

# **External Review of the Board Approved Reforms to the Inspection Panel Toolkit and Creation of the World Bank Accountability Mechanism**

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# Abbreviations and Acronyms

ADB	Asian Development Bank
AfDB	African Development Bank
AIIB	Asian Infrastructure Investment Bank
AM	Accountability Mechanism
AMSec	Accountability Mechanism Secretary
CAO	Compliance Advisor Ombudsman
CM	Complaint Mechanism (EIB)
CRP	Compliance Review Panel (ADB)
CODE	Committee on Development Effectiveness
CSO	civil society organization
DEG	German Investment Cooperation
DRS	Dispute Resolution Service
EBRD	European Bank for Reconstruction and Development
E&S	environmental and social
EIB	European Investment Bank
ERT	External Review Team
FMO	Dutch Entrepreneurial Development Bank
FPCMAPI	Framework for Proportionality Criteria and Modalities for Independent Verification of Management Action Plan Implementation
FY	fiscal year
GCF	Green Climate Fund
GIA	Group Internal Audit
GRS	Grievance Redress Service
IDB	Inter-American Development Bank
IAM	independent accountability mechanism
IAMNet	Independent Accountability Mechanisms Network
IFC	International Finance Corporation
IFI	international financial institution
IPAM	Independent Project Accountability Mechanism (EBRD)
IPN	Inspection Panel

IRM	Independent Review Mechanism (AfDB)
MAP	management action plan
MDB	multilateral development bank
MICI	Independent Consultation and Investigation Mechanism (IDB)
MIGA	Multilateral Investment Guarantee Agency
MoU	memorandum of understanding
PCM	Project Complaint Mechanism (EBRD)
PPM	People's Mechanism (AIIB)
PROPARCO	Private sector financing arm of Agence Française de Développement
SECU	Social and Environmental Compliance Unit (UNDP)
SPF	Special Project Facilitator (ADB)
TOR	terms of reference
UNDP	United Nations Development Programme

# Executive Summary

The “Toolkit Reforms” approved by the World Bank Board of Executive Directors in 2018 and 2020 for the Bank’s accountability system provided that an external review was to be conducted after three years to assess its effectiveness, efficiency, and development impact. The Board approved terms of reference for an external review and defined specific review questions for the External Review Team (ERT). This report remains closely focused on these questions. It is not an overall assessment of the policies and procedures of the Bank’s complaint mechanism.

The establishment of the Inspection Panel (IPN) 30 years ago was a landmark decision. It was the first institutional mechanism to enable nonstate actors to hold an international organization accountable for its conduct.<sup>1</sup> Subsequently, all other major multilateral development banks (MDBs) established complaint mechanisms. While most other independent accountability mechanisms (IAMs) have a process for reviewing their policies and practices in mostly five-year intervals, and subsequently attempt to align policies with emerging good practices, such adjustments did not take place with the IPN Policy. There were some procedural reforms in 1996 and 1999, but the policy of the IPN was not substantively revised.<sup>2</sup> The Toolkit Reforms were the first substantive reforms to the IPN. In 2018, the Board approved the first package of reforms, which: (1) recognized the IPN’s advisory role; (2) formalized the IPN’s current practice of coordinating with other IAMs and processing complaints in the most efficient way; and (3) allowed for the sharing of IPN investigation reports with requesters prior to Board meetings under restrictive conditions. In 2020, a second set of reforms were approved by the Board, which: (1) extended the time limit for requesters to file complaints; (2) provided the IPN the right to propose for Board approval a recommendation for verification of management action plans (MAPs) if a set of criteria apply; (3) established a dispute resolution (DR) function; and (4) established the Accountability Mechanism (AM) to house both the DR function and the IPN, which would continue to conduct the compliance review function independently.

The creation of a DR function was an overdue and important development. All other IAMs had long established both a compliance and DR function. Dispute resolution and compliance are separate processes conducted according to different methodologies. But both processes ultimately attempt to facilitate access to remedy if harm has been caused by a Bank-financed project. MDBs recognize that development projects not only provide benefits but can also cause harm. Environmental and social standards are designed to prevent or mitigate such harm, and if negative impacts are unavoidable,

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<sup>1</sup> Suzuki, Eisuke, and Suresh Nanwani, Responsibility of International Organizations: The Accountability Mechanisms of Multilateral Development Banks, 27 Mich. J. Int’l L. 177, 187 (2005).

<sup>2</sup> For the 1996 reform, see *Review of the Resolution Establishing The Inspection Panel 1996 Clarification of Certain Aspects of the Resolution*, <https://www.inspectionpanel.org/sites/default/files/documents/reviewresolution1966.pdf>; for 1999 reforms see *1999 Clarification of the Board’s Second Review of the Inspection Panel*; <https://www.inspectionpanel.org/sites/default/files/documents/ClarificationsSecondReview.pdf>.

assure adequate compensation and livelihood support. But development is a complex process, and things can go wrong. Complaint mechanisms are established for people to raise their concerns and have their voices heard if they believe that things have gone wrong and that they are or will be harmed.

The AM was established in 2021 to house both the DR and compliance functions. The IPN, with its three-member Panel, was expected to continue to independently conduct the compliance review function. According to the IPN Resolution, the Accountability Mechanism Secretary (AMSec) heads the AM and, at the same time, oversees/heads<sup>3</sup> the Dispute Resolution Service (DRS) and performs administrative, budgetary, and human resource oversight functions for the AM as a whole. However, the IPN is authorized to operate independently when conducting compliance reviews. Both the AMSec and the IPN Chair report to the Board. This structure contains three very challenging features. First, the AMSec performs an administrative oversight function but the IPN independently exercises its compliance function as assigned by the IPN Resolution. There is tension between the concepts of oversight and independence. Second, the AMSec has oversight responsibilities for the AM, which houses both functions, but the AMSec is at the same time the Head of the DR function. This compromises the perception of neutrality when the interests of the DRS and the IPN are in conflict. Third, the AM structure houses two functions, with strong firewalls keeping them separate, making it more difficult to build synergies and establish collaborative processes. Unclear and sometimes inconsistent provisions in the IPN and AM resolutions and operating procedures create further challenges. Implementing the current AM model has been difficult. Different views about what the objectives were for establishing an AM are an important underlying reason for persistent challenges. Views range from the AM supposedly being a pyramid structure to the AM being a service provider to the two functions (on administrative and human resource management issues, communication, and outreach), while maintaining the IPN as largely self-contained, with the continuation of its own “brand.” These different views result in varied interpretations on issues such as “independence,” administrative control over human and financial resources, representation discrepancies, and communication mismatches in fulfillment of the mandates of the AM and the IPN. The ERT, with this report, hopes to contribute to addressing some of the pertinent issues.

The Bank’s leadership role in public accountability needs to be safeguarded and enhanced, especially as the Bank embarks on its Evolution Roadmap. The roadmap calls for engagement in new priority areas, an expansion of resources and new financing instruments, stronger collaboration with the private sector, and the expansion of partnerships among international financial institution (IFIs). Importantly, it calls for faster lending, more delegation to borrowers, and delegation of lending approval authority to Bank operations departments. But this focus on new lending priorities and moving more quickly with additional resources and greater delegation entails risk. There are risks that agreed policies, especially concerning the implementation of environmental and social standards, might not always be adequately

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<sup>3</sup> Both terms are used in the AM Resolution (see paras. 4 and. 12).



adhered to, thereby causing harm. Risks might be well worth taking, but taking risks that can possibly lead to harm requires that processes be put in place so affected people can obtain recourse. The Bank's AM, with its new DR function and its proven compliance function is that mechanism. A strong, independent, and trusted complaint mechanism should be integral to the goal of becoming a "better Bank."

This report provides assessments and recommendations on issues related to: (1) accessibility to the compliance and DR functions; (2) how the IPN can independently perform its compliance function under the present structure; (3) options for structural changes; (4) interactions between the DR and the compliance review functions; (5) redundancies and efficiencies in the present AM system; (6) perceived or actual conflicts of interests under the present structure; (7) the verification process of implementation of MAPs; and (8) communications, outreach, and collaboration with other IAMs. For recommendations on access, structure, and verification, the ERT offers options that range from moderate to significant changes.

### ***Are the Compliance and Dispute Resolution Functions Accessible?***

The AM and the IPN receive few complaints. Since the establishment of the IPN, the number of requests received represent only about 1.5 percent of approved Bank projects. Requests for which IPN investigations were conducted amount to 0.5 percent of approved projects. There could be various reasons why the number of requests is low, including insufficient knowledge about the accountability mechanism, fear of retaliation if requesters file a complaint, high access requirements for filing a request, and insufficient confidence that remedy to the alleged harm would be provided. Many complaints are also handled by the Bank's Grievance Redress Service (GRS). The ERT cannot offer a judgement on the reasons why so few requests are filed with the AM. This report reviews the AM's access policies and knowledge dissemination.

The ERT finds the criteria for access to the IPN complex and unclear. Criteria spelled out in the IPN Resolution do not establish which criteria are for registration and which are for the eligibility assessment. Some provisions in the IPN Resolution contradict each other. The IPN Resolution requires that requesters allege policy noncompliances and related harm as well as Bank failures and omissions. In practice, the IPN only requires that alleged harm be linked to the Bank-financed project. In addition, requesters must show that they informed management about the issues raised in their requests and management must have had the opportunity to respond. While the IPN has established practices to facilitate access despite complex and unclear criteria, practices have varied over time and cannot fully substitute for a clear policy framework. The ERT recommends that criteria for registration and eligibility be simplified and clarified. At the registration stage, requesters should simply allege harm and lay out how they think this harm is related to the Bank-financed project. The more demanding filter of access should be applied at the eligibility stage when the IPN should be asked to establish evidence of the link between plausible

noncompliances and the alleged harm, the seriousness of alleged harm and the possible noncompliances, and the plausibility of a serious violation by the Bank of its operational policies and procedures.

The ERT also recommends that the IPN be given the right to initiate an eligibility assessment. The IPN should align with the Compliance Advisor Ombudsman (CAO) Policy provisions for such a right. A self-initiated eligibility assessment should be allowed if: (1) there is a risk of significant permanent environmental harm; (2) concerns exist regarding particularly severe harm; or (3) project-affected people may be subject to or fear reprisals and thus might not be willing to file a request. The Board, in the subsequent approval process of the IPN's recommendation to proceed with a full compliance investigation, could then decide whether a full investigation should be conducted. Why is such an IPN self-initiated eligibility assessment recommended? All IAMs see increasing retaliation against requesters who file complaints and often find affected people unwilling to file a complaint even when cases of severe harm are very likely linked to a project.

