of project-affected people being dissuaded from filing a complaint.

**The decision about whether to initiate an investigation does not always rest with the IAM.** IAMs vary in their degree of structural independence in terms of the decision to initiate a problem-solving exercise or an investigation, potentially creating barriers to access and the appearance, if not the reality, of diminished independence. Some IAMs have the authority to decide independently to pursue problem-solving efforts and/or investigations in response to complaints, whereas for others, the decision rests with the IFI board or IFI president. When the IAM can only pursue board- or president-approved resolution of harm or investigation into noncompliance, the potential exists for the board or president to deny a valid complaint. In practice, however, boards and presidents in recent years have taken the recommendations of IAMs seriously.

**Access to the project site.** In a few rare and exceptional cases, the borrower has limited IAM access to the site or to the complainants. Such access is fundamental for all IAMs in carrying out their mandate in an effective and accurate manner.

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<sup>15</sup> This debate is well covered in Maartje van Putten's 2008 book, *Policing the Banks: Accountability Mechanisms for the Financial Sector*.

**The need (in some IAMs) to first take part in a problem-solving interaction prior to a compliance investigation can be seen as a barrier to access the latter.** In almost all cases, by the time they approach the IAM, complainants have tried, and failed, to resolve their complaints at the local level without satisfaction. For such people, the need to first take part in a different process could seem to be a hurdle they have to overcome in order to obtain redress through an IAM-led compliance review. Since project-affected people are often comparatively powerless, engaging in dialogue with powerful interests who, through their actions, have already or could imminently harm them could seem to be an insurmountable barrier. In practice, IAMs take many steps to level the playing field and protect the interests of complainants in mediation.

#### ***Challenges specific to compliance functions***

**Maintaining independence and impartiality requires vigilance and care.** Maintaining independence and impartiality is crucial to effectiveness and credibility of IAMs, yet these core principles can be challenged in many ways, from reporting arrangements to budgetary constraints to attempts by various parties to influence the process. It is necessary that the structure of the IAMs as well as their process support and maintain independence.

**IAM credibility and effectiveness hinges on the IFI management response and actions.** A key to positive outcomes is that the management of the IFIs takes appropriate and needed actions to respond to IAM findings on noncompliance and harm. In cases where this is not done, accountability, credibility and effectiveness falter. If IAMs are seen as “toothless,” they cannot provide either redress or deterrence.

**Harm not always linked to noncompliance.** The fact that IAMs are only able to trigger the provision of redress when IFI policies have been violated creates potential challenges. People can be harmed by IFI-funded projects even when all relevant policies have been followed or the type of harm alleged is not covered by an existing IFI policy. This may leave project-affected people without a redress mechanism, unless other avenues are available at local, national, or international levels.

**Pressure towards weakening policies.** There have been many changes to IFI policies in recent years. When IAMs were first created in the wake of the first Rio Summit, in 1992, a primary motivating concern was that IFIs had good policies on the books, but a lack of accountability when it came to applying those policies. Twenty years later, it is worth asking whether there are now good structures for accountability, but new challenges facing the policies themselves.

**IFI policy and host country policy may differ.** A disconnect may exist between the IFI policy and the borrower country policy on important issues with grave potential for harm, such as resettlement. With the broad endorsement in the international development community of a need for stronger country ownership in development partnerships, there is a demand from many developing countries that IFI safeguard policies become less prescriptive and more amenable towards strengthening country systems. This will pose new challenges for compliance review based accountability mechanisms.

**Fear of oversight investigation can make staff too risk-averse.** Avoiding a situation in which staff become overly risk averse in carrying out their work due to fear of an oversight

investigation is a real challenge. IFI staff must have a certain willingness to support projects that available information suggests are *very likely* to lead to better outcomes for people but carry with them certain risks stemming from social or economic problems, weak government capacity, or environmental impacts. IAMs need to emphasize that the existence of oversight and recourse mechanisms is an integral part of risk management and enable the institutions to take risks.

**Investigations can be long and can lack space for complainants to participate.** The process of investigations can be lengthy, and investigations do not always allow the complainants sufficient chance for participation and inputs. A positive development is that recent innovations in certain IAMs (e.g. the Compliance Review Panel of the Asian Development Bank) allows for it to share for comments draft reports with complainants and IFI management.

**Follow-up is sometimes lacking.** Some IAMs do not have a follow-up mechanism to assess if and how well its findings and recommendations are being implemented. Given that a right without a remedy is not a right in practice, knowledge of the degree to which the requesters are satisfied or at least fairly compensated for harm and loss is critical.

#### ***Challenges specific to the problem-solving function***

**Problem-solving can be a lengthy process with an uncertain outcome.** Problem-solving processes can be more time-consuming than the involved parties initially expected without guaranteeing them an acceptable outcome. In cases where problem-solving precedes compliance review, there may be other adverse implications, such as delay in determining whether a particular IFI is strictly in or out of compliance subject to the allegations made in the complaint, and for project sponsors, the reputational risks associated with unresolved allegations. However, these downsides can be managed with a robust problem-solving process where parties' expectations are managed upfront and there is a common understanding of what the goals of the process are, and the types of issues that can, and cannot, be addressed in problem-solving compared to compliance review.

**Challenges in building trust.** Complaints often present situations where the parties involved have become stuck in a cycle of conflict. Lack of trust, respect, and imbalances of power often lay at the heart of the problem, and this extends to a mistrust in any information, data or science that may, or may not, have been provided by the project or parties involved. These situations can be extremely challenging and complex for the IAMs to address. Looking for every opportunity to create neutral spaces where parties in a dispute can talk is paramount. A well structured process, for example, joint fact finding or regular dialogue tables, help build trust and can result in parties increasingly moving away from polarized positions towards jointly owned solutions. Third party neutrals who work with the IAMs in problem-solving processes work hard to earn the trust of the parties in conflict. However, if efforts to build trust are perceived as insincere or formulaic, a lack of trust can unravel attempts to build a robust process (See **Box 9: Solving problems when trust has broken down**).

#### **Box 9: Solving problems when trust has broken down**

On November 30, 2010, the Office of Accountability (OA) received a complaint on behalf of two local communities, and a third was added subsequently concerning the Cerro de Oro Hydroelectric

Project. Many of the concerns expressed by the complainants relate to the communities' access to local water resources including a spring and a creek that emerge downstream of the dam, the Cerro de Oro reservoir, and the Santa Domingo River. The Complainants requested that the OA conduct both a problem-solving process and a compliance review.

The Cerro de Oro Hydroelectric Project is planned to be a hydroelectric power facility of up to 15 MW located in the State of Oaxaca, Mexico. Jointly owned by an OPIC-supported investment fund and a Mexican partner, the project will make use of the existing Cerro do Oro Dam and reservoir, originally constructed for flood control in the 1980s. To direct water from the reservoir to power turbines, a tunnel would be constructed through a rock wall adjacent to the dam curtain. An existing creek would be modified to return the water to the Santa Domingo River about two kilometers downstream. When the complaint was filed, approvals had already been obtained from the Mexican authorities; most land rights had been acquired for the project's infrastructure; and some construction activities had been undertaken.

The OA found the three communities to be eligible and initiated a voluntary problem-solving process using a professional mediator in March, 2011. The dialogue, which continued through November, 2011, achieved the following:

- The company suspended construction activities to build trust with the communities, ceded the decision about the project's future to them, and presented an alternative design.
- An independent expert on dam safety concluded that the dam is safe, and the federal water ministry corroborated the expert's findings and committed to monitoring the dam in the future.
- The company made a commitment to capitalize a community development fund over the life of the project.

Despite these notable achievements, the OA determined that a lack of trust between the parties and by the parties in the dialogue process would continue to inhibit the OA's ability to resolve the conflict. Moreover, divergent interests led the most affected community to support the project, while the other three communities engaged in the dialogue opposed it. The OA catalyzed a transition from supporting the dialogue process to a consultation led by the Oaxaca state governor's office. As of February, 2012, the state government-led consultation is moving forward, while the project's future remains uncertain. The OA has initiated the compliance review phase of the case.

