

**24977**

September 2002

# **Annual Report**

**August 1, 2001 to June 30, 2002**

**The Inspection Panel**

International Bank for Reconstruction and Development  
International Development Association



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International Development Association

## The Inspection Panel

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# Abbreviations and Acronyms



AESNP	AES Nile Power Limited
CAO	Compliance Advisor Ombudsman
CAS	Country Assistance Strategy
CCL	Central Coalfields Limited
CDAP	Community Development Action Plan
CELCOR	Center of Environmental Law and Community Rights, Inc.
COTCO	Cameroon Oil Transportation Company
CSESMP	Coal Sector Environmental and Social Mitigation Project
CSRP	Coal Sector Rehabilitation Project
EA	Environmental Assessment
EBY	Entidad Binacional Yacyretá
EIA	Environmental Impact Assessment
FCP	Forestry and Conservation Project
FMA	Forest Management Agreement
GDP	Gross domestic product
GPAL	Governance Promotion Adjustment Loan
IBRD	International Bank for Reconstruction and Development
IDA	International Development Association
IFC	International Finance Corporation
IMF	International Monetary Fund
LDP	Letter of Development Policy
MASL	Meters above sea level
MW	Megawatt
NAPE	National Association of Professional Environmentalists of Kampala
NGO	Nongovernmental organization
OD	Operational Directive
OM	Operational Memorandum
OMS	Operational Manual Statement

# Abbreviations and Acronyms

OP	Operational Policy
PAP	Project-affected people
PPA	Power Purchase Agreement
PRG	Partial Risk Guarantee
RAP	Rehabilitation Action Plan
SAR	Staff Appraisal Report
SBC	Save Bujagali Crusade
SDR	Special Drawing Rights
SEA	Sectoral Environmental Assessment
SEDD	Summary of Economic Due Diligence
TOTCO	Tchad Oil Transportation Company





**T**his Annual Report, which covers the period August 1, 2001 to June 30, 2002, has been prepared by the members of the Inspection Panel for the International Bank for Reconstruction and Development and the International Development Association in accordance with the Resolution that established the Panel. The report is being circulated to the President and Executive Directors of both institutions.

The Panel would like to take this opportunity to thank the Executive Directors for their unfailing support. The Panel would also like to thank World Bank Group President Mr. James D. Wolfensohn and Senior Management for their continued support of the Panel as an integral component of the Bank's transparency and accountability efforts.

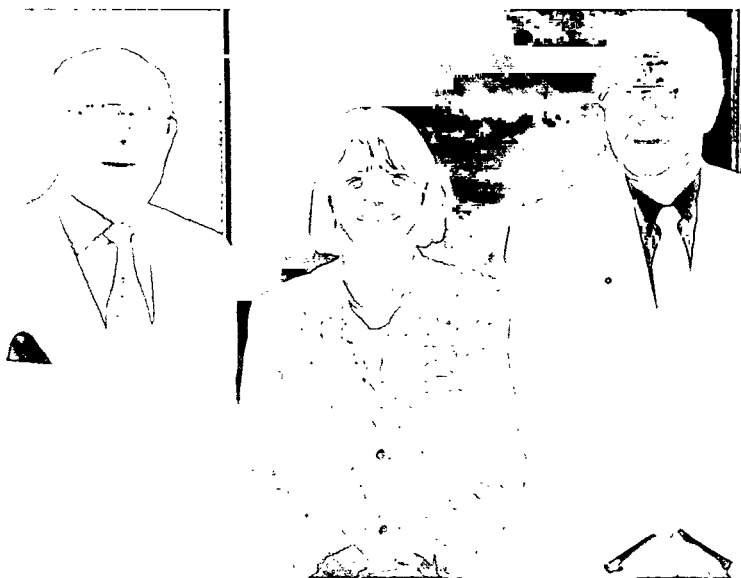
Edward S. Ayensu  
Chairman

June 30, 2002

## **Mission of the Inspection Panel**

To provide independent judgment in cases where it is asserted that the rights and interests of parties are adversely affected because the Bank failed to follow its operating policies and procedures in the design, appraisal, and/or implementation of Bank lending operations.

## Message from the Panel



*Panel members, left to right: Chairman Edward S. Ayensu, Maartje van Putten, and Jim MacNeill.*

This year marks the Panel's eighth year of operation, and another change in the Panel's membership, as Mr. Jim MacNeill (a Canadian national) completes his five-year term this July. Mr. MacNeill will be replaced by Ms. Edith Brown Weiss, a U.S. national.

To bring the Panel's operational year in line with the World Bank Group's fiscal year, the Panel ended its annual operational calendar one month earlier than in the past, on June 30, 2002.

In fiscal year 2002, the Panel received and registered three new Requests for Inspection relating to (a) the Uganda Third Power Project and the subsequently approved Bujagali Hydropower Project, for which the Panel recommended and the Board authorized an investigation; (b) the Papua New Guinea Governance Promotion Adjustment Loan, for which the Panel did not recommend an investigation; and (c) the Paraguay Reform Project for the Water and Telecommunications Sectors and the Argentina SEGBA V Power Distribution Project, for which the Panel registered the Request for Inspection.

The Panel completed the Uganda investigation and sent its report to the Board in May 2002. The Board considered the Panel Investigation Report and the Bank Management recommendations on the Bujagali Project, and on June 17, 2002, approved Management's recommendations to address the Panel's findings.

In addition to these cases, the Panel continued work on the two Requests received in fiscal 2001: the Chad Petroleum Development and Pipeline Project,

and the India Coal Sector Environmental and Social Mitigation Project. The Panel recommended, and the Board approved, investigations concerning the matters alleged in both Requests.

In this year the Panel also continued work on revisions of its 1994 Operating Procedures; however, due to the Panel's unprecedented caseload (three full-scale investigations), the Panel is still in the process of conducting consultations. In addition, in response to the Executive Directors' stated desire to make the Panel better known, the Panel continued its outreach efforts.

The claims made by the Requesters in this year's requests were generally typical of the Panel's experience. The Requesters alleged violations of some of the Bank's safeguard policies, especially Environmental Assessment, Involuntary Resettlement, Indigenous Peoples, and Disclosure of Information, as well as of the Bank's Operational Directive on Project Supervision. Also, issues of consultation or participation—or the lack thereof—continue to be raised.

To date, the Panel has dealt with 26 formal Requests for Inspection: nine from Latin America, eight from Africa, seven from South Asia, and two from East Asia and the Pacific. Of the 26 formal Requests received, the Panel has recommended investigations in a total of twelve cases, six under the rules which applied prior to the April 1999 Clarifications, and six since. The Board approved only two of the six recommended investigations under the old rules. And both of these, the 1994 investigation of the proposed Arun III Hydroelectric Project in Nepal and the 1997 investigation of the NTPC Power Gen-

eration Project in India, were limited in scope. Since the April 1999 Clarifications, the Board has authorized, on a non-objection basis, all of the investigations recommended by the Panel.

The creation of the Inspection Panel remains a watershed event not only in the Bank's history, but also in the evolution of international financial institutions. As the challenges of international development evolve and the Bank moves forward toward meeting its mission of fighting poverty, the work of the Inspection Panel continues to be critical. Openness, accessibility, and accountability continue to be keys to sound economic development, and the demand for them remains. Moreover, the Panel continues to provide support to the Bank's compliance with its policies and procedures, and in particular its environmental and social safeguard policies, which are aimed at preventing and mitigating undue harm to people and their environment in the development process.

In the eight years since its establishment, the Panel has provided a direct link between the Bank's highest governing body and the people its projects are intended to benefit. It has contributed to improving the consultative process available to people who have voiced concerns about the impact of Bank-financed projects. In all of this, the Panel has assisted in enhancing the scope of Bank accountability and increased the Bank's credibility in both its borrowing and non-borrowing member countries.

Edward S. Ayensu  
Jim MacNeill  
Maartje van Putten

# The Inspection Panel

The World Bank created the Inspection Panel in 1993, on the eve of its 50th anniversary, to serve as an independent mechanism to ensure accountability in Bank operations with respect to its policies and procedures.<sup>1</sup> It was an unprecedented act in the history of international financial institutions. Since its inception, the Panel has provided people affected by Bank-financed projects with direct access to an international forum where their complaints can be addressed. After almost five years of the Panel's operation, in April 1999, the Board confirmed "the importance of the Panel's function, its independence and integrity."<sup>2</sup>

Subject to Board approval, the three-member Panel is empowered to investigate problems that are alleged to have arisen as a result of the Bank having not complied with its own operating policies and procedures. As directed by the Resolution that established the Panel, the Executive Directors reviewed the Panel's experience after two years of operations. The review was concluded on October 17, 1996 with the approval of certain Clarifications of the Resolution. In March 1998, the Board launched a second review of the Panel's operations, which ended in April 1999 with the approval of the second Clarifications of the Resolution (see Annex 1, 2, and 3, respectively, for the full texts of the Resolution and the 1996 and 1999 Clarifications).

## Panel Process

The Panel's process is straightforward. Any two or more individuals or groups of individuals who believe that they or their interests have or are likely to be harmed by a Bank-supported Project can request the Panel to investigate their complaints. After the Panel receives a Request for Inspection, it is processed as follows:

- The Panel decides whether the Request is not barred from Panel consideration.
- The Panel registers the Request—a purely administrative procedure.
- The Panel promptly notifies the members of the Board that a Request has been received, and sends the Request to them and to Bank Management.
- Bank Management has 21 working days to respond to the allegations of the Requesters.
- Upon receipt of Management's Response, the Panel has 21 working days to determine the eligibility of the Requesters and the Request.
- The Panel delivers its eligibility report and any recommendation on an investigation to the Board.
- If the Panel does not recommend an investigation, and the Board accepts that recommendation, the case is considered closed. The Board could, nevertheless, decide and instruct the Panel to make an investigation.
- After the Board's approval of the Panel's recommendation, the Requesters are notified.

- Shortly after the Board decides whether an investigation should be carried out, the Panel's Report (including the Request for Inspection and Management's Response) is publicly available at the Bank's InfoShop and the respective Bank Country Office, as well as on the Panel's website ([www.inspectionpanel.org](http://www.inspectionpanel.org)).
- If the Panel recommends an investigation, and the Board approves it,<sup>3</sup> the Panel undertakes a full investigation. The investigation is not time-bound.
- When the Panel completes an investigation, it sends its findings on the matters alleged in the Request for Inspection to the Board and to Bank Management for its response to the Panel findings.
- Bank Management then has six weeks to submit its recommendations to the Board on what, if any, actions the Bank should take in response to the Panel's findings.
- The Board then takes the final decision on what should be done, based on the Panel's findings and Bank Management's recommendations.
- Shortly after the Board's decision, the Panel's Report and Management's Recommendation are publicly available through the Bank's InfoShop and the respective Country Office.
- The Panel's Investigation Report is posted on its website, [www.inspectionpanel.org](http://www.inspectionpanel.org).

1. See Resolution No. IBRD 93-10; Resolution No. IDA 93-6, establishing "The World Bank Inspection Panel." The Panel's 1994 "Operating Procedures" provide detail to the Resolutions. For the purposes of the Inspection Panel, the World Bank comprises both the International Bank for Reconstruction and Development (IBRD) and the International Development Association (IDA).

2. *Conclusions of the Board's Second Review of the Inspection Panel* (hereinafter "1999 Clarifications"), IBRD and IDA Board of Executive Directors, April 20, 1999, at paragraph 1.

3. See *Conclusions of the Board's Second Review of the Inspection Panel*, Paragraph 9: "If the Panel so recommends, the Board will authorize an investigation without making judgment on the merits of the claimant's request..." See, 1999 Clarifications, available at the Inspection Panel's homepage ([www.inspectionpanel.org](http://www.inspectionpanel.org)).



Figure 1 - Inspection Panel Eligibility Phase

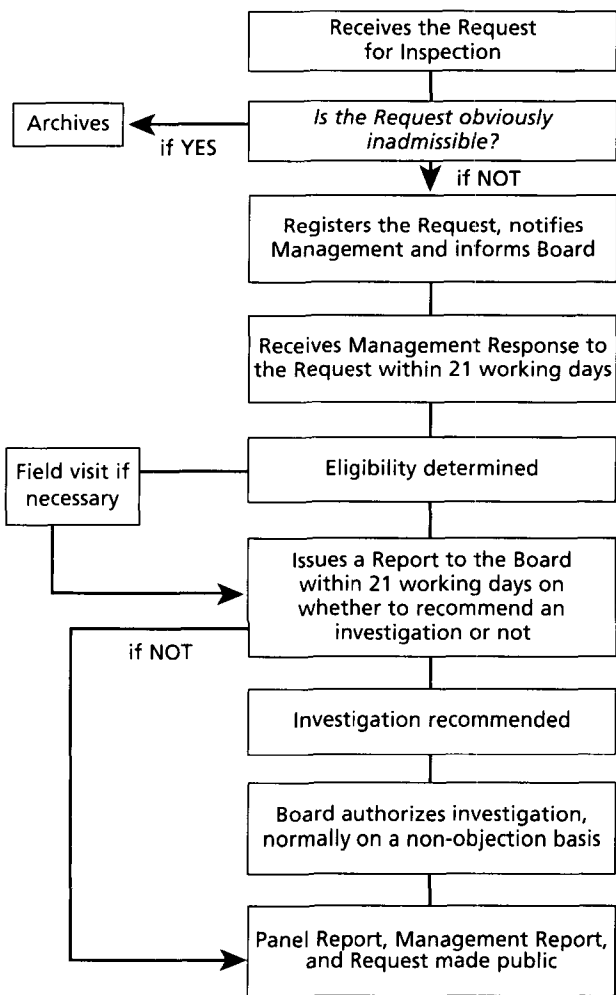
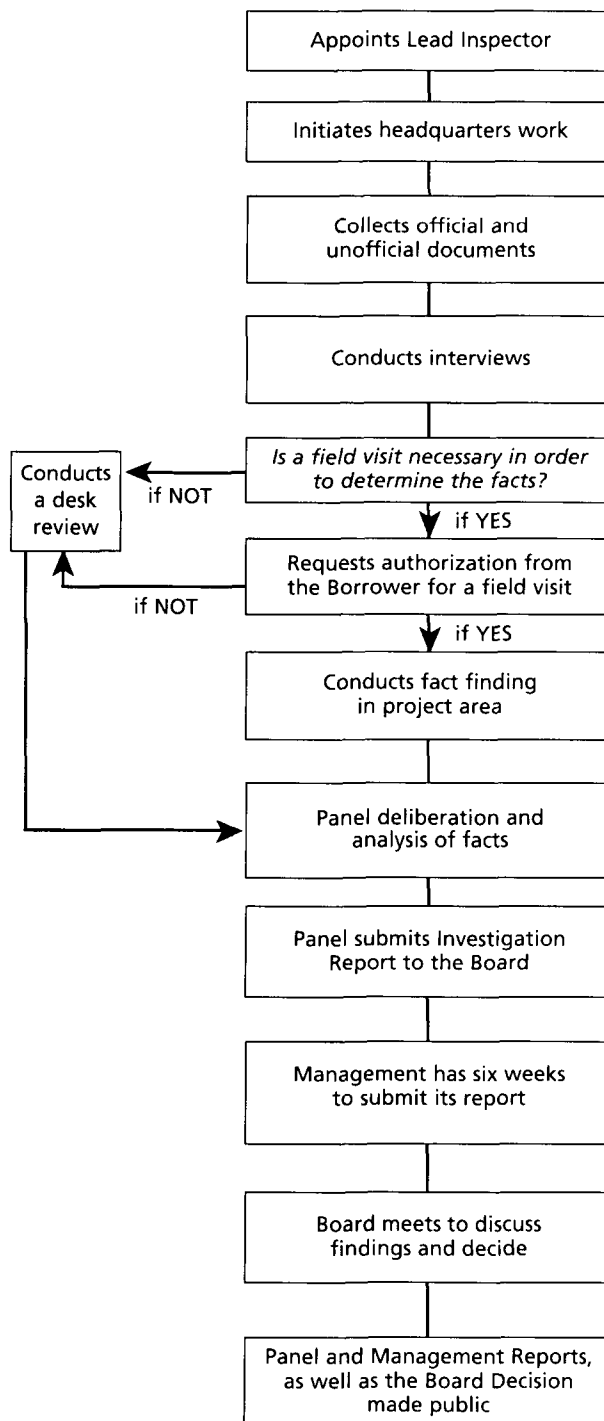


Figure 2 - Inspection Panel Investigation Phase



# The Inspection Panel

## Who Can Submit a Request for Inspection?

- Any two or more persons directly affected by a Bank-supported Project.
- Local representatives on behalf of directly affected persons with proper proof of authorization.
- A non-local representative, in exceptional circumstances where local representation is not available, could file a claim on behalf of local affected parties.
- An Executive Director of IBRD or IDA.

## About the Panel

The Inspection Panel consists of three members who are appointed by the Board for non-renewable periods of five years. As provided for in the Resolution that established the Panel, members are selected on the basis of their ability to deal thoroughly and fairly with the Requests brought to them, their integrity and their independence from Bank Management, and their exposure to developmental issues and to living conditions in developing countries. A Panel member is disqualified from participating in the hearing of an investigation of any Request related to a matter in which he/she has a personal interest or had significant involvement in any capacity. Panel members may be removed from office for cause, only by decision of the Executive Directors.

The Panel's structure and operations further safeguard its independence. It is functionally independent of Bank Management, and reports solely to the Board. In addition, Panel members are prohibited from ever working for the Bank after their term ends.

## Members

The members of the Panel are Jim MacNeill (member since August 1997), Edward S. Ayensu (member since August 1998), and Maartje van Putten (member since October 1999). Panel members are required to select their chairperson annually. The present chairperson is Edward S. Ayensu. The chairperson of the Panel works full-time, and the two members part-time as needed.

Former members: Ernst-Günther Bröder (1994-1999), Richard Bissell (1994-1997), and Alvaro Umaña (1994-1998).

## Secretariat

The Panel has a permanent Secretariat, headed by an Executive Secretary, Eduardo G. Abbott, a Chilean national. The office also consists of two Assistant Executive Secretaries, Antonia M. Macedo, a New Zealand national, and Alberto Ninio, a Brazilian national; a Program Assistant, Pamela Fraser, a Guyanese national; and a Team Assistant, Nimanthi Attapattu, a Canadian national. The Secretariat provides administrative support to the Chairman and Panel members, and assists the Panel in the processing of Requests, as well as responding to queries from potential Requesters. The Secretariat also coordinates other activities such as research and information dissemination.



## **Box 1** **Inspection Panel Members**

### **Edward S. Ayensu, Chairman**

Professor Ayensu, a Ghanaian national, is the President of the Pan-African Union for Science and Technology; Chairman of Edward S. Ayensu Associates Ltd.; Executive Chairman of Advanced Gracewell Communications Co. Ltd.; founding Chairman of the African Biosciences Network, and formerly the Secretary-General of the International Union of Biological Sciences; Chairman of the Ghana National Biodiversity Committee; member of the International Advisory Board on Global Scientific Communications, UNESCO; and member of the Board of Directors and International Vice-Chairman of the International Institute for Sustainable Development. Professor Ayensu is a fellow of various academies of arts and sciences. He has been Senior Advisor to the President of the African Development Bank and the Bank's Director for Central Projects. Previously he has held posts in international scientific organizations, including Director and Senior Scientist at the Smithsonian Institution, Washington, D.C. Professor Ayensu was a Visiting Fellow of Wolfson College, Oxford University, and Distinguished Professor of the University of Ghana, and twice the recipient of the Ghana National Science Award. He has a doctorate degree in the biological sciences from the University of London, and has published many books and articles on science, technology, and social and economic development of developing countries. Professor Ayensu was the recipient of the Outstanding Statesman Award in Ghana during the Millennium celebrations.

Professor Ayensu became a member of the Inspection Panel in August 1998.

### **Jim MacNeill**

Mr. MacNeill, a Canadian national, is a policy advisor on the environment, energy, management, and sustainable development to international organizations, governments, and industry. He is Chairman Emeritus of the International Institute for Sustainable Development, a member of the boards of the Woods Hole Research Center and the Wuppertal Institute on Climate and Energy Policy, and a member of the Jury of the Volvo Environmental Prize. He was Secretary General of the World Commission on the Environment and Development (the Brundtland Commission) and lead author of the Commission's world-acclaimed report, "Our Common Future." He served for seven years as Director of Environment for the Organization for Economic Co-operation and Development. Earlier, he was a deputy minister in the Government of Canada. Mr. MacNeill holds a graduate diploma in Economics and Political Science from the University of Stockholm and Bachelor's Degrees in Science (Math and Physics) and Mechanical Engineering from Saskatchewan University. He is the author of a number of books, publications, and articles. He is also the recipient of a number of honorary degrees and awards, including the Order of Canada, his country's highest honor.

Mr. MacNeill became a member of the Inspection Panel in August 1997.

### **Maartje van Putten**

Ms. van Putten, a Dutch national, was a member of the European Parliament until July 1999. She has been a highly active member of the Committee on Development and Cooperation for the past 10 years. Ms. van Putten has produced many reports on the effects of the GATT/Uruguay Round on the developing countries, fair trade, development aid for Asia and Latin America, the EU program for tropical forests, and European policies toward indigenous peoples. She has extensive exposure to developing countries, and is active with nongovernmental organizations and extremely committed to the cause of development. Ms. van Putten has closely worked with the WWF European Policy Office as a key political partner to promote better EU conservation and sustainable development policies. She was also a consistently active member of the ACP (African, Caribbean, and Pacific Group)-European Union Joint Assembly. Ms. van Putten was a freelance multimedia journalist for most of her professional career, and was a Senior Fellow of the Evert Vermeer Foundation from 1981 to 1989. She is the author of many articles and books on globalization, the international division of labor, and gender issues. Currently Vice President of the European Center of Development Policy Management in the Netherlands, Ms. van Putten is President of the Board of European Network of Street Children Worldwide. She holds a HBO (bachelor) degree in community development from Sociale Academy Amsterdam, and a Diploma, Hoger Sociaal Pedagogisch Onderwijs (PVO) Amsterdam.

Ms. van Putten became a member of the Inspection Panel in October 1999.

# Formal Requests Received in Fiscal 2002

## Uganda

### Request No. 24

**Third Power Project (Credit 2268-UG); Fourth Power Project (Credit 3545-UG); and Bujagali Hydropower Project-Guarantee (PRG No. B 003-UG)**

#### The Projects

The Request for Inspection is related to questions concerning the Third Power Project (Power III), the Supplemental Credit to the Power III Project, the Fourth Power Project (Power IV) that finances power generation Units 14 and

15, and—at the time—the proposed Bujagali Hydropower Project. (See Box 2 for more information.)