In addition, the ERT is of the view that the access to DR should be simpler and quicker. Presently, access to DR is embedded into the access process for a compliance investigation and is only possible after the Board has approved a compliance investigation. It takes an average of four and a half months from filing a request to obtaining approval for an investigation. The ERT recommends to instead allow access to DR after a request has been registered by the IPN and after the DRS and the IPN have jointly conducted a comprehensive briefing for the requesters. If requesters wish to consider DR, the request would be transferred to the DRS. The DRS would first conduct a brief assessment to establish whether the issues raised in the complaint are suitable for DR. If the answer is yes, the DRS would then notify the Borrower and/or Executing Entity and attempt to get the parties to agree to proceed with DR. If the answer is no or if an agreement on a DR process cannot be reached, the request would be referred to the compliance function.

If the early access option to DR is not adopted, the ERT recommends maintaining the present process where access to DR only occurs after the Board has approved a compliance investigation. Such access comes much later than the early-access option recommended and restricts access to DR to requests and issues that have been authorized for a compliance investigation. But the advantage of this approach is that an eligibility report is posted in the public domain, where facts related to the alleged harm and the linkage of this harm to the project are presented, can be helpful to a DR process.

However, a very important adjustment is needed to the current DR access process. According to the AM Resolution and operating procedures, after receiving approval for a compliance investigation, the AMSec offers DR to the requesters and the other party at the same time. The compliance process is then put on pause for 30 business days to determine if an agreement can be reached on a DR process. This should be changed. The AMSec should first offer DR to the requesters. If the requesters wish to pursue the

compliance function, they should remain in the compliance function without interruption and proceed with a compliance investigation. Only requesters who wish to explore the DR function should be transferred to the DRS, and only in those cases should the AMSec inform and offer DR to the other party. Why is this adjustment important? Requesters who chose to proceed with a compliance investigation, informed the ERT in interviews that they perceived increased risks of retaliation as a result of rejecting a DR process if the government agency wished to pursue DR. The compliance investigation also became more difficult to establish if the government agency wished DR. Further, there is no need to interrupt the compliance process if the requesters are determined to continue with it.

The ERT recommends that greater efforts be made to disseminate knowledge about the AM at the country and project levels. Information is already included in the project appraisal document. But this a long and difficult-to-read document that few affected people consult. Information about the AM should be posted on the Bank's country websites in the languages used on these websites. And, in collaboration with implementing agencies, a greater effort should be made to facilitate the disclosure of information about the AM and the IPN as part of project preparation and implementation.

***Does the Current AM Structure Enable the IPN to Conduct its Compliance Review Function Independently? What Adjustments in Structure Does the ERT recommend?***

There are two areas where the current structure and resolutions have the potential to impact the ability of the IPN to independently perform its compliance functions. First, the AM structure separates control of human and financial resources from the IPN, where the compliance work is performed. While it has not happened, an AMSec could materially impact the IPN's ability to carry out its compliance work by denying or delaying decisions on travel, other expenditures, or the hiring of staff or consultants. What is happening are ongoing and time-consuming negotiations on roles, responsibilities, and authorities to define and protect IPN's independence.

Second, the requirement in the AM and IPN resolutions to offer DR to both parties has increased tensions and scheduling problems during compliance reviews when borrowers were offered DR and requesters turned it down.

Given the current challenges associated with the AM's structure and contradictions in and interpretations of the AM Resolution, the ERT strongly believes that changes need to be made to both the structure and the AM Resolution. In assessing structural options, it is essential to first understand why an independent IPN is important. The three-member Inspection Panel has played a critical role in establishing the World Bank as a leader in accountability through its strong track record, which has built trust and credibility internally and externally. Therefore, the ERT recommends maintaining an independent three-member Inspection Panel, particularly as the Bank embarks on its Evolution Roadmap. To ensure leadership continuity in compliance, the ERT recommends that the IPN Chair's term be extended from a minimum of one year to a minimum of two years.

Three structure options and their advantages and disadvantages are presented. The order of the options does not imply a preference on the part of the ERT. Two of the options assume that the three-member inspection panel will be retained, and one assumes the IPN will be disbanded. The first option is to retain most of the current structure with changes to the AM Resolution to transfer control of compliance-related human and financial resources to the IPN Chair and to impose less restrictive firewalls to improve communications and integration across the AM. The second option is to create a traditional pyramid structure with a single head reporting to the Board. Under this option, a manager or team leader rather than the Panel members would head the compliance function, and both the manager/team leader and compliance function would be subject to the supervision of the pyramid head. Under the third option, DRS and IPN functions would be completely split organizationally. This structure is most aligned with the maintenance of significant firewalls between the two functions and the objective of minimizing conflict by minimizing the integration of the two functions.

The ERT also considered an option to combine the DRS with the International Finance Corporation and Multilateral Investment Guarantee Agency's CAO DR function, and the IPN with the CAO compliance function, to align with the "one Bank" model. Such a merger would require substantive preparation work and alignment between the CAO and AM/IPN policies and practices. Given the urgency required to make adjustments to the present AM system, the ERT does not present a merger as an option that can be implemented quickly enough. However, the ERT does believe that such a merging of functions would serve the Bank well and urges the exploration of this option over the next several months. The ERT proposes that a decision on such a merger be considered during the planned 2026 review of CAO Policy. One challenge is that there are significant differences between the CAO Policy and the policies of the AM and the IPN. The CAO Policy is better aligned with IAM good practices. Any consolidation should be governed by the non-regression principle. The consolidated mechanism should be no less consistent with good IAM practices and protective of affected people's interests than the present CAO and AM mechanisms.

All the structural change options will require a clear understanding of objectives as well as coordination and collaboration at all levels. The ERT recommends establishing stronger processes to ensure that the AM's effectiveness can be systematically measured to align with objectives and that the right behaviors are embedded in the AM's culture, with the AMSec and the IPN Chair role modeling those behaviors.

### ***Does the Current AM Institutional Structure Enable the DRS to Facilitate a Voluntary and Independent Dispute Resolution Process?***

The DRS was only established in 2021, and it already has an active portfolio, with four of the seven registered complaints proceeding through the DR function. The DRS has so far completed three DR cases. There was very limited disclosure provided in the outcome reports for these cases because the parties requested confidentiality. The AM operating procedures lay out reporting obligations, including process

and what “eligible” issues have been addressed. Operating procedures provide that, in cases where parties request confidentiality, the DR agreement does not need to be disclosed. The ERT recommends that, even for DR agreements where parties request confidentiality, outcome reports present the eligible issues that have and have not been resolved. No specifics on the content of an agreement regarding these issues must be provided, and the resulting DR agreement does not need to be disclosed. The disclosure of resolved and unresolved issues is important for three reasons: (1) DR is part of the Bank’s public accountability mechanism and public accountability requires transparency; (2) the AM Resolution restricts the scope of the DR to issues for which a compliance investigation is recommended—the DR outcome report should therefore record which of these eligible issues have been addressed; and (3) the AM operating procedures provide that, in cases where a DR agreement is partial and does not address all eligible issues, requesters have the option to proceed with a compliance investigation of those unaddressed issues.

The ERT also makes observations and recommendations on referral processes between DR and the compliance processes in case there is only a partial DR agreement and in cases where requesters who originally signed the request exit the DR process. The ERT is of the view that some clarification on these referral options is needed.

The DRS has a tight timeline of 30 days to determine whether a DR process can be agreed to, and a timeline of 18 months for the conclusion of a DR process. The ERT recommends that the timeframe for trying to reach agreement on a DR process be extended to 40 business days, provided that only cases of requesters who wish to explore the possibility of DR be transferred to the DRS. There should be no extension beyond the present 30-business-day period if the current process is maintained and all requests are temporarily transferred to the DRS, regardless of whether the requester wants to consider a DR process or not. Some flexibility should be considered for the length of the DR process. The possibility should be provided to extend the 18-month deadline to 20 months if there is a very high likelihood that an agreement can be reached within the extended timeframe and if both parties agree.

The DRS has been off to an active start after only three years in operation. But DR at the World Bank AM is still a new function that needs to establish itself as a trusted and respected process, where experienced mediators establish a level playing field among DR parties, make sure agreed processes are adhered to, and constrain retaliation risks. Feedback from ERT interviews with requesters and participants in DR and external stakeholders suggest there are opportunities to strengthen DR processes with DRS being perceived as a neutral party and stronger efforts to level the playing field between the parties. External stakeholders also emphasized the need for greater transparency in DR processes, outcomes, and monitoring of DR agreements. The ERT recommends that an independent external review be conducted on the DRS function in 24 months by internationally recognized DR experts with expertise in IAM DR processes.

### ***Are There Redundancies in Responsibilities and Functions between the IPN Chair and the AMSec/Head of DR?***

There are two forms of redundancy that hinder the efficiency and effectiveness of the AM: workflow and the maintenance of two fully staffed parallel functions to respond to requester choice for a relatively small number of cases. Workflow redundancies are created by the AM Resolution, operating procedures, internal protocols, and management information systems that cannot accommodate the current structure. The result is decisions being made by the IPN Chair regarding human resources, finances, and travel systems are being processed by the AMSec as the approving authority. Accepting the ERT recommendation to establish the IPN Chair as the decision and approval authority for IPN resources would resolve many of these redundancies.

Finally, redundancies are created by having both the DRS and the IPN maintain a full complement of staff to ensure they each have the capacity to respond to requester choices for either DR and/or a compliance review. Therefore, the AM's nominal costs have increased by 103 percent, and staffing levels have increased by 80 percent since 2021, from 10 to 18, without a comparable increase in requests.

The ERT recommends strengthening the rigor of the DRS and IPN resource planning and management as a component of more vigorous governance processes. The DRS and the IPN should together create a strategic statement (regardless of structure option) that can be translated into a determination of resource needs—both qualitative and quantitative—and that is aligned with good practices for the stewardship of Bank resources. The ERT also recommends that, at least annually and as part of the budget process, the DRS and the IPN jointly report on the annual and aggregate cost of individual cases and the average cost of each phase of the complaint process to the Board through the Committee on Development Effectiveness and the Budget Committee.