The OA gleaned several lessons from the problem-solving phase of this case:

- Technical studies are more likely to be of value in a problem-solving process when all parties agree in advance on the standards they will apply to evaluate the study's findings.
- To the extent that the integrity of the dialogue process is preserved, the OA can build trust by being willing to deviate from established norms (e.g. expanding the number of participants at the dialogue table, providing for professional videotaping of a meeting, and allowing local politicians to sit at the table).
- If the OA is able to establish a direct relationship with complainants early on, it can identify and confirm their underlying interests, thereby enhancing the likelihood of success of the problem-solving process.
- All parties must be able to freely and openly express their interests throughout the problem-solving process, without coercion or fear of reprisal.
- The engagement of public authorities can be useful especially when there is a significant political dimension to the complaint, their engagement is seen by both parties as adding value, and when parties have otherwise reached an impasse in negotiations.

**Good problem solving is locally driven and focused on outcomes, but may not address systemic causes of conflict.** Problem-solving is most effective when it is driven locally by the principal parties – those that are closest to, and most likely to be impacted by, the problem – with a focus on solutions that result in better outcomes on the ground. This often means designing a process where both the community and project representatives are the principals in a dialogue or mediation. They have the responsibility to determine who else should be present, and what the ground rules of dialogue will be. This requires a commitment to flexibility and adaptation on the part of the IAM as convener to ensure that there is clarity and discipline in achieving outcomes that are meaningful for the parties. The advantage of focusing responsibility back on the parties is that it encourages ownership and control of the process by those people who will ultimately have to live with the outcomes of it. However, once agreements are reached, this alone will not represent a breakthrough in a conflict unless the agreements are implemented and progress is monitored before the IAM exits. Even when local agreements are successfully implemented, they may not overcome more systemic causes of conflict in a locality, region or country that may stand in the way of more sustainable outcomes for the parties involved.

**Problems can have deep roots.** As pointed out in the “CAO at 10” report,<sup>16</sup> even when parties to an IAM-convened problem-solving process reach an agreement, efforts to transform underlying causes of conflict may be needed to achieve durable solutions due to deeply entrenched patterns of distrust. Typically, there are tremendous challenges involved in problem solving in the context of large scale development projects such as those supported by the IFIs. Given the scale and complexity of these types of multiparty disputes that come to the IAMs, the fact that successful resolution of grievances is achieved in some cases through collaborative problem solving is encouraging. There is no one model or solution that fits all situations, which is why the inherent flexibility of the problem-solving approach can be advantageous in enabling the IAMs to learn from failures, address challenges, and gain a better understanding of success factors that can improve the effectiveness of their interventions.

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<sup>16</sup> The CAO at 10: Annual Report FY2010 and Review FY2000-10.

#### **4. THE NEXT TWENTY YEARS: A FORWARD-LOOKING AGENDA**

The work of IAMs over the last twenty years has contributed significantly to improving IFI social and environmental performance—and thus advancing the goals of Agenda 21 and the realization of Principle 10—by pursuing issues of compliance and the responsible application of standards and by providing redress for harm done. Their work has created opportunities to improve the design of development projects by giving affected communities a voice, by engaging them in early problem-solving, and by ensuring that the concerns of project-affected people are heard and addressed by IFI management, local and national decision-makers, and public and private sector operators. In so doing, IAMs have helped IFIs fulfill their poverty alleviation and sustainable development mandates. In addition, IAMs have broken new ground in international law, challenging the notion that states are the only legitimate actors on the global stage and broadening the definition of accountability.

In the twenty years ahead, IFIs will continue to grapple with the tradeoffs inherent in striking a balance between environmental sustainability, equitable social development, and economic growth. At the same time, the need to ensure that economic growth is resource-efficient and lower-carbon (the “green economy”), promoting climate resilience and addressing climate change effects, will grow. Sectors that are particularly critical to the green economy are energy, water, and land use, particularly agriculture—sectors that, in IAM experience, have been subject to the highest numbers of complaints. In this context, the need for robust accountability mechanisms within both IFIs and the overall institutional framework for sustainable development will only increase. Some groups are already concerned that poverty reduction, social equity, and the Millennium Development Goals and objectives of particular concern to traditionally marginalized groups may be de-emphasized in favor of new objectives in the post-Rio+20 age.

The experiences of IAMs offer many lessons learned that can inform the development of an institutional framework and improve governance for sustainable development in the future, particularly for developing mechanisms to bolster accountability to people themselves and prevent harm to people and the environment. The IAM experience shows in particular that:

**Equitable, sustainable development requires robust accountability mechanisms.** Robust accountability mechanisms with teeth are required to ensure that people do not suffer harm, that they enjoy their fair share of the benefits of development, and that society’s less powerful have direct access to those whose decisions profoundly affect their lives. Principle 10 of the Rio Earth Summit Declaration argued for the provision of “effective access to judicial and administrative proceedings, including redress and remedy.” Experience at the IFIs since then provides lessons on how to set up citizen-driven accountability systems and shows that these systems both give greater voice to citizens affected by IFI-financed projects and lead to better development outcomes.

**Establishing such mechanisms at bilateral institutions and in borrower countries will become increasingly important.** While IFIs have taken a pioneering step in establishing citizen-driven accountability mechanisms, in the next twenty years it will be crucially important for other international development financiers to develop their own approaches to citizen-driven accountability. Furthermore, the establishment of strong and effective national citizen-driven

accountability systems by borrower countries is particularly important in the context of new lending instruments where national safeguard systems are applied.

**Meaningful participation of project-affected people leads to better outcomes for everyone.** Indigenous peoples, people living in poverty, disabled people, and others who are comparatively vulnerable, marginalized, and powerless in their societies possess valuable knowledge about the environment and about their own situation. In addition, they are the experts about their values, beliefs, ways of life, and priorities for the future. Creating robust mechanisms for meaningful participation and recourse of such people in project design and implementation is more likely to result in projects that comply with safeguard policies and, more importantly, advance people's well-being, promote the realization of their rights, and are socially and environmentally sustainable.

**Demands for accountability will only increase.** Notions of what development and accountability mean have irrevocably changed, and the means by which people themselves can hold IFIs, governments, NGOs, private sector actors, and others accountable—from greater access to information through the internet to laws and policies that require meaningful participation to organizing tools like social media—are more diverse and potent. There's no going back, nor should we wish for this.

#### *Recommendations for the future of the IAMs*

Looking ahead to the next twenty years, how can IAMs evolve to support the post-Rio+20 agenda, particularly in relation to the green economy and a new governance framework for sustainable development, and how can they do so in ways that continue to strengthen and support Principle 10? How can IAMs help people exercise their right to hold their governments and IFIs accountable for their environmental and social policies and the impacts of those policies? Of particular importance will be the question of effective redress.

IAM effectiveness would be enhanced by strengthening them to address current constraints and limitations identified in section 3.7, thus allowing for more robust accountability and better meeting the challenges of a changing world. Some of these changes are **institutional**, such as the ongoing emergence of new financial instruments to fund development, more extensive involvement of the private sector in all aspects of development, the evolution of an international aid architecture toward greater country ownership, and a shift to greater results orientation and mutual accountability. Other changes are **environmental**, such as the need to mitigate and adapt to the effects of climate change and address ballooning demand for energy, food, land, and water while at the same time working to “green” the economy. Critical, too, are **social and cultural** changes related to people’s expectations with regard to participation, self-determination, and the fulfillment of their human rights. The capability and desire of communities to assert their own vision of what constitutes development progress and reject plans that run counter to that vision grows ever stronger, and with it local demands for accountability. The following areas are important for continued IAM relevance in the post-Rio+20 environment:

**Ensure that the core principles of citizen-driven accountability are protected and strengthened across the IAMs.** Independence, impartiality, transparency, integrity and professionalism, accessibility, and responsiveness: these principles are the building blocks of trust. As discussed

in section 2.1, without the trust of all stakeholders, from project-affected people and the broader civil society to the IFI boards, presidents, and management, IAMs cannot function in a meaningful way.