The Power III Project, otherwise known as the Owen Falls Extension (and now called Kiira), was approved by IDA's Board in 1991. The Project was a



*The Panel Team meets with the Living Bujagali at the Bujagali Falls site.*

#### Box 2

#### Uganda Request for Inspection: Project Information at a Glance

Project Name:	Third Power
Region:	Africa – Sub-Saharan
Sector:	Electric Power & Other Energy
Environmental Category:	A
IDA Credit Amount	SDR 86,900,000 (US\$125,000,000 equivalent)
Board Approval Date:	June 13, 1991
Effective Date	October 8, 1992
Closing Date:	December 31, 2001

Project Name:	Supplemental Credit to the Third Power
Region:	Africa – Sub-Saharan
Sector:	Electric Power & Other Energy
Environmental Category:	A
IDA Credit Amount	SDR 24,000,000 (US\$33,000,000 equivalent)
Board Approval Date:	January 20, 2000
Effective Date	March 21, 2001
Closing Date:	December 31, 2001

Project Name:	Fourth Power
Region:	Africa – Sub-Saharan
Sector:	Electric Power & Other Energy
Environmental Category:	B
IDA Credit Amount	SDR 48,000,000 (US\$62,000,000 equivalent)
Board Approval Date:	July 03, 2001
Effective Date:	April 4, 2002
Closing Date:	December 31, 2004

Project Name:	Bujagali Hydropower
Region:	Africa – Sub-Saharan
Sector:	Electric Power & Other Energy
Environmental Category:	A
IDA Credit Amount:	US\$115,000,000
Board Approval Date:	December 18, 2001

Sources: The World Bank Project Data; The World Bank Integrated Controller's Systems



**Box 3**  
**Violations of Operational Policies and Procedures**  
**Claimed by Requesters**

Safeguard Policies:	Environmental Assessment
	Natural Habitat
	Cultural Property
	Indigenous Peoples
	Involuntary Resettlement
	Safety of Dams
Other:	Poverty Reduction
	Economic Evaluation of Investment Operations
	Project Monitoring and Evaluation
	Project Supervision
	Disclosure of Operational Information

major part of a development program for the continued rehabilitation of the Owen Falls Dam to develop Uganda's hydrosources and expand the transmission and distribution system to provide least-cost electrical energy more reliably to a larger population.

The Supplemental Credit for the Power III Project was approved by IDA in January 2000. It was designed to finance Project cost overruns and undertake urgent remedial works identified by a Panel of Experts to enhance the safety of the Owen Falls Dam. The Supplemental Credit also provided technical assistance services for the unbundling of the Uganda Electricity Board (UEB) and the concessioning of distribution and generation assets.

The Power IV Project was approved by IDA in July 2001. The Project was to assist financing of Unit 14 (which would generate an additional 40MW) and—contingent on economic viability—Unit 15 (which would generate an

additional 50MW) at the Owen Falls Extension Powerhouse. IDA financing for Unit 14 was provided as the least-cost generation option, while disbursement for Unit 15 will be contingent upon confirmation of the unit's economic viability.

The Bujagali Hydropower Project financing was approved by a joint IDA/IFC Board in December 2001. IDA is providing financing through a Partial Risk Guarantee (PRG) of US\$115 million and IFC is supporting the Project through (a) an "A" loan of up to US\$60 million; (b) a "B" loan in the amount of up to US\$40 million; and (c) a Risk Management Instrument of up to US\$10 million. In addition, the Multilateral Investment Guarantee Agency began to actively discuss providing political risk coverage to the lending institutions in February 2002. Other financiers include the African Development Bank.

The Project is for a 200MW run-of-the-river hydropower plant at Bujagali,

located 8 kilometers downstream from the Owen Falls Extension. According to the Project Appraisal Document, the main development objective of the Bujagali Hydropower Project is to promote growth through developing least-cost power generation for domestic use in an environmentally sustainable and efficient manner. In addition to mobilizing private capital, the Project promotes private sector ownership and management of the power sector, and sector reform. The Project is expected to cost about US\$600 million.

The Project sponsor is AES Nile Power Limited (AESNP), a special-purpose company formed by the U.S. firm, AES Corporation, under the laws of Uganda, specifically to develop, finance, build, and operate the Bujagali Hydropower Project on a Build-Own-Operate-Transfer basis. AESNP will sell electricity to the Uganda Electricity Transmission Company Limited, a transmission company fully owned by the Government of Uganda, under a 30-year Power Purchase Agreement (PPA).

**The Request**

The Panel received the Request for Inspection on July 27, 2001. The Request was submitted by the National Association of Professional Environmentalists of Kampala (NAPE), Uganda Save Bujagali Crusade (SBC), and other local institutions and individuals. The Panel registered the Request on August 7, 2001.

The Request claims that failures and omissions of IDA in the design, appraisal, and implementation of the Projects have materially affected the rights and interests of the Requesters,

# Uganda

## Request No. 24

and are likely to jeopardize their future social, cultural, and environmental security. In particular, the Requesters claim that the Owen Falls Extension and the construction of the Bujagali Hydropower Project have resulted, or may result, in social, economic, and environmental harm to the local population. The Requesters allege that the lack of an Environmental Impact Assessment (EIA) for the Owen Falls Extension violates the Bank's policy on Environmental Assessment, which the Requesters claim was in effect at the time the Project was approved. The Requesters further allege that the lack of an EIA for either the Owen Falls or Owen Falls Extension Projects limits the ability to assess the cumulative impacts of these Projects and the Bujagali Project. The Requesters assert that they believe that Ugandans have been harmed by the Bank's failure to ask for proper EIAs on the Projects.

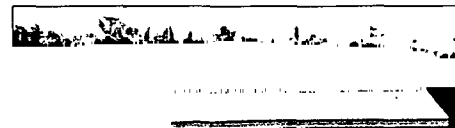
The Requesters further claim violations of the Bank's policy on Economic Evaluation of Investment Operations, OD 10.04. They assert that there is sufficient evidence that the Owens Falls Extension was not subject to the Bank's rigorous standard of analysis. They claim that the mistakes in the design of the Project, which resulted in only 100MW instead of 200MW being installed at the Kiira Dam, hastened the Government's efforts to build the Bujagali hydropower station.

The Requesters note that the Bujagali Project appeared to be on a fast track, and they attribute that to the inability of the Kiira Dam to meet the country's electricity needs. They state that they believe that Ugandans will be harmed



Top: The Bujagali Falls.

Right: House provided under the resettlement program of the Bujagali Hydropower Project.



because the Bujagali Project is likely to lead to another increase in electricity tariffs—and to rates that most Ugandans will not be able to afford.

The Requesters also assert that resettlement and compensation had already begun under the Bujagali Project at the time the Request was filed and before the Project was approved, when there was no assurance that the Bank or other funders would decide to back the Project. Thus, they argue that resettlement was going on without the Bank's supervision or involvement, an approach that they claim *"appears to violate the Bank's policy on Resettlement."*

The Requesters also claim that there has been a lack of disclosure of information and consultation regarding the proposed Project, and note that the Power Purchase Agreement and the economic analysis for the Bujagali

Hydropower Project have not been released to the public. They question the Project's economic and technical analysis, including the economic analysis of project alternatives. They contend that the Project is not the least-cost option for generating power in Uganda. They assert that the Project will have significant negative cumulative impacts on the environment, as well as on fisheries and tourism.

Concerning fisheries, the Requesters assert that the EIA team appeared to have missed the existence of rare fish that could be made extinct by the dam,

#### Box 4 Uganda: Country Information

Lying astride the Equator, west of Kenya, Uganda is a landlocked, fertile country of about 241,000 square kilometers, including about 44,000 square kilometers of open water and swampland. Approximately one-half of Lake Victoria (10,200 square kilometers) lies within Uganda and is the source of the Nile River. The country has substantial natural resources, including fertile soil, regular rainfall, and sizable mineral deposits of copper and cobalt. Agriculture is the most important sector of the economy, employing more than 80 percent of the workforce. Coffee is the major export crop, accounting for more than half of Uganda's export revenues. As a landlocked country, Uganda has continually suffered economic disadvantages, since the great bulk of its import-export traffic comes overland, from either Mombasa, Kenya or Dar es Salaam, Tanzania. However, the country's comparative advantage is its considerable hydropower potential, which flows primarily from the Nile River.

#### Uganda at a Glance – 2000

Population	22.0 million
Surface area (1997)	241.0 thousand sq. km
Population per sq. km (1997)	111
Population growth	3 %
GNI per capita	310 US\$
GDP	6.3 billion US\$

Source: World Development Indicators Database

despite the fact that it had been brought to the attention of the EIA team by a leading expert on the river's fish.

In terms of tourism, they note that the dam will seriously retard the tourism industry, which, after coffee, is the second-largest foreign exchange earner. They claim that construction of the Bujagali Dam will inundate the Bujagali Falls, a major spiritual site and tourist attraction.

In closing, the Requesters claim that they had tried and failed to clarify and resolve their concerns with Bank officials. They also note that as a consequence of the foregoing, they had filed a claim with the Compliance Advisor Ombudsman (CAO) of IFC, and that the matter is still under investigation.

In its Notice of Registration, the Panel stated that the Requesters' claims could constitute violations of, among other things: OD/OP 4.01, Environmental Assessment; OP 4.04, Natural Habitats; OD 4.20, Indigenous Peoples; OD 4.30,

Involuntary Resettlement; OP 4.37, Safety of Dams; OPN 11.03, Management of Cultural Property of Bank-Financed Projects; OP 10.04, Economic Evaluation of Investment Operations; OD 4.15, Poverty Reduction; BP 17.50, Disclosure of Operational Information; OD 10.70, Project Monitoring and Evaluation; and OD 13.05, Project Supervision.

#### Management Response

Management submitted its Response to the Panel on September 13, 2001. With respect to the claims made by the Requesters, IDA Management states that in its view IDA had complied with the applicable operational directives, policies, and procedures, and had applied them with due diligence to the environmental, social, cultural, economic, technical, institutional, and financial requirements of the Power III Project and its Supplemental Credit, the Power IV Project, and the proposed (at that time) Bujagali Hydropower Project.

Management raises a "threshold" question regarding the jurisdiction of the Panel in relation to partial risk guarantee operations for private sector borrowers, noting that IDA's involvement in the Bujagali Hydropower Project would be through a PRG for a private sector project. Management adds that this is the first IBRD/IDA operation of this type to be referred to the Inspection Panel and it is not clear that the drafters of the Resolution establishing the Panel intended it to have jurisdiction over private sector guarantee operations. Management further notes that the role of the guarantor is simply to appraise and assess the risks of an existing operation. Management acknowledges, however, that because of the PRG, all IDA's policies and procedures are applicable to the Bujagali Project.

Management states that several current Bank policies and procedures were not applicable when the Power III Project was appraised in 1990. Management

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points to the fact that the Owen Falls Extension is a complex constructed and extended over a period of 50 years, during which time hydrological, environmental, and economic conditions have changed, and with them, the standards required for IDA appraisal. (See Box 5 for more information on IDA assistance.)

Concerning the Requesters' allegations regarding the inadequacy of environmental assessment under the Power III Project and the lack of a post-construction EIA for Owen Falls Dam (and thus, inadequate assessment of cumulative effects), Management notes that it believes that the directives, policies, and procedures prevailing at the time the Power III Project was prepared were adhered to. However, Management acknowledges that no formal EIA process of the type contained in the 1989 OD 4.00 on Environmental Assessment was conducted for the Power III Project.

With regard to the Requesters' claim that IDA had not conducted an adequate economic, financial, institution, and environmental appraisal, and that mistakes in the design of the Project resulted in only 100MW being installed at Owen Falls Extension instead of 200MW, thus hastening the need to build the Bujagali Hydropower Project, Management asserts that the appraisals of the Power III and Power IV Projects were robust and conducted in compliance with the relevant guidelines and policies in effect at the time.

With regard to the Requesters' claim that resettlement activity for the proposed Bujagali Hydropower Project had commenced without IDA's supervision or involvement, and in the absence of an

### Box 5 Uganda Power Sector and IDA Assistance

According to Management, IDA has been assisting Uganda's power sector for more than 20 years, beginning in the early 1980s with emergency repairs to the Owen Falls Dam, now called Nalubaale Dam, a hydropower station originally financed by the United Kingdom in 1954. Along with the Owen Falls Extension, now called Kiira, this complex on the Nile River has been constructed and extended over a period of some 50 years. The station was essentially the sole source of electricity supply in the country.

Uganda's energy sector capacity is very small, despite the country's vast hydropower resources. Less than 3 percent of the country's population has access to electricity, with 72 percent of the total electricity that the public electricity system produces consumed by a mere 12 percent of the domestic population—those who are concentrated in the Kampala metropolitan area and in the nearby towns of Entebbe and Jinja. Moreover, recent surveys have indicated that the private sector perceives the quality and adequacy of power supply to be the most serious constraint to private investment. A shortage of electricity has arisen because Uganda's generating capacity has not kept pace with the country's rapid economic growth. The severe deterioration of power infrastructure was identified as a serious obstacle to the revival of the commodity-producing sectors soon after IDA resumed its involvement in Uganda. IDA's strategy underpinning the power sector in Uganda has evolved, reflecting the recognition that shortfalls in the performance of the sector were becoming a key constraint to sustaining the country's economic growth.

To buttress IDA's support for significant hydropower investment in Uganda and to help shape the technical basis for IDA's support, the Government carried out the Hydropower Development Master Plan to identify and establish a least-cost generation plan for the power sector. In that plan, the Bujagali Hydropower Project was identified as the least-cost option to meet the country's medium- to long-term power generation needs. The Government requested possible Partial Risk Guarantee (PRG) assistance, and in September 1997 IDA indicated that it would be interested in pursuing a PGR for a private power project as one element of a broader package of assistance in support of restructuring the power sector.

Source: Bank Management Response to Request for Inspection Panel Review of the IDA-Financed Uganda Third Power Project (Credit 2268-UG) and the Proposed Bujagali Hydropower Project.

approved resettlement plan, Management notes that it had ascertained that both IFC and IDA staff had reviewed the Resettlement and Community Development Action Plan (RCDAP). Management adds that although neither institution had made a final determination as to the plan's compliance with

applicable directives, policies, and procedures, staff had ensured that the RCDAP responded to the requirements of OD 4.30 on Involuntary Resettlement.

Management asserts that its review of the extensive analysis of Uganda's least-cost power master plan confirmed that

the Government's assessment of the proposed Bujagali Hydropower Project was the next least-cost generation option for Uganda after Owen Falls Extension.

In response to the Requesters' claim that the proposed Bujagali Project was the cause of the newly raised electricity tariffs, Management notes that the May 2001 tariff increase was the first implemented in Uganda since 1993 and that it was made by the autonomous Uganda Electricity Regulation Authority. Management asserts that a tariff increase was needed, independent of the proposed Project, to ensure the financial viability of the power sector.

Management notes that the CAO of the IFC had received a complaint from local people in Uganda and, as part of Management's assessment of the complaint, it had asked IFC Management a series of questions about the proposed Bujagali Hydropower Project, to which IFC Management had responded separately.

### **The Panel's Eligibility Report/ Board Decision**

The Panel found both the Request and the Requesters eligible, and asserted its jurisdiction over PRG operations, and given the fact that the Request and Management Response contained conflicting assertions and interpretations, recommended an investigation into the matters alleged in the Request. The Panel sent its Eligibility Report to the Board on October 10, 2001.

The Board endorsed the Panel's position by approving its recommendation for an investigation on a non-objection basis on October 26, 2001.

### **The Panel's Investigation Findings**

#### **Power III Project**

With respect to OD 4.00, Environmental Assessment (October 1989), the Panel found that the Project should have been fully subject to the provisions of the OD, but concurred with Management that the environmental analysis of the Project largely accorded with the requirements of the OD, despite the fact that it was not formally assigned an environmental evaluation category. The Panel concluded that the procedures for environmental evaluation envisaged by the OD, however, were not complied with in regard to both the involvement of affected groups and the use of an environmental advisory panel. The Panel was satisfied, nonetheless, that the Project was analyzed, if not reported, as envisaged by Annex B1 of the OD, and therefore found Management in partial compliance with the policy.

With respect to OMS 2.36, Environmental Aspects of Bank Work (May 1984), the Panel noted that while the OMS did not mandate the use of Regional or Sectoral Environmental Assessments (SEA), OD 4.00 (October 31, 1989) introduced them. The Panel noted that although the Staff Appraisal Report (SAR) for the Project called, and made budgetary provision, for an SEA of hydropower on the Victoria Nile, Management admitted that it was never undertaken. The Panel further noted that Management also acknowledges that supervision was inadequate and that the rationale for not pursuing an SEA earlier on in Project implementation should have been documented and discussed with the Board. Therefore, the

Panel found that failure to perform an SEA for the Project was a violation of OD 13.05, Project Supervision (January 1996), and the terms and conditions under which IDA's Board approved the Credit.

For OP 4.37, Safety of Dams, the Panel found that Management was in compliance.

On OP/BP10.00, Investment Lending: Identification to Board Presentation (June 1994), the Panel accepted that the Owen Falls Extension had a potential capacity of 200MW, and noted that the confusion arose because of changes in Project specifications that were not adequately represented in the documentation. The Panel further noted that Management acknowledges that there had not been full and frank disclosure of the situation to the Board. The Panel found that in that sense, the Board documents did not meet the requirements of the OP/BP.

For OP 10.04, Economic Evaluation of Investment Operations (September 1994), the Panel accepted Management's claim that the OP was not applicable in June/July 1990, and therefore found that the economic analyses reported in the SAR were broadly in compliance with the provisions of OMS 2.20 and OMS 2.21. The Panel noted that Management acknowledges that the economic appraisal of externalities was not carried out as it should have been. However, the Panel concluded that the only way to assess whether the magnitude of externality costs was significant was to prepare and include estimates. The Panel therefore found that the required procedures were not observed.

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Finally, the Panel was of the view that the Project's economic analyses did not show evidence that they were pessimistic and/or disadvantaged the Owen Falls Extension Project relative to the proposed Bujagali Project, thereby advancing the latter.

### **Supplemental Credit to the Power III Project**

The Panel agreed that no additional Environmental Assessment for the Supplemental Credit was required and that, therefore, Management was in compliance with OD 4.00, Environmental Assessment, with regard to the Credit.

The Panel found Management in compliance with OP 4.37, Safety of Dams.

### **Power IV Project**

The Panel agreed that the Project warranted a "B" category Environmental Impact Assessment, and therefore found Management in compliance with OP/BP 4.01, Environmental Assessment (January 1999), in this respect. The Panel also found, in terms of the instruments used (environmental analysis, environmental management plans, environmental monitoring, and capacity enhancement), that the Project was in compliance with the OP/BP. With respect to public consultation and disclosure, the Panel found that the Project was not in compliance with the OP/BP.

The Panel found Management in compliance with OP 4.37, Safety of Dams.

The Panel's findings for the economic analysis of the Project were the same as with the Power III Project. The Panel saw no evidence that the analysis had

disadvantaged the Owen Falls Extension Project relative to the Bujagali Project.

### **The Bujagali Hydropower Project**

The Panel found that the Bujagali Environmental Assessment (EA) and the documents that reported the Project-specific environmental impacts were of high quality, and noted that all aspects of the Project appeared to have been thoroughly addressed. The Panel found that the EA procedures followed in the preparation of the Project were in compliance with the requirements of OP/BP 4.01. However, since an SEA had not been undertaken for the Project, the Panel found that Management was not in compliance with paragraph 7 of the OP/BP, nor was Management in compliance with the OP/BP with regard to a Cumulative Impact Assessment, which is not a requirement of a Project-specific EA, but is required for an SEA.

In terms of environmental impacts on fisheries and aquatic systems, the Panel found that the original fisheries study in the EIA was limited, but that subsequent studies had been undertaken to rectify the limitations of the original study. Consequently, the Panel found Management in compliance with the applicable provisions of the OP/BP.

With regard to the Kalagala Offset Agreement to preserve the Kalagala Falls, the Panel noted that in line with OP 4.04, Natural Habitats (September 1995/June 2001), Management had informed the Government of Uganda that since the implementation of the proposed Bujagali Hydropower Project would inundate Bujagali Falls, the World Bank Group had concluded that the Kalagala Falls had to be conserved in per-

petuity for its "spiritual, natural habitat, environmental, tourism and cultural values." The Panel also noted that Management states that "the Kalagala Falls site will be preserved in its present state as per the agreement between the Government of Uganda, IFC and IDA as an environmental off-set."

However, the Panel noted that a closer examination of the agreement suggests that was not necessarily the case. The Panel requested a legal opinion on the matter, and from the opinion found that there was no obligation to preserve the falls in perpetuity as an environmental offset. In addition, the Panel found that the Government of Uganda had assumed no obligation to preserve the falls as an offset. The Panel further found that the lack of a clear and binding obligation on behalf of the Government of Uganda to preserve the Kalagala site as an environmental offset in the Project's legal agreements was inconsistent with the Management Response and with Management's statements during Panel interviews. The Panel further noted that not only was there no obligation to preserve the Kalagala Falls as an offset, but also that the Agreement contained a direct expression of potential development of the Kalagala site subject to the clearance of the EIA with IDA. The Panel found that Management was not in compliance with the OP/BP, because the Project entailed a significant conversion of natural habitats and IDA had failed to ensure the establishment and maintenance of the appropriate and technically justified mitigation measures.

The Panel found Management in compliance with OP 4.37, Safety of Dams.



For the Summary of Economic Due Diligence (SEDD), the Panel noted that the SEDD did not always succeed in conveying transparently the essence of the analysis in matters that are clearly controversial. The Panel felt that such a lack of transparency was inappropriate in the context of an IDA-financed Project.

With regard to the Bujagali Environmental Impact Assessment Report, the Panel noted that a greater degree of quantified analysis would have added weight and certainty to the comparative assessments, but found Management in compliance with OP/BP 4.01 as regards the evaluation of alternatives from an environmental perspective.

On the Bujagali Resettlement Action Plan (RAP), the Panel found that although the RAP could formally be regarded as in compliance with OD 4.30 on Involuntary Resettlement, there were still important requirements to be met, particularly to the valuations and payment for crops that continued to be disrupted by a significant number of project-affected people.

For the Bujagali Community Development Action Plan (CDAP), the Panel found that the CDAP did not meet the requirements of OD 4.30. It noted that, among other things, the CDAP did not adequately address the issue of safety mechanisms for people who experienced difficulties after the compensation and resettlement process. The Panel found that the CDAP was not in compliance with the OD.