### ***Verification Framework***

The Toolkit Reforms gave the IPN the possibility of recommending verification of MAP implementation to the Board, but only under very restrictive conditions. The *“Framework for Proportionality Criteria and Modalities for Independent Verification of Management Action Plan Implementation”* lays out a system with eight criteria and a weighting matrix that determines if the IPN (with input from the Group of Internal Audit) can make a recommendation to the Board and, if so, the modality of verification (ranging from a desk study to project site visits) and at what stage of MAP implementation it may take place. The framework is applicable to requests registered after 2020. To date, the IPN has yet to recommend a verification of MAP implementation to the Board.

The ERT finds this framework overly prescriptive and the selection of criteria and the weighing matrix somewhat arbitrary. Because the Board ultimately decides whether to approve a verification of MAP

implementation, the ERT is of the view that the IPN should be given flexibility to make recommendations without being bound by mandatory criteria and a weighting scheme.

IPN's mandate to conduct verification of MAP implementation is significantly more restrictive than that of all other comparable IAMs, except for the Asian Infrastructure Investment Bank's IAM, which only reviews management update reports on MAPs, a process which is currently under review. Other IAMs have broad-based mandates for verification of implementation for all MAPs, usually without Board approval. The intensity of verification differs among IAMs. Some conduct verification with site visits for every project; many conduct site visits selectively for projects that have or are likely to have a very significant impact on many people, including vulnerable groups. At all MDBs, management conducts the MAP monitoring. The role of the IAM is to provide supplemental verification that only focuses on verification of implementation of the approved MAPs.

Why is a verification mandate for an IAM important? If an IFI-financed project resulted or will result in harm linked to IFI failures and/or omissions resulting in noncompliance with policies and procedures, then the IFI must be seen as making special efforts to facilitate the implementation of remedial actions. A selective verification process conducted by an independent IAM signals such a commitment. World Bank management stated to the ERT that it considers an independent, broad-based verification mandate for the IPN to be redundant because management monitors MAP implementation and circulates update reports to the Board, which are also posted on the IPN website in the public domain. Bank management is of the view that requesters and representatives who want to express disagreement with the MAP update reports can do so. Civil society organizations informed the ERT that they sometimes do disagree with MAP update findings but that there is no process for registering their disagreement.

The ERT recommends three options regarding an IPN verification mandate:

- **Option one:** Give the IPN a verification mandate aligned with the one the IFC Board has given to CAO, which is outlined in the CAO Policy, and is consistent with the verification practices of most IAMs.
- **Option two:** Allow the IPN to recommend verification of MAP implementation to the Board if there are particularly serious negative project impacts. Some criteria set out in the present verification framework could serve as guiding principles rather than binding requirements. The IPN should recommend verification at the same time when the Board receives the investigation report and considers approval of the MAP.
- **Option three:** If the IPN is not given a broad verification mandate like those of other IAMs, a process should be established that would allow requesters and representatives to post comments about management's MAP update reports on the IPN's website. A summary would be sent to the Board for information.

## ***Conflict of Interest***

The ERT reviewed three areas to determine whether potential, perceived, or actual conflicts of interest exist: (1) the structure of the AM, (2) the complaint process, and (3) how firewalls are applied at the AM. The ERT found no evidence to suggest that the current AMSec, who is also Head of the DRS, has made any financial or human resource decisions to advantage the DRS or to the detriment of the IPN. However, the *potential* for conflict of interest does exist, which would be eliminated if the structural option of transferring the control of resources back to the IPN Chair is accepted.

The design of the complaint process—which includes a 30-day window where the DR option is offered to both the requester and borrower—creates a conflict of interest when borrowers are offered the DR option even if requesters turn it down. Accepting the ERT’s recommendation to no longer offer DR to the borrower if requesters firmly indicate the desire to pursue a compliance review would eliminate this conflict of interest. In addition, interviews revealed concerns about whether requesters are given the option to refer unresolved DR issues to compliance review. The ERT recommends providing more transparent and accessible information on the referral process.

Finally, the AM’s firewalls for the DRS and the IPN are broader and more rigorous than those of other IAMs. The overprotection of these unnecessarily broad firewalls is detrimental to communications, team cohesion, and the work environment at the AM. The ERT recommends modifying the AM Resolution to clarify what information/aspects of processes must be kept confidential to protect the interests of borrowers and requesters and to allow room for either party to agree on what of their own information can be shared to avoid duplicate gathering of information if any issue proceeds to a compliance review. Finally, it should be made clear that firewalls and confidentiality does not apply to internal DRS or IPN operational matters, such as resource costs for individual cases.

## ***Communications and Outreach***

Both the AM and the IPN have actively engaged in outreach efforts that reflect good IAM practices. However, collaboration between the AM and the IPN in their outreach and communication efforts could be strengthened. For example, there are different points of view on what branding strategy best instills trust and reinforces the credibility of the World Bank as a leader in accountability mechanisms. Was the intention of the 2020 structural changes to create a new “one AM” brand or to build on and expand the already existing IPN brand? The ERT recommends that if the three-member Inspection Panel is to be retained, then the Bank should strategically leverage its strong track record and credibility. If the current structure is also maintained, there must be room for branding what has been added as a complement to what has long existed. This could mean, for example, that the AM’s website prominently notes the history of the World Bank as a leader in accountability mechanisms with the pioneering establishment and continuation of the independent IPN and the value that the AM and the DRS are adding to this rich history. If trust in the AM is a result of the track record the IPN has established, it is important that



anyone reviewing the AM's website know that the IPN is still an active and *prominent* part of the Bank's AM. The AM's communication strategy should be developed and implemented based on the joint decision making by the AMSec and the IPN Chair about which communications should be joint efforts and which should be separate, and about a cohesive and equitable branding approach.

### ***Other Issues***

The Board does not have a regular process for reviewing and subsequently adjusting IPN (and now AM) policies. The current IPN Resolution still reflects, to a significant degree, the policy language adopted in 1993 at the IPN's establishment. There are important dimensions to the current IPN policy that do not correspond with established good IAM practices. Lack of clarity on access policies is only one aspect of this. Other aspects relate to the restrictions imposed on the IPN about expressing its views on MAPs, the restrictions placed on interactions with requesters and borrowers in terms of sharing reports and seeking their input, the very limited verification mandate, and the absence of the right to present recommendations in investigation reports, among other matters. The IPN continues to be respected for its good compliance review processes, including its technical expertise and independence, but it operates with a much more challenging policy framework than other IAMs. The ERT recommends that a practice be adopted, like almost all other IAMs of MDBs, where policies for both the compliance and the DR functions are typically reviewed in five-year intervals and then subsequently adjusted. Reviews and adjustments in multi-year intervals allow the policy to remain aligned with emerging good practice standards and offer potential convergence among IAM policies. The ERT proposes that in 24 months a comprehensive review of the DRS function be conducted (see recommendation above) and then subsequently in five-year intervals both the compliance and the DR functions be regularly reviewed.

### ***Priority Recommendations***

This report provides 18 recommendations that would require the implementation of reforms. Of these recommendations, 11 would require revisions to resolutions, 1 would require no changes, and 6 could be accomplished with a change to operating procedures and/or practices. The recommendations are enumerated in each chapter and summarized in appendix B. In the view of the ERT, there are various levels of urgency to the implementation of these recommendations. The ERT strongly urges an immediate decision on three sets of recommendations to address significant challenges that impact the effectiveness of the AM, put the reputation of the AM at risk, and contribute to a difficult work environment. The recommendations relate to: (1) retaining the IPN; (2) choosing among structural options; and (3) providing early access to DR or, if a decision is made to maintain the current access option, offering the DR option to both parties only in cases where requesters have decided to pursue DR. The remaining recommendations could be decided upon over the next several months.

The effective operationalization of the AM structure has proven challenging. The ERT proposes three options for structural reforms that would address the underlying systemic structural issues. In the view of the ERT, a decision on the structural option and subsequent implementation is of the highest urgency. The ERT recommends that there should first be an agreement on one of the structural options presented in the report. Two of these options retain the three-member Inspection Panel as a core component of the Bank's accountability mechanism and one does not. In addition, depending on the structural option selected, the access process might need to be revised as a priority matter. With structure option one (the adjusted AM model) or two (the pyramid), either the proposed accelerated DRS access process or the present DR access process could be used. If option three (the complete separation of the DR and IPN compliance functions) is adopted, then only the proposed direct access option to DR should be used.

The ERT is of the view that the way DR is offered under the current access option should be adjusted immediately. Under the current access process DR should first be offered to the requesters and then, only if the requesters indicate an interest in DR, the request should be temporarily transferred to the DRS and DR should be offered to the other party. The present process is to offer DR to both parties at the same time even if the requesters have indicated that they do not wish to pursue the process. If requesters clearly articulate that they want to pursue a compliance review, it is not appropriate to offer DR to the other party because DR is not possible without a mutual agreement. The current practice increases retaliation risks and leads to unnecessary delays for those requesters who do not wish to pursue DR. Comments received during the external feedback process strongly endorse the need for an adjustment to this practice without delays.

# 1. Introduction

1. This report responds to terms of reference (TOR) approved by the World Bank Board of Executive Directors (see appendix A), which include specific review questions addressed in this report. The report was prepared by an External Review Team (ERT) comprising Artraud Hartmann, Cindy Petitt, and Eduardo Abbott. The purpose of the review is to assess the 2018 and 2020 Toolkit Reforms of the Inspection Panel (IPN) approved by the World Bank Board of Executive Directors. As part of the approval of these reforms, the Board asked for a review of the introduced changes after three years. The TOR does not restrict the recommendations of the ERT. The review questions posed in the TOR are such that changes in the IPN and Accountability Mechanism (AM) resolutions and the AM and IPN operating procedures should also be considered. While some recommendations presented in this report could be achieved through procedural adjustments, a significant number of recommendations would require amendments to the IPN and AM resolutions and operating procedures.
2. The ERT prepared an approach paper (see appendix G) that lays out key issues and a methodology for the review. As part of the preparation of this report, the ERT conducted interviews with a wide range of stakeholders, including World Bank executive directors and advisors, representatives of World Bank member governments, World Bank Group managers and staff, the Accountability Mechanism Secretary (AMSec), staff of the AM, former staff of the IPN, current and former IPN Chairs and Panel members, members of other independent accountability mechanisms (IAMs), members of academia and civil society organizations, and former World Bank executive directors and staff who were directly involved in the design and early implementation of the Toolkit Reforms. The ERT also consulted with experts currently undertaking reviews of other IAMs. The ERT reviewed requests registered with the IPN since 2020, spoke to requesters and representatives, and reached out to government agencies that were involved in either dispute resolution requests or compliance review processes. The ERT reviewed relevant documents, especially the records and background documents of the Toolkit Reform process, to understand the rationale behind the reform designs. The ERT also reviewed relevant literature and undertook a comparative analysis of select aspects of AM and IPN policies with the policies and practices of other IAMs. A list of interviews conducted is presented in appendix F.
3. On July 3, 2024, in accordance with paragraph 14 of the TOR, the ERT disclosed its draft report to a wide range of external stakeholders, including regionally diverse civil society organizations, academic institutions, think tanks, government authorities, requesters and their representatives, and IAM experts. Three information sessions were conducted by the ERT at times suitable for different time

zones to provide information and clarify questions.<sup>4</sup> Written comments received by the deadline of August 1, 2024, were considered by the ERT for the finalization of this report.