**Strengthen the capacity of IAMs to reach those whose interests they were designed to protect, namely poor and marginalized communities.** Today, too few people who need IAMs are able to access them. The chief bottleneck appears to be lack of knowledge about both IFIs and IAMs, a major challenge discussed in section 3.7. The existence and mandates of IAMs must become more widely known if people are to access them. Possible mechanisms include more presentations by IAMs at national gatherings of NGOs and other advocates; publication of easy-to-understand materials in local languages for dissemination to project-affected communities; and greater capacity-building for IFI staff. To address issues of capacity, one proposal has been to create a budget line in IFI projects to cover the cost of information dissemination related to IAM activities.

**Build the capacity of the IAMs to take on potentially greater oversight responsibilities with respect to emerging issues.** Emerging institutional, environmental, and socio-cultural trends and challenges require new capabilities on the part of IAMs. For example, knowledge of the ways in which development projects can result in greater exposure and vulnerability of local communities to climate change and variability will become increasingly important. Trends in development finance, such as growing IFI use of financial intermediaries, could pose challenges to the effectiveness of accountability mechanisms if not well understood. Various sorts of new lending instruments pose new accountability challenges. A new emphasis on green growth could result in less attention paid to social equity or consultation. Asymmetrical information weakens oversight, so it is critical that IAM either have expertise of their own on a range of new, often highly technical, areas, or have the resources to access such expertise.

**Explore the role of IAMs in the context of greater country ownership and national capacity-building for problem-solving and the provision of redress.** Given both the fact that IFIs fund only a small share of development projects in a given country and the current transition, within some IFIs, towards financial instruments where funding constitutes a fraction of a larger program or sector, many projects could fall outside the IAM purview. The role of IAMs in a future, post-Rio+20 aid architecture that will be shaped by a multi-polar world in which country ownership is strong needs careful consideration. IAMs cannot be imposed on borrowers, yet IFIs must be accountable in their lending not just to their own boards, but also to project-affected people and those who seek to ensure environmental sustainability.

**Improve the communications capacity of the IAMs to facilitate organizational learning.** A wealth of information is gained through the problem-solving and compliance review processes. Making this information available in an accessible and useful form to inform new program and project development is a role IAMs are well-placed to play. Though all the mechanisms make the lion's share of their findings public, and some transmit lessons learned through their advisory function, there is a need for user-friendly, accessible guidance that would help IFI staff avoid common pitfalls.

**Strengthen the role of IAMs in follow-up.** The work of IAMs is essentially for naught if IFI management does not follow through on delivering redress agreed to in the management response or action plan. Follow-up has been a challenge for many IAMs, as discussed in section

3.7. In the course of problem-solving and compliance investigation, project-affected people incurred high opportunity costs by devoting scarce resources to the IAM process, invest tremendous emotional energy, see their hopes and expectations raised, and, in some cases, expose themselves to significant personal risk of retribution. For IFI management to then fail to implement effective redress when harm has been found is inimical to the spirit of citizen-driven accountability. Developing mechanisms that give the IAMs a greater role in the follow-up to a case to ensure that remedies are effective and properly implemented and are viewed by the complainants as adequate is thus critical.

**Further strengthen the coordination among IAMs.** IAMs are not all the same, but they share many common challenges, types of cases, and constraints. In recognition of this fact, IAMs have joined together in the Independent Accountability Mechanism Network (under whose auspices this paper was produced) to share effective approaches and support one another's work. The IAM Network meets periodically and maintains a shared internal website for information-sharing. There is scope for the production of jointly produced guidance materials, cosigned opinion pieces, a jointly conducted self-evaluation, and other measures to create synergy and improve capacity. As more and more projects are co-financed by more than one IFI, there is room for seeking some degree of harmonization.

**Promote the realization of human rights.** Not just activists and legal scholars but also IFI boards, management, and staff themselves now reject the idea that IFIs can or should make decisions solely based on economic factors. The whole international human rights regime, including the 2007 UN Declaration on the Rights of Indigenous Peoples, sees economic factors as inextricably linked to the realization of the full complement of human rights. In addition, the poverty reduction mandates of many IFIs are arguably rooted in a human rights framework. If IFI mandates are revised to reflect human rights principles more explicitly, rather than just implicitly as now, the roles and responsibilities of the IAMs will change significantly, though questions remain as to whether IFIs will incorporate clearly recognizable human rights language in their policies.

In 2003, the Asian Development Bank (ADB) created the Accountability Mechanism (AM) to replace the Inspection Function and to provide an independent forum where people adversely affected by ADB-assisted projects can voice and resolve their problems and can report alleged noncompliance of ADB with its operational policies and procedures. The AM is part of ADB's efforts to enhance development effectiveness and improve project quality by being responsive to the concerns of people affected by projects, and by being fair and transparent to all stakeholders. The Mechanism has two separate phases: the Consultation and the Compliance Review phases. The ADB Accountability Mechanism is currently under review. More information at: [www.compliance.adb.org](http://www.compliance.adb.org)

### The Office of the Special Project Facilitator – the Consultation Phase

➤ **Mandate:** Promotes consensus-based problem solving, seeking agreement among all parties in identifying the matters in dispute, ways to resolve the problems, and the time frame required. People who believe that they have been adversely affected by an ADB-assisted project can use the consultation process regardless of whether ADB's operational policies and procedures have been violated. However, complainants must first attempt to resolve their problems in good faith with the assistance of the concerned ADB operations department.

#### ➤ Problem-Solving Activities:

- OSPF seeks consensus among stakeholders – including ADB, the complainant, the executing agency, and the developing member country government or the private project sponsor regarding the complaint, the acceptable method for resolution, and the time frame for resolution.
- It uses flexible problem-solving approaches, including convening meetings with various stakeholders, organizing consultation processes, and engaging in a fact-finding review of the situation.
- It suggests actions to deal with the complaint directly.

#### ➤ Problem-Prevention Activities:

In addition to its prominent role in handling complaints from project-affected people, OSPF is also mandated to carry out proactive activities intended to strengthen the internal problem-solving capacity of ADB's operations departments. These activities include:

- Collating and integrating internal and external problem-solving experiences to be fed back into ADB operations, including the formulation, processing, and implementation of projects;
- Providing generic problem-solving support and advice to the operations departments, but not for specific cases under review by those departments; and
- Conducting outreach programs to the public.

OSPF is headed by the Special Project Facilitator, who is independent of the operations departments and reports directly to the ADB President.

### The Compliance Review Panel – the Compliance Review Phase

➤ **Mandate:** Provides a mechanism through which project-affected people (and in special circumstances, any Board member) can file filing requests for compliance review if they believe that ADB has not followed its policies and procedures.

#### ➤ Functions:

- Compliance reviews focus on whether ADB has or has not complied with its operational policies and procedures in connection with the particular project under compliance review. They do not investigate the borrowing country, the executing agency, the borrower, or the private project sponsor.
- The Compliance Review Panel (CRP) investigates alleged violations by ADB of its operational policies and procedures in any ADB-assisted project that directly, materially, and adversely affect local people in the course of the formulation, processing, or implementation of the project.

#### ➤ Activities of the CRP:

- Receiving and determining the eligibility of a request for compliance review
- Engaging with all project stakeholders to thoroughly understand relevant issues
- Conducting thorough and objective reviews of policy and procedural compliance
- Coordinating with co-financing institution compliance review mechanisms
- Issuing draft compliance reports and seeking comments from ADB Management and requesters
- Issuing final reports to the Board with its findings and recommendations
- Informing requesters of the Board's decision
- Monitoring the implementation of the Board approved recommendations and providing requesters with monitoring reports
- Issuing annual reports
- Developing a roster of independent technical experts for carrying out its work
- Liaising with accountability mechanisms at other institutions

#### ➤ Secretariat

The Office of the Compliance Review Panel (OCRP) provides secretariat support to the CRP and is responsible for conducting outreach and inreach on compliance review.