In terms of compensation, the Panel found that many households, especially those headed by women, appeared to have benefited, and that the new housing was a clear improvement on previ-

ous abodes. But the Panel concluded that the initial implementation of the RAP had serious problems, especially in the determination of legitimate claimants and in the valuation of land and crops; therefore, in that sense, the RAP was not in compliance with the requirements of OD 4.30. However, the Panel concluded that with few exceptions, most of the people resettled ended up not worse off, but better off than they were before their physical relocation, and in that sense, the main objective of the OD was achieved.

On tourism, the Panel found that Management—in failing to ensure that compensation was paid, or rehabilitation provided to people who will lose their primary sources of income as a result of the Project's impact on the industry—was not in compliance with OD 4.30.

The Panel concluded that OPN 11.03 on Cultural Property Management was fully applicable to the Project regardless of the fact that IDA's involvement was limited to a PRG.

Commenting specifically on the "Economic Review of the Bujagali Hydropower Project" report (Acres Report) prepared by the Acres International consultancy firm for IFC and IDA, the Panel noted that the report should be regarded as a *"feasibility study, including cost-benefit analyses."* The Panel added that such studies/analyses are listed in the Operational Memorandum (OM), Disclosure of Factual Technical Documents, as an example of documents for public disclosure. The Panel concluded pursuant to BP 17.50, Disclosure of Operational Information (September 1993), and the OM on the Disclosure of Factual Technical Documents, that factual technical

documents such as feasibility studies should be disclosed to the public, unless the restrictions in the OM applied. The Panel noted that it had not received any evidence that restrictions as specified by paragraph 3 of the OM were applicable to the Acres Report. The Panel therefore found Management not in compliance with the BP because of IDA's refusal to release the report.

On disclosure of the PPA, the Panel noted that Management had argued that the PPA was a proprietary agreement between the Government of Uganda and AESNP, and that therefore, IDA was not at liberty to disclose it without agreement of the parties. The Panel noted that Management was not opposed to the disclosure of the document, but had no authority to release it. The Panel concluded that although full disclosure of the PPA was vital in helping the public to analyze, understand, and participate in an informed discussion about the viability of the Project, IDA's policy had no specific requirement for disclosure of documents or contracts to which IDA was not a party. Therefore, the Panel found Management's actions consistent with the BP.

In conclusion, the Panel found Management in compliance with OP/BP 4.01 and BP 17.50 on the issue of public disclosure and consultations with respect to the environmental matters on the Project.

The Panel sent its Investigation Report to the Board on May 23, 2002.

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### Management's Response to the Panel's Report

Management submitted its Report and Recommendation in Response to the Panel's Investigation Report to the Board on June 7, 2002. In its Report, Management acknowledges the Panel's extensive in-depth analysis of the compliance issues associated with the Projects, and notes that this analysis had "brought into focus key issues and provided valuable input for World Bank projects." Management also notes that it had acknowledged in its Response, deficiencies in three areas not identified by the Request. One, the Staff Appraisal Report and the Development Credit Agreement for the Power III Project were not fully consistent in their description of capacity expansion, because of ongoing modifications to the design of the Owen Falls Extension. Two, although not required by applicable directives and policies, the Government was to have produced a Sectoral Environmental Assessment under the Power III Project, but did not do so; instead other studies were undertaken over time which yielded analyses that accomplished the objective of the SEA. Three, the Category "B" Environmental Assessment for the Power IV Project was sent to the InfoShop prior to appraisal, but was not disseminated in Uganda until after the appraisal.

Management notes that the strategy underpinning IDA's involvement in the power sector in Uganda had evolved with the recognition that shortfalls in the performance of the sector were becoming a key constraint to sustaining the momentum of the country's economic growth. The Power IV Project, the Energy for Rural Transformation



Inspection Panel Team meets representatives of the Requesters at NAPE's office in Kampala.

Project, and the Bujagali Hydropower Project, Management asserts, were all integral parts of IDA's assistance strategy.

Management acknowledges that a persistent theme that emerged from the debate concerning the Bujagali Hydropower Project was "pervasive appraisal optimism" with respect to Uganda's economic prospects and the demand forecast for power in the country. Management notes that while it agreed that the construction of a large infrastructure project in Uganda was subject to considerable risk, project selection had been made upon the assumption of a reasonably well-managed macroeconomy and power sector, as well as a track record of adherence to reform dating back over a decade. Management notes that Uganda's record in maintaining macroeconomic stability and its demonstrated ability to live up to its commitments, as discussed in the "Uganda: Country Assistance Strategy

FY 2001-2003," were the basis for the Bank considering a high case assistance program as realistic. Nonetheless, Management acknowledges that the country's economy remains subject to considerable risk, and that the Bujagali Hydropower Project was a "large and lumpy investment in a relatively small power system." However, Management notes that electricity demand forecasts had been thoroughly analyzed under a variety of macroeconomic and sector conditions less favorable than the base case, and even under these scenarios, the Project remained financially and economically viable and affordable. Management adds that this assessment continues to be the judgment of the private sector as well.



### The Board's Decision

IDA's Board met to consider both reports on June 17, 2002. The Board approved Management's response to the Panel's Investigation Report. The specific actions by Management approved by the Board to address the Panel's findings, included the following:

1. "Amend the Indemnity Agreement between Uganda and the World Bank to reaffirm the government's commitment not to develop the Kalagala Falls for hydropower. The government has reaffirmed its earlier commitment to set aside the Kalagala Falls exclusively to protect its natural habitat, environmental and spiritual values, and for tourism.
2. Provide support for expanded multi-stakeholder consultations on the Fourth Power Project and its relationship to the Power III and Bujagali Hydropower Projects.
3. Provide support under the Nile Basin Initiative for a Strategic/Sectoral Social and Environmental Assessment that will be a prerequisite to any future World Bank-financing of investments in power generation facilities under the Nile Equatorial Lakes Subsidiary Action Program.
4. Closely monitor future electricity demand growth, sector investments, billing and collections, and tariff levels, and identify measures, if needed, to mitigate their impact on the cost to consumers of electricity.
5. Support the examination of alternatives in power generation by financing, after Board approval, geothermal exploration and possible drilling in

areas in western Uganda identified as promising in feasibility studies being funded by the African Development Fund.

6. Request the private sponsor of the Bujagali Project to carry out focused surveys to support implementation and monitoring of the relevant components of the Community Development Action Plan.
7. Monitor implementation of agreements to be signed with tourism operators and support measures to be taken to address re-employment of Ugandan citizens affected by loss of tourism-related jobs."

Management was also invited to continue the economic analysis of the Bujagali Project, to facilitate risk mitigation measures.

# Papua New Guinea

Request No. 25

## Governance Promotion Adjustment Loan (GPAL) (Loan 7021-PNG)



*The Panel Chairman / Lead Inspector meets with representatives of the Requesters in Collingwood Bay.*

### The Program

According to the Project Information Document, the new Government of Papua New Guinea inherited a policy environment that had deteriorated so severely that the basic institutions of government had been undermined. The Government also faced dire financial conditions—including a significant overhang of public sector debt and arrears, and a budget deficit that exceeded 5 percent of the GDP—as a result of poor budget management by previous governments and a regional financial crisis and a severe drought in 1997.

In the first few months of taking office in 1999, the new Government, according to the Management Response, embarked on a wide-ranging program of governance reforms, including (a) passing a supplementary budget that undertook fiscal tightening; (b) raising taxes on luxury items and on log exports (thereby raising the equivalent of nearly 0.5 percent of GDP during the remainder of the year); and (c) reducing the budget deficit to 1.3 percent of GDP.

The Bank accepted these initial reforms as evidence of the Government's commitment to restoring macroeconomic stability and improving governance, which served as the foundation for renewed cooperation between the borrower and the Bank. The Governance Promotion Adjustment Loan (GPAL) was made in response to a request from the Government to support its stabilization and structural reform efforts.

In December 1999, a Country Assistance Strategy (CAS) covering the period 2000-2002 was presented to IBRD's Board. The CAS proposed a base-case scenario, with a lending volume of US\$200-250 million for three years. The country strategy included a structural adjustment loan and an investment loan for the forestry sector—the GPAL and the Forestry and Conservation Project (FCP), respectively. Access to the structural adjustment loan resources would be triggered primarily by substantive reengagement with the Bank and the International Monetary Fund (IMF) on critical reform issues.

### Box 6

#### Papua New Guinea Request for Inspection: Project Information at a Glance

Project Name:	Governance Promotion Adjustment Loan
Region:	East Asia and Pacific
Sector:	Public Sector Management
Environmental Category:	N/A
IBRD Loan Amount:	US\$90,000,000
Board Approval Date:	June 13, 2000
Effective Date:	June 21, 2000
Closing Date:	December 31, 2001

**Box 7**  
**Violations of Operational Policies and Procedures Claimed by the Requesters**

Safeguard Policies:     Forestry  
 Other:                     Adjustment Lending  
                                   Project Supervision



*Children in a Collingwood Bay area village visited by the Panel.*

**The Loan**

According to the Loan Agreement, the Government of Papua New Guinea designed a program of actions, objectives, and policies to achieve structural adjustments of the country's economy (the "Program"), declared its commitment to the execution of the Program, and requested assistance from the Bank to support its execution. The Program's key objectives were to strengthen economic management and improve governance. According to the Report and Memorandum of the President submitted to the IBRD Board of Executive Directors, the loan was to support the Government's ongoing efforts to redress past policy and governance shortcomings in a sustainable manner.

The Bank's Executive Directors approved the GPAL on June 13, 2000. The Loan Agreement specified that the GPAL was to be disbursed in three tranches: the first for US\$35 million, followed by a floating tranche of US\$20 million, and a "second" tranche of US\$35 million. (Although referred to in the documentation as the "second tranche," this was, in fact, the third disbursement segment.) The second tranche (which is the subject of the Request for Inspection) had 22 release conditions, of which three concerned forestry. The first tranche was disbursed upon loan effectiveness on June 21, 2000, and the floating tranche and second tranche were to be released upon satisfaction of conditions in the Loan Agreement. The floating tranche was dis-

bursed in July 2001, and the second tranche was disbursed in December 2001, shortly after the Request for Inspection was filed.

Under the GPAL, the Bank addressed key policy reforms that were designed to deal with the policy issues underpinning the forestry sector, while the longer-term institutional development objectives were to be addressed under the FCP. The Borrower's reform program was also supported by an IMF standby agreement of SDR 85.5 million (approximately US\$118 million), US\$30 million from Australia, and a US\$50 million loan from the Japan Bank for International Cooperation; all funds have been fully disbursed.

**The Request**

The Panel received the Request on December 6, 2001, and registered it on December 7, 2001. The Request was submitted by the Center of Environmental Law and Community Rights, Inc. (CELCOR), a nongovernmental organization (NGO) that represented about 550 customary landowners in 21 villages in the Kiunga District of the Western Province of Papua New Guinea. The Requesters asked that their names be made available only to the Panel.

The Request claims that expropriation of the claimants' forests by the State and the logging company has caused and will continue to cause them harm, as well as grave financial loss. They claim that the net value of the logs taken from their land since 1995 can be calculated at US\$36 million, an amount, they note, that essentially matches the US\$35 million second tranche outstanding at the time the Request was filed.

# Papua New Guinea

Request No. 25

## Papua New Guinea at a Glance - 2000

Population: 4.8 million  
Surface area (2000):  
462.8 thousand sq. km  
Population per sq. km (1997): 10.6  
Population growth: 2.2 %  
GNI per capita: 760 US\$  
GDP: 4.0 billion US\$

Source: World Development Indicators Database.

### Box 8

#### Papua New Guinea: Country Information

Papua New Guinea is endowed with considerable natural and human resources. Located in Southeastern Asia, between the Coral Sea and the South Pacific Ocean, east of Indonesia, the Papua New Guinea group of islands includes the eastern half of the island of New Guinea. The country shares that island—the second largest in the world—and a border of 820 kilometers with Indonesia. Situated along the Pacific “Rim of Fire,” the country’s natural hazards include active volcanism as well as frequent and sometimes severe earthquakes, mudslides, and tsunamis. Agriculture provides a subsistence livelihood for 85 percent of the population, and mineral deposits, including oil, copper, and gold, account for 72 percent of export earnings. The country was plagued by a nine-year secessionist revolt on the island of Bougainville, which ended in 1997.

The country’s 3.4 percent average annual GDP growth rate during 1979-1998 concealed considerable year-to-year variation, which resulted from external economic shocks, natural disasters, and economic management problems. There has been little economic growth in the latter half of the 1990s, with real GDP in 1999 barely 3 percent higher than in 1994, not enough to compensate for population growth.

Source: Project Information Document, Report No. PID8970.

Moreover, the Requesters claim that the Bank was in violation of the terms and conditions under which the GPAL was approved, because the Bank intended to disburse the second tranche, despite the fact that the Borrower had not complied with the disbursement conditions of the loan. In particular, the Requesters claim that the Borrower failed to maintain its own moratorium and failed to fully implement the findings of the forestry review presented in the report of the Independent Review Team. They further claim that in lifting the moratorium on issuance of new timber permits and Forest Management Agreements, the Borrower failed to fulfill its commitment under the Letter of Development Policy (LDP) to maintain the moratorium until all existing logging operations had been reviewed.

The Requesters further claim that the Bank violated OP 4.36, on Forestry, since the acts of the State show that it did not implement or adhere to commitments to sustainable forest management, sustainable forestry, conservation-oriented forestry, or good forestry practice.

The Requesters also assert that in the Loan Agreement’s Matrix of Policy Actions there was a moratorium declared on all new Forest Management Agreements (FMA), timber permits, and geographic extensions to timber permits. They note that a column entitled “second tranche” contains conditions that had to be met before the disbursement of the second tranche, and that that column includes a complete independent review of all FMAs, timber permits, and geographic extensions to timber permits.

Finally, the Requesters claim that some of the adverse effects they are suffering are caused by the illegal logging and road construction of the Kiunga-Aiambak road project. They assert that the project is degrading their land and forest, damaging their culture, and eroding governance, as well as inflicting economic losses on them.

In its Notice of Registration, the Panel stated that the Requesters claims could constitute violations of, among other things, OP 4.36, Forestry, OD 8.60, Adjustment Lending, and OD/OP/BP 13.05, Project Supervision.

#### Management Response

Management submitted its Response to the Panel on January 29, 2002. Management states that its response demonstrates that the Bank is in compliance



## Box 9

### The Forestry Sector and Governance Issues

Papua New Guinea contains one of the world's four remaining significant tropical rainforest wildernesses. These forests cover 36 million hectares, or 77 percent of the country's land area. The forests range from high-altitude cloud forests to lowland mixed species and mangroves, and make up one of the world's richest reserves of biodiversity existing in an intact, contiguous tropical forest. The forests provide the basis of livelihood and cultural life for the rural citizenry of Papua New Guinea, who comprise about 80 percent of the country's population.

Although the country's constitution and its national policy commit the country to sustainable forest management, a 1989 Commission of Inquiry into Papua New Guinea's forestry sector concluded that logging practices were out of control. The Commission also found that logging practices were irreversibly damaging forests, land, and local communities, and diminishing biodiversity and other environmental values.

Under customary title, local clans essentially own all of the forested land in the country, and in theory no major development activity can occur on a clan's land without its consent. In practice, however, according to the Management Response to the Request for Inspection, exploitative and uncontrolled logging operations have destroyed large areas of forest, and as a result, major social and economic disruptions have occurred. Clans—inexperienced with dealing with outsiders, and suffering from widespread illiteracy and living in isolation as a result of terrain so mountainous that some groups were, until recently, unaware of the existence of neighboring groups only a few kilometers away—have fallen prey to individuals who claim to represent them, but who instead have assisted logging companies in gaining access to forestry resources. Indeed, over the last decade, foreign-dominated and sometimes poorly managed industrial-scale logging for the purpose of raw log exports, has been virtually the only type of forestry activity pursued by the country.

Source: Bank Management Response to Request for Inspection of the Governance Promotion Adjustment Loan to the Independent State of Papua New Guinea (Loan No. 7021-PNG).

with the applicable policies and procedures in terms of the activities at issue. Management asserts that the Response shows that the Requesters' assertions of failures of the GPAL objectives and violations of the Bank's operational policies and procedures are unfounded and that there is no link between the GPAL and any material adverse effects that the Requesters may have suffered. Moreover,

Management notes that it believes that the best way to assist the Requesters in achieving their aims was to proceed with the reforms under the GPAL. Management further notes that the three forestry-related tranche release conditions were all met to the Bank's satisfaction prior to disbursement of the second tranche. In addition, Management notes that the Borrower had met all of the spe-

cific conditions related to the second tranche, with the exception of two—which the Bank's Executive Directors had agreed should be waived since the achievement of the policy objectives of the GPAL had not been compromised.

On one of the conditions for the release of the second tranche, namely, the reinstatement of the forestry log tax regime and satisfactory implementation of reforms on the forestry revenue and royalty to landowners, Management asserts that the Government of Papua New Guinea carried out the requisite review, with a focus on taxation reforms and transfer pricing, and implemented adjustments to the log export tax in the 2002 budget. However, Management admits that *"the analysis and recommendations of the review with regard to landowner royalties raised a number of unanticipated issues that require further detailed analysis."* According to Management, the Government's commitment to deal systematically with the royalty issues raised by the review was now to be implemented under the FCP. Thus, Management reached the conclusion that *"together with the revenue system amendments implemented in the 2002 budget, the steps towards implementing changes in the royalty system initiated through the review process and the Prime Minister's letter pledging commitment were therefore considered . . . to be sufficient to comply with this second tranche condition."*

Management argues that the adverse effects claimed by the Requesters were not attributable to any actions or omissions on the part of the Bank, asserting that the Requesters' claims of adverse effects were entirely related to the Kiunga-Aiambak road project. The

# Papua New Guinea

## Request No. 25

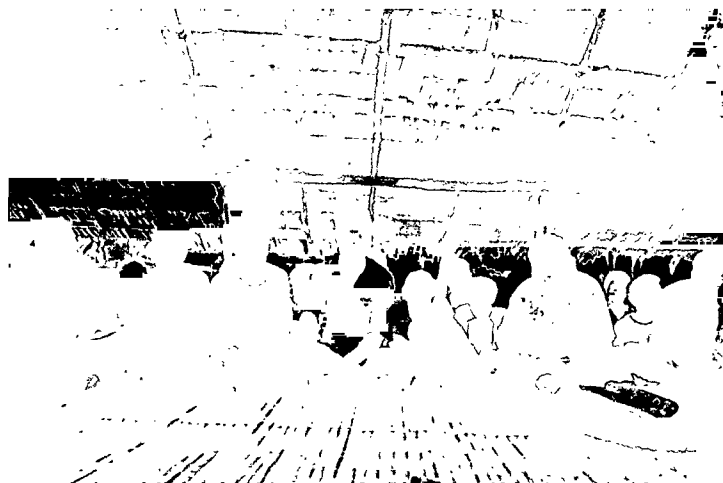
Bank, Management explains, had no role in the construction, operation, or maintenance of the road project, and the activities that had caused the adverse effects as described by the Requesters were not financed under the GPAL, were not among the policy objectives of the GPAL, and were not included among the GPAL conditions. Management further notes that these activities were, for the most part, a result of purportedly illegal actions by private entities that began prior to preparation of the GPAL. Moreover, Management notes that when it received information about adverse effects the Requesters may have suffered as a result of the logging in the Kiunga-Aiambak road corridor, they brought the concerns to the attention of the Prime Minister in July 2000 and advised against any extension of the road project.

Specifically, Management notes that having reviewed the information presented in the Request, it took the following position: there was no cause and effect between the adverse impacts described and actions or omissions on the part of the Bank; the adverse effects claimed could not be attributed to violations by the Bank of relevant policies and procedures; and as there is no link between the claims and the GPAL, withholding disbursement of the second tranche would not have provided remedy for the Requesters' claims of adverse effects.

With regard to the Requesters' claims about the Loan Agreement Matrix of Policy Actions, Management asserts that "there is no Matrix included in the Loan Agreement," stating that the language quoted by the Requesters is taken from the Matrix attached to the LDP, which

Right: A group of Requesters.

Bottom right: Pristine forest in Papua New Guinea.



"serves only as a summary of actions taken or to be taken by the Borrower under the reform program." Management acknowledges, however, that "while the main text of the LDP clearly establishes the scope of the review to cover all recent major forest resource permit applications and approval process, the summary in the Matrix does not accurately reflect the actions set out in the LDP." Moreover, Management acknowledges that "this issue was not clarified in either the Report and Recommendation of the President on the GPAL or the Loan Agreement."

Management notes that there will be continued attention to the challenges in the forestry sector, adding that the centerpiece of the Bank's continued involvement in the forestry sector is the Forestry and Conservation Project (FCP). They point to the review of existing forestry operations—for which the Requesters are calling—as one of the activities that will be conducted under the FCP. Management also notes that the Borrower had agreed to include a covenant in the FCP Loan Agreement to implement the recommendations of the independent

review of logging permit applications completed under the GPAL.

Management concludes by stating that in its view, moving ahead with the GPAL was far more likely to assist the Requesters to achieve their aims than canceling the loan, and that the FCP is the most appropriate operation through which the Bank can assist the Borrower to address issues in the forestry sector in Papua New Guinea, including the issues identified in the Request. Therefore, in Management's view, the Requesters' assertions of violations of the Bank's operational policies and procedures are unfounded, and thus Management recommended that the Request for Inspection of the GPAL by the Panel be denied.

## The Panel Eligibility Report / Board Decision

To determine the eligibility of the Request and the Requesters, the Panel reviewed the Request and Management's Response. In addition, the Panel visited Papua New Guinea in March 2002 and met with the NGO representing the Requesters, Government officials, some Members of Parliament, and representatives of local communities, among others. During the Panel's eligibility visit, residents of the Collingwood Bay area told the Panel that they also supported the Request and asked that their names be added to it.

The Panel found its visit to Papua New Guinea of great value in terms of acquiring a first-hand appreciation of the many problems faced by local landowners in dealing with forestry, environmental, and economic issues resulting from illegal and/or unrestricted logging in otherwise pristine areas. The numerous meetings with NGO representatives also served to provide a better understanding about their views regarding the execution of the Program, the Bank's conditionality, and the sustainability of the reforms supported by the GPAL. Some specific examples of these views are worth noting in this Report.