4. This report provides a wide range of recommendation that are listed in the respective chapters and in appendix B. For three issues—access to DRS, structure, and verification—the ERT offers options rather than a single recommendation. The options require changes ranging from moderate to significant, allowing the Board to align its decision with the Bank’s readiness and capacity for change. There are also different levels of urgency to the decisions about and implementation of the different recommendations. Given the many difficulties experienced in implementing the AM structure and the need to settle disagreements over the interpretation and application of the IPN and operating procedures, the ERT is of the view that decisions to adjust the AM structure should be made without delays so that an effective AM process can be put in place. The ERT is also of the view that the present practice of offering DR to both parties even if the requesters indicate that they do not wish to pursue DR needs to be adjusted urgently. Requesters should first be offered DR and then only if the requester is interested in pursuing DR should DR be offered to the other party. If the requester does not wish to pursue DR, the request should proceed without any further delay to the investigation process.
5. Decisions on the remaining recommendations, eight of which deal with resolution changes and six with changes in operating procedures and practices, can be made over the next several months.

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<sup>4</sup> Public online information sessions to inform interested stakeholders were held on July 12, 2024; July 16, 2024; and July 23, 2024.

## 2. Accessibility

*Are the compliance and dispute resolution functions accessible to parties?*

### Key Issues

A. The Inspection Panel (IPN) registers a small number of requests.

B. The IPN Resolution and IPN operating procedures lay out criteria for accessing the IPN that are complex, confusing, and partly contradictory. The IPN Resolution only lays out conditions under which a request should be “heard,” without specifying a registration and eligibility assessment process. The 2014 operating procedures established a two-stage process and criteria. Provisions of the operating procedures deviate significantly from the IPN Resolution. The IPN has established a practice on how to apply these complex and unclear criteria. However, IPN registration practices have varied over time. Clear normative standards are important to make processes predictable. The External Review Team (ERT) recommends that IPN Resolution’s access criteria be revised to achieve clarity. The access threshold at the registration stage should be kept low so that people who believe they are affected by a Bank-financed project can easily file a request. The eligibility process should be more demanding to act as a filter so that only requests where there is a plausible causal link between the alleged harm and possible noncompliances should proceed to a full compliance investigation.

C. The IPN should be given the right to initiate eligibility assessments when there is evidence of particularly severe harm, issues of systemic importance, or an especially severe risk of retaliation. The right for the IPN to self-initiate an eligibility assessment is important as many affected people are reluctant to file requests. If the self-initiated eligibility assessment recommends an investigation, the investigation would be subject to Board approval.

D. Access to dispute resolution (DR) is currently only possible after Board approval of a compliance investigation, which is on average about 4.5 months after the filing of a request. Requesters should be allowed to proceed earlier to DR. The ERT recommends that requesters be allowed to proceed to DR after a request has been registered and after the Dispute Resolution Service (DRS) and the IPN conduct a joint comprehensive briefing on the DR and compliance options. Alternatively, if the Board does not wish to provide for easier and faster access to DR, then the present access process should be adjusted so that requesters who wish to proceed with a compliance investigation can do so without delay.

E. The principle of “requester choice” must be respected. During the current access process, the World Bank Accountability Mechanism Secretary (AMSec) as Head of the DRS concurrently offers both parties the opportunity for DR. This should be changed. The AMSec should first ask the requesters if they wish to explore a DR process. Requesters who inform the AMSec that they wish to engage in a compliance process should then proceed with the compliance investigation without interruption, and the AMSec should make no offer for DR to the other party.

F. In select cases, public accountability considerations override the requesters’ desire to seek a DR process. Requests that allege long-term environmental damage, gender-based or physical violence, or if there is an unusually high risk of retaliation, should proceed through the compliance process. Long-term environmental impacts with significant costs incurred by many people in addition to the requesters require systemic solutions that are more likely to be provided by a compliance review process. Allegations of serious gender-based violence or physical harm demand a particularly strong commitment to public accountability that is better achieved through a compliance process, where there is an investigation of the facts, more disclosure, and therefore more transparency.

G. For affected people to file a request, they must be aware of the existence of the Accountability Mechanism (AM). More significant efforts should be made to disseminate information about the AM to project-affected people as part of World Bank project preparation and implementation and country office activities.

### **The Accountability Mechanism and Inspection Panel Receive Few Requests**

6. The World Bank Accountability Mechanism (AM) receives a small number of requests. From 2004 to 2023, the Inspection Panel (IPN) registered 96 requests, an average of 4.8 requests annually (table 2.1). Since the establishment of the IPN in 1993, the number of requests received represents only about 1.5 percent of approved Bank projects.<sup>5</sup> During this period, investigations by the IPN represented less than 0.5 percent of Bank projects.

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<sup>5</sup> Ramanie Kunanayagam et al., “Glass Half-Full or Glass Half-Empty? Thirty Years of Accountability at the Inspection Panel—The Impact of its Work and What the Data Tells Us,” *Perspectives* 11 (2023): 5, <https://digitalcommons.wcl.american.edu/accountability-perspectives/11>.

**Table 2.1. Received and Registered Inspection Panel Cases, 2004–23**

Five-Year Fiscal Period	Cases Received	Cases Registered	Registration (percent)	Annual Average of Cases Registered
2004–08	25	22	88	4.4
2009–13	34	29	85	5.8
2014–18	40	18	45	3.6
2019–23	39	28	72	5.6
<b>Total</b>	<b>138</b>	<b>96</b>	<b>73</b>	<b>4.8</b>

Sources: Ramanie Kunanayagam et al., “Glass Half-Full or Glass Half-Empty? Thirty Years of Accountability at the Inspection Panel—The Impact of its Work and What the Data Tells Us,” *Perspectives* 11 (2023), <https://digitalcommons.wcl.american.edu/accountability-perspectives/11>; World Bank Inspection Panel Data (2024): <https://www.inspectionpanel.org/panel-cases/data>.

**Table 2.2. Investigations Recommended and Conducted 2004–23**

Five-Year Fiscal Period	Cases Registered	Investigation Recommended (Percent of Registration)	Investigation Conducted (Percent of Registration)	Annual Average of Investigations Recommended	Annual Average of Investigations Conducted
2004–08	22	12 (55)	12 (55)	2.4	2.4
2009–13	29	9 (31)	8 (28)	1.8	1.6
2014–18	18	6 (33)	6 (33)	1.2	1.2
2019–23	28	9 (32)	6 (21)	1.8	1.2
<b>Total</b>	<b>96</b>	<b>36 (38)</b>	<b>32 (33)</b>	<b>1.8</b>	<b>1.6</b>

Sources: Kunanayagam, Ramanie et al., “Glass Half-Full or Glass Half-Empty?”; World Bank Inspection Panel Data (2024).

- Appendix C shows data on admitted complaints for comparable independent accountability mechanisms (IAMs) for the period 2013–22. During this period, the IPN registered 48 requests, amounting to 0.8 percent of approved projects over the same period and roughly corresponding to the shares of admitted complaints by the AFDB and the European Bank for Reconstruction and Development (EBRD) but lower than the respective shares of the IAMs of the Asian Development Bank (ADB), the Inter-American Development Bank (IDB), and the International Finance Corporation (IFC). The IFC admitted complaints amounting to 3.3 percent of approved projects; the ADB admitted 3.3 percent; and the IDB admitted 2.8 percent. During the 2013–22 period, the Complaint Mechanism of the European Investment Bank (EIB) admitted 6.15 percent of approved projects, but access is easier compared with other IAMs.

8. Numbers are not fully comparable because some IAMs only deal with requests about private sector projects, while most accept complaints for both private and public sector projects. Moreover, the World Bank has a more developed grievance redress service than almost all other multilateral development banks (MDBs). However, the creation of the Grievance Redress Service (GRS) in 2015 does not seem to have reduced the number of requests filed with the IPN. There could be many reasons why affected people are reluctant to file a request with the IPN (or with IAMs in general). The following section provides observations on the access processes to the compliance and dispute resolution (DR) functions and on knowledge dissemination about the AM. Access to the IPN and the AM is discussed under the assumption that a structural option that maintains DR and compliance in the same organizational unit is approved (see chapter 3, paras. 73–80). However, if the Dispute Resolution Service (DRS) and the IPN are structurally separated (see chapter 3, paras. 81–83), then the process presented in figure 2.1 is the only possible access option.

## a. The IPN’s Accessibility Criteria and Practices

9. **Formal access criteria to the AM or IPN are complex, contradictory, and difficult to understand.** Provisions of the IPN’s operating procedures are not consistent with the IPN Resolution, and there are inconsistencies in the IPN Resolution and in the IPN operating procedures. These inconsistencies make the access criteria and process unclear and uncertain, which compromises predictability.
10. Paragraph 13 of the IPN Resolution provides that:
  - a. The request must be made by two or more people who are in the country where the project is located, by a local representative of such parties, or by another representative in the exceptional case of a local representative not being available.
  - b. Affected parties must demonstrate<sup>6</sup> that their rights or interests have been or are likely to be directly affected by an action or omission by the Bank or as a result of a failure of the Bank to follow its operational policies and procedures in terms of the design, appraisal, or implementation of a Bank-financed project, including situations where the Bank is alleged to have failed to follow up on the borrower’s obligations under a loan agreement with respect to such policies and procedures, provided in all cases that such failure has had or threatens to have a material adverse effect on the requesters.<sup>7</sup>

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<sup>6</sup> Paragraph 13 of IPN Resolution specifies that the requesters “demonstrate.” Para. 29 (b) only requires that the requesters “assert” 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 requesters. Paragraph 29 lays out criteria for approval of a compliance investigation; and paragraph 13 lays out criteria for a request “to be heard.”