# Complaints Mechanism of the European Investment Bank 1/2



The EIB Complaints Mechanism is a vital tool of horizontal accountability of the EIB Group vis-à-vis its stakeholders for the handling of complaints concerning its activities. It aims at providing the public with procedures enabling the alternative and pre-emptive resolution of disputes between the latter and the EIB Group, including adequate engagement with stakeholders. It provides recourse for people affected by EIB decisions, actions or omissions. Individuals, organisations or corporations that have concerns about the EIB Group's activities can use the EIB Complaints Mechanism for help. When exercising the right to lodge a complaint against the EIB, any member of the public has access to a two-tier procedure:

Internal - a complaint against the EIB is at first handled internally by the Complaints Mechanism Division (EIB-CM), which will seek a solution to the case and may advise the EIB on remedial and/or corrective action, if necessary.

External – in case of failure of the EIB-CM to find a solution and/or to provide an appropriate response, escalation of the complaint is possible to a separate, fully independent European Union institution, the European Ombudsman.

In order to strengthen the EIB's Complaints Mechanism, the EIB and the EO signed a Memorandum of Understanding (MoU) in 2008 which achieves a common understanding of purpose and consistency of application across the internal and the external parts of the complaints mechanism.

The European Ombudsman	EIB-CM
<p>The <b>European Ombudsman</b> (EO) was created by the Maastricht Treaty of 1992 as an EU institution with power to investigate <b>maladministration</b> by any EU institution (including the EIB). Maladministration includes failure to comply with human rights, with the applicable law, or with the principles of good administration. Good administration includes, for example, acting fairly and in accordance with announced policies, providing information on request, and avoiding unnecessary delay. An investigation may be opened on the basis of a complaint or the EO's own initiative.</p> <p>The EO is one of the key instruments of public or "horizontal" accountability of the Union's institutions. The Amsterdam treaty in 1997 and the Nice Treaty in 2001 further strengthened the accountability of the institutional framework of the EU. With the entry into force of the Lisbon Treaty in December 2009, the Charter of Fundamental Rights of the European Union became legally binding.</p> <p>When maladministration is found, the EO tries to find a friendly solution. If not possible, the EO may make public criticisms and recommendations, including special reports to the directly-elected European Parliament.</p>	<p>In February 2010, the EIB Board of Directors approved the revised "EIB Complaints Mechanism Principles, Terms of Reference and Rules of Procedure" (CMPTR), which were based on the MoU between the EIB and the EO and were subject to extensive public consultation.</p> <p>The EIB-CM internal Operating Procedures have been submitted for consultation to the European Ombudsman and approved by the EIB Management Committee in November 2011. The procedures fully implement the CMPTR and aim (i) at clarifying, improving and formalising current processes, (ii) to facilitate, streamline and better ensure handling of complaints, and (iii) facilitate a better cooperation among the relevant internal and external stakeholders.</p> <p>The mission of the EIB-CM is to centrally and objectively deal with all complaints from the public concerning alleged maladministration by the EIB, to ensure that stakeholders dispose of appropriate means with a view to voicing their concerns in case of disputes with the EIB and to provide the adequate forum for problem-solving in relation to the issues raised.</p> <p>The EIB-CM is independent from operational activities and ensures that each complaint is dealt with by the highest standards of objectiveness. It reviews the admissibility of each complaint and decides which procedures to follow. Its findings, conclusions and recommendations are submitted to the EIB Management Committee or to the EIF Chief Executive for EIF related complaints. Its annual Activity Report is submitted to the EIB Board of Directors.</p>

# Complaints Mechanism of the European Investment Bank 2/2



Guiding Principles	Roles
<ul style="list-style-type: none"> <li>Subject to any applicable legal constraints, the EIB Complaints Mechanism shall be <b>transparent</b> in its operations and outputs.</li> <li>The EIB Complaints Mechanism shall be <b>independent</b> of the services, which are responsible for the activities challenged by the complainant.</li> <li>The EIB Complaints Mechanism shall be <b>effective</b> in responding in a <b>timely</b> manner to concerns expressed by people being or feeling affected by EIB decisions.</li> <li>The EIB Complaints Mechanism shall be part of the <b>institutional</b> context of the European Union.</li> <li>The EIB Complaints Mechanism shall be <b>accessible</b> to affected people, their representatives and/or interested organisations or individuals.</li> <li>In the light of these principles, the development of the EIB Complaints Mechanism shall be the result of an open <b>consultative process</b> with EIB's various stakeholders.</li> </ul>	<ul style="list-style-type: none"> <li><b>Mediation</b> – If agreed by all parties involved, the EIB-CM can facilitate different forms of collaborative resolution processes between the Complainants/Requestors and the Bank's Management/Services and/or Project Promoter and/or national authorities as appropriate.</li> <li><b>Investigation</b> – The EIB-CM may perform investigations / compliance reviews to determine the EIB's compliance with applicable rules, regulations and other provisions, such as policies and standards and, if applicable, to evaluate the adequacy of the relevant provisions.</li> <li><b>Monitoring</b> – The EIB-CM follows-up on further developments and implementation of proposed corrective actions and recommendations, accepted by the EIB.</li> <li><b>Advisory</b> – Within the scope of its responsibilities, the EIB-CM provides advice to the EIB Governing Bodies on broader and systemic issues related to policies, standards, procedures, guidelines, resources, and systems, on the basis of lessons learned from the complaints handling.</li> </ul> <p>Complainants may specifically ask for mediation or investigation or a combination of the two. The EIB-CM decides on the procedures to follow, taking into account the specific requests, the opportunities for mediation and the need to assess compliance.</p>
Outcomes	Processing and Output
<p>The EIB-CM is committed to conducting assessments, followed by investigations and or consultative resolution processes if deemed necessary, into all admissible complaints and to engaging with all stakeholders as necessary in order to arrive at an informed and reasoned opinion and, if possible, to a solution of the problem. The results of the EIB-CM process may be any combination of:</p> <ul style="list-style-type: none"> <li>No problem(s) found / No further action required</li> <li>Problem solved during the complaint handling process</li> <li>The recommendation of corrective action(s)</li> <li>The recommendation of improvements to EIB existing policies or procedures.</li> </ul> <p>Other outcomes are: the systemic observations in terms of corporate learning; the follow-up in terms of implementation of recommendations; public awareness in terms of publication and outreach and awareness sessions.</p>	<p>The process for handling complaints will be modulated according to (i) the complexity of the complaint, (ii) the existence of "red flags" indicating that the complaint could be grounded and (iii) facts revealed during the assessment / investigation process. The first step is an Initial Assessment phase to determine the seriousness of the concerns raised. If justified, an investigation, including a compliance review, will take place. If deemed necessary and useful, this investigation / compliance review may be supplemented by other problem solving and mediation techniques, with a view to properly address the issues raised. At the end of the complaint handling process the EIB-CM produces its final Conclusions Report.</p> <p>For complaints regarding EIB lending operations a more extensive and formal process applies, with an Initial Assessment Report produced with a decision whether or not to proceed and a clear outline of the course of action proposed.</p> <p>Both the Initial Assessment Report and the Conclusions Report are submitted in draft form for comments to the relevant stakeholders. During the handling of the complaint, the EIB-CM may produce an internal interim report for the attention of the Management Committee, with specific recommendations if applicable.</p>



# Compliance Advisor Ombudsman (CAO) for the International Finance Corporation (IFC) & Multilateral Investment Guarantee Agency (MIGA), World Bank Group