The Panel found that one of the disputed issues between the Requesters and Management was where the tranche release conditions were established. Without consideration of the specifics of the conditions in dispute, the Panel noted that according to the Loan Agreement, the LDP itself, and the applicable Bank policies the program supported, it was evident that the program was described in greater detail in the Policy

Matrix than in the LDP or in the Loan Agreement. The Panel also noted that in recommending the release of the second tranche of the GPAL, Management, while acknowledging the need for a more measured longer-term examination of issues related to royalties, had stated to the Board that the condition calling for the implementation by the Borrower of reforms to its forestry revenue and royalty regime satisfactory to the Bank, "*had been met.*"

On the matter of the Government's review of timber concessions, for example, the Requesters and other NGOs—after acknowledging the fact that there were quite a number of consultations on the subject—questioned not only the limited number of reviews but also their specific terms of reference and the fact that only three field visits were made by the consultants in charge of the reviews, mostly to validate the methodology. In their view, this was not acceptable in a country with 20 provinces, where many important decisions related to timber concessions are taken locally. The Panel found that the manner in which the results of the different reviews were consolidated was also a source of concern, since, in several instances, it seemed to distort the findings of individual reviews.

As for the sustainability of the reforms (especially those which were conditions for the release of the second tranche), the Panel understood from local NGOs that the amendments to the forestry revenue regime consisted of a mere adjustment of a tax rate, in the context of the budget approval process, and that no amendments were made to the royalty regime despite its evident shortcomings. The NGOs further noted that even during

the limited moratorium, several new timber concessions were granted. Moreover, they added that in spite of formal changes to the composition of the Forestry Board, its membership basically remained the same (the Panel was able to verify the legitimacy of these claims.) Finally, the NGOs noted that these reforms may be short-lived, since several Government officials oppose them and the composition of Government is likely to change as a result of the forthcoming elections.

Notwithstanding the foregoing, the Panel found that "*the evident harm suffered by the Requesters [was] not related to an act or omission of the Bank.*" The Panel noted that the actions causing harm were inflicted by private entities who had no relationship to the Bank's assistance program in Papua New Guinea. The Panel further noted that the harmful logging projects that predated the GPAL could not be attributed to a failure by the Bank to supervise the execution of the Program supported by the GPAL, or to the Borrower's non-compliance with applicable tranche release conditions.

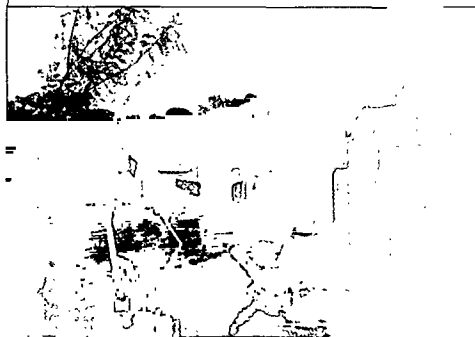
The Panel therefore concluded not to recommend an investigation into the matters alleged in the Request. The Panel sent its report to the Board on April 30, 2001, and the Board approved the Panel's recommendation on a non-objection basis on May 20, 2002.

# Paraguay / Argentina

## Request No. 26

**Paraguay: Reform Project for the Water and Telecommunications Sectors (Loan No. 3842-PA)**

**Argentina: SEGBA V Power Distribution Project (Loan No. 2854-AR)**



According to the Request, this picture shows one of the areas being flooded by the closing of the Yacyretá Reservoir at 76 meters above sea level.

### The Request

On May 17, 2002 the Inspection Panel received a Request for Inspection related to the above-referenced Projects. The Request was submitted by Federación de Afectados por Yacyretá de Itapúa y Misiones (FEDAYIM), a local non-governmental organization, on its behalf as well as for more than 4,000 families affected by social and environmental impacts of the Yacyretá Hydroelectric Dam, and six coordinators of affected people in the districts of San Cosme y Damián, Distrito Cambyreta, Barrio Pacu Cúa, Barrio Sta. Rosa Mboy Caé, Arroyo Potiy, Ayolas, and Barrio Santa Rosa. The Request also attached letters of evidence that the Mayors and Municipal Councils of the City of Encarnación and the District of Cambyreta have

endorsed the Request. The Panel registered the Request on May 30, 2002.

The Requesters claim to represent more than 4,000 families affected by the pending liabilities, which have raised the level of the reservoir of the Yacyretá hydropower plant to 76 meters above the sea level (MASL) and, possibly, higher. According to the Request, because of inadequate Project supervision by the Bank, these families were not appropriately identified and “*quantified in their real dimensions*” and, as a consequence, thousands of them were excluded from existing compensation and mitigation programs in spite of the fact that for more than 20 years they have owned and occupied lands affected by the dam. (See Box 12 for more information on the Yacyretá Project.)

### Box 10

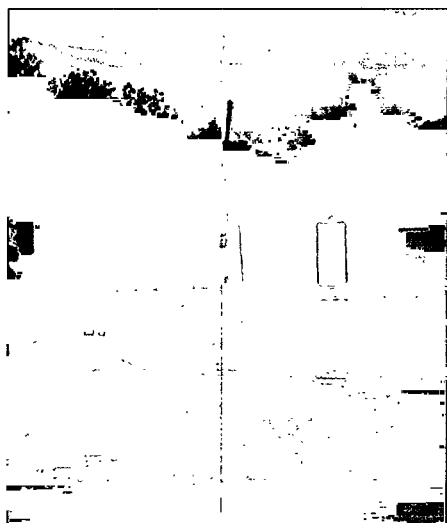
#### Paraguay / Argentina Request for Inspection: Project Information at a Glance

Project Name:	Reform Project for the Water and Telecommunications Sectors (formerly Asunción Sewerage Project)
Region:	Latin America and the Caribbean
Sector:	Water, sanitation and flood protection
Environmental Category:	A
IBRD Loan Amount	US\$46,500,000
Board Approval Date:	February 14, 1995
Effective Date	October 13, 1995
Closing Date:	December 31, 2003
Project Name:	SEGBA V Power Distribution Project
Region:	Latin America and the Caribbean
Sector:	Environment
Environmental Category:	A
IBRD Loan Amount	US\$60,483,346
Board Approval Date:	June 23, 1987
Effective Date:	September 30, 1988
Closing Date:	October 31, 2002



**Box 11**  
**Violations of Operational Policies and Procedures Claimed by Requesters**

Safeguard Policies:	Environmental Assessment Involuntary Resettlement
Other:	Environmental Policy for Dam and Reservoir Projects Project Supervision Project Monitoring and Evaluation Suspension of Disbursements



The Request cites, as an example, the case of 110 families who live in the district of Cambyreta on the banks of the Potiy Creek, who settled in the area around 1978 and who are now affected by floods every time that it rains. The Request also cites similar cases of families living on the banks of the creeks of Mboy Caé, Santa María, and Yacu Paso. The Request further claims that families for whom the creek flood control program was established are being replaced by families from the neighborhoods of Pacu Cúa, Santa Rosa, Mboi Caé, Ita



*Left and top: Areas affected by the flooding.*

Paso, and San Blas, who are in no way affected by the devastating situation being borne by those living on the creek banks, for whom this program was created.

The Request also complains about the environmental contamination and adverse health impacts caused by the elevation of the reservoir. According to the Request, this situation was further aggravated by the housing developments built by Entidad Binacional Yacyretá (EBY) in Buena Vista and San Pedro, where the wastewater spills into the Potiy, Santa María, and Mboi Caé Creeks, leaving them totally contaminated. The Requesters believe that the chance to recover or clean up these streams will

**Box 12**  
**The Yacyretá Project**

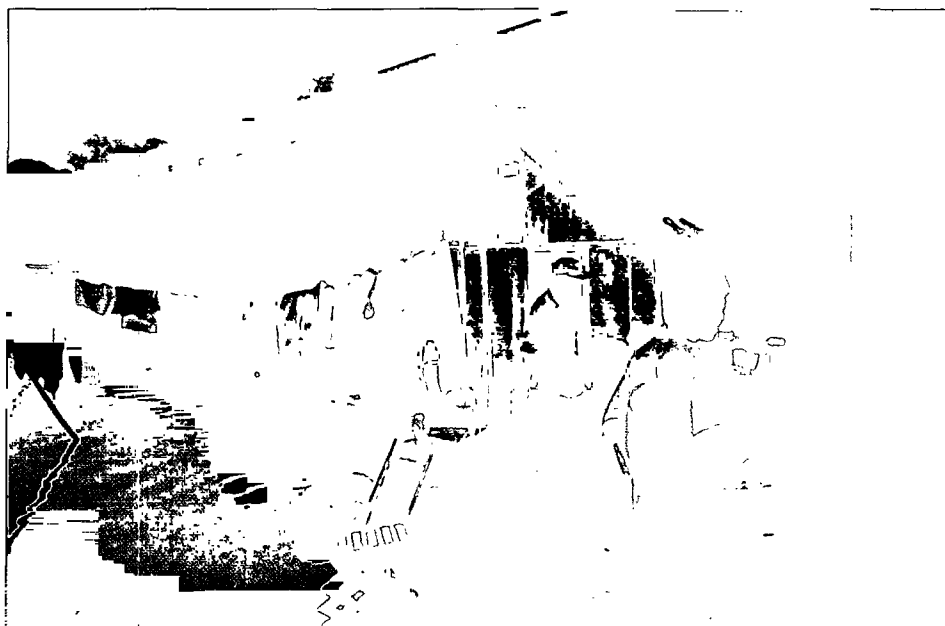
According to Management, Yacyretá is a multi-billion dollar hydroelectric facility constructed on the Paraná River, along the border between Argentina and Paraguay. At full capacity (with a reservoir level of 83 MASL), Yacyretá will generate 3,100 megawatts of electricity. Currently, it operates at 60 percent of its capacity, with a reservoir level of 76 MASL. The project is the result of a joint venture established in a 1973 treaty between the countries. To implement the project, a semi-autonomous binational entity, EBY, was created in 1976, with equal representation of the two countries on its Board of Directors, as well as at all other administrative levels. The Yacyretá Project is partially financed by a series of loans to the Argentine Republic from both IBRD and the Inter-American Development Bank. The Government of Paraguay, while participating in the management of the project and sharing in its benefits, was not to contribute directly to any project costs.

be lost for good, and numerous families will be condemned to live in a polluted environment.

The Request claims that the reservoir has caused severe health problems. The Requesters allege that the reservoir, filled with stagnant water, polluted with sewage waste, is an ideal habitat for microorganisms such as malaria, leishmaniasis, schistosomiasis, and dengue fever; and they provide statistical data from the

# Paraguay / Argentina

Request No. 26



Left and right: Areas that are being flooded and otherwise affected by the closing of the Yacyretá Reservoir. (Photographs provided by the requesters.)

Ministry of Public Health and Social Welfare for the years 1990, 1992, and 1994, which shows that diseases related to the reservoir's existence (diarrhea, anemia, parasitic infection, skin diseases such as pyoderma and ectoparasites) were among the main causes for doctors' visits. According to the Request, since the reservoir was filled, people living in the area have complained of a high incidence of fevers. The Requesters also allege that there have been no programs for monitoring and controlling disease-causing microorganisms, and if this remains unresolved, it could lead to an alarming and catastrophic health situation.

The Requesters claim that the Bank has failed to ensure that EBY provides people with suitable compensation and resettlement. As an example, they cite the compensation approved for the families living in the Santa Rosa, Arroyo Pora, and Ita Paso neighborhoods. They

assert that the amount of compensation was negligible, and that the amounts would, in no way, "*make it possible for the families to buy new land and rebuild their homes.*" Similarly, they allege that the Bank and EBY have no plans to restore the families' productive infrastructure.

Finally, the Request states that compensation and resettlement programs for brickmakers benefited only the owners of productive units and left their workers unemployed and in a very difficult economic condition.

In its Notice of Registration, the Panel stated that the Requesters claims could constitute violations of various provisions of the following Bank Policies and Procedures: OD 4.00, Annex B, on Environmental Policy for Dam and Reservoir Projects; OD 4.01 on Environmental Assessment; OD 4.30 on Involuntary Resettlement; OD/OP/BP 13.05 on Pro-

ject Supervision; OD 10.70 on Project Monitoring and Evaluation; and OD 13.40 on Suspension of Disbursements.

## Chad

Request No. 22

**Petroleum Development and Pipeline Project (Loan No. 4558-CD), Management of the Petroleum Economy Project (Credit No. 3316-CD), and Petroleum Sector Management Capacity Building Project (Credit No. 3373-CD)**



*Esso staff explaining to Panel team the extent of the feeder line network.*

### Background

The Panel received the Request for Inspection dated December 15, 2000 on March 22, 2001, and registered the Request on April 11, 2001. The Request was submitted by Mr. Ngarlejy Yorongar, who was acting for himself and on behalf of more than 100 residents living in the vicinity of three oil fields of the Doba Petroleum Project in the cantons of Miandoum, Komé, Béro, Mbikou, Bébédjia, and Béboni, in the Bébédjia sub-prefecture of southern Chad. The Requesters asked that their names be made available only to the Panel. The Request related only to the Chad portion of the Project.

The Request claims that the Requesters' rights and interests had been, or are likely to be, directly harmed as a result of the Bank's actions in the design, appraisal, and supervision of the Projects. It alleges that the Bank's failure to comply with its policies and procedures on Environmental Assessment, Natural Habitats, Pest Management, Indigenous Peoples, Involuntary Resettlement, Forestry, Economic Evaluation of Investment Operations, Cultural Property, Disclosure of Operational Information, and Project Supervision had resulted and would result in direct and adverse impacts on the Requesters. Among the alleged impacts were pollution and degradation of the environment, expropriation without compensation, lack of respect for the usages and customs of the Requesters, violations of their human rights, and bad governance reflected by the misappropriation of US\$25 million in 2000 and its use for the purchase of weapons.

In particular, the Requesters claim that the development of petroleum activities, including development of the oil fields in southern Chad and the construction of an oil pipeline between Chad and Cameroon, represents a threat to local communities, their cultural property, and to the environment. Specifically, the Requesters claim that people living in the Doba Basin are being harmed or are likely to be harmed because of the absence, or inadequacy, of compensation and environmental assessment. The Request claims that Bank's monitoring and supervision policies and procedures were violated and that the Requesters' innumerable attempts to bring the problems associated with the Projects to the attention of Bank Management had not produced satisfactory results.

Finally, the Request claims that proper consultation with and disclosure of information to the local communities has not taken place. The Request also notes that the Requesters held the Bank accountable for what it had done as well as for what it had omitted to do.

### Management Response

Management submitted its Response to the Panel on July 20, 2001. Management states that the Bank has complied with its operational policies and procedures with regard to the environmental, social, cultural, and procedural matters raised in the Request. Management explains that the Project preparation process took several years and that an extensive review of the environmental and social aspects of the Project was conducted with the participation of Bank-wide specialists. Management states that this review led to significant changes in Project design, and notes that the pub-

# Chad

## Request No. 22

lic debate around the Project—its rationale, its impacts, and its significance for the development of Chad—involved a broad spectrum of civil society actors, both in Chad and abroad. This debate, Management claims, provided and continues to provide insights and inputs to further improve Project design and to identify issues during implementation.

Management notes that the Bank has taken the necessary measures to ensure that people in the Project area have not been directly and adversely affected as a result of the Project's design and implementation to date. Management adds that it does not believe that the Requesters will be adversely affected by the implementation of the Project in the future, since systems are in place to ensure that their views and concerns are adequately identified and addressed, and extensive monitoring arrangements and supervision activities will provide a channel for addressing implementation issues. With regard to the Requesters' claims concerning the adequacy of the Project's environmental assessment, Project design, and location, Management states that it believes that all the policies, guidelines, and procedures pertaining to environmental matters raised by the Request were and continue to be followed. Management notes that the Project was designed to minimize environmental impacts.

In terms of the Requesters' claims concerning resettlement and compensation, and their specific claims (a) that national legislation was not respected and that medicinal trees were not adequately compensated for; and (b) about the extent of resettlement and the non-application of ODs pertaining to cultural

### Box 13

#### Chad Request for Inspection: Project Information at a Glance

Project Name:	Chad-Cameroon Petroleum Development and Pipeline Project
Region:	Africa – Sub-Saharan
Sector:	Oil & Gas
Environmental Category:	A
IBRD Loan Amount:	US\$39,500,000
Board Approval Date:	June 6, 2000
Effective Date:	August 10, 2001
Closing Date:	June 30, 2005
Project Name:	Management of the Petroleum Economy Project
Region:	Africa – Sub-Saharan
Sector:	Public Sector Management
Environmental Category:	C
IDA Credit Amount:	US\$17,500,000 equivalent
Board Approval Date:	January 27, 2000
Effective Date:	September 21, 2000
Closing Date:	June 30, 2005
Project Name:	Petroleum Sector Management Capacity Building Project
Region:	Africa – Sub-Saharan
Sector:	Oil & Gas
Environmental Category:	C
IDA Credit Amount:	US\$23,700,000 equivalent
Board Approval Date:	June 6, 2000
Effective Date:	June 23, 2001
Closing Date:	December 31, 2005

property, respect of local people, and public consultation, Management asserts that the Bank has and continues to follow all of its policies, guidelines, and procedures. With regard to the Requesters' claims that the Bank's policies and procedures on monitoring and evaluation and supervision are not being respected, Management asserts that it does not believe that this is the case.

In response to the Requesters' allegation that their rights and interests have been or are likely to be harmed by the Bank's failure to apply its policies on governance (with the Requesters citing as an example the Government's use of a petroleum bonus of US\$25 million to purchase weapons), Management stresses that improving governance was one of the central objectives of the Bank's Country Assistance Strategy for Chad.

## Box 14

### Chad / Cameroon Petroleum Development and Pipeline Project

According to the Chad Project Information Document, the Chad/Cameroon Petroleum Development and Pipeline Project is the largest energy infrastructure development in Sub-Saharan Africa. The objectives of the Project are to increase government expenditures in Chad on poverty alleviation activities and to promote the economic growth of Chad and Cameroon through private sector-led development of Chad's petroleum reserves and their export through Cameroon.

The Project, which is expected to cost about US\$3.7 billion, is being funded primarily by the private sector, with the World Bank Group providing only about 4 percent of the financing (the World Bank and IFC are lending US\$39.5 million and US\$100 million, respectively). The private sponsors, who have formed a consortium, are ExxonMobil of the United States (the operator), Petronas of Malaysia, and Chevron of the United States. According to Bank Management, the Project was prepared from 1993 to 1999 by the consortium and the Governments of Chad and Cameroon, with the help of the Bank Group. The Project is expected to yield approximately US\$2 billion in revenues for Chad over its 28-year operating period.

The consortium will develop the three oil fields of Kome, Miandoum, and Bolobo (the "Field System") in the region of Doba, in southern Chad. The Project also entails the construction of a 1,070 kilometer pipeline from the Doba oilfields to Cameroon's Atlantic coast at Kribi, three related pumping stations, ancillary facilities, infrastructure improvements, and installation of off-shore oil-loading facilities (the "Export System"). Two joint-venture companies, the Cameroon Oil Transport Company (COTCO) and Tchad Oil Transportation Company (TOTCO), were established between the consortium and the governments of the two countries to own and operate the Chad and Cameroon portions of the export system.

The Pipeline Project in Chad is accompanied by (a) the Management of the Petroleum Economy Project, which aims to build Chad's capacity to manage its oil revenues, and (b) the Petroleum Sector Management Capacity Building Project, which aims to assist the Government in carrying out its responsibilities under the Pipeline Project.

Participation by the World Bank has enabled the consortium and the Government of Chad to agree to a "Revenue Management Plan" and, as a result, the Bank expects that the oil revenue would provide resources to alleviate poverty by financing additional expenditures in health, education, rural development, and infrastructure. It would also provide needed additional Government revenues to Cameroon (as the transit country) of about US\$500 million, which would be used to finance primary expenditures to support the country's macroeconomic stability.

Source: Project Appraisal Document, Report No: 19343-AFR.

Management emphasizes that the US\$25 million bonus was not subject to any agreement concluded between the Government of Chad and the Bank. Nonetheless, Management notes that, in line with its overall policy of supporting the improvement of public financial management and governance in Chad, the Bank, together with the IMF, has taken strong measures to ensure that unspent funds from the petroleum bonus were budgeted and, among other things, overseen by the Petroleum Revenue Oversight and Control Committee, and that an audit of spent funds would be carried out.

With regard to the Requesters' claims that their human rights were violated as a result of the Bank's failure to apply its policies, Management states that it does not believe this to be the case. Nevertheless, Management acknowledges that the Bank "*is concerned by human rights in Chad as elsewhere,*" noting, however, that "*its mandate does not extend to political human rights.*" Management adds that, in its opinion, the Project preparation process has contributed to opening and furthering the dialogue between Government and civil society in Chad, and that it has served as a precursor to an increasingly participatory approach to public management.

In conclusion, Management asserts that it believes that the Bank has made considerable efforts to apply its policies and procedures and to concretely pursue its mission statement in the context of this Project, and does not agree that the Requesters' rights or interests have been, or will be, directly and adversely affected. Management notes that the Bank remains committed to a process of

# Chad

## Request No. 22

regular consultation and disclosure to ensure the environmental and social soundness of the Project during its implementation phase. Management adds that it intends to pursue the improvement of governance and the alleviation of poverty in Chad through the Project and other instruments of the Bank's Country Program in Chad.

### The Panel Eligibility Report/ Board Decision

The processing of the Request coincided with the electoral and post-election process in Chad, and therefore, the Panel recommended that its report on the eligibility of the Request be delayed for a period of about 90 days. The Board approved the Panel's recommendation for the 90-day extension on June 19, 2001.

The Panel found both the Request and the Requesters eligible, but found that the Request and Management Response contained conflicting assertions and interpretations. Therefore, the Panel recommended an investigation into the matters alleged in the Request. The Panel sent its report on the Board on September 12, 2001.

The Board approved the Panel's recommendation for an investigation on a non-objection basis on October 1, 2001. The Reports were made public three days later, and are available on the Inspection Panel's website. At the time of this writing, the Panel is in the process of finalizing its investigation.

### Box 15

#### Violations of Operational Policies and Procedures Claimed by the Requesters

Safeguard Policies:	Environmental Assessment Natural Habitat Cultural Property Indigenous Peoples Involuntary Resettlement Pest Management Forestry
Other:	Poverty Reduction Economic Evaluation of Investment Operations Project Monitoring and Evaluation Project Supervision Disclosure of Operational Information



*Panel team consulting with the local people on the potential effects of the Project on their villages.*

**Box 16**  
**Chad: Country Information**

Chad is one of the least developed and poorest countries in the world. Its key poverty indicators are well below Sub-Saharan African averages, and it is ranked 167th among 174 countries by the United Nations Human Development Index 2000, down from the UNDP's 1998 rating of 163. Chad's underdevelopment and poverty can be traced in large part to its difficult climate, landlocked position, and extended periods of civil strife. The country's growth and poverty reduction has been seriously hampered by a lack of financial resources and insufficient budget resources, which have forced the country to rely almost entirely on external financing for public investment. Chad, however, is endowed with considerable undeveloped petroleum resources, and the development and export of Chad's petroleum reserves from the southwestern (Doba Basin) part of the country could significantly improve its development prospects.