<sup>7</sup> Paragraph 17 of the IPN operating procedures ask the requesters for a description of Bank actions or omissions regarding the design, appraisal, or implementation of a Bank-financed project, including situations where the Bank is alleged to have failed to follow up on the Borrower’s obligations under loan agreements with respect to such policies and procedures, but requesters are not required to mention or quote specific operational policies and procedures.



- c. The subject of the request must have been dealt with by Bank management, which then must have failed to demonstrate that it has followed or is taking adequate steps to follow the Bank’s policies and procedures.
  - d. The alleged violation of the Bank’s policies and procedures is serious in nature.
11. The IPN access process is conducted using a two-stage approach: (1) the registration process, and (2) the eligibility assessment process with subsequent approval for an investigation by the Board. However, this process is not provided for in the IPN Resolution. It was only introduced in the 2014 IPN operating procedures. The 2022 operating procedures are also not consistent with the access criteria in the revised 2020 IPN Resolution, and there are internal inconsistencies in the operating procedures.<sup>8</sup> Examples include inconsistencies in criteria listed in paragraphs 30 and 35, and technical confirmation criteria listed in paragraph 44 differ from criteria stated in paragraphs 30 and 35. A particularly problematic provision is the IPN Resolution’s requirement that the *“requester asserts<sup>9</sup> 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”* (IPN Resolution para. 29b). And that *“the requester asserts that its subject matter has been brought to the attention of Management and that, in the Requesters’ view, Management has failed to respond adequately, demonstrating that it has followed or is taking steps to follow the Bank’s policies and procedures.”* (IPN Resolution 29c). Without great familiarity with Bank policies and procedures, a requester would not be able to assert that their alleged harm is caused by a violation of Bank policies and procedures. It would require the assistance of an experienced civil society organization (CSO). Moreover, it is not clear how a requester could assess whether Bank management has followed its policies and procedures. It is also not clear how, at the eligibility assessment stage, the IPN Panel can make a statement in its recommendations to the Board when recommending an investigation, *“whether Management, in the Panel’s view, has dealt appropriately with the issues raised in the Request and demonstrated clearly that it has followed or is taking steps to follow the required policies and procedures...”* (see para. 48c, IPN operating procedures) if the IPN, according to paragraph 49 of the operating procedures and paragraphs 25–26 of the IPN Resolution, is prohibited from assessing the Bank’s compliance with its policies and procedures at the eligibility stage; it can only make a “definitive assessment” during the compliance investigation. A compliance assessment is needed to determine whether management has followed required policies and procedures. Absent such an assessment, the IPN Panel cannot determine if the Bank’s compliance or intention to comply is adequate.

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<sup>8</sup> For example, criteria laid out in paragraph 30 of the IPN operating procedures differ from that laid out in paragraph 35, which the IPN Panel must confirm as a basis for registration. Paragraph 35 requires the IPN to present a summary description of steps that have been taken to bring the issue to the attention of the Bank prior to approaching the Panel. However, paragraph 30 of the IPN operating procedures do not list this requirement. Paragraph 30c of the operating procedures require that at least one component of the project or program that is the subject of the request be plausibly linked to the alleged harm. Paragraph 35 does not require that this be included in the notice of registration.

<sup>9</sup> The criteria stated in paragraph 13 of the IPN Resolution require that the requester “demonstrates a serious violation” by the Bank of its operational policies and procedures. Paragraph 29, regarding technical eligibility criteria, has a lower bar. It only asks the requester “to allege assert” a serious violation.

12. In practice, the present IPN has established simplified processes to help requesters gain access. For example, it does not ask the requester to assert whether the alleged harm is caused by Bank’s failure to adhere to its policies and does not expect the requesters to allege noncompliance. This simplification of registration processes is laudable. But IPN registration practices have differed over the last 10 years and can be adjusted by the IPN Chairs. A clear policy framework is needed to make the process accessible, sound, and predictable. Moreover, IPN registration procedures are somewhat lengthy, requiring an average of five to six weeks, with only 23 percent of all requests and 35 percent of registered requests processed within four weeks (see table 2.3).<sup>10</sup>

**Table 2.3. Time Required to Issue a Notice of Registration or Nonregistration, 2013–23**

(Time period between filing a request with the IPN and the issuance of a notice of registration or nonregistration)

	Under 4 Weeks	4–6 Weeks	More than 6 Weeks
Number of requests	19	26	36
Percent of total requests	23	32	45
Percent of registered requests	35	30	35
Percent of nonregistered requests	6	35	59

Source: Extracted from IPN case data on the IPN’s website.

13. **RECOMMENDATION:** The External Review Team (ERT) recommends that criteria for registration and eligibility be simplified and clarified. If a two-stage access process is practiced, then the IPN Resolution should lay out the criteria for: (1) the registration stage, and (2) the eligibility stage. Access at the registration stage needs to be simple and easy to understand so requesters can file without CSO support. A key component of the registration stage is to establish whether there is a plausible link between alleged harm and at least a one component or program of a World Bank-financed project. Only complaints involving alleged harm that could be plausibly related to a Bank-financed project should be admitted. The present IPN registration process conducts this assessment and that should be maintained. The admissibility criteria of the Compliance Advisor Ombudsman (CAO) of the IFC/Multilateral Investment Guarantee Agency (MIGA) or the criteria set out in the ADB’s Accountability Policy should be considered. They simply require requesters to allege harm related to a financed project (see box 2.1). The ADB policy also requires a good faith effort to first address the problems with the relevant operations department (see ADB Accountability Mechanism Policy, para. 151 (vii)).

<sup>10</sup> The IPN noted that registration processes are sometimes delayed to give management an adequate time to respond, thus avoiding declining a registration.

### Box 2.1. Admissibility Criteria of Select Independent Accountability Mechanisms

According to the Compliance Advisor Ombudsman (CAO) Policy (para. 37), the independent accountability mechanism of the International Finance Corporation (IFC) and the Multilateral Investment Guarantee Agency (MIGA), dated June 28, 2021:

*CAO will deem the complaint eligible<sup>a</sup> if: (a) The complaint relates to an Active Project; (b) The issues raised in the complaint pertain to CAO's mandate to address environmental and social impacts of Projects; and (c) The Complainant is or may be affected by the harm raised in the complaint."*

The Accountability Mechanism Policy 2012 of the Asian Development Bank (ADB) (para. 138) reads:

*"For both the problem solving and compliance review functions, complaints may be filled by (i) any group of two or more people in a borrowing country where the ADB-assisted project is located or in a member country adjacent to the borrowing country, who are directly, materially, and adversely affected."*

a. In the CAO policy, admissibility is referred to as *eligibility*.

- 14. The IPN should have the right to initiate an eligibility assessment.** The IPN does not currently have the right to initiate an eligibility assessment for a compliance investigation. It should be given that right when there is evidence of particularly severe harm, issues of systemic importance, or an especially severe risk of retaliation. It is important to give the IPN the right to self-initiate an eligibility assessment because many affected people are reluctant to file requests. If the self-initiated eligibility assessment recommends an investigation, it would require approval by the Board. At present, the IPN can only conduct an eligibility assessment for registered requests. However, in some cases, it requires significant courage and acceptance of risk for an affected person to file a complaint. The IPN and all other IAMs of major MDBs are witnessing an increasing number of cases of intimidation and reprisal. The IPN notes that in 13 of 16 projects connected with requests for inspection between FY21 and FY23, requesters asked for confidentiality because they feared intimidation and reprisals. There were specific allegations of reprisals in half of the projects for which requests were filed during that period.<sup>11</sup> Moreover, in many societies, requesters are ashamed to

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<sup>11</sup> Ramanie Kunanayagam et al., "Glass Half-Full or Glass Half-Empty?"; World Bank Inspection Panel, "Right to be Heard: Intimidation and Reprisals in the World Bank Inspection Panel Complaints," Emerging Lessons Series 7, World Bank, Washington, DC, December 2021, chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.inspectionpanel.org/sites/default/files/publications/Emerging-Lessons-Series-07-Intimidation-and-reprisals-in-IPN-Cases-Dec2021\_0.pdf.

speaking up in cases of sexual abuse, as the culturally appropriate response is to hide the harm rather than to speak up. They would not file a request.

15. The Independent Review Mechanism (IRM) of the African Development Bank (AfDB) and CAO have the right to initiate an eligibility assessment under certain conditions, as do other mechanisms, such as the Social and Environmental Compliance Unit of the United Nations Development Programme and the Independent Redress Mechanism of the Green Climate Fund. Self-initiated complaints are also called for under the 2024 Good Policy Paper issued by a large group of CSOs.<sup>12</sup> Current reviews of other IAMs have also called for the introduction of self-initiated eligibility assessments.<sup>13</sup> Under the self-initiated option, CAO has conducted some very prominent compliance reviews that have resulted in changes.<sup>14</sup>
16. The proposal to provide the IPN with the possibility to self-initiate an eligibility assessment would be an exception to the “request-based approach” principle that is pursued at the IPN. However, the possibility of a deviation of this principle is already provided for in the IPN Resolution (para. 13), which states: *“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 ...,”* adding that *“the Executive Directors, acting as a Board, may at any time instruct the Panel to conduct an investigation.”* The IPN is an independent instrument of the Board to help assure the Bank’s public accountability. As such, the IPN should be allowed to conduct an eligibility assessment and ask the Board for approval for an investigation if there is sufficient evidence of plausible, significant noncompliance of systemic importance and project-related harm.

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<sup>12</sup> Accountability Counsel et. al., “Good Policy Paper: Guiding Practice from the Policies of Independent Accountability Mechanisms,” 2024, 65.

<sup>13</sup> See Zeinab Elbakri, Asian Infrastructure Investment Bank Project-Affected People’s Mechanism External Review, May 2024, para. 89; see also EBRD/IPAM Assessment of the Independent Accountability Mechanism of the European Bank for Reconstruction and Development, April 5, 2024. The self-initiated assessment is called a “proactive compliance” review.

<sup>14</sup> See, for example, the CAO Dinant case, <https://www.cao-ombudsman.org/cases/honduras-dinant-01cao-vice-president-request>; the CAO Compliance Investigation in the Bridge Academy, <https://www.cao-ombudsman.org/cases/kenya-bridge-international-academies-04kenya>; India Tata Tea 01 <https://www.cao-ombudsman.org/cases/india-tata-tea-01cao-vice-president-request>.