The Office of the Compliance Advisor Ombudsman (CAO) was established in 1999 as the independent recourse mechanism for the private sector arms of World Bank Group - the International Finance Corporation (IFC) and Multilateral Investment Guarantee Agency (MIGA). The CAO addresses complaints from individuals and communities affected by IFC and MIGA projects, and reports directly to the President of World Bank Group.  
Find out more at: [www.cao-ombudsman.org/](http://www.cao-ombudsman.org/)

Mission, Roles, Responsibility and Areas of Focus	Key Outputs, Practices and Engagement with Internal and External Stakeholders
<ul style="list-style-type: none"><li>➤ <b>Mission:</b> The CAO is mandated to address environmental and social concerns.</li><li>➤ <b>Roles, Responsibility and Areas of Focus:</b><ul style="list-style-type: none"><li>▪ <b>CAO Ombudsman</b> responds to external complaints by individual(s), group(s), or organization(s) that are affected by IFC/MIGA projects and attempts to resolve fairly the issues raised using a flexible problem solving approach. Engages directly and independently with the complainant after procedural eligibility screening.</li><li>▪ <b>CAO Compliance</b> independently oversees project-level audits of the social and environmental performance of IFC/MIGA to assess whether the actual social or environmental outcomes are consistent with the desired effect of the policy provisions, and whether failure by IFC/MIGA to address social or environmental issues resulted in outcomes that are contrary to the desired effect of the policy provisions. Audits/Appraisals can be initiated at the discretion of the CAO VP, by the President, by IFC/MIGA Senior Management, or by transfer from CAO Ombudsman.</li><li>▪ <b>CAO Advisor</b> provides guidance to the President of the WBG and Management of IFC and MIGA on strategic issues and emerging trends based on lessons learned from CAO Ombudsman and CAO Compliance cases.</li></ul></li><li>➤ <b>Reports to the World Bank Group president and informs the Board:</b> CAO also meets with the WBG Board's Committee on Development Effectiveness (CODE) on an annual basis.</li><li>➤ CAO has an independent <b>Strategic Advisors Group (SAG)</b> that meets twice a year.</li></ul>	<ul style="list-style-type: none"><li>➤ <b>Key outputs:</b><ul style="list-style-type: none"><li>▪ Provides externally triggered accountability.</li><li>▪ Resolving disputes between affected people and IFC/MIGA project sponsors.</li><li>▪ Holds IFC/MIGA accountable by project level compliance appraisals and audits.</li><li>▪ Monitors all cases until actions taken by IFC/MIGA have demonstrated intended effect.</li><li>▪ Enhances IFC's/MIGA's social and environmental performance by its advisory work, based on dispute resolution and compliance cases.</li></ul></li><li>➤ <b>Practices:</b> Follow-up on CAO recommendations to IFC/MIGA:<ul style="list-style-type: none"><li>▪ Every case-specific recommendation/ audit finding is monitored and reported by CAO until addressed by IFC/MIGA.</li><li>▪ IFC/MIGA responses are monitored and reported annually in CAO's Management Action Tracking Record (MATR).</li><li>▪ Every case is evaluated by stakeholders in a 360 analysis (Monitoring &amp; Evaluation).</li></ul></li><li>➤ <b>CAO engages with internal and external stakeholders:</b><ul style="list-style-type: none"><li>▪ Quarterly briefs to the President, annual briefing to CODE, quarterly meetings with IFC and MIGA.</li><li>▪ Active global outreach program to international, regional ,and national civil society, academia, industry and people most likely to need CAO's services.</li></ul></li></ul>



# Examiner for Environmental Guidelines of Japan Bank for International Cooperation

Japan Bank for International Cooperation (JBIC), a Japanese public finance institution, introduced objection procedures simultaneously with implementation of its Guidelines for Confirmation of Environmental and Social Considerations ("Guidelines") to ensure its compliance with the Guidelines. The Examiner for Environmental Guidelines ("Examiner") was established as an entity under the direct control of the Governor of JBIC and independent of departments responsible for individual lending or investment projects, and environmental analysis ("Operational Department"). In the process, a request to raise objection may be submitted with respect to the projects in which JBIC provides funding and in which substantial damage has actually been incurred or is likely to be incurred in the future, due to JBIC's non-compliance with the Guidelines. For further information please see JBIC website: [www.jbic.go.jp/en/about/environment/guideline/disagree/index.html](http://www.jbic.go.jp/en/about/environment/guideline/disagree/index.html)

Mission, Roles, Responsibility and Areas of Focus	Key Outputs, Practices and Engagement with Internal and External Stakeholders
<ul style="list-style-type: none"><li>➤ <b>Mission:</b> The objectives of the procedures are (1) to investigate facts as to whether or not the Guidelines have been complied with by JBIC and report the results thereof to the Governor of JBIC; and (2) to encourage dialogues between the parties concerned based on their consent in order to assist early resolution of disputes concerning specific environmental and/or social problems caused by the JBIC-funded project, which arose due to JBIC's non-compliance with the Guidelines. This JBIC procedure is based on principles of "Independence", "Neutrality", Efficiency", "Promptness" and "Transparency".</li><li>➤ <b>Roles, Responsibility and Areas of Focus:</b><ul style="list-style-type: none"><li>▪ <b>Investigation on the facts of compliance with the Guidelines:</b> The Procedures call for the Examiners to conduct an independent and impartial investigation when objections are submitted by the parties affected, such as local residents, in line with the Procedures, and to report the results to the Governor.</li><li>▪ <b>Encouragement of dialogues in an attempt to resolve disputes:</b> In addition to the role in assessing compliance with the Guidelines, the Examiners also contribute to the speedy solution of problems by fostering the dialogue between the parties concerned.</li><li>▪ <b>Report to the Governor:</b> The Examiner shall prepare a report and submit it to the Governor. If the Examiner determines that the Guidelines have not been compiled with by JBIC, the Examiner may recommend to the Governor possible measures to cure such non-compliance, as necessary.</li><li>▪ <b>Transparency:</b> The activities of the Examiner must, in principle, be open to the public and must contribute to the furtherance of JBIC's accountability.</li></ul></li></ul>	<ul style="list-style-type: none"><li>➤ <b>Key outputs and practices:</b><ul style="list-style-type: none"><li>▪ <b>Eligibility:</b> Assesses eligibility of requests for Inspection at "preliminary Investigation" stage. If the Examiner deems that the request satisfies the requirements to commence the procedures and that the description in the request are fairly reasonable, make a decision to commence the procedures. Also, the Examiner may suspend to make a decision to commence the procedures if a dispute concerning the project is pending before, or already adjudicated by, judicial or administrative proceedings and if the Examiner deems that the issue involved in such proceedings and the JBIC procedure are substantially identical.</li><li>▪ <b>Investigation reports and findings:</b> The Examiner shall prepare a report setting forth the results of investigation of the facts of compliance with the Guidelines, the progress of dialogues and the agreement between the parties concerned if a settlement is reached, and submit such report to the Governor.</li><li>▪ <b>Opinion of the operational department:</b> After the submission of the Examiner's report, the Operational Department shall submit its opinion in writing to the Governor setting forth its opinions on the Examiner's report and, in the case that the Examiner concluded in their report that the Guidelines have not been complied with by JBIC, measures to be taken from then on for JBIC's compliance with the Guidelines, as necessary.</li><li>▪ <b>Follow-up:</b> Instructions issued by the Governor in consideration of the Examiner's report, the opinion of the Operational Department and the opinion of the parties concerned shall be implemented by the Operational Department. The Examiner shall be informed of the status of implementation by the Operational Department of the instructions and report it to the Governor in the Examiner's annual report of activities.</li><li>▪ <b>Annual report:</b> The Examiner shall prepare an annual report of activities and publicize it on JBIC's website.</li></ul></li><li>➤ <b>Examiner engages with the following internal and external stakeholders:</b><ul style="list-style-type: none"><li>▪ <b>Governor</b> (head of Bank Management, reports directly to him/her);</li><li>▪ <b>Bank Management</b> (independent, investigates compliance);</li><li>▪ <b>External Stakeholders</b> (project affected people including the Requester, project proponents, etc.).</li></ul></li></ul>