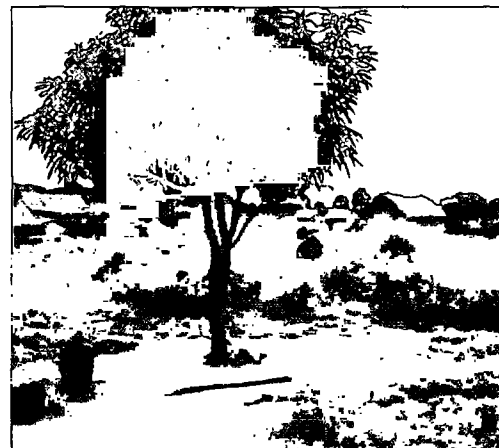
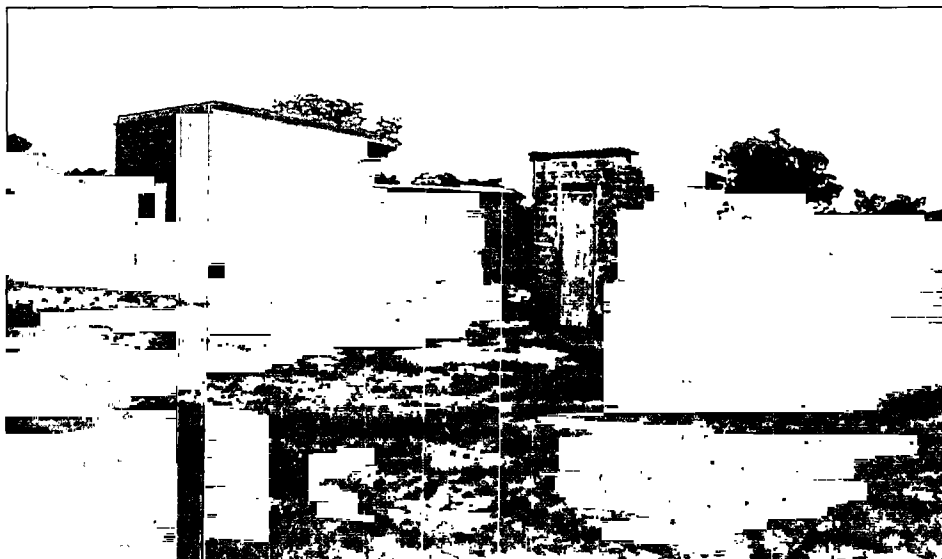
With an estimated 80 percent of its population living below the poverty line, oil development would provide a major opportunity for the country to achieve its central development objective of reducing poverty by accelerating sustainable economic growth, as well as providing financing for additional expenditures in health, education, rural development, and infrastructure.

Source: Project Information Document, Report No. PID7288.

**Chad at a Glance - 2000**

Population: 7.6 million  
 Surface area (1997):  
 1,284.0 thousand sq. km  
 Population per sq. km (1997): 6  
 Population growth: 3 %  
 GNI per capita: 200 US\$  
 GDP: 1.4 billion US\$

Source: World Development Indicators Database.



*Left: New housing with improved facilities.  
 Above: Old housing in a project-affected area.*

# India

## Request No. 23

### Coal Sector Environmental and Social Mitigation Project (Credit No. 2862-IN)



A village in Parej East.

### Background

The Panel received the Request for Inspection on June 21, 2001, and registered it on June 22, 2001. The Request for Inspection was submitted by Ms. Bina Stanis of Chotanagpur Adivasi Sewa Samiti (CASS), a local NGO in the Parej East coal mining project area. The Request was submitted on behalf of residents in the project area, who asked that their names be made available only to the Panel.

The Request exclusively concerns the preparation and implementation of the Coal Sector Environmental and Social Mitigation Project (CSESMP) for the Parej East opencast mine, one of the 25 mines that was slated to receive financial support for expansion under the subsequently financed Coal Sector Rehabilitation Project (CSR). Parej East, which began operation in 1993, is owned by Central Coalfields Limited (CCL), a subsidiary of Coal India. The mine is located in the West Bokaro coalfield of Hazaribagh District, near Ranchi, in the state of Jharkhand. (Until August 2000, when the state of Jharkhand was created,

the Project was in the state of Bihar.) It is one of a number of coal mines in the area. The project-affected area of this mine covers two villages, Parej and Durukasmar.

The Request claims that the Requesters' rights and interests had been adversely affected as a result of the Bank's violations of its policies and procedures on Involuntary Resettlement (OD 4.30), Indigenous Peoples (OD 4.20), Environmental Assessment (OD 4.01), Disclosure of Operational Information (BP 17.50), Management of Cultural Property (OPN 11.03), and Project Supervision (OD 13.05). The Requesters claim that they have suffered harm as a result of failures and omissions of IDA in the implementation of the CSESMP in the Parej East coal mine project area.

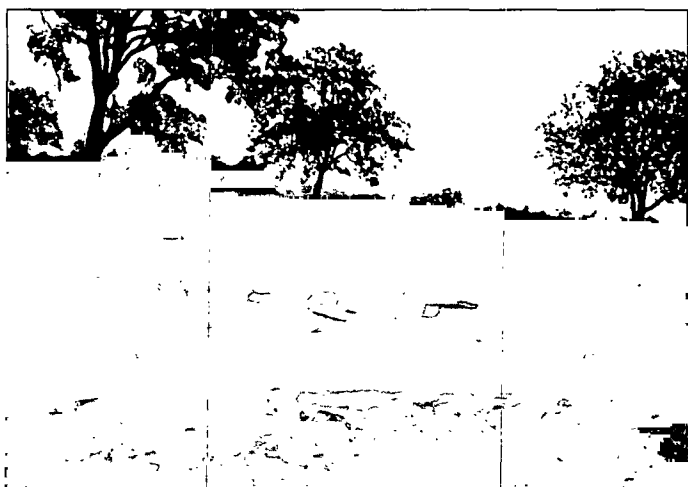
Citing the objectives of the CSESMP, the Request points out that the project-affected people (PAP) understood that the implementation of the Project would mean *“that the quality of their lives would improve, that they would share in the benefits of the mining project, that their dis-*

#### Box 17

#### India Request for Inspection: Project Information at a Glance

Project Name:	Coal Sector Environmental and Social Mitigation Project
Region:	South Asia
Sector:	Mining
Environmental Category:	C
IDA Credit Amount:	US\$63,000,000 equivalent
Board Approval Date:	May 16, 1996
Effective Date:	July 23, 1996
Closing Date:	June 30, 2002





Mine expansion  
in Parej East.

### Box 18 Violations of Operational Policies and Procedures Claimed by the Requesters

Safeguard Policies:	Environmental Assessment
	Cultural Property
	Indigenous Peoples
	Involuntary Resettlement
Other:	Disclosure of Operational Information
	Project Supervision

placement and relocation would be undertaken as a development programme, and that their former living standards, income earning capacity and production levels would be restored, if not improved.” Instead, they assert that as the end of the CSESMP project is imminent, “it has failed in its professional aims and failed in the guarantees that were given to the PAPs, guarantees that were used as levers to win consent to give their land and livelihood for the project.”

The Requesters claim that their rights under the World Bank policies noted

above were not respected. They also claim that their rights to participation and consultation were effectively denied them, and that their attempts to raise their concerns were not successful.

In particular, the Requesters claim that failure to provide income restoration had resulted in significant harm and destroyed their livelihoods, and that now without compensatory land, employment, or self-employment, they subsist as casual laborers living at mere survival levels. Formerly landowners, they now live in resettlement colonies without

legal title to land, where they can no longer use their farming skills. Their productive sources have been dismantled and their supporting networks and kin groups dispersed. They allege that they now suffer increased illnesses as a result of the pollution of water sources and wells in the resettlement colonies; that there are no medical services to handle the increased illnesses, despite the building of a dispensary; and that they now lack the capability to acquire other services, such as education.

The Request asserts that there has been a lack of required consultation and participation, especially on changes made to Coal India’s Resettlement and Rehabilitation Policy during the life of the Project. The Request lists many violations of the Bank’s Policy on Involuntary Resettlement. Finally, the Request asserts that the self-employment schemes—which the Bank had guaranteed would compensate for the loss of land and livelihood—were grossly failing, and that the Requesters were unable to participate in the new economy around the mines, and thus are suffering increasing poverty. The Requesters nonetheless called on Bank Management and the Board of Executive Directors to extend the CSESMP, with the remaining money targeted toward the restoration of the livelihoods of the project-affected people as well as environmental remediation.

#### Management Response

Management submitted its Response to the Panel on July 20, 2001. Management maintained that the Bank had complied, and intended to continue complying, with the relevant policies and procedures

# India

## Request No. 23

related to the design and implementation of the CSESMP.

Management acknowledges that throughout the Project, resettlement in Parej East encountered a number of problems, which in its view resulted from an initial lack of flexibility and understanding on the part of mine management, and from resistance by the PAPs to resettlement. Nonetheless, Management claims that while the problems had not been entirely overcome, there has been progress.

Management explains that the borrower began to implement the CSESMP later than anticipated, toward the end of 1997, or about 18 months after the Credit became effective. Management acknowledges that during 1998 and 1999, progress was both slow and uneven across the 25 mines under the Project. Management notes that it was only in the first half of 2000 that significant progress began on implementation throughout all the mines. Even so, however, economic rehabilitation remained unsatisfactory. Management states that as a result of this, as well as for other reasons related solely to the implementation of the CSRP, that the CSRP was cancelled at the request of the borrower.

Management notes that since the purpose of the CSESMP was to mitigate impacts of the CSRP and to strengthen Coal India's capacity to manage such mitigation issues, the Bank's withdrawal from the Project would not have provided the context for a continued dialogue. Management further points out that the Bank's withdrawal might have adversely affected *"the considerable task that still remained regarding improvement of mitigation efforts."* Therefore, Man-

agement decided to *"continue to actively work with CIL to help develop practical solutions to improve environmental and social mitigation at the mine and corporate level, and to achieve compliance with Bank policies."* Management believes that since cancellation of the CSRP in 2000, there has been noticeable progress on implementation of the CSESMP.

Management maintains that it had devoted full attention to the intense supervision effort required by the scale



Mine expansion approaches village

### Box 19

#### The India Coal Sector Environmental and Social Mitigation Project

In 1993, the Government of India requested that the Bank support Coal India's efforts to commercialize its mining operations. The Bank agreed to provide financing and technical support for Coal India's most profitable mines through the Coal Sector Rehabilitation Project (CSRP), which was initially to include an environmental and social component. The Government of India, Coal India, and the Bank decided in November 1995 to separate the environmental and social mitigation component from the investment component of the Project, bundling the former under the Coal Sector Environmental and Social Mitigation Project (CSESMP).

According to Management, the objective of the CSESMP was to (a) enhance Coal India's capacity to deal more efficiently with environmental and social issues; (b) implement appropriate policies for environmental mitigation and resettlement and rehabilitation of people affected by coal projects, and provide support to communities, in particular tribals living in coal mining areas; and (c) test the effectiveness of these policies in the 25 mines slated to receive financial support under the proposed CSRP. The improvements Coal India is expected to make in its environmental and social policies—after they are tested and revised as necessary in the 25 mines during the 5-year time period financed by the Bank—are expected to affect all of Coal India's 495 mines (Staff Appraisal Report, Report No. 15405-IN).

The CSESMP became effective in 1996, nearly two years earlier than the CSRP, which became effective in June 1998. The CSRP was cancelled at the request of Coal India and the Government in July 2000, in part because of implementation difficulties; nonetheless, Coal India decided to continue with the mitigation programs started under the CSESMP, and the credit was extended for an additional year. The CSESMP closed on June 30, 2002.

Source: Staff Appraisal Report, India Coal Sector Environmental and Social Mitigation Project, Report No. 15405-IN.

## Box 20 The Coal Sector in India

According to the CSESMP Staff Appraisal Report, coal currently meets two-thirds of India's energy needs, and India's coal resources are large enough to meet the country's projected demands for the next 250 years. Thus, indigenous coal is likely to remain the least costly option for the bulk of India's energy needs for the foreseeable future.

In India, many of the coal reserves are situated in remote areas, and Coal India has found it increasingly difficult to acquire land for the expansion of its operations. Since coal mining depends on the availability of commercial reserves, Coal India has little choice in the location of its activities. Moreover, in recent years the social and environmental costs of developing coal reserves have increased steeply, particularly in densely populated areas.

Several studies have shown that the expansion of coal mining into remote areas has an impact on local people and communities, who originally had only limited contact with the modern world and whose livelihood was mainly based on subsistence agriculture, hunting, and foraging. In such areas, the opening of a coal mine has brought a loss of land, housing, forest use, and common property resources, as well as an influx of 'outsiders' who sometimes disrupt local social and economic conditions. Such factors have changed traditional lifestyles and reduced the possibilities of employment based on traditional skills. Above all, these changes affect tribals and women, who were the least likely to find employment in one of the industries that had moved into the area.

Source: Staff Appraisal Report No. 15405-IN.

and complexity of the Project's physical, mitigation, and institutional activities. Management further asserts that consultations were adequate, but acknowledges that Coal India did not consult the PAPs before it introduced changes on eligibility and entitlements in its Resettlement and Rehabilitation Policy in the year 2000.

Referring to the Requesters' right to adequate and fair compensation for loss of villages and land, Management explains that resettlement sites constitute the compensation for the loss of villages. Management asserts that in addi-

tion to the general resistance that arises in every involuntary relocation, the difficulties in Parej East also arose because of the PAPs' changing demands, which undermined previous agreements reached between them and mine management.

In response to the Requesters' claim that they were without legal titles or long-term leases for house plots in resettlement sites, Management acknowledges the claim. Management states that the supervision team had raised the issue during every Mission, and notes that it would continue to seek a resolution to

the matter. Management also states that it is satisfied that compensation paid to entitled PAPs for agriculture land was equivalent to replacement costs.

According to Management, common property resources were available for those choosing to shift to the resettlement sites, and Management is also satisfied that the compensation provided for houses enabled the PAPs to construct replacement houses at par with their original housing, as required under OD. 4.30.

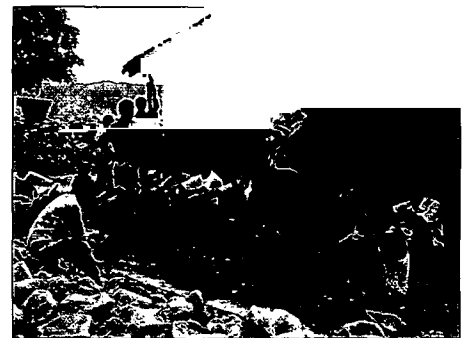
Management notes that it believes that it is too early to judge whether efforts made for income restoration would result in full income restoration as intended. It acknowledges that mine jobs are limited to the PAPs losing more than two acres of land only, stating that otherwise compensation consisted of training and assistance for self-employment. Nonetheless, Management acknowledges that such schemes by themselves could not bring about full economic rehabilitation or result in an income comparable to working in the mines. Management also notes that availability of replacement land through market purchase was limited and that the Bank was still discussing the possibility of introducing land-based income generation with CCL.

According to Management, the Environmental Assessment did not identify issues related to the Bank's policy on cultural property and, therefore, the policy did not apply. However, Management claims that when issues have arisen, they have been dealt with in a "manner consistent with" the policy.

Management also asserts that the Bank policy on disclosure of information had been complied with in Parej East, but

# India

## Request No. 23



agreed that the borrower had not permitted the release of the Project's mid-term review.

Finally, in terms of services in the resettlement sites, Management asserts that a drinking water problem has been corrected, but recognizes that the school and health clinics are not yet staffed. Management states that the supervision team would continue to follow up on the issue with CCL.

Management also announced that the Project was extended for an additional year and would close on June 30, 2002.

### **The Panel's Eligibility Report/ Board Decision**

The Panel found both the Request and the Requesters eligible, but found that the Request and Management Response contained conflicting assertions and interpretations. Therefore, the Panel recommended an investigation into the

matters alleged in the Request. The Panel sent its report to the Board on August 20, 2001.

The Board approved the Panel's recommendation for an investigation on a non-objection basis on September 7, 2001. The Reports were made public three days later, and are available on the Inspection Panel's website. The Panel is in the process of conducting its investigation into the matters alleged by the Requesters.

*Top right: Temporary accommodations for the displaced people. Left and above: Parej East resettlement sites.*



**Table 1**  
**Summary of Requests for Inspection as of June 30, 2002**

Request	Requests Registered		Panel Recommendation/ Findings Reports Submitted	Board Decision	Outcome
	Yes	No			
1 Nepal / Arun III Proposed Hydroelectric Project and Restructuring of IDA Credit	Y 10/94		Investigation Recommendation Report 12/94 Investigation Report 6/95	Approved (2/95) The Board limited investiga- tion to substantial compli- ance with ODs 4.01 on Environmental Assessment, 4.20 on Indigenous Peoples, and 4.30 on Involuntary Resettlement during the preparation and appraisal of the proposed project and implementation of the credit.	On the basis of an inde- pendent study commis- sioned by the Bank, IDA President decided to withdraw financing for the project.
2 Ethiopia / Exportation		N 5/95	The Request was found inel- igible because the requester had not exhausted local remedies and had failed to establish how the lack of compensation was a conse- quence of any alleged acts or omissions by IDA (5/95).		
3 Tanzania Emergency Power Project	Y 6/95		No investigation Bank found in compliance with IDA Articles Agreement; Requesters found ineligible re: com- plaint on compliance with OP 4.01. Recommendation Report 9/95	Approved 9/95 The Board approved the Panel's recommendation on a non-objection basis.	

# Operations

**Table 1- continued**  
**Summary of Requests for Inspection as of June 30, 2002**

Request	Requests Registered		Panel Recommendation/ Findings Reports Submitted	Board Decision	Outcome
	Yes	No			
<b>4</b> Brazil / Rondônia Natural Resources Management Project	(Y) 6/95		Investigation Recommendation Report 8/95 Additional Review Report 12/95 Review of Progress Report 3/97	Not Approved (9/95) Initially, the Board decided that it could not make a decision without more factual information, and asked the Panel to conduct an Additional Review (9/95). After the Panel submitted its Additional Review Report and reiterated its recommendation for an investigation, the Board did not approve an investigation but asked the Panel to conduct a review of the progress in implementation of the project (1/97).	Partial concessions to affected people; limited Panel role in monitoring implementation.
<b>5</b> Chile / Pangué / Ralco Complex of Hydroelectric Dams, BioBio River		(N) 11/95	Inadmissible because IFC is outside of the Panel's mandate, which is restricted to IBRD and IDA projects.		President appointed external consultants to investigate the matter.
<b>6</b> Bangladesh / Jamuna Bridge Project	(Y) 8/96		No investigation Recommendation Report 11/96 Progress on Implementation Report 8/98. Panel found that the project's 1993 Resettlement Action Plan neither specifically identified nor provided assistance for char dwellers as project-affected people. But the Panel was satisfied that the Erosion and Flood Policy, issued Sept, 1996 (after the Request was filed) could constitute an adequate and enforceable basis for IDA to comply with its policies and address the char dwellers' concerns, thus making an investigation unnecessary.	Approved (4/97) The Board approved the Panel's recommendation in Nov. 1996. But asked Management to submit a progress report on the implementation of the Revised Resettlement Action Plan and the Environmental Action Plan, and asked the Panel to assist the Board in a review of progress in 12 months.	Project revised to respond to claim.



Request	Requests Registered		Panel Recommendation/ Findings Reports Submitted	Board Decision	Outcome
	Yes	No			

<b>7</b> Argentina/Paraguay: Yacyretá Hydroelectric Project	(Y) 10/96		Investigation Recommendation Report 12/96  Review of Present Problems and Assessment of Action Plans Report 9/97.	Not Approved (2/97)  The Board asked the Panel to review the existing problems of the project in the areas of environment and resettlement, and to provide an assessment of the adequacy of the Action Plans agreed between the Borrower and the Bank to bring the project into compliance with Bank policies and procedures.	Panel report found significant policy violations.
<b>8</b> Bangladesh / Jute Sector Adjustment Credit	(Y) 11/96		No investigation Recommendation Report 3/97  The Panel found inadequacies in program design, but felt that further review through a formal investigation would serve no useful purpose.	Approved (4/97)  The Board accepted the Panel's recommendation on a non-objection basis.	Bank halted funding.
<b>9</b> Brazil / Itaparica Resettlement and Irrigation Project	(Y) 3/97		Investigation Recommendation Report 6/97	Not Approved (9/97)  The Board decided—given the government's action plan for completing the project, which included its own funding, and its Request for continued Bank supervision for two more years—that no investigation was needed and agreed to review progress on the Action Plan in 12 months with the Panel's assistance.	Panel process bypassed.

# Operations

**Table 1** - continued  
**Summary of Requests for Inspection as of June 30, 2002**

Request	Requests Registered		Panel Recommendation/ Findings Reports Submitted	Board Decision	Outcome
	Yes	No			
<b>10</b> India / NTPC Power Generation Project	(Y) 5/97		Investigation Recommendation Report 7/97 Investigation Report 12/97	Approved (9/97) After reviewing a remedial Action Plan submitted by Management in Sept. 97, the Board approved an investigation, but restricted it to a Desk Study in Washington, DC.	Management Action Plan approved by the Board; local independent monitoring panel appointed.
<b>11</b> India / Ecodevelopment Project	(Y) 4/98		Investigation Recommendation Report 10/ 98	Not Approved (12/98) The Board instructed Management to work with government officials at the state and federal level to find measures to address the Panel's initial findings, and to report back in six months. It was also agreed that the Panel would give its comments on Management's Report to the Board.	Management asked to prepare a Status Report.
<b>12</b> Lesotho / South Africa: Phase 1B of Lesotho Highlands Water Project	(Y) 5/98		No investigation Recommendation Report 8/98 The Panel found no prima facie evidence linking the claims in the Request to the Bank's decision to proceed with financing of Phase 1B, but felt that the Requesters' concerns about conditions on the ground were valid.	Approved (9/98) The Board approved the Panel's recommendation on a non-objection basis.	





Request	Requests Registered		Panel Recommendation/ Findings Reports Submitted	Board Decision	Outcome
	Yes	No			

13 Nigeria / Lagos Drainage and Sanitation Project

Y

6/98

No investigation Recommendation Report 11/98  
The Panel found that most of the operational policies were followed during the preparation of the project. However, sociological considerations did not appear to be fully integrated into the project design and there was an absence of appropriate measures in the project design to ensure the effective maintenance of the drainage channels constructed under the project. The Borrower and IDA agreed on compensation measures for the resettlers identified by the Panel during its visit to the project site to ascertain eligibility of the Request.