17. **RECOMMENDATION:** The ERT recommends that the IPN be given the right to initiate an eligibility assessment and align its policy with CAO Policy (para. 81) provisions. The IPN should have the right to initiate an eligibility assessment if:
- a. An eligibility assessment is necessary to review environmental and social compliance issues or other operational policies of systemic importance to the World Bank;
  - b. Concerns exist regarding particularly severe harm; or
  - c. Project-affected people may be subject to or fear reprisals, preventing them from lodging a complaint.<sup>15</sup>
18. In cases where the IPN initiates an eligibility process on its own, it should provide a written rationale for doing so, which should then be circulated to the Board for information. Some adjustments would need to be made to the eligibility assessment criteria for IPN-initiated processes. A self-initiated eligibility assessment would need to determine whether:
- a. There are indications of harm or potential harm, and if the harm is substantial.
  - b. There are preliminary indications that the World Bank may not have complied with its policies and procedures; and
  - c. The harm is likely linked to the potential noncompliance.
19. The final decision on whether a compliance investigation will be conducted based on a self-initiated eligibility assessment rests with the Board, which maintains the authority to approve all compliance investigations.

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<sup>15</sup> The corresponding provision in the AfDB's IRM policy (Independent Recourse Mechanism of AfDB, Operating Rules and Procedures, 2021 (para. 75), states: "Under specific circumstances, the Director of IRM may initiate Compliance Reviews. These circumstances could relate to: (i) complaints raised to the IAMS of co-financiers in a Bank Group co-financed Operation for which no complaint has been submitted to IRM; (ii) Operations in the public domain where there is a reputational risk for the Bank Group; (iii) Cases where IRM receives information from a credible source that a Bank Group Financed Operation has adversely impacted or may impact persons, a community or the environment; or (iv) cases where IRM is informed of a risk of retaliation if a Complainant came forward; (v) if a compliance review could provide an important learning-opportunity."

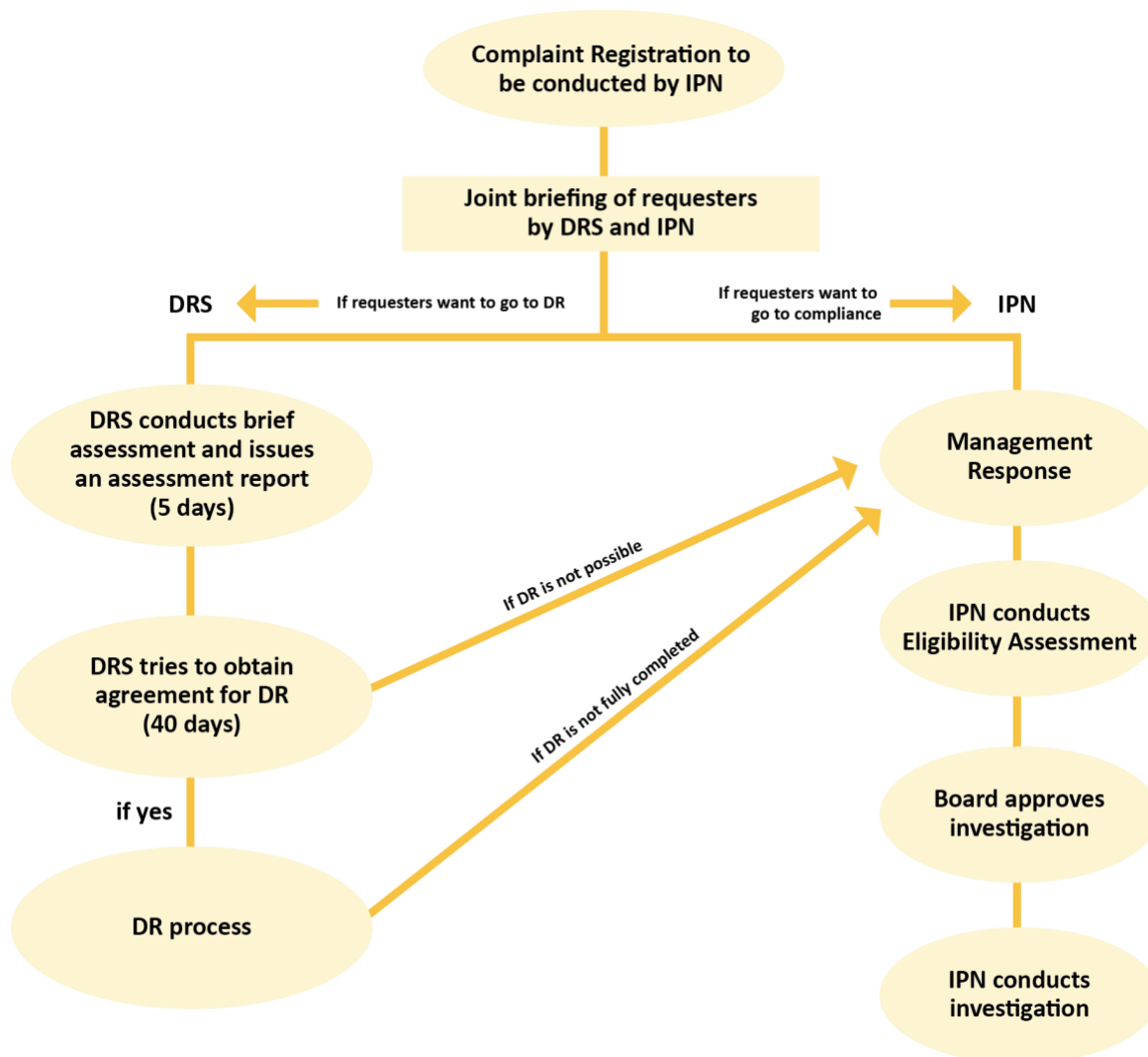
## b. Access to Dispute Resolution

### Early Access to Dispute Resolution After Registration of the Request.

20. Access to dispute resolution (DR) is presently embedded into the compliance intake process and is only possible after the IPN completes an eligibility assessment, and the Board approves a compliance investigation. The eligibility assessment, however, is designed as an assessment for a compliance investigation, not for DR. Its objective is to issue a recommendation to the Board on whether to proceed with an investigation and what possible noncompliance issues should be investigated. Why should requesters who want to have their concerns addressed through DR first proceed through an eligibility assessment whose objective is to establish whether a full compliance investigation should be conducted? Six criteria for this eligibility assessment are laid out in the IPN operating procedures (see para. 44). Of these criteria, one deserves particular attention—criterion b: *“the request asserts 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.”* The IPN then confirms that the request includes a description of the harm or potential harm that, according to requesters, is the result of a serious violation by the Bank of its policies and procedures. The eligibility assessment acts as a “filter” to assure that only requests with plausible noncompliances and related harm proceed to a full investigation. All comparable IAMs—e.g., EBRD’s Independent Project Accountability Mechanism (IPAM), ADB’s Compliance Review Panel (CRP), and AfDB’s IRM—conduct such an assessment before a compliance investigation. But very few IAMs make this preliminary assessment for a compliance investigation the entry point to a DR process. The focus of a DR process is not on bringing a project into compliance with policies. The Bank’s AM Resolution does not even require that DR agreements comply with Bank policies. It is thus possible that parties to a DR process come to an agreement that is not consistent with Bank policies. The focus of a DR process is trying to reach agreement on remedy for harm linked to a Bank-financed project.
21. The ERT is of the view that an earlier and easier access process to DR should be considered. This position on providing earlier and easier access to DR was supported by many external stakeholders who commented on the ERT draft report. The ERT proposes that after the admissibility decision (registration), requesters should attend a detailed briefing meeting held jointly by the IPN and the Dispute Resolution Services (DRS) so that the requesters fully understand the two options. After this briefing, the requesters (or their representatives) should be given five working days to communicate whether they wish to pursue DR or proceed with the compliance investigation. If the requesters (or their authorized representatives) express that they want to pursue DR, then the request should proceed to the DRS. The DRS should then conduct a short assessment process to determine whether the issues raised are in fact suitable for a DR process or whether issues raised would be more suitably addressed through a compliance process (see paras. 34–35). If the assessment concludes that DR would be a suitable process, then the DRS would consult with the parties (requesters and

borrower or executing entity) on whether there is agreement on pursuing a DR process. If there is, the DR process would be launched. If there is not, the complaint would revert to the compliance process and enter the eligibility assessment phase, which first requires a management response. If a DR process is launched but not completed, then the request is referred to the eligibility process as an entry point to the compliance process. If the DR agreement only provides for a partial settlement of issues, then unresolved issues can be referred to the eligibility process for an assessment on whether they merit an investigation. In both cases, the time limit to submit a request for compliance review is applicable from the time that the original request was filed. Figure 2.1 illustrates this proposed process.

**Figure 2.1. Recommended Process for Requesters to Access Dispute Resolution Services—Option One**



22. External stakeholders who commented on the ERT draft report as part of the review process suggest that requesters be provided the option to bifurcate a request—to proceed with some of the issues raised in their request through a DR process and other issues in parallel through a compliance review process. Requests often allege multiple noncompliances and related harms of very different natures. For example, infrastructure projects typically cause environmental and resettlement impacts. Compensation payments and livelihood support for resettlement are issues that are often effectively addressed in a DR process. By contrast, permanent environmental harms often require additional complex and lengthy technical studies and the design of mitigation measures or offset activities. Such processes are better handled under a compliance review process. Giving requesters the choice to bifurcate a request seems like a good approach because it would allow them to proceed directly to remedy for a subset of issues. However, bifurcation requires a very clear separation of issues, as a compliance review process should not address in parallel the same issues being addressed through a DR process. A bifurcation option would require careful coordination between the DRS and the IPN and less rigorous firewalls between the IPN and the DRS than are currently in place. The ERT is therefore of the view that until the structural issues of the AM are resolved, and effective coordination processes are established, and the existing stringent firewall provisions are adjusted, the introduction of a bifurcation option is premature.
23. An important component of the accelerated access process is the determination at the registration stage of whether the alleged harm is plausibly linked to a Bank-financed project. Access to a DR process should only be available for requests with a plausible link. This assessment is already a component of the registration process. The registration process also determines whether management had adequate prior knowledge of the issues raised in the request and had an opportunity to respond. Thus, only requests for which there was a prior “good faith effort” by requesters to address their concerns with the Bank staff and management would be registered and thus proceed to DR.
24. **RECOMMENDATION:** The ERT recommends that requesters have direct access to the DRS after registration and a comprehensive briefing. The registration would have to establish that alleged harm is plausibly linked to the project. The DRS would need to conduct a short assessment to determine whether issues raised in the request are suitable for a DR process.
25. The advantages to such an approach are:
  - a. It provides timely DR to people who are plausibly harmed by a Bank-financed project.
  - b. It accelerates the process because requesters do not need to wait until the management response is issued, then proceed through an eligibility assessment, and then wait for Board approval of an investigation.