# Independent Consultation and Investigation Mechanism of the Inter-American Development Bank

The IDB Board of Executive Directors established ICIM, which became effective on September 9, 2010. More details at: [www.iadb.org/icim](http://www.iadb.org/icim)

Mission, Roles, Responsibility and Areas of Focus	Key Outputs, Practices & Engagement with Internal & External Stakeholders
<p><b>Mission:</b> The ICIM's core mission is to respond to Requests of individuals , organizations and/or communities that have been or believe they will be impacted because IDB has departed from its Operational Policies, thus contributing to more sustainable development results in the LCR Region.</p> <p><b>Roles, Responsibility and Areas of Focus</b> The ICIM is led and managed by the three Principals: Executive Secretary, Project Ombudsperson and Panel Chairperson. They report directly to the Board of Executive Directors of the Bank. The Project Ombudsperson and the Panel have functional independence and act on their own initiative and according to their best judgment, in a manner consistent with the ICIM Policy.</p> <p>► <b>Consultation Phase:</b> The main objective of this phase is to provide individuals and communities with an opportunity to voice and address their concerns through a solution seeking dialogue sponsored by the Project Ombudsperson. The approaches and tools used in the Consultation Phase are flexible and collaborative, giving the parties the opportunity to find agreeable remedial options and adequate mitigating measures. In addition, as a result of the Consultation Phase, the Project Ombudsperson would identify systemic issues that might have contributed to the specific situation; gather lessons learned and extract good practices targeted to improve the social and environmental sustainability of IDB's operations.</p> <p>► <b>Compliance Review Phase:</b> Enables individuals and communities to request an investigation of a Bank-Financed Operation by a Compliance Review Panel when they reasonably assert that their rights or interests have been, or could be expected to be directly, materially adversely affected by the failure of the IDB to follow its relevant Operational Policies. The objective of a Compliance Review investigation shall be to establish whether (and if so, how and why) any Bank action or omission, in respect of a Bank-Financed Operation, has resulted in non compliance with a Relevant Operational Policy and direct, material and adverse effects (potential or actual) exist.</p> <p>► <b>Principles:</b> The ICIM follows, among others, the principles of independence, integrity, impartiality, collaboration, responsibility and predictability, Promotes transparency in Bank operations through its Public Registry, and pursues a positive impact on Bank-finance operations.</p>	<p><b>Key outputs and practices:</b> ICIM's products (effective Consultations and effective Compliance Reviews) contribute to improvements in the adherence to and the implementation of Operational Policies, and thus to better and more sustainable projects and their results.</p> <ul style="list-style-type: none"> <li>► <b>Consultation Phase</b></li> <li>► <b>Eligibility Determinations:</b> Being the entry point for the Mechanism, during the Consultation Phase the first analysis of requests is carried out to ensure that the eligibility criteria set forth in the ICIM Policy is met and no exclusion applies. During this <i>initial prima facie</i> analysis, the merits of the request are not assessed.</li> <li>► <b>Assessment Reports:</b> These allow a close-up aimed at gathering relevant information and performing an in-depth analysis of the requests and their alleged impacts, potential or actual.</li> <li>► <b>Dialogue or Solution-Seeking Process:</b> These are collaborative exercises that help the parties in the clarification/prioritization of issues. Dialogue processes constitute an early warning tool to prevent and/or manage escalation risks, among other.</li> <li>► <b>Consultation Reports:</b> Are also the closing reports of the Consultation Phase in which the process since inception is recorded; the main results and outcomes of the effort are made public and systemic lessons are identified and collected.</li> <li>► <b>Compliance Review Phase</b></li> <li>► <b>Eligibility reports:</b> If requesters decline to participate in a consultation or if consultations do not lead to agreements, then the Panel conducts another eligibility determination to take account of evolving circumstances.</li> <li>► <b>Investigation reports and findings:</b> Independent investigation and fact-finding assesses project-level policy compliance, and leads to remedies for harm to people and environment. Findings reported directly to the Board.</li> <li>► <b>Bank Management Responses and Action Plan:</b> In response to Panel findings on compliance and harm, Bank Management prepares Response and Action Plan (with Government) to address findings. Reports and findings are made available to requesters, affected people and the public.</li> <li>► <b>Systemic Observations, Corporate Learning:</b> Reports and Management Responses include systemic observations and lessons learned which promote corporate learning and transparency through their publication.</li> <li>► <b>Public Awareness:</b> Produces publications to inform public of its activities and for outreach (Annual Report, press releases, etc).</li> <li>► <b>Case Studies :</b> Based on lessons learned, the ICIM produces case studies in support of institutional strengthening and development effectiveness of IDB operations.</li> </ul> <p><b>ICIM engages with the following internal and external stakeholders:</b></p> <ul style="list-style-type: none"> <li>► <b>IDB Board</b> (reports directly to the Board) and <b>MIF Donors Committee</b>;</li> <li>► <b>Management:</b> The Mechanism interacts with project teams, the safeguards Unit, country offices, technical experts and Management across the institution. This interaction is mainly through independent problem-solving exercises; fact-finding assessments, lessons-learned reporting and advisory services.</li> <li>► <b>External Stakeholders:</b> ICIM gives voice to project affected people and builds awareness through outreach. It routinely engages and interacts with communities, civil society organizations, NGOs, public agencies, private sector and others. The ICIM also partners with other IAMS when necessary.</li> </ul>



# Independent Review Mechanism of the African Development Bank

The Independent Review Mechanism (IRM) was established by the Boards of Directors of the African Development Bank Group (AfDB) in 2004. The Boards of Directors approved the IRM Operating Rules and Procedures in 2006 and their amendments in 2010. The IRM became operational in 2006 upon the appointment of the Director of the Compliance Review and Mediation Unit (CRMU) who administers the IRM. The IRM website is accessible at: [www.afdb.org/irm](http://www.afdb.org/irm)

Mission and Structure	Interactions and Contributions
<p>➤ <b>Mandate:</b> The IRM was established to provide people with the opportunity to lodge their complaints to the AfDB in case they suffer harm from any of the Bank financed projects and as a result of non compliance with the Bank's Groups policies and procedures.</p> <p>➤ <b>Functions:</b> The IRM handles the complaints through <i>problem solving</i> and/or <i>compliance review</i>. The objective of the problem solving is to restore an effective dialogue between the complainants, the AfDB and other interested parties in the project to reach an agreeable solution to the problems complained about. The objective of the compliance review is to verify whether or not the complained about harm is inflicted due to non compliance with the AfDB's policies and procedures. The CRMU is also mandated to conduct <i>outreach</i> activities to raises awareness of the IRM's mandate and procedures among project affected people, governments, Civil Society Organizations and project promoters and the Bank staff.</p> <p>➤ <b>Structure:</b> The IRM is administered by the <i>Director of CRMU</i>. The Director is appointed by the President of AfDB in concurrence with the Boards of Directors for a five years term renewable once. The Director reports administratively to the President and functionally to the Boards of Directors. The CRMU assesses and registers the received complaints. The Director facilitates the problem solving and monitors the implementation of the resulting agreed upon action plans. The Director also coordinates the CRMU outreach activities. The IRM Roster of Experts consists of three members appointed by the Boards for five-years term non renewable. The Experts together with the Director of CRMU conduct the eligibility review of the complaints, and form the panels that prepare and submit the compliance review reports to the Boards of Directors and/or the President. The experts also take part in monitoring the implementation of the recommendations of the compliance review reports, and provide technical support to CRMU when requested by the Director. The Director is assisted by both professional and administrative staff.</p> <p>➤ <b>Key Features:</b> The IRM is independent from the Bank's management and operations. It reports to the highest decision making level at the AfDB. It handles complaints in a transparent way since it posts all its reports on its website. It is accessible as it permits the complainants to use any means at their disposal to submit their complaints. It is also mandated to monitor the implementation of its recommendations of its approved compliance review and problem-solving reports. Finally, the Boards of Directors oversee its performance and approves its triennial performance review.</p>	<p>➤ <b>Interactions:</b> The IRM primary beneficiaries are the project affected people. It interacts with them through complaint handling and outreach. At the complaint handling level, the CRMU and/or IRM experts as the case may be, conduct site visits and meet with the complainants to assess their grievances. It also interacts with other project interested parties such as the government, project promoters and civil society organizations to consolidate their views in preparation of the IRM reports. In the course of this process, the IRM compiles information and examines the management responses to the complained about issues and to the findings and recommendations of the compliance review reports. At the higher decision making level, the IRM may provide interim progress reports of its handling of complaints to the Boards of Directors and the President; and submits its final reports to them for consideration. An the outreach level, CRMU communicates with different project stakeholders including Bank's staff, civil society organizations, governments, project promoters and the media to raise their awareness of the IRM role and procedures. Finally, when its performance is under review, the IRM conducts wide consultations inside and outside the Bank to assess the effectiveness of its activities which may result in amendment of the IRM Operating rules and procedures</p> <p>➤ <b>Contributions:</b> In conducting its operations, the IRM makes contribution in three ways:</p> <ol style="list-style-type: none"><li>1. The IRM requests the Bank to undertake remedial actions to redress the aforesaid inflicted harm and ensures that by these actions, the affected people can instead receive their benefits from the Bank financed projects. In that way, the IRM contributes to the optimization of development results of Bank-financed operations</li><li>2. The IRM, either through its problem solving or compliance review reports, recommends the Bank to address any identified problematic systemic issues to enhance its institutional performance. By this action, the IRM contributes to enhance the effectiveness of operations of the Bank in its respective regional member countries.</li><li>3. The IRM's annual reports provides identifiable trends related to the activities of the Bank Group that have emerged during IRM's problem-solving exercises and compliance reviews, and lessons that IRM has learned about the challenges for the Bank in implementing its policies and procedures.</li></ol>