Approved (11/99)  
The Board approved the Panel's recommendation on a non-objection basis.

4 Brazil / Land Reform Poverty Alleviation Project

Y

1/99

No investigation Recommendation Report 6/99  
The Panel found no evidence of harm, especially since the terms and conditions of the program's loans under the pilot program substantially improved after the Request was filed.

Approved (6/99)  
The Board approved the Panel's recommendation on a non-objection basis.

5 Lesotho/Highlands Water Project from Swissborough Diamond Mines Ltd & Others

Y

5/99

No investigation Eligibility Report 7/99

The Panel found no direct link between any actions and/or omissions of the Bank with the harm claimed by the Requesters.

Approved (8/99)  
The Board approved the Panel's recommendation on a non-objection basis.

# Operations

**Table 1** - continued  
**Summary of Requests for Inspection as of June 30, 2002**

Request	Requests Registered		Panel Recommendation/ Findings Reports Submitted	Board Decision	Outcome
	Yes	No			
<b>16</b> China / Western Poverty Reduction Project	(Y) 6/99		Investigation Eligibility Report 8/99 The Panel found the Request met the eligibility criteria. Panel Findings Investigation Report 4/00 Management was substantially in compliance with the provisions of Annex B of OD 4.00 on Environmental Policy for Dams and Reservoir Projects, OP/BP 4.37 on Safety of Dams, BP 10.00 on Investment Lending: Identification to Board Presentation, and OP/BP 12.10 on Retroactive Financing, and in apparent violation of several provisions of OD 4.01 on Environmental Assessment, OD 4.20 on Indigenous Peoples, and OD 4.30 on Involuntary Resettlement, OP 4.09 on Pest Management, OP 10.00 on Investment Lending, Identification to Board Presentation, and BP 17.50 on Disclosure of Information.	Approved (9/99) The Board, six days after the filing of the Request, approved financing for the project with the condition that no work would be done and no funds disbursed for the \$40 million Qinghai component of the project until they decided on the results of any review by the Panel (6/99). The Executive Directors, after taking into account the Panel's recommendation, decided "as a Board" to instruct the Panel to investigate Management's compliance with certain policies and procedures. The Board met to consider the Panel's Investigation Report and Management's Response at a Board meeting on July 8-9, 2000. During the meeting the Borrower informed the Bank it would proceed with the component without Bank financing (7/00).	Finance request withdrawn for Qinghai component. Borrower will continue Project with their own financing.
<b>17</b> Argentina / Special Structural Adjustment Loan	(Y) 8/99		No Investigation Eligibility Report 12/99 The potential harm feared by the Requesters seemed to have been avoided by the favorable reaction of the Argentine authorities and Bank Management; therefore, in the Panel's view an investigation was unnecessary.	Approved (1/00) The Board approved the Panel's recommendation on a non-objection basis.	



Request	Requests Registered		Panel Recommendation/ Findings Reports Submitted	Board Decision	Outcome
	Yes	No			

<p>8 Brazil / Land Reform Poverty Alleviation Project (2nd Request)</p>	<p>(Y) 9/99</p>		<p>Not Eligible/No investigation Eligibility Report 12/99 The Panel was not satisfied that the Requesters had provided sufficient evidence that they had brought the matter to the attention of Bank Management as required by the Resolution. So the Request did not satisfy this eligibility criteria.</p>	<p>Approved (1/00) The Board approved the Panel's recommendation on a non-objection basis.</p>	
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<p>9 Kenya / Lake Victoria Environmental Management Project</p>	<p>(Y) 11/99</p>		<p>Investigation Eligibility Report 3/00 The Panel found the Request met the eligibility criteria. Panel Findings Investigation Report 12/00 The Panel concluded that Management was in compliance with OD 4.01 (Environmental Assessment) with respect to categorization of the project, OD 4.15 (Poverty Alleviation) and OP 10.04 (Economic Evaluation of Investment Operations). Management was not in full compliance with OD 4.01 with respect to meeting the overall purpose and nature of the OD including adequate consultations with affected groups and NGOs. Management was also found not in compliance with paragraph 42 of OD 13.05 on Bank Supervision.</p>	<p>Approved (3/00) The Board approved the Panel's recommendation on a non-objection basis. The Board approved Management recommendations on a non-objection basis on May 2, 2001.</p>	<p>Management accepted Panel findings and recommendations. The following six actions were recommended: (i) Continued monitoring (ii) Vigilant surveillance (iii) Community participation (iv) Cross-country participation in supervision missions (v) Panel of Scientists (vi) Possible repeat pilot.</p>
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# Operations

**Table 1 - continued**  
**Summary of Requests for Inspection as of June 30, 2002**

Request	Requests Registered		Panel Recommendation/ Findings Reports Submitted	Board Decision	Outcome
	Yes	No			
<b>20</b> Ecuador / Mining Development and Environmental Control Technical Assistance Project	(Y) 12/99		Investigation Eligibility Report 4/00 The Panel found the Request met the eligibility criteria. Panel Findings Investigation Report 2/01 The Panel concluded that Management was substantially in compliance with the provisions of OD 4.01 on Environmental Assessment (formerly OD 4.00, Annex A), OPN 11.02 on Wildlands (now OP/BP 4.04 on Natural Habitats), and OD 13.05 on Project Supervision. Management was found in apparent violation of certain provisions of the policies and procedures on Environmental Assessment (OD 4.00, Annex A and OD 4.01) relating to processing, geographical scope, baseline data, and consultation during preparation.	Approved (5/00) The Board approved the Panel's recommendation on a non-objection basis The Board approved Management's recommendations on a non-objection basis on April 18, 2001.	Management accepted Panel findings and proposed the following actions and next steps: (i) Monitoring of Information use (ii) Enforcement of License Agreements (iii) Additional Publication and Workshops (iv) Development of Consultation Mechanisms (v) Support for Conservation and Environmental Management in Ecuador (vi) Strengthening of Environmental Institutions But management did not propose any remedial efforts with regard to claims made by the Requesters.
<b>21</b> India / NTPC Power Generation Project (2nd Request)		(N) 12/99	The Request was not registered because the loan was closed in March 1999.		
<b>22</b> Chad Petroleum Development Project, Management of the Petroleum Economy Project, Petroleum Sector Management Capacity-Building Project	(Y) 04/01		Investigation Eligibility Report (9/01) The Panel found the Request met the eligibility criteria.	Approved (10/01) The Board approved the Panel's recommendation on a non-objection basis.	Investigation underway



**Request**

**Requests Registered**  
Yes No

**Panel Recommendation/  
Findings Reports Submitted**

**Board Decision**

**Outcome**

**23** India Coal Sector Environmental and Social Mitigation Project and Coal Sector Rehabilitation Project

Y

06/01

Investigation Eligibility Report (9/01)

The Panel found the Request met the eligibility criteria.

Approved (8/01)

The Board approved  
The Board approved the Panel's recommendation on a non-objection basis.

Investigation underway

**24** Uganda Third Power Project and proposed Bujagali Power Project

Y

08/01

Investigation Eligibility Report (10/01)

The Panel found the Request met the eligibility criteria  
Panel Investigation Report (5/02).

Approved (10/01)

The Board Approved the Panel's recommendation on a non-objection basis.  
The Board approved Management's recommendations on June 17, 2002.

Management accepted the Panel's findings and proposed several actions.

**25** Papua New Guinea: Governance Promotion Adjustment Loan

Y

12/01

No Investigation Eligibility Report (4/02)

The Panel found that the evident harm suffered by the Requesters was not related to an act or omission of the Bank.

Approved (5/20)

The Board approved the Panel's recommendation on a non-objection basis.

**26** Paraguay: Reform Project for the Water and Telecommunications Sector; Argentina: SEGBA V Power Distribution Project

Y

05/30

Pending

# Operations

**Table 2  
Alleged Violations of Policies and Procedures**

Request	Violations Claimed by Requesters
1 Nepal / Arun III Proposed Hydroelectric Project and Restructuring of IDA Credit	Economic Evaluation of Investment Operations (OP / BP 10.04), Disclosure of Operational Information (BP 17.50), Outline for a Project Information Document (PID) (BP 10.00, Annex A), Environmental Assessment (OD 4.01), Involuntary Resettlement (OD 4.30), Indigenous Peoples (OD 4.20)
2 Ethiopia / Exportation	Dispute over Defaults on External Debt, Expropriation and Breach of Contract (OMS 1.28), Disclosure of Operational Information (BP 17.50)
3 Tanzania Emergency Power Project	Article V Section 1(c), IDA Articles of Agreement Article V Section 1(d), IDA Articles of Agreement Article V Section 1(g), IDA Articles of Agreement Environmental Aspects of Bank Work (OMS NO. 236), Environmental Assessment (OD 4.01)
4 Brazil / Rondônia Natural Resources Management Project	Project Supervision (OD 13.05), Forestry Policy (OP 4.36), Wildlands Policy (OP 11.02), Indigenous People (OD 4.20), Involvement of NGOs in Bank supported Activities (OD 14.70), Project Monitoring and Evaluation (OD 10.70), Investment Lending: Identification to Board Presentation (BP 10.00), Suspension of Disbursements (OD 13.40)
6 Bangladesh / Jamuna Bridge Project	Environmental Assessment (OD 4.01 and Annexes), Involuntary Resettlement (OD 4.30), Involvement of NGOs in Bank supported Activities (OD 14.70)
7 Argentina / Paraguay: Yacyretá Hydroelectric Project	Environmental Policy for Dam and Reservoir Projects (OD 4.00-Annex B), Environmental Assessment (OD 4.01), Indigenous Peoples (OD 4.20), Involuntary Resettlement (OD 4.30), Project Monitoring and Evaluation (OD 10.70), Project Supervision (OD 13.05), Wildlands (OPN 11.02), Cultural Property (OPN 11.03); Environmental Aspects of Bank Work (OMS 2.36), Suspension of Disbursements (OD13.40)
8 Bangladesh / Jute Sector Adjustment Credit	Environmental Policy for Dam and Reservoir Projects (OD 4.00- Annex B), Environmental Assessment (OD 4.01), Indigenous Peoples (OD 4.20), Involuntary Resettlement (OD 4.30)
9 Brazil / Itaparica Resettlement and Irrigation Project	Environmental Policy for Dam and Reservoir Projects (OD 4.00-Annex B), Environmental Assessment (OD4.01), Involuntary Resettlement (OD 4.30), Indigenous Peoples (OD 4.20), Project Supervision (OD 13.05)
10 India / NTPC Power Generation Project	Economic Evaluation of Investment Operations (OD/BP 10.04), Environmental Assessment (OD 4.01), Involuntary Resettlement (OD 4.30), Indigenous Peoples (OD 4.20), Project Supervision (OD 13.05)
11 India / Ecodevelopment Project	Indigenous Peoples (OD 4.20), Involuntary Resettlement (4.30), Forestry (OP 4.36)
12 Lesotho / South Africa Phase 1B of Lesotho Highlands Water Project	Environmental Policy for Dam and Reservoir Project (OD 4.00), Economic Evaluation of Investment Options (OD 10.04), Poverty Reduction (OD 4.15), Water Resources and Management (OP 4.07)



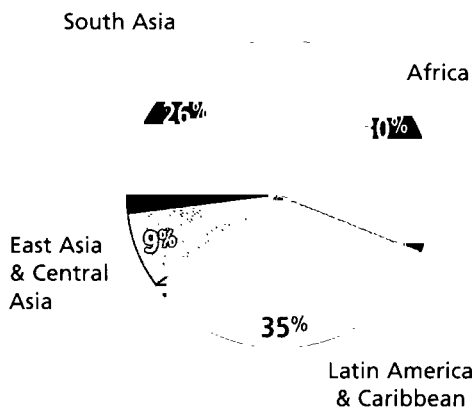
Request	Violations Claimed by Requesters
13 Nigeria / Lagos Drainage and Sanitation Project	Involuntary Resettlement (OD 4.30), Poverty Reduction (OD 4.15), Gender Dimensions of Development (OP 4.20), Project Monitoring and Evaluation (OD 10.70), Economic Evaluation of Investment Operations (OP / BP 10.04)
14 Brazil / Land Reform Poverty Alleviation Project	Poverty Reduction (OD 4.15), Involvement of NGOs in Bank Operations (GP 14.70), Disclosure of Operational Information (BP 17.50)
15 Lesotho / Highlands Water Project from Swissborough Diamond Mines Ltd. & Others	Disclosure of Operational Information (BP 17.50), Disputes Over Defaults on External Debt, Expropriation and Breach of Contract (BP 7.40)
16 China / Western Poverty Reduction Project	Disclosure of Operational Information (BP 17.50), Involuntary Resettlement (OD 4.30), Environmental Assessment (OD 4.01), Indigenous Peoples (OD 4.20), Pest Management (OP 4.09)
17 Argentina / Special Structural Adjustment Loan	Project Supervision (OD 13.05), Poverty Reduction (OD 4.15), Project Monitoring and Evaluation (OP/BP 10.70), Suspension of Disbursements (OP / BP 13.40), Disclosure of Operational Information (BP 17.50)
18 Brazil / Land Reform Poverty Alleviation Project (2nd Request)	Poverty Reduction (OD 4.15), Disclosure of Operational Information (BP 17.50), Project Supervision (OD 13.05)
19 Kenya / Lake Victoria Environmental Management Project	Environmental Assessment (OD 4.01), Poverty Reduction (OD 4.15), Economic Evaluation of Investment Projects (10.04), Project Supervision (OD 13.05)
20 Ecuador / Mining Development and Environmental Control Technical Assistance Project	Environmental Assessment (OD 4.01), Wildlands (OPN 11.02), Indigenous Peoples (OD 4.20), Project Supervision (OD 13.05)
21 India / NTPC Power Generation Project	Involuntary Resettlement (OD 4.30), Project Supervision (OD 13.05)
22 Chad / Petroleum Development and Pipeline Project; Management of Petroleum Economy Project; and Petroleum Sector Management Capacity Building Project	Environmental Assessment (OD 4.01), Natural Habitats (OP / BP 4.04), Pest Management (OP 4.09), Poverty Reduction (OD 4.15), Indigenous Peoples (OD 4.20), Forestry (OP 4.36), Disclosure of Operational Information (BP 17.50), Economic Evaluation of Investment Operations (OP 10.04), Management of Cultural Property in Bank-Financed Projects (OPN 11.03), Project Supervision (OD 13.05)

# Operations

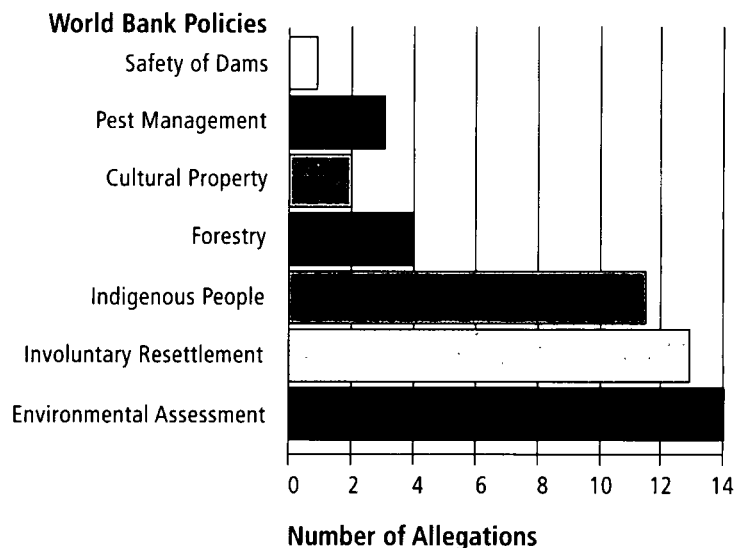
**Table 2 - continued**  
**Alleged Violations of Policies and Procedures**

Request	Violations Claimed by Requesters
23 India Coal Sector Environmental and Social Mitigation Project and Coal Sector Rehabilitation Project	Environmental Assessment (OD 4.01), Indigenous Peoples (OD 4.20), Involuntary Resettlement (OD 4.30), Disclosure of Operational Information (BP 17.50), Management of Cultural Property in Bank-Financed Projects (OPN 11.03), Project Supervision (OD 13.05)
24 Uganda / Third Power Project; Fourth Power Project; and Bujagali Hydropower Project Guarantee	Environmental Assessment (OD / OP 4.01), Natural Habitats (OP 4.04), Indigenous Peoples (OD 4.20), Involuntary Resettlement (OD 4.30), Safety of Dams (OP 4.37), Management of Cultural Property of Bank-Financed Projects (OPN 11.03), Economic Evaluation of Investment Operations (OP 10.04), Poverty Reduction (OD 4.15), Disclosure of Operational Information (BP 17.50), Project Monitoring and Evaluation (OD 10.70), Project Supervision (OD 13.05)
25 Papua New Guinea / Governance Promotion Adjustment Loan	Forestry (OP 4.36), Adjustment Lending (OD 8.60), Project Supervision (OD / OP / BP 13.05)
26 Paraguay / Reform Project for the Water and Telecommunication Sectors; Argentina / SEGBA V Power Distribution Project	Annex B, on Environmental Policy for Dam and Reservoir Projects (OD 4.00), Environmental Assessment (OD 4.01), Involuntary Resettlement (OD 4.30), Project Supervision (OD / OP / BP 13.05), Project Monitoring and Evaluation (OD 10.70), Suspension of Disbursements (OD 13.40)

**Figure 3**  
**Percentage of Requests Received by Region**



**Figure 4**  
**Alleged Violations of Social and Environmental Policies - August 1994 to June 2002**







The Inspection Panel continued its internal and external outreach campaign during this period in an effort to make its existence, role, and functions better known by all stakeholders within and outside the World Bank. Internally, the Panel Members and staff of the Secretariat met with several Bank Regional Management Teams to discuss the role of the Panel and the procedures to be followed after a Request for Inspection is filed.

The Panel received invitations for and participated in a number of meetings and seminars related to its role as an accountability mechanism available to people that could be adversely affected by Bank-financed projects. In addition, for the second consecutive year, the Panel hosted approximately 40 human rights lawyers from Latin America sponsored by the American University, Washington College of Law Academy on Human Rights and Humanitarian Law. The Panel made a presentation on its procedures and the experience of the mechanism so far.

## Disclosure

The rules for disclosure of documents generated by the Inspection Panel process are stipulated in the Resolution establishing the Panel as well as in the 1996 and 1999 Clarifications the Executive Directors adopted.

In the 1996 Clarifications the Executive Directors instructed Management “to make significant efforts to make the Inspection Panel better known in borrowing countries....” In the 1999 Clarifications, the Board underscored the need for Management to make significant efforts to make the Panel better

known, and emphasized the importance of prompt disclosure of information to claimants and the public. The Board also required that “such information be provided by Management to claimants in their language, to the extent possible.”

The Panel has made every effort to keep its processes open and transparent—consistent with the public disclosure policy adopted by the Bank’s Board in 1993. The Inspection Panel’s website continually updates the status of Panel activities, and continues to receive a large number of queries.

## The Panel Register

In an effort to deal transparently with Requests, the Panel has maintained a Register. The Executive Secretary records the dates and all actions taken in connection with the processing of a Request, as well as the dates on which any formal notification is sent or received. The Panel keeps the Requester informed about the process. This Register is open to the public, and is also posted on the Panel’s website to ensure wider disclosure.

A notice that a Request has been registered, and all other notices or documents issued by the Panel, are made available to the public at (a) the Bank’s InfoShop in Washington, D.C.; (b) the Bank’s Resident Mission, Regional or Country Office for the country where the project relating to the Request is located, or at the relevant regional office; (c) the Bank’s Paris and Tokyo offices;

and (d) the Panel’s website: [www.inspectionpanel.org](http://www.inspectionpanel.org).

When permitted by the Resolution, the Bank makes documents relating to each Request available to the public. Under Paragraph 25 of the Resolution, Requests for Inspection, Panel Recommendations, and Board decisions are to be made available to the public after the Executive Directors have considered a Panel Recommendation on, or the results of, an investigation. During the 1996 review by the Board, the Directors clarified that provision to ensure that Management Responses would also be made available within three days after action by the Board, along with the documents already cited. The Board also said that Management should make available any legal opinions issued by the Bank Legal Department related to Inspection Panel matters promptly after Board action, unless the Board decides otherwise in a specific case.

## Public Inquiries

Given the unprecedented nature of the Panel mechanism in an international organization, there continues to be a substantial demand for general information about the Panel and its activities from the press, NGOs and other organizations, academics, Bank staff, and others. The availability of The Inspection Panel brochure in several languages responds to the needs of many such public inquiries.

# Outreach and Disclosure

## Sources of Further Information

The Inspection Panel's website [www.inspectionpanel.org](http://www.inspectionpanel.org) provides:

- Current information on Panel cases and activities
- Each step in the processing of Requests
- Panel Reports
- Panel Operating Procedures, the IBRD/IDA Resolution establishing the Panel, and the 1996 and 1999 Clarifications to the Resolution.

## World Bank InfoShop

701 18th Street, NW, Washington, D.C. 20433

Tel: (202) 473-2941; Fax: (202) 477-0604

Website: [www.worldbank.org/infoshop](http://www.worldbank.org/infoshop)

## World Bank Public Information Centers

### Paris

66 avenue d'Iéna, 75116

Paris, France

Tel: (33-1) 40 69 30 26

Fax: (33-1) 40 69 30 69

Email: [pparis@worldbank.org](mailto:pparis@worldbank.org)

### Tokyo

10th Floor Fukoku-Seimei Building,

#2-2-2 Uchisaiwai-cho,

Chiyoda-ku, Tokyo 100, Japan

Tel: (813) 3597-6676

Fax: (813) 3597-6695

Email: [ptokyo@worldbank.org](mailto:ptokyo@worldbank.org)

## Bank Resident Missions, Regional or Country Office

Where the project relating to a Request is located.

All Requests for Inspection should be sent directly to:

The Inspection Panel

1818 H Street, MC10-1007

Washington, D.C. 20433.

Email: [Ipanel@worldbank.org](mailto:Ipanel@worldbank.org)

Internet: [www.inspectionpanel.org](http://www.inspectionpanel.org)

**Any World Bank office around the world can be asked to forward a Request, unopened, to the Inspection Panel.**



The Resolution provides that the “Panel shall be given such budgetary resources as shall be sufficient to carry out its activities.” The Panel’s annual funding level has been set at about US\$2 million in real terms.

The administrative arrangements for the Panel provide for the Chairman to work on a full-time basis supported by a small Secretariat. He calls on the two part-time Panel members on a case-by-case basis as required by the Panel’s workload related to Requests, public inquiries, and consultations, as well as institutional and administrative matters. In practice the Panel has worked by consensus with the two part-time members fully involved in all activities related to Requests and informational, institutional, and administrative matters. The Resolution provides that if the workload reaches a level that would make it reasonable for the Panel to recommend it, the Board would appoint one or both part-time members on a full-time basis. The Panel has not yet recommended this, even though the workload of the Panel has progressively increased during each year of its existence.