- c. It avoids confusion because requesters who wish to proceed to DR can immediately cooperate with the DRS without first having to work with the IPN.
- d. The DRS can enter the process at an early stage and does not need to be on standby until the Board has approved a compliance investigation.
- e. The Board does not need to approve an IPN recommendation for a compliance investigation if a requester does not wish to proceed with a compliance investigation.
- f. Management does not need to issue a management response because Bank failures and omissions and noncompliances with Bank policies and procedures are not a focus of a DR process.

26. Disadvantages of this approach are:

- a. The DRS would also accept requests for which plausibility of noncompliance with Bank policies and procedures has not been established as such an assessment takes place during the compliance eligibility assessment.
- b. The number of complaints entering the DR process might increase as access becomes easier. On the other hand, as there is no “compliance process held in abeyance,” where approval for a compliance investigation has already been provided, the party that would need to agree with the requester on a DR process might have less incentive to do so.
- c. Public accountability of the Bank might be perceived as being weakened. In the proposed direct access option, there is a notice of registration, but no eligibility report posted in the public domain. An eligibility report would provide information to the public on the alleged harm and possible noncompliances, although it would not provide findings on noncompliances and Bank failures and omissions as these would only be provided in the subsequent investigation report.
- d. Requesters need to be adequately informed about the DR and compliance process options. If the initial joint briefing is not conducted in a neutral and comprehensive manner, it could be seen as influencing the choices of requesters.

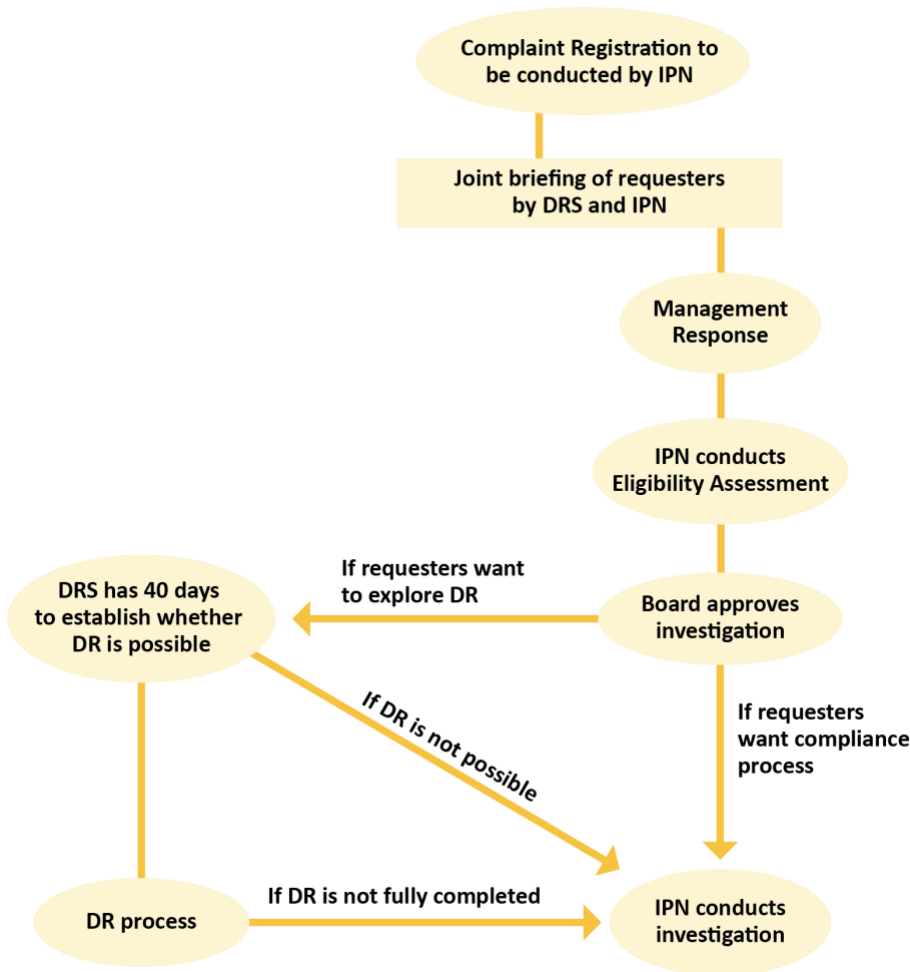
**Or Maintain the Present Access Process but Adjust it for Requester Choice**

27. If the Board does not wish to delink access to DR from plausibility of noncompliances and related harm, then access option one presented above will not be chosen. The alternative option would then be to maintain the present access process where requesters can choose DR after the Board has provided approval for a compliance investigation (see figure 2.2). This option would not allow for early access to DR and would require the DRS to remain on “standby” until the Board has approved a compliance investigation. However, even if this access option is maintained, an essential adjustment is needed. The process for offering DR must be changed. Currently, according to the AM Resolution (para. 11.a) and the AM operating procedures (para. 11), the Accountability Mechanism Secretary (AMSec) offers parties the opportunity to engage in a DR process. The AMSec makes this offer to

both parties concurrently. Instead, this process should be conducted in two stages: (1) first the requester should be asked whether they are interested in pursuing DR; and (2) only if the requesters state an interest in pursuing DR should the AMSec provide information and an offer of DR to the other party. If the requesters state that they wish to pursue the compliance function, then they should proceed without interruption to the compliance investigation. The offer of DR to the requester should be made by the AMSec immediately after the Board has approved the recommendation for a compliance investigation, and the requesters should only have five working days to decide if they wish to directly proceed to a compliance investigation. If after five working days the requesters inform the DRS that they are interested in pursuing DR, or if they are not sure what option to choose, then the compliance process should be put on hold for up to 40 business days to give both parties adequate time to learn about the DR process and to explore, with the support of the DRS, the possibility of establishing a DR process. This longer period is warranted because the current 30-business-day deadline does not offer much time to try to reach agreement on a DR process. The longer period can also be justified because the compliance process would only be halted for requesters interested in pursuing DR. If the Board were to decide to maintain the present access process but not make provisions for requesters who choose to proceed with the compliance process to continue without interruption, then the present 30-business-day timeline should be maintained because the interruption period of the compliance process needs to be constrained.

28. Why is this adjustment to the DRS offer so important? Requesters interviewed by the ERT who chose the compliance function argue that offering DR to the borrower even if the requesters indicate that they are not prepared to engage with a DR process results in increased retaliation risks if the other party, typically a public authority, wishes to proceed with DR. They strongly argue that this significantly deteriorates the requesters' position. A DR process requires agreement by both parties. If the requesters signal that they do not wish to proceed with a DR process, then there is no need to inform the other party (the borrower or executing agency) about the DR option or to offer them DR. An important reason why most IAMs receive so few complaints is the high level of retaliation risks for requesters. Any process that increases this retaliation risk needs to be avoided. In addition, requesters who expressed a strong determination to proceed with a compliance process do not understand why the already lengthy compliance process needed to be interrupted for 30 business days to explore a DR process despite which they firmly stated they had already decided against.

Figure 2.2. Maintain Present Access Process Adjusted for Requester Choice—Option Two



29. There are advantages and disadvantages to the present access process. Advantages include a published eligibility report which could be useful to a DR process. The transfer to the DRS would occur after an eligibility report has been issued that presents the facts of the disputed issues. Fact finding can strengthen the position of affected parties because contested issues are presented in the public domain. The published eligibility report strengthens public accountability because it is posted in the public domain. An eligibility report cannot reach conclusions on noncompliance or World Bank failures or omissions (see IPN Resolution, para. 26), but a careful analysis of the complaint, the alleged harm, the potential link of the harm to the project, and the plausibility of noncompliance are important contribution to accountability.

30. Disadvantages to the current access project include:
- a. Access to DR would come very late, an average of four and a half months after the requesters submit a request.
  - b. The requesters would first have to work with the Panel members and IPN staff to pursue a compliance investigation and would only then be transferred to the DRS. The DRS staff would enter late in the process.
  - c. The process restricts access to DR because it remains linked to policy noncompliances and Bank failures and omissions. Only requests for which the IPN recommends an investigation could proceed to DR and only for issues that the eligibility report determines to be eligible.
31. **RECOMMENDATION:** The ERT recommends that if the present DR intake process is maintained, requesters who, after the compliance investigation has been approved, firmly indicate to the AM Secretary that they want to pursue the compliance function should be able to continue the compliance process without interruption. In such cases, there would be no temporary transfer to the DR function, and the AM Secretary would not contact the borrower, nor would the borrower be offered DR. Because after this adjustment only requesters who are interested in a DR process would be transferred to the DRS, the period allocated to seek agreement could be extended from the current 30 working days to 40 working days.
32. **RECOMMENDATION:** The ERT further recommends that the complaint registration and eligibility assessment continue to be undertaken by the IPN, as is presently the case. The current IPN Policy and Operating Procedures include complicated access criteria where registration requirements significantly overlap with eligibility assessment requirements. The eligibility assessment process essentially confirms the registration criteria, only adding a determination of whether a linkage between plausible noncompliances and alleged harm could be established. The ERT finds registration and eligibility assessment criteria unclear, complex, and somewhat contradictory. It therefore recommends that the registration and eligibility assessment criteria be revised (see para. 9–13). However, the ERT is also of the view that until such a policy revision has been achieved, the IPN needs to continue to conduct both the registration and the eligibility processes as they are presently designed as a continuous process. Disconnecting the two processes at this stage risks introducing confusion and additional complexities, which would make access even more challenging.
33. Moreover, the eligibility process is a component of the compliance review process that uses methods applied in a compliance investigation: fact finding and evidence building regarding noncompliance with Bank policies and procedures. Causal relationships between project activities and environmental harm often needs to be established, requiring specialized technical knowledge. Establishing causal relationships between plausible noncompliances and alleged harm can be a highly technical and difficult process for which specialized expertise is required. The IPN Resolution

only provides 21 working days for an eligibility assessment to be conducted. The IPN needs to remain solely responsible for this assessment.

34. **RECOMMENDATION:** The ERT is of the view that there are certain complaints that should not be transferred to a DR process even if the requesters express a preference for it. Examples include cases when there is an indication of significant permanent damage to the environment, when allegations of gender-based violence or physical harm have been made, or if the risk of retaliation is particularly high. In such circumstances, a DR process would not be well equipped to protect requesters and could not assure a fair process for the borrower and the affected people. The issue of permanent damage to the environment is particularly important because such damage is ongoing, and its harm is not restricted to requesters. It even impacts future generations. Such issues require systemic solutions. While the ERT strongly advocates for the principle of “requester choice,” this principle might need to be constrained when the Bank’s public accountability objectives are particularly important, and a DR process would only provide partial solutions.
35. For access option one (figure 2.1), the DRS should establish during its assessment process whether under such exceptional circumstances a DR process is suitable. If access option two (figure 2.2) is maintained, then the IPN should be authorized to recommend in the eligibility report that a DR process should not be pursued in an exceptional case.

### c. Access of Requesters to the Final Investigation Report

36. As part of the 2020 IPN’s Toolkit Reforms, access to the final investigation report is provided to the requesters before Board consideration, albeit with significant restrictions. Paragraph 45 of the IPN Resolution provides that *“following submission of the Panel’s investigation report to the Executive Directors and President, the Panel shall share the report’s table of findings with the requesters. The Bank also shall make the Panel’s full investigation report accessible in hard copy to requesters at the nearest country office.”* It adds that the requesters will be allowed to read the report in the Bank’s country office for two consecutive working days but may not remove it, make photocopies, take pictures, or reproduce the report or parts of it by any other means. Although this provision is an improvement in terms of accessibility and transparency, it is still significantly more restrictive than other IAMs, which typically provide copies of the draft report to requesters to solicit their comments and share final reports with requesters under less restrictive conditions. The ERT understands that the IPN and the Bank want to prevent the leak of an investigation report into the public domain before the Board has reviewed it and come to a decision. However, the restriction that disclosure must be made at a meeting in the Bank’s country office makes it very hard for many to access the report due to the need to travel long distances. Rarely do big investment projects take place in or around capital cities, and affected people often live far away from the capital and have insufficient

resources to travel to a country office. Moreover, fear of reprisals and a degree of mistrust make some affected people hesitant to enter a World Bank office to review a report.

37. The IPN Resolution (para. 46) provides requesters who request confidentiality the opportunity to review reports outside of the Bank's office. For most of the requests filed with the IPN since 2020, requesters asked for confidentiality, and the IPN has established practices for how investigation reports and tables of findings prepared by the IPN for management action plan consultations can be conducted outside the World Bank office. These practices include providing prior information to management about the IPN's intention to share the report, approximate dates when the report will be available, and coordination with the Bank's country office. This approach has allowed requesters to participate more actively. It has also allowed consultations conducted by management regarding draft action plans (required according to the IPN Resolution, para. 41) to be more meaningful because requesters have access to the full report rather than just the table of findings.
38. ERT interviews with requesters and several external stakeholders who commented on the ERT draft report stated that the language the Panel report is written in constitutes a significant barrier to adequate disclosure and consultation. These interviewees suggest that the Bank translate the Panel Report into the local language for purposes of disclosure and consultation. The ERT agrees and recommends that the Panel's report be translated for these purposes. If the full report cannot be translated into the local language, then at minimum the table of findings should be.
39. **RECOMMENDATION:** The ERT recommends that all requesters have access to the report under the conditions set out in paragraphs 45 and 46 of the IPN Resolution, as currently applied by the IPN, and that all requesters—not just those who have requested confidentiality—be allowed to review the final investigation reports outside of World Bank country offices. The ERT also recommends that the Panel's report be translated for these purposes. If translation of the full report into the local language is not possible for this disclosure, at least the table of findings should be translated.

#### d. Knowledge of the Accountability Mechanism Among Project Affected People

40. Only a small number of complaints are filed with the IPN, possibly partly because the AM is insufficiently known among affected people. In collaboration with the IPN, the AM does conduct outreach efforts (see chapter 6). The IPN Resolution (para. 61) states: "*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.*" This directive has been in effect—almost verbatim—since the first review of the IPN in 1996. The ERT is not aware that Bank management makes significant efforts to increase awareness of the IPN at the country level. According to information provided to the ERT by Bank management, country offices display

informational materials about the AM. Regarding specific projects financed by the Bank, information is only provided in the project appraisal document, which is posted in the public domain. It contains a section on the Bank's GRS and includes information on submitting complaints and the relevant information link for the GRS and the AM. But this information is embedded in a very large report and is not easy to find. This provision is useful but not sufficient. Information about the World Bank's GRS and AM should also be provided in the initial project information document.

41. The ERT is of the view that project teams need to make special efforts to provide information about the AM to project-affected people directly and through project borrowers and project entities. At the ADB, teams on projects with higher safeguard risks have an obligation to disseminate information about the problem-solving and compliance review mechanisms, typically by working with the borrower to disseminate information. Box 2.2 outlines the policy provisions on disclosure of some comparable IAMs. The ERT believes that World Bank senior management could provide more leadership by asking country offices and project teams to support appropriate dissemination about the World Bank AM by the borrowers and project entities. In interviews with the ERT, some requesters expressed surprise that the country websites had no information on the AM. Many affected people search for grievance mechanisms on the internet, and the country-level website, typically presented in the dominant local language, should be an important informational tool about the Bank's accountability and grievance redress systems.
42. **RECOMMENDATION:** The ERT recommends that information about the World Bank's AM be prominently provided on the Bank's country websites and that greater efforts be made by project teams to disseminate information about the AM either directly or through borrowers and implementing agencies. Information about the AM and the GRS should be included in the initial project information document in addition to the project appraisal document. For easier access to the information on the GRS and the AM in the project appraisal document, the table of contents should reflect where this information can be found.

## **Box 2.2. Disclosure to Project-Affected People**

ADB Policy (para. 211):

*“Improving the awareness of the Accountability Mechanism requires that ADB staff work as conduits to disseminate information. Staff, working with the borrower, will disseminate information early in the project cycle about the Accountability Mechanism and its availability as a recourse in case other mechanisms for dealing with harmful project effects are not successful. The intensity and format of this activity will vary with the nature of the project. Operations departments will focus on projects with a high degree of safeguard risks, such as projects with heavy resettlement. Pamphlets in national or official languages, community notice boards, audiovisual materials, or other appropriate and effective means will be used to inform people.”*

U.S. Development Finance Corporation (para. 5):

*“The Corporation will assist the IAM in carrying out its outreach efforts, including requiring the clients and sub clients (for financial intermediary projects) to disclose the existence of the IAM to project affected communities in a culturally appropriate, gender sensitive, and accessible manner. The existence of the IAM and how to contact it will be included in appropriate project documents.”*

CAO Policy (para. 168.c):

*“To help make CAO known to IFC/MIGA staff, Clients, and Project-affected people, IFC/MIGA will: ... Work with clients to disseminate information at the Project level about CAO and its availability as a recourse in case other mechanisms for dealing with harmful Project impacts are not successful.”*



## 3. Structure

### a. Introduction

#### Key Issues

A. The World Bank Accountability Mechanism (AM) Resolution<sup>a</sup> established the AM, the Dispute Resolution Service (DRS) as a voluntary option for requesters and borrowers in the context of Inspection Panel (IPN) requests, and the AM Secretary (AMSec) as Head of the AM and the DRS.

B. The AMSec, who reports to the World Bank Board of Executive Directors (the Board), manages AM's work program, budget, and staff, and oversees all AM administrative matters and recordkeeping.

C. To ensure the continued independence of the compliance function of the IPN, the AM Resolution places limitations on the AMSec's role and reasserts that the IPN will continue to report to the Board on compliance matters.

D. Much progress has been made in implementing the new AM structure, and the DRS is now facilitating its fourth dispute resolution case.

E. Nonetheless, there are implementation challenges related to the AM structure, which is not a pyramid structure with a clear and hierarchical chain of command. The AM houses two functions in one unit with strong boundaries that keep them separate. The AMSec's dual role as the Head of the AM and the DRS creates the potential for conflicts of interest.

F. Interviews conducted by the External Review Team (ERT) highlight debated and contradictory areas in the IPN and AM resolutions. For example, the AMSec's role in managing the AM's work program conflicts with the continuation of the IPN's independence, and the rationale for the central management of staff conflicts with the fact that the staff are not interchangeable because of skill differences and firewalls.

G. There are differing views among the AMSec, IPN, and management on whether the Board intended the AM structure to significantly change how the IPN operates or enable it to continue operating as it had been but adding the DRS option.

H. The ERT conducted interviews with former Committee on Development Effectiveness (CODE) and IPN chairs, as well as the General Counsel who led the decision processes for the AM structure design. They consistently indicated that the AM structure was intended to strengthen what the Bank offers to requesters but was not intended to change or reduce the independence of the IPN—a well-regarded and high-performing complaints mechanism. There was never an intention to create a pyramid structure.

a. Resolution No. IBRD 2020-0005 and Resolution No. IDA 2020-004,

<https://www.inspectionpanel.org/sites/www.inspectionpanel.org/files/documents/AccountabilityMechanismResolution.pdf>.

43. The World Bank Accountability Mechanism (AM) was created by Resolutions No. IBRD 2020–0005 and IDA 2020–0004 (AM Resolution) as part of the 2020 Toolkit Reforms of the Inspection Panel (IPN). According to the AM Resolution, the AM is headed by the AM Secretary (AMSec) and comprises two constituent parts: (1) the IPN, established in 1993, with its functions set forth in Resolutions No. IBRD 93–10 and IDA 93-6; and (2) the Dispute Resolution Service (DRS), which was established by the AM Resolution to provide a voluntary and independent option for requesters and borrowers in the context of IPN requests for inspection (AM Resolution, para. III.9).
44. The AM Resolution lays out how the AM is expected to operate, including the functions of the AMLSec, who is supported by the AM Secretariat; the IPN; and the DRS.
45. The AMLSec reports to the World Bank Board of Executive Directors (the Board); is independent of World Bank management (AM Resolution, para. I.3.a); and establishes and manages the AM’s work program, budget, and staff, including the hiring of AM staff and consultants