# Inspection Panel for the International Bank for Reconstruction and Development (IBRD) & International Development Agency (IDA), World Bank Group

The Inspection Panel was established by identical Resolutions of the Boards of Executive Directors of IBRD and IDA in 1993. In response to complaints from project-affected communities, IPN is an independent, “bottom-up” accountability and recourse mechanism that investigates IBRD/IDA financed projects to determine whether the Bank has complied with its operational policies and procedures (including social and environmental safeguards), and to address related issues of harm. Find out more at: [www.inspectionpanel.org](http://www.inspectionpanel.org)

Mission, Roles, Responsibility and Areas of Focus	Key Outputs, Practices and Engagement with Internal and External Stakeholders
<p>➤ <b>Mission:</b> Serve as independent forum to provide accountability and recourse for communities affected by IBRD/IDA-financed projects, to address harms resulting from policy non-compliance, and to help improve development effectiveness of WBG operations. Promote more inclusive and sustainable development by giving project-affected people, including those who are often poor and most vulnerable, greater voice in Bank-financed projects that affect them.</p> <p>➤ <b>Roles, Responsibility and Areas of Focus (for details see “The Inspection Panel at 15 Years”, 2009):</b></p> <ul style="list-style-type: none"><li>➤ <b>Independent fact-finding, accountability and recourse:</b> In response to complaints from project-affected communities, independently investigates whether Bank Management has complied with its operational policies and procedures in projects financed by IBRD/IDA, and whether harm has resulted from non-compliance.</li><li>➤ <b>Problem-solving for affected people:</b> In addition to its well known role in assessing compliance, the Panel process plays a critical role in helping to resolve problems facing project-affected people. Problem-solving occurs at various stages: pre-registration (affected people must approach Management first); eligibility; investigation; and follow-up. The process places responsibility and creates opportunities for Management to take effective responsive actions to address problems. The Panel is considering additional options to enhance opportunities for problem solving under its process.</li><li>➤ <b>Check and balance for Board:</b> Provides an independent, technically based check and balance for Board on situation(s) relating to compliance and harm in project operations.</li><li>➤ <b>Transparency and participation:</b> Promotes transparency in Bank operations through publication of reports and findings, and by serving as independent venue for affected people to raise concerns to highest decision-making levels of Bank.</li></ul>	<p>➤ <b>Key outputs and practices:</b></p> <ul style="list-style-type: none"><li>▪ <b>Eligibility reports:</b> Assesses eligibility of Requests for Inspection through Eligibility Reports, which contain a recommendation on whether to investigate the matters alleged in Request. The “eligibility” stage also yields an initial Management Response to the Request, and important opportunities for early problem-solving.</li><li>▪ <b>Investigation reports and findings:</b> Independent investigation and fact-finding assesses project-level policy compliance, and leads to remedies for harm to people and environment. Findings reported directly to the Board.</li><li>▪ <b>Bank Management Responses and Action Plan:</b> In response to Panel findings on compliance and harm, Bank Management prepares Response and Action Plan (with Government) to address findings. Reports and findings are made available to requesters, affected people and the public</li><li>▪ <b>Systemic Observations, Corporate Learning:</b> Investigation Reports and Management Responses include systemic observations and lessons learned which promote corporate learning and transparency through their publication.</li><li>▪ <b>Public Awareness:</b> Produces publications to inform public of its activities and for outreach (Annual Report, press releases, etc).</li><li>▪ <b>Institution-wide incentives/impacts:</b> Creates ongoing incentives for institution to comply with policies and procedures, including social and environmental safeguards; supports overall Bank mission to fight poverty and helps Bank avoid actions causing reputational risk.</li></ul> <p>➤ <b>The Inspection Panel engages with the following internal and external stakeholders:</b></p> <ul style="list-style-type: none"><li>▪ <b>Board</b> (reports directly to the Board);</li><li>▪ <b>Management</b> (independent, investigates compliance, interactive approach to problem-solving, fact-finding and lessons-learned);</li><li>▪ <b>External Stakeholders</b> (the Inspection Panel gives voice to project affected people and builds awareness through outreach).</li></ul>

# Objection Procedures on Environmental and Social Guidelines of Nippon Export and Investment Insurance

The Objection Procedures on Environmental and Social Guidelines of Nippon Export and Investment Insurance (NEXI) and the Secretariat of the Submitting Objections were established in 2003. The Objection Procedures became operational in 2004 upon the appointment of the Examiner who administers the Procedures. NEXI's Objection Procedures' website is accessible at: <http://nexi.go.jp/en/environment/objection/>

Mission and Structure	Roles, Responsibility and Areas of Focus
<ul style="list-style-type: none"> <li>➤ <b>Mission:</b> The Objection Procedures is established in order to ensure the compliance with the Guidelines on Environmental and Social Considerations in Trade Insurance (the Guidelines) by Nippon Export and Investment Insurance (NEXI):           <ol style="list-style-type: none"> <li>1)To investigate facts as to whether or not NEXI has complied with the Guidelines, and to report the results thereof to the Chairman &amp; CEO.</li> <li>2) To encourage dialogues among the parties concerned, namely, the requester who submitted the objections, the insured and the entity which carries out the project (the Project Sponsor), in order to assist early resolution of the disputes concerning specific environmental or social problems over the projects with NEXI's insurance coverage caused due to NEXI's non-compliance with the Guidelines.</li> </ol> </li> <li>➤ <b>Structure:</b> The Objection Procedures are administered by the Examiner. The Examiner works under the direct control of the Chairman &amp; CEO, and independent of the section in charge of underwriting business. Upon the recommendation by the Selection Committee, the Chairman &amp; CEO appoints the Examiner for two years term renewable once. Also, the Secretariat of Submitting Objections is established within NEXI. The Secretariat consists of one or more than one staff members of NEXI. The Secretariat shall follow the Examiner's instructions to deal with clerical works on Submitting Objections stipulated in these Procedures. The Examiner may use external specialists besides staff members of the Secretariat, if necessary.</li> </ul>	<ul style="list-style-type: none"> <li>➤ To listen to the opinions of all the parties concerned in a well-balanced manner, from neutral standpoint, being independent of the section in charge of underwriting business, the side of the Project Sponsor, or the side of the Requesters of objections to the project.</li> <li>➤ To deal with the submission of the objection efficiently.</li> <li>➤ To submit the report and complete the activity in principle within three months after the receipt of the submission of the objection, in order to transact the procedures promptly.</li> <li>➤ To contribute to the enhancement of accountability of NEXI by disclosing his/her activities in principle, while considering the purpose of the procedures to encourage dialogues between the parties concerned and the business confidentiality of the insured and other parties concerned.</li> <li>➤ To avoid such behavior as to unduly hurt the Requester and other parties concerned, by taking due care of the human rights and business interests of the Requester and other parties concerned.</li> <li>➤ To review NEXI's compliance with the Guidelines on a quarterly basis.</li> <li>➤ To make an annual activity report to stakeholders.</li> </ul>