The demand-driven nature of the Panel’s work requires a flexible budgetary strategy to ensure that sufficient resources are available to process all Requests received. Annex 5 contains a breakdown of the Panel’s budget and expenditures for fiscal 2002.

# Annex 1

## Resolution No. IBRD 93-10 / Resolution No. IDA 93-6, "The World Bank Inspection Panel"

September 22, 1993  
INTERNATIONAL BANK FOR  
RECONSTRUCTION AND  
DEVELOPMENT  
INTERNATIONAL DEVELOP-  
MENT ASSOCIATION  
Resolution No. IBRD 93-10  
Resolution No. IDA 93-6  
"The World Bank Inspection Panel"

The Executive Directors:

Hereby resolve:

1. There is established an independent Inspection Panel (hereinafter called the Panel), which shall have the powers and shall function as stated in this resolution.

### Composition of the Panel

2. The Panel shall consist of three members of different nationalities from Bank member countries. The President, after consultation with the Executive Directors, shall nominate the members of the Panel to be appointed by the Executive Directors.

3. The first members of the Panel shall be appointed as follows: one for three years, one for four years and one for five years. Each vacancy thereafter shall be filled for a period of five years, provided that no member may serve for more than one term. The term of appointment of each member of the Panel shall be subject to the continuity of the inspection function established by this Resolution.

4. Members of the Panel shall be selected on the basis of their ability to deal thoroughly and fairly with the requests brought to them, their integrity and their independence from the Bank's

Management, and their exposure to developmental issues and to living conditions in developing countries. Knowledge and experience of the Bank's operations will also be desirable.

5. Executive Directors, Alternates, Advisors and staff members of the Bank Group may not serve on the Panel until two years have elapsed since the end of their service in the Bank Group. For purposes of this Resolution, the term "staff" shall mean all persons holding Bank Group appointments as defined in Staff Rule 4.01 including persons holding consultant and local consultant appointments.

6. A Panel member shall be disqualified from participation in the hearing and investigation of any request related to a matter in which he/she has a personal interest or had significant involvement in any capacity.

7. The Panel member initially appointed for five years shall be the first Chairperson of the Panel, and shall hold such office for one year. Thereafter, the members of the Panel shall elect a Chairperson for a period of one year.

8. Members of the Panel may be removed from office only by decision of the Executive Directors, for cause.

9. With the exception of the Chairperson who shall work on a full-time basis at Bank headquarters, members of the Panel shall be expected to work on a full-time basis only when their workload justifies such an arrangement, as will be decided by the Executive Directors on the recommendation of the Panel.

10. In the performance of their functions, members of the Panel shall be officials of the Bank enjoying the privileges

and immunities accorded to Bank officials, and shall be subject to the requirements of the Bank's Articles of Agreement concerning their exclusive loyalty to the Bank and to the obligations of subparagraphs (c) and (d) of paragraph 3.1 and paragraph 3.2 of the Principles of Staff Employment concerning their conduct as officials of the Bank. Once they begin to work on a full-time basis, they shall receive remuneration at a level to be determined by the Executive Directors upon a recommendation of the President, plus normal benefits available to Bank fixed-term staff. Prior to that time, they shall be remunerated on a per diem basis and shall be reimbursed for their expenses on the same basis as the members of the Bank's Administrative Tribunal. Members of the Panel may not be employed by the Bank Group, following the end of their service on the Panel.

11. The President, after consultation with the Executive Directors, shall assign a staff member to the Panel as Executive Secretary, who need not act on a full-time basis until the workload so justifies. The Panel shall be given such budgetary resources as shall be sufficient to carry out its activities.

### Powers of the Panel

12. The Panel shall receive requests for inspection presented to it by an affected party in the territory of the borrower which is not a single individual (i.e., a community of persons such as an organization, association, society or other grouping of individuals), or by the local representative of such party or by another representative in the exceptional cases where the party submitting the request contends that appropriate representa-



tion is not locally available and the Executive Directors so agree at the time they consider the request for inspection. Any such representative shall present to the Panel written evidence that he is acting as agent of the party on behalf of which the request is made. The affected party must demonstrate that its rights or interests have been or are likely to be directly affected by an action or omission of the Bank as a result of a failure of the Bank to follow its operational policies and procedures with respect to the design, appraisal and/or implementation of a project financed by the Bank (including situations where the Bank is alleged to have failed in its follow-up on the borrower's obligations under loan agreements with respect to such policies and procedures) provided in all cases that such failure has had, or threatens to have, a material adverse effect. In view of the institutional responsibilities of Executive Directors in the observance by the Bank of its operational policies and procedures, an Executive Director may in special cases of serious alleged violations of such policies and procedures ask the Panel for an investigation, subject to the requirements of paragraphs 13 and 14 below. The Executive Directors, acting as a Board, may at any time instruct the Panel to conduct an investigation. For purposes of this Resolution, "operational policies and procedures" consist of the Bank's Operational Policies, Bank Procedures and Operational Directives, and similar documents issued before these series were started, and does not include Guidelines and Best Practices and similar documents or statements.

13. The Panel shall satisfy itself before a request for inspection is heard that the

subject matter of the request has been dealt with by the Management of the Bank and Management has failed to demonstrate that it has followed, or is taking adequate steps to follow the Bank's policies and procedures. The Panel shall also satisfy itself that the alleged violation of the Bank's policies and procedures is of a serious character.

14. In considering requests under paragraph 12 above, the following requests shall not be heard by the Panel:

(a) Complaints with respect to actions which are the responsibility of other parties, such as a borrower, or potential borrower, and which do not involve any action or omission on the part of the Bank.

(b) Complaints against procurement decisions by Bank borrowers from suppliers of goods and services financed or expected to be financed by the Bank under a loan agreement, or from losing tenderers for the supply of any such goods and services, which will continue to be addressed by staff under existing procedures.

(c) Requests filed after the Closing Date of the loan financing the project with respect to which the request is filed or after the loan financing the project has been substantially disbursed.<sup>1</sup>

(d) Requests related to a particular matter or matters over which the Panel has already made its recommendation upon having received a prior request, unless justified by new evidence or circumstances not known at the time of the prior request.

15. The Panel shall seek the advice of the Bank's Legal Department on matters related to the Bank's rights and obligations with respect to the request under consideration.

#### **Procedures**

16. Requests for inspection shall be in writing and shall state all relevant facts, including, in the case of a request by an affected party, the harm suffered by or threatened to such party or parties by the alleged action or omission of the Bank. All requests shall explain the steps already taken to deal with the issue, as well as the nature of the alleged actions or omissions and shall specify the actions taken to bring the issue to the attention of Management, and Management's response to such action.

17. The Chairperson of the Panel shall inform the Executive Directors and the President of the Bank promptly upon receiving a request for inspection.

18. Within 21 days of being notified of a request for inspection, the Management of the Bank shall provide the Panel with evidence that it has complied, or intends to comply with the Bank's relevant policies and procedures.

19. Within 21 days of receiving the response of the Management as provided in the preceding paragraph, the Panel shall determine whether the request meets the eligibility criteria set out in paragraphs 12 to 14 above and shall make a recommendation to the Executive Directors as to whether the matter should be investigated. The recommendation of the Panel shall be circulated to the Executive Directors for decision within the normal distribution period. In case the request was initiated by an

# Annex 1

## Resolution No. IBRD 93-10 / Resolution No. IDA 93-6 "The World Bank Inspection Panel"

affected party, such party shall be informed of the decision of the Executive Directors within two weeks of the date of such decision.

20. If a decision is made by the Executive Directors to investigate the request, the Chairperson of the Panel shall designate one or more of the Panel's members (Inspectors) who shall have primary responsibility for conducting the inspection. The Inspector(s) shall report his/her (their) findings to the Panel within a period to be determined by the Panel taking into account the nature of each request.

21. In the discharge of their functions, the members of the Panel shall have access to all staff who may contribute information and to all pertinent Bank records and shall consult as needed with the Director General, Operations Evaluation Department and the Internal Auditor. The borrower and the Executive Director representing the borrowing (or guaranteeing) country shall be consulted on the subject matter both before the Panel's recommendation on whether to proceed with the investigation and during the investigation. Inspection in the territory of such country shall be carried out with its prior consent.

22. The Panel shall submit its report to the Executive Directors and the President. The report of the Panel shall consider all relevant facts, and shall conclude with the Panel's findings on whether the Bank has complied with all relevant Bank policies and procedures.

23. Within six weeks from receiving the Panel's findings, Management will submit to the Executive Directors for their

consideration a report indicating its recommendations in response to such findings. The findings of the Panel and the actions completed during project preparation also will be discussed in the Staff Appraisal Report when the project is submitted to the Executive Directors for financing. In all cases of a request made by an affected party, the Bank shall, within two weeks of the Executive Directors' consideration of the matter, inform such party of the results of the investigation and the action taken in its respect, if any.

### Decisions of the Panel

24. All decisions of the Panel on procedural matters, its recommendations to the Executive Directors on whether to proceed with the investigation of a request, and its reports pursuant to paragraph 22, shall be reached by consensus and, in the absence of a consensus, the majority and minority views shall be stated.

### Reports

25. After the Executive Directors have considered a request for an inspection as set out in paragraph 19, the Bank shall make such request publicly available together with the recommendation of the Panel on whether to proceed with the inspection and the decision of the Executive Directors in this respect. The Bank shall make publicly available the report submitted by the Panel pursuant to paragraph 22 and the Bank's response thereon within two weeks after consideration by the Executive Directors of the report.

26. In addition to the material referred to in paragraph 25, the Panel shall furnish an annual report to the President and the Executive Directors concerning its activities. The annual report shall be published by the Bank.

### Review

27. The Executive Directors shall review the experience of the inspection function established by this Resolution after two years from the date of the appointment of the first members of the Panel.

### Application to IDA projects

28. In this resolution, references to the Bank and to loans include references to the Association and to development credits.

## 1996 Clarification of Certain Aspects of the Resolution

### REVIEW OF THE RESOLUTION ESTABLISHING THE INSPEC- TION PANEL

#### 1996 CLARIFICATION OF CERTAIN ASPECTS OF THE RESOLUTION

The Resolution establishing the Inspection Panel calls for a review after two years from the date of appointment of the first panel members. On October 17, 1996, the Executive Directors of the Bank and IDA completed the review process (except for the question of inspection of World Bank Group private sector projects) by considering and endorsing the clarifications recommended by Management on the basis of the discussions of the Executive Directors' Committee on Development Effectiveness (CODE). The Inspection Panel and Management are requested by the Executive Directors to observe the clarifications in their application of the Resolution. The clarifications are set out below.

#### The Panel's Function

Since the Resolution limits the first phase of the inspection process to ascertaining the eligibility of the request, this phase should normally be completed within the 21 days stated in the Resolution. However, in cases where the Inspection Panel believes that it would be appropriate to undertake a "preliminary assessment" of the damages alleged by the requester (in particular when such preliminary assessment could lead to a resolution of the matter without the need for a full investigation), the Panel may undertake the preliminary assessment and indicate to the Board the date on which it would present its findings and recommendations as to the need, if any,

for a full investigation. If such a date is expected by the Panel to exceed eight weeks from the date of receipt of Management's comments, the Panel should seek Board approval for the extension, possibly on a "no-objection" basis. What is needed at this preliminary stage is not to establish that a serious violation of the Bank's policy has actually resulted in damages suffered by the affected party, but rather to establish whether the complaint is *prima facie* justified and warrants a full investigation because it is eligible under the Resolution. Panel investigations will continue to result in "findings" and the Board will continue to act on investigations on the basis of recommendations of Management with respect to such remedial action as may be needed.

#### Eligibility and Access

It is understood that the "affected party" which the Resolution describes as "a community of persons such as an organization, association, society or other grouping of individuals" includes any two or more persons who share some common interests or concerns. The word "project" as used in the Resolution has the same meaning as it generally has in the Bank's practice, and includes projects under consideration by Bank management as well as projects already approved by the Executive Directors.

The Panel's mandate does not extend to reviewing the consistency of the Bank's practice with *any* of its policies and procedures, but, as stated in the Resolution, is limited to cases of alleged failure by the Bank to follow its operational policies and procedures *with respect to the design, appraisal and/or implementation of projects*, including cases of alleged failure by the bank to follow-up on the

borrowers' obligations under loan agreements, with respect to such policies and procedures.

No procurement action is subject to inspection by the Panel, whether taken by the Bank or by a borrower. A separate mechanism is available for addressing procurement-related complaints.

#### Outreach

Management will make its response to requests for inspection available to the public within three days after the Board has decided on whether to authorize the inspection. Management will also make available to the public opinions of the General Counsel related to Inspection Panel matters promptly after the Executive Directors have dealt with the issues involved, unless the Board decides otherwise in a specific case.

Management will make significant efforts to make the Inspection Panel better known in borrowing countries, but will not provide technical assistance or funding to potential requesters.

#### Composition of the Panel

No change in the composition of the Panel is being made at this time.

#### Role of the Board

The Board will continue to have authority to (i) interpret the Resolution; and (ii) authorize inspections. In applying the Resolution to specific cases, the Panel will apply it as it understands it, subject to the Board's review. As stated in the Resolution, "[t]he Panel shall seek the advice of the Bank's Legal Department on matters related to the Bank's rights and obligations with respect to the request under consideration."

October 17, 1996

# Annex 3

## 1999 Clarification of the Board's Second Review of the Inspection Panel

The Executive Directors approved today, April 20, 1999, with immediate effect, the report of the Working Group on the Second Review of the Inspection Panel, as revised in light of the extensive consultations that took place after the report was first circulated.

The report confirms the soundness of the Resolution establishing the Inspection Panel (IBRD Resolution No. 93-10, IDA Resolution No. 93-6 of September 22, 1993, hereinafter "the Resolution") and provides clarifications for its application. These clarifications supplement the clarifications issued by the Board on October 17, 1996 and prevail over them in case of conflict. The report's recommendations approved by the Board are as follows:

1. The Board reaffirms the Resolution, the importance of the Panel's function, its independence and integrity.
2. Management will follow the Resolution. It will not communicate with the Board on matters associated with the request for inspection, except as provided for in the Resolution. It will thus direct its response to the request, including any steps it intends to take to address its failures, if any, to the Panel. Management will report to the Board any recommendations it may have, after the Panel completes its inspection and submits its findings, as envisaged in paragraph 23 of the Resolution.
3. In its initial response to the request for inspection, Management will provide evidence that
  - i. it has complied with the relevant Bank operational policies and procedures; or that

- ii. there are serious failures attributable exclusively to its own actions or omissions in complying, but that it intends to comply with the relevant policies and procedures; or that

- iii. the serious failures that may exist are exclusively attributable to the borrower or to other factors external to the Bank; or that

- iv. the serious failures that may exist are attributable both to the Bank's non-compliance with the relevant operational policies and procedures and to the borrower or other external factors.

The Inspection Panel may independently agree or disagree, totally or partially, with Management's position and will proceed accordingly.

4. When Management responds, admitting serious failures that are attributable exclusively or partly to the Bank, it will provide evidence that it has complied or intends to comply with the relevant operating policies and procedures. This response will contain only those actions that the Bank has implemented or can implement by itself.

5. The Inspection Panel will satisfy itself as to whether the Bank's compliance or evidence of intention to comply is adequate, and reflect this assessment in its reporting to the Board.

6. The Panel will determine the eligibility of a request for inspection independently of any views that may be expressed by Management. With respect to matters relating to the Bank's rights and obligations with respect to the request under consideration, the Panel will seek the advice of the Bank's Legal Department as required by the Resolution.

7. For its recommendation on whether an investigation should be carried out, the Panel will satisfy itself that all the eligibility criteria provided for in the Resolution have been met. It will base its recommendation on the information presented in the request, in the Management response, and on other documentary evidence. The Panel may decide to visit the project country if it believes that this is necessary to establish the eligibility of the request. In respect of such field visits, the Panel will not report on the Bank's failure to comply with its policies and procedures or its resulting material adverse effect; any definitive assessment of a serious failure of the Bank that has caused material adverse effect will be done after the Panel has completed its investigation.

8. The original time limit, set forth in the Resolution for both Management's response to the request and the Panel's recommendation, will be strictly observed except for reasons of force majeure, i.e. reasons that are clearly beyond Management's or the Panel's control, respectively, as may be approved by the Board on a no objection basis.

9. If the Panel so recommends, the Board will authorize an investigation without making a judgment on the merits of the claimants' request, and without discussion except with respect to the following technical eligibility criteria:

- a. The affected party consists of any two or more persons with common interests or concerns and who are in the borrower's territory (Resolution-para.12).



b. The request does assert in substance that a serious violation by the Bank of its operational policies and procedures has or is likely to have a material adverse effect on the requester (Resolution paras. 12 and 14a).

c. The request does assert that its subject matter has been brought to Management's attention and that, in the requester's view, Management has failed to respond adequately demonstrating that it has followed or is taking steps to follow the Bank's policies and procedures (Resolution para. 13).

d. The matter is not related to procurement (Resolution para. 14b).

e. The related loan has not been closed or substantially disbursed (Resolution para. 14c).

f. The Panel has not previously made a recommendation on the subject matter or, if it has, that the request does assert that there is new evidence or circumstances not known at the time of the prior request (Resolution para. 14d).

10. Issues of interpretation of the Resolution will be cleared with the Board.

11. The "preliminary assessment" concept, as described in the October 1996 Clarification, is no longer needed. The paragraph entitled "The Panel's Function" in the October 1996 "Clarifications" is thus deleted.

12. The profile of Panel activities, in-country, during the course of an investigation, should be kept as low as possible in keeping with its role as a fact-finding body on behalf of the Board. The Panel's methods of investigation should not create the impression that it is investigating the borrower's perform-

ance. However, the Board, acknowledging the important role of the Panel in contacting the requesters and in fact-finding on behalf of the Board, welcomes the Panel's efforts to gather information through consultations with affected people. Given the need to conduct such work in an independent and low-profile manner, the Panel – and Management – should decline media contacts while an investigation is pending or underway. Under those circumstances in which, in the judgment of the Panel or Management, it is necessary to respond to the media, comments should be limited to the process. They will make it clear that the Panel's role is to investigate the Bank and not the borrower.

13. As required by the Resolution, the Panel's report to the Board will focus on whether there is a serious Bank failure to observe its operational policies and procedures with respect to project design, appraisal and/or implementation. The report will include all relevant facts that are needed to understand fully the context and basis for the panel's findings and conclusions. The Panel will discuss in its written report only those material adverse effects, alleged in the request, that have totally or partially resulted from serious Bank failure of compliance with its policies and procedures. If the request alleges a material adverse effect and the Panel finds that it is not totally or partially caused by Bank failure, the Panel's report will so state without entering into analysis of the material adverse effect itself or its causes.

14. For assessing material adverse effect, the without-project situation should be used as the base case for comparison, taking into account what baseline informa-

tion may be available. Non-accomplishments and unfulfilled expectations that do not generate a material deterioration compared to the without-project situation will not be considered as a material adverse effect for this purpose. As the assessment of material adverse effect in the context of the complex reality of a specific project can be difficult, the Panel will have to exercise carefully its judgment on these matters, and be guided by Bank policies and procedures where relevant.

15. A distinction has to be made between Management's report to the Board (Resolution para. 23), which addresses Bank failure and possible Bank remedial efforts and "action plans," agreed between the borrower and the Bank, in consultation with the requesters, that seek to improve project implementation. The latter "action plans" are outside the purview of the Resolution, its 1996 clarification, and these clarifications. In the event of agreement by the Bank and borrower on an action plan for the project, Management will communicate to the Panel the nature and outcomes of consultations with affected parties on the action plan. Such an action plan, if warranted, will normally be considered by the Board in conjunction with the Management's report, submitted under Resolution para. 23.

16. The Panel may submit to the Executive Directors for their consideration a report on their view of the adequacy of consultations with affected parties in the preparation of the action plans. The Board should not ask the Panel for its view on other aspects of the action plans nor would it ask the Panel to monitor the implementation of the action plans.

# Annex 3

## 1999 Clarification of the Board's Second Review of the Inspection Panel

The Panel's view on consultation with affected parties will be based on the information available to it by all means, but additional country visits will take place only by government invitation.

17. The Board underlines the need for Management to make significant efforts to make the Inspection Panel better known in borrowing countries, as specified in the 1996 "Clarifications."

18. The Board emphasizes the importance of prompt disclosure of information to claimants and the public, as stipulated in the Resolution (paras. 23 and 25) and in its 1996 Clarifications. The Board requires that such information be provided by Management to claimants in their language, to the extent possible.

19. The Board recognizes that enhancing the effectiveness of the Inspection Panel process through the above

clarifications assumes adherence to them by all parties in good faith. It also assumes the borrowers' consent for field visits envisaged in the Resolution. If these assumptions prove to be incorrect, the Board will revisit the above conclusions.



## Operating Procedures

The Panel is currently in the process of revising its Operating Procedures to reflect the 1996 and 1999 Clarifications to the Resolution that established the Panel, as well as lessons learned during the first eight years of operation.

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Operating Procedures as adopted by the Panel on August 19, 1994

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  - Model Form



## Introduction

The Inspection Panel (the “Panel”) is an independent forum established by the Executive Directors of the International Bank for Reconstruction and Development (“IBRD”) and the International Development Association (“IDA”) by IBRD Resolution No. 93-10 and the identical IDA Resolution No. 93-6 both adopted by the Executive Directors of the respective institutions on September 22, 1993 (collectively the “Resolution”). The text of the Resolution is in Annex 1. References in these procedures to the “Bank” includes the IBRD and IDA.

The Panel’s authority is dictated by the Resolution: within that framework, these Operating Procedures are adopted by the Panel to provide detail to the operational provisions. The text is based on the Resolution and takes into account suggestions from outside sources.

In view of the unprecedented nature of the new inspection function the current procedures are provisional: the Panel will review them within 12 months, and in light of experience and comments received, will revise them if necessary; and will recommend to the Executive Directors (“Executive Directors”) amendments to the Resolution that would allow a more effective role for the Panel.

## Composition

The Panel consists of three Inspectors. At the outset, one Inspector, the Chairperson, will work on a full-time basis: the other two will work part-time. This arrangement is provisional. The Panel’s workload will be dictated by the number and nature of requests received. If necessary, the Panel will recommend

alternative arrangements to the Executive Directors.

## Purpose

The Panel has been established for the purpose of providing people directly and adversely affected by a Bank-financed project with an independent forum through which they can request the Bank to act in accordance with its own policies and procedures. It follows that this forum is available when adversely affected people believe the Bank itself has failed, or has failed to require others, to comply with its policies and procedures, and only after efforts have been made to ask the Bank Management (“Management”) itself to deal with the problem.

## Functions

The role of the Panel is to carry out independent investigations. Its function, which will be triggered when it receives a request for inspection, is to inquire and recommend: it will make a preliminary review of a request for inspection and the response of Management, independently assess the information and then recommend to the Board of Executive Directors whether or not the matters complained of should be investigated. If the Board decides that a request shall be investigated, the Panel will collect information and provide its findings, independent assessment and conclusions to the Board. On the basis of the Panel’s findings and Management’s recommendations, the Executive Directors will consider the actions, if any, to be taken by the Bank.

## Participants

During the preliminary review period—

up to the time the Panel makes a recommendation to the Board on whether or not the matter should be investigated—the Panel will accept statements or evidence from (a) the Requester, i.e., either the affected people and/or their duly appointed representative, or an Executive Director; (b) Management; and, (c) any other individual or entity invited by the Panel to present information or comments.

During an investigation, any person who is either a party to the investigation or who provides the designated Inspector(s) with satisfactory evidence that he/she has an interest, apart from any interest in common with the public, will be entitled to submit information or evidence relevant to the investigation.

## Administration

The Panel has approved separate Administrative Procedures which are available from the Office of the Inspection Panel.

(Please note that all headings are for ease of reference only. They do not form part of these procedures and do not constitute an interpretation thereof.)

## Subject Matter of Requests

### Scope

1. The Panel is authorized to accept requests for inspection (“Request(s)”) which claim that an actual or threatened material adverse effect on the affected party’s rights or interests arises directly out of an action or omission of the Bank as a result of a failure by the Bank to follow its own operational policies and procedures during the design, appraisal and/or implementation of a Bank financed project. Before submitting a Request steps must have already been

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## Operating Procedures

taken (or efforts made) to bring the matter to the attention of Management with a result unsatisfactory to the Requester.

### Limitations

2. The Panel is not authorized to deal with the following:

(a) complaints with respect to actions which are the responsibility of other parties, such as the borrower, or potential borrower, and which do not involve any action or omission on the part of the Bank;

(b) complaints against procurement decisions by Bank borrowers from suppliers of goods and services financed or expected to be financed by the Bank under a loan/credit agreement, or from losing tenderers for the supply of any such goods and services, which will continue to be addressed by Bank staff under existing procedures;

(c) Requests filed after the Closing Date of the loan/credit financing the project with respect to which the Request is filed or when 95% or more of the loan/credit proceeds have been disbursed; or

(d) Requests related to a particular matter or matters over which the Panel has already made its recommendation after having received a prior Request, unless justified by new evidence or circumstances not known at the time of the prior Request.

### Preparation of a Request

3. The Panel's operational proceedings begin when a Request is received. This section of the procedures is primarily designed to give further guidance to potential Requesters on what facts and explanations they should provide.

### A. Who Can File a Request

4. The Panel has authority to receive Requests which complain of a violation of the Bank's policies and procedures from the following people or entities:

(a) any group of two or more people in the country where the Bank financed project is located who believe that as a result of the Bank's violation their rights or interests have been, or are likely to be adversely affected in a direct and material way. They may be an organization, association, society or other grouping of individuals; or

(b) a duly appointed local representative acting on explicit instructions as the agent of adversely affected people; or

(c) in exceptional cases, referred to in paragraph 11 below, a foreign representative acting as agent of adversely affected people; or

(d) an Executive Director of the Bank in special cases of serious alleged violations of the Bank's policies and procedures.

### B. Contents of a Request

5. In accordance with the Resolution, Requests should contain the following information:

(a) a description of the project, stating all the relevant facts including the harm suffered by or threatened to the affected party;

(b) an explanation of how Bank policies, procedures or contractual documents were seriously violated;

(c) a description of how the act or omission on the part of the Bank has led or may lead to a violation of the specific provision;

(d) a description of how the party was, or is likely to be, materially and adversely affected by the Bank's act or omission and what rights or interests of the claimant were directly affected;

(e) a description of the steps taken by the affected party to resolve the violations with Bank staff, and explanation of why the Bank's response was inadequate;

(f) in Requests relating to matters previously submitted to the Panel, a statement specifying what new evidence or changed circumstances justify the Panel revisiting the issue; and

(g) if some of the information cannot be provided, an explanation should be included.

### C. Form of Request

#### Written

6. All Requests must be submitted in writing, dated and signed by the Requester and contain his/her name and contact address.

#### Format

7. No specific form is necessary: a letter will suffice. A Requester may wish to refer to the guidance and use the model form specifying required information. [Attached]

#### Language

8. The working language of the Panel is English. Requests submitted directly by affected people themselves may be in their local language if they are unable to obtain a translation. If requests are not in English, the time needed to translate and ensure an accurate and agreed translation may delay acceptance and consideration by the Panel.



### Representatives

9. If the Requester is a directly affected person or entity representing affected people, written signed proof that the representative has authority to act on their behalf must be attached.

10. If the Request is submitted by a non-affected representative, he/she must provide evidence of representational authority and the names and contact address of the party must be provided. Proof of representational authority, which shall consist of the original signed copy of the affected party's explicit instructions and authorization, must be attached.

11. In addition, in the cases of non-local representation, the Panel will require clear evidence that there is no adequate or appropriate representation in the country where the project is located.

### Documents

12. The following documents should be attached:

- (a) all correspondence with Bank staff;
- (b) notes of meetings with Bank staff;
- (c) a map or diagram, if relevant, showing the location of the affected party or area affected by the project; and
- (d) any other evidence supporting the complaint.

13. If all the information listed cannot be provided an explanation should be included.

### D. Delivery of Request

14. Requests must be sent by registered or certified mail or delivered by hand in a sealed envelope against receipt to the Office of The Inspection Panel at 1818 H Street, N.W., Washington, D.C. 20433, U.S.A. or to the Bank's

resident representative in the country where the project is located. In the latter case, the resident representative shall, after issuing a receipt to the Requester, forward the Request to the Panel through the next pouch.

### E. Advice on Preparation

15. People or entities seeking advice on how to prepare and submit a Request may contact the Office of The Inspection Panel, which will provide information or may meet and discuss the requirements with potential requesters.

### Procedures on Receipt of a Request

16. When the Panel receives a Request the Chairperson, on the basis of the information contained in the Request, shall either promptly register the Request, or ask for additional information, or find the Request outside the Panel's mandate.

### A. Register

17. If the request appears to contain sufficient required information the chairperson shall register the Request in the Panel Register; promptly notify the Requester, the Executive Directors and the Bank President ("President") of the registration; and transmit to the President a copy of the Request with the accompanying documentation, if any.

### Contents of Notice

18. The notice of registration shall:

- (a) record that the Request is registered and indicate the date of the registration and dispatch of that notice;
- (b) the notice will include the name of the project, the country where the project is located, the name of the Requester unless anonymity is request-

ed, and a brief description of the Request;

(c) notify the Requester that all communications in connection with the Request will be sent to the address stated in the Request, unless another address is indicated to the Panel Secretariat; and

(d) request Management to provide the Panel, within 21 days after receipt of the notice and Request, with written evidence that it has complied, or intends to comply with the Bank's relevant policies and procedures. The notice shall specify the due date of the response.

### B. Request Additional Information

19. If the chairperson finds the contents of the Request or documentation on representation insufficient, he/she may ask the Requester to supply further information.

20. Upon receipt of a Request, the chairperson shall send a written acknowledgment to the Requester, and will specify what additional information is required.

21. The Chairperson may refuse to register a Request until all necessary information and documentation is filed.

### Outside Scope

22. If the chairperson finds, that the matter is without doubt manifestly outside the Panel's mandate, he/she will notify the Requesters, of his/her refusal to register the Request and of the reasons therefor; this will include but not be limited to the following types of communications:

- (a) Requests which are clearly outside the Panel's mandate including those listed above at paragraph 2;

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(b) Requests which do not show the steps taken or effort made to resolve the matter with Management;

(c) Requests from an individual or from a non-authorized representative of an affected party;

(d) any correspondence, including but not limited to letters, memoranda, opinions, submissions or requests on any matter within the Panel's mandate which are not requests for an inspection; and

(e) Requests that are manifestly frivolous, absurd or anonymous.

### Records

23. The number of such Requests and communications received shall be noted in the Register on a quarterly basis and the yearly total included in the Annual Report.

### D. Need for Review

24. In cases where additional information is required, or where it is not clear whether a Request is manifestly outside the Panel's mandate, the Chairperson shall designate a Panel member to review the Request.

### E. Revised Request

25. If the Requester receives significant new evidence or information at any time after the initial Request was submitted, he/she may consider whether or not it is serious enough to justify the submission of a revised Request.

26. If a revised Request is submitted, the time periods for Management's response and the Panel recommendation will begin again from the time such Request is registered.

### Management' Response

27. Within 21 days after being notified of a Request, Management shall provide the Panel with evidence that it has complied, or intends to comply with the Bank's relevant policies and procedures. After the Panel receives Management's response, it shall promptly enter the date of receipt in the Panel Register.

28. If there is no response from Management within 21 days, the Panel shall notify the President and the Executive Directors and send a copy to the Requester.

### Clarification

29. In order to make an informed recommendation, the Panel may request clarification from Management; in the light of Management's response, request more information from the Requester; and provide relevant portions of Management's response for comment. A time limit for receipt of the information requested shall be specified; and

(a) whether or not such clarification or information is received within the time limit, make its recommendation to the Executive Directors within 21 days after receipt of Management's response; or

(b) in the event it is not possible for the Requester to provide the information quickly, the Panel may advise the Requester to submit an amended Request; the Executive Directors and Bank management will be notified that the process will begin again when the amended Request is received.

### Panel Recommendation

30. Within 21 days after receiving Man-

agement's response, the Panel shall make a recommendation to the Executive Directors as to whether the matter should be investigated.

### A. Basis

31. The Panel shall prepare its recommendation to the Board on the basis of the information contained in:

(a) the Request;

(b) Management's response;

(c) any further information the Panel may have requested and received from the Requester and/or Management and/or third parties; and

(d) any findings of the Panel during this stage.

### B. Required Criteria

32. If, on the basis of the information contained in the Request, it has not already been established that the Request meets the following three conditions required by the Resolution, the Chairperson, in consultation with the other Panel members may, if necessary, designate a Panel member to conduct a preliminary review to determine whether the Request:

(a) was filed by an eligible party;

(b) is not time-barred; and

(c) relates to a matter falling within the Panel's mandate.

### Criteria for Satisfactory Response

33. The Panel may proceed to recommend that there should not be an investigation, if, on the basis of the information contained in the Request and Management's response, the Panel is satisfied that Management has done the following:



(a) dealt appropriately with the subject matter of the Request; and

(b) demonstrated clearly that it has followed the required policies and procedures; or

(c) admitted that it has failed to follow the required policies and procedures but has provided a statement of specific remedial actions and a timetable for implementing them, which will, in the judgment of the Panel, adequately correct the failure and any adverse effects such failure has already caused.

#### **Preliminary Review**

34. If, on the basis of the information contained in Management's response and any clarifications provided, the Panel is satisfied that Management has failed to demonstrate that it has followed, or is taking adequate steps to follow the Bank's policies and procedures, the Panel will conduct a preliminary review in order to determine whether conditions required by provisions of the Resolution exist.

35. Although it may not investigate Management's actions in depth at this stage, it will determine whether Management's failure to comply with the Bank's policies and procedures meets the following three conditions:

(a) whether such failure has had, or threatens to have, a material adverse effect;

(b) whether, the alleged violation of the Bank's policies and procedures are, in the judgment of the Panel, of a serious character; and

(c) whether remedial actions proposed by Management do not appear ade-

quate to meet the concerns of the Requester as to the application of the Bank's policies and procedures.

#### **Initial Study**

36. If the Chairperson considers, after the preliminary review and consultation with the other Panel members, that more factual data not already provided by the Requester, Management or any other source is required to make an informed recommendation to the Executive Directors, he/she may designate a Panel member to undertake a preliminary study. The study may include, but need not be limited to, a desk study and/or a visit to the project site.

#### **C. Contents**

37. On the basis of the review, the Panel shall make its recommendation to the Board as to whether the matter should be investigated. Every recommendation shall include a clear explanation setting forth reasons for the recommendation and be accompanied by:

(a) the text of the Request and, where applicable, any other relevant information provided by the Requester;

(b) the text of Management's response and, where applicable, any clarifications provided;

(c) the text of any advice received from the Bank's Legal Department;

(d) any other relevant documents or information received; and

(e) statements of the majority and minority views in the absence of a consensus by the Panel.

#### **D. Submission**

38. The recommendation shall be circulated by the Executive Secretary of the

Panel to the Executive Directors for decision. The Panel will notify the Requester that a recommendation has been sent to the Executive Directors.

#### **Board Decision and Public Release**

39. The Board decides whether or not to accept or reject the Panel's recommendation; and, if the Requester is a non-local representative, whether exceptional circumstances exist and suitable local representation is not available.

#### **Notification**

40. The Panel shall promptly inform the Requester of the Board's decision on whether or not to investigate the Request and, shall send the Requester a copy of the Panel's recommendation.

#### **Public Information**

41. After the Executive Directors have considered a Request the Bank shall make such Request publicly available together with the Panel's recommendation on whether to proceed with the inspection and the decision of the Executive Directors in this respect.

#### **An Investigation**

##### **A. Initial Procedures**

42. When a decision to investigate a Request is made by the Board, or the Board itself requests an investigation, the Chairperson shall promptly:

(a) designate one or more of the Panel's members (Inspector(s)) to take primary responsibility for the investigation;

(b) arrange for the Panel members to consult, taking into account the nature of the particular Request, on:

(i) the methods of investigation

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that at the outset appear the most appropriate;

(ii) an initial schedule for the conduct of the investigation;

(iii) when the Inspector(s) shall report his/her (their) findings to the Panel, including any interim findings; and

(iv) any additional procedures for the conduct of the investigation.

43. The designated Inspector(s) shall, as needed, arrange for a meeting with the Requester and schedule discussions with directly affected people.

44. The name of the Inspector(s) and an initial work plan shall be made public as soon as possible.

### B. Methods of Investigation

45. The Panel may, taking into account the nature of the particular Request, use a variety of investigatory methods, including but not limited to:

(a) meetings with the Requester, affected people, Bank staff, government officials and project authorities of the country where the project is located, representatives of local and international non-governmental organizations;

(b) holding public hearings in the project area;

(c) visiting project sites;

(d) requesting written or oral submissions on specific issues from the Requester, affected people, independent experts, government or project officials, Bank staff, or local or international non-governmental organizations;

(e) hiring independent consultants to research specific issues relating to a Request;

(f) researching Bank files; and

(g) any other reasonable methods the Inspector(s) consider appropriate to the specific investigation.

### Consent Required

46. In accordance with the Resolution, physical inspection in the country where the project is located will be carried out with prior consent. The Chairperson shall request the Executive Director representing such country to provide written consent.

### C. Participation of Requester

47. During the course of the investigation, in addition to any information requested by the Inspector(s), the Requester (and affected people if the Requester is a non-affected Representative or an Executive Director) or Bank staff may provide the Inspector(s) either directly or through the Executive Secretary with supplemental information that they believe is relevant to evaluating the Request.

48. The Inspector(s) may notify the Requester of any new material facts provided by Bank staff or by the Executive Director for, or authorities in the country where the project is located.

49. To facilitate understanding of specific points, the Panel may discuss its preliminary findings of fact with the Requester.

### D. Participation of Third Parties

50. During the course of the investigation, in addition to any information requested by the Inspector(s), any mem-

ber of the public may provide the Inspector(s), either directly or through the Executive Secretary, with supplemental information that they believe is relevant to evaluating the Request.

51. Information should not exceed ten pages and include a one-page summary. Supporting documentation may be listed and attached. The Inspector(s) may request more details if necessary.

### Panel Report

#### Contents

52. The report of the Panel (the "Report") shall include the following:

(a) a summary discussion of the relevant facts and of the steps taken to conduct the investigation;

(b) a conclusion showing the Panel's findings on whether the Bank has complied with relevant Bank policies and procedures;

(c) a list of supporting documents which will be available on request from the Office of The Inspection Panel; and

(d) statements of the majority and minority views in the absence of a consensus by the Panel.

#### Submission

53. Upon completion of the Report, the Panel shall submit it to:

(a) the Executive Directors: accompanied by notification that the Report is being submitted to the President on the same date; and

(b) the President: accompanied by a notice against receipt that within 6 weeks of receipt of the Report, Management must submit to the Executive Directors for their consideration



a report indicating Management's recommendations in response to the Panel's findings.

#### **Managements Recommendations**

54. Within 6 weeks after receiving the Panel's findings, Management will submit to the Executive Directors for their consideration a report indicating its recommendations in response to the Panel's findings. Upon receipt of a copy of the report, the Panel will notify the Requester.

#### **Board Decision and Public Release**

55. Within 2 weeks after the Executive Directors consider the Panel's Report and the Management's response, the Bank shall inform the Requester of the results of the investigation and the action decided by the Board, if any.

56. After the Bank has informed the Requester, the Bank shall make publicly available:

- (a) the Panel's Report;
- (b) Management's recommendations; and
- (c) the Board's decision.

These documents will also be available at the Office of The Inspection Panel.

57. The Panel will seek to enhance public awareness of the results of investigations through all available information sources

#### **General**

##### **Business Days**

58. "Days" under these procedures means days on which the Bank is open for business in Washington, D.C.

#### **Copies**

59. Consideration of Requests and other documents submitted throughout the process will be expedited if an original and two copies are filed. When any document contains extensive supporting documentation the Panel may ask for additional copies.

#### **Consultations**

60. The borrower and the Executive Director representing the borrowing (or guaranteeing) country shall be consulted on the subject matter before the Panel's recommendation and during an investigation.

#### **Access to Bank Staff and Information**

61. Pursuant to the Resolution and in discharge of their functions, the members of the Panel shall have access to all Bank staff who may contribute information and to all pertinent Bank records and shall consult as needed with the Director General, Operations Evaluation Department, and the Internal Auditor.

#### **Legal Advice**

62. The Panel shall seek, through the Vice President and General Counsel of the Bank, the written advice of the Bank's Legal Department on matters related to the Bank's rights and obligations with respect to the Request under consideration. Any such advice will be included as an attachment to the Panel's recommendation and/or Report to the Executive Directors.

#### **Confidentiality**

63. Documents, or portions of documents of a confidential nature will not be released by the Panel without the

express written consent of the party concerned.

#### **Information to Requester and Public**

64. The Executive Secretary shall record in the Register all actions taken in connection with the processing of the Request, the dates thereof, and the dates on which any document or notification under these procedures is received in or sent from the Office of The Inspection Panel. The Requester shall be informed promptly. The Register will be publicly available.

65. A notice that a Request has been registered and all other notices or documents issued by the Panel will be available to the public through the Bank's PIC in Washington, D.C.; at the Bank's Resident Mission in the country where the project is located or at the relevant regional office; at the Bank's Paris, London and Tokyo offices; or on request from the Executive Secretary of the Panel.

# Annex 4

## Operating Procedures

### Guidance on How to Prepare a Request for Inspection

The Inspection Panel needs some basic information in order to process a Request for Inspection:

1. Name, contact address and telephone number of the group or people making the request.
2. Name and description of the Bank project.
3. Adverse effects of the Bank project.
4. If you are a representative of affected people attach explicit written instructions from them authorizing you to act on their behalf.

### These key questions must be answered:

1. Can you elaborate on the nature and importance of the damage caused by the project to you or those you represent?
2. Do you know that the Bank is responsible for the aspects of the project that has or may affect you adversely? How did you determine this?
3. Are you familiar with Bank policies and procedures that apply to this type of project? How do you believe the Bank may have violated them?
4. Have you contacted or attempted to contact Bank staff about the project? Please provide information about all contacts, and the responses, if any, you received from the Bank. You must have done this before you can file a request.
5. Have you tried to resolve your problem through any other means?
6. If you know that the Panel has dealt with this matter before, do you have new facts or evidence to submit?

Please provide a summary of the information in no more than a few pages. Attach as much other information as you think necessary as separate documents. Please note and identify attachments in your summary.

**You may wish to use the following-model form.**



### **Model Form Request for Inspection**

To: The Executive Secretary

The Inspection Panel

1818 H St., NW, Washington, D.C. 20433, U.S.A.

(or to a World Bank Country/Regional Office)

We, \_\_\_\_\_, and other persons whose names and addresses are attached live/represent others, living in the area known as: [and shown in the attached map or diagram] claim the following:

1. The Bank is financing the design/appraisal and/or implementation of a project [name and brief description]
  
2. We understand that the Bank has the following policy(ies) and/or procedures [list or describe]:
  
3. Our rights/interests are [describe]:
  
4. The Bank has violated its own policies/procedures in this way:
  
5. We believe our rights/interests have been, are likely to be adversely affected as a direct result of the Bank's violation. This is, or is likely to cause us to suffer [describe harm]:
  
6. We believe the action/omission is the responsibility of the Bank.
  
7. We have complained/made an effort to complain to Bank staff by [describe]:

Please attach evidence or explanation.

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8. We received no response; or

We believe that the response(s) (attached/not attached) is unsatisfactory because:[describe why]:

9. In addition we have taken the following steps to resolve our problem:

We therefore believe that the above actions/omissions which are contrary to the above policies or procedures have materially and adversely affected our rights/interests and request the Panel to recommend to the Bank's Executive Directors that an investigation of these matters be carried out in order to resolve the problem.

As advised in your Operating Procedures, this Request for Inspection is brief. We can provide you with more particulars.

DATE: \_\_\_\_\_

SIGNATURES: \_\_\_\_\_

CONTACT ADDRESS: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Attachments: [Yes][No]

We authorize you to make this

Request public [Yes][No]



## Panel Budget

### The Inspection Panel Budget

**August 1, 2001 to June 30, 2002**

(thousands of U.S. dollars)

Fees – Panel Members	424.0
Salaries*	640.8
Temporaries	36.1
Consultants Short-term	280.6
Overtime	3.8
Travel – Member/Staff	408.0
Benefits	320.4
Communications & IT	102.4
Equipment & Building Services	8.0
Representation & Hospitality	9.9
Contractual Services	25.6
Other Expenses	61.8
Office Occupancy	152.7
<b>Total Expenses</b>	<b>2,475.0</b>
<b>Current Budget</b>	<b>2,573.9</b>

Note: Numbers may not add to totals because of rounding.

\* Includes Chairman's salary.











## The Inspection Panel

International Bank for  
Reconstruction and Development  
International Development Association



### The World Bank

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