# Office of Accountability of the U.S. Overseas Private Investment Corporation

The Office of Accountability (OA) is the independent accountability mechanism for the Overseas Private Investment Corporation, the U.S. Government's development finance institution. The OA was created in 2005 by a U.S. Congressional mandate to serve as a vehicle for delivering problem-solving and compliance review services in a manner that is fair, transparent, and independent of OPIC's operations. The OA's website is: [www.opic.gov/doing-business/accountability](http://www.opic.gov/doing-business/accountability)

Mission, Structure, and Functions	Primary Functions
<ul style="list-style-type: none"> <li>➤ <b>Mission:</b> The OA's goal is to strengthen the sustainability of development outcomes of OPIC's transactions by addressing environmental or social concerns and conflicts that emerge around OPIC-supported projects. The OA provides a mechanism by which parties can raise such concerns and access its services.</li> <li>➤ <b>Leadership and Structure:</b> Within OPIC's organizational structure, the OA is independent of OPIC's offices that provide financing to ensure that the OA can effectively and impartially implement its functions. The OA Director reports directly to the President/CEO of OPIC, and keeps the Board of Directors informed of the OA's activities. Appointed by OPIC's President, the OA Director is limited to a maximum of two three-year terms.</li> <li>➤ <b>Primary Functions:</b> The OA provides two primary services, problem-solving and compliance review (see next column).</li> <li>➤ <b>Supporting Activities:</b> The OA also provides Advisory Service and does Community and Client Outreach:           <ul style="list-style-type: none"> <li>• <b>Advisory Service:</b> The OA provides advice to OPIC staff and management on systemic issues in order to enhance the environmental and social outcomes of OPIC support.</li> <li>• <b>Community Outreach:</b> The OA's external outreach is primarily intended to inform host-country stakeholders in OPIC's regions of activity of the services that it offers.</li> <li>• <b>Client Outreach:</b> The OA informs OPIC's clients how to access its problem-solving services.</li> </ul> </li> </ul>	<p><b>Primary Functions:</b> The OA provides two primary services, problem-solving and compliance review.</p> <ul style="list-style-type: none"> <li>➤ <b>Problem Solving:</b> The OA may receive a request for problem-solving from an affected community, its designated representative, or from an OPIC client. The OA's problem-solving function seeks to resolve concerns and conflicts about the environmental and social impacts of projects supported by OPIC. Upon receiving a request, the OA Director determines whether it is eligible for problem-solving. If eligibility criteria are met and if parties are willing to participate, the OA then supports a voluntary problem-solving process, often a professionally mediated dialogue between the project sponsor and community members. OA takes no position on the validity of allegations in the complaint and seeks fair conditions to find a mutually agreeable resolution.</li> <li>➤ <b>Compliance Review:</b> The OA may receive a request for compliance review from an affected community, its designated representative, OPIC's President, or OPIC's Board. The OA's compliance-review process examines whether OPIC's environmental, labor rights, and human rights policies are appropriately applied to OPIC-supported projects and implemented. Upon receiving an eligible request, the OA Director would first appraise the situation to determine whether or not conducting a full compliance audit is warranted. An audit might generate recommendations on how OPIC could more effectively implement its applicable policies and procedures, with respect to both the project in question and future projects.</li> </ul>

# Project Complaint Mechanism of the European Bank of Reconstruction and Development

The European Bank for Reconstruction and Development (EBRD) has established the Project Complaint Mechanism (PCM) as part of its commitment to the transparency and accountability of its operations. The PCM gives individuals, organisation and local groups that might be adversely affected by a Bank-funded project a means of raising complaints with the Bank, independently from banking operations. The PCM was launched in March 2010. The PCM website can be accessed at: <http://www.ebrd.com/pages/project/pcm.shtml>

Mission and Structure	Functions and Changes
<p>➤ <b>Key Features:</b> The EBRD's new accountability mechanism, the Project Complaint Mechanism (PCM), operational since March 2010, has replaced the Independent Recourse Mechanism (IRM) that has been in place since July 2004.</p> <p>The PCM has been established to assess and review complaints about bank-financed projects, independently from banking operations. The Rules of Procedure of the PCM were approved by the EBRD Board of Directors in May 2009.</p> <p>The new mechanism is expected to enhance the Bank's accountability. It includes features that make it more accessible, strengthened the Bank's ability to monitor clients' commitment to relevant EBRD policies. The Mechanism now also provides more opportunities for consultations with all relevant parties and publication of monitoring reports.</p> <p>➤ <b>Structure:</b> The PCM is independent from the EBRD's banking operations and the Bank's Environment Department. The Project Complaint Mechanism Officer (PCM Officer) coordinates all PCM processes and, together with an independent expert, makes an eligibility assessment of complaints, once registered. If a Compliance Review is warranted, a member of the panel of PCM Experts will carry it out. If a Problem-solving Initiative is needed, then subject to the prior approval of the Bank's President, the PCM Officer and/or a PCM Expert will serve as facilitator.</p> <p>Four independent Experts have, to date, been appointed by the EBRD to a panel of PCM Experts. Their functions include the assessment, in conjunction with the PCM Officer of the eligibility of complaints, the undertaking of Compliance Reviews or Problem-solving Initiatives and follow up monitoring. These international experts specialise in areas such as the environment, social development and law reform and operate externally to the Bank. After initial terms of three, four or five years, the Experts' appointments can be extended for renewable terms of three years.</p>	<p>➤ <b>Functions:</b> As its predecessor IRM, the PCM has two functions:</p> <ul style="list-style-type: none"><li>- a <u>Compliance Review function</u>: to assess whether a Bank approved project complies with relevant Bank policies, specifically relevant environmental policies and project-specific provisions of the Public Information Policy, and</li><li>- a <u>Problem-solving function</u>: to restore dialogue between the parties, where possible, to try to resolve the underlying issues giving rise to the complaint or grievance. A Problem-solving Initiative might include: independent fact-finding, mediation, conciliation, dialogue facilitation, investigation or reporting.</li></ul> <p>In assessing a complaint, there may be a recommendation for a Compliance Review or Problem-solving Initiative, or both or neither.</p> <p>➤ <b>Changes from the previous mechanism:</b> Compared to the IRM, the new mechanism benefits from an improved and user-friendly registration system and wider scope for potential complainants. In particular, the group of potential complainants has been expanded to include NGOs and other civil society organisations (CSOs). Also, an individual alone may raise a complaint under the new mechanism without the necessity to be part of an affected group, which was the case under the IRM. It is important to mention, however, that complaints by CSOs will be eligible only for Compliance Reviews under the PCM.</p> <p>The PCM also considerably enhances transparency by providing more opportunities for consultations with all relevant parties, including the complainant, the Bank, and the sponsors or financiers of the project in question. Importantly, it also provides for the publication of monitoring reports, such as reports on how well the Bank or client, as the case maybe, is implementing the recommendations or agreements arising from Compliance Reviews or Problem-solving Initiatives</p>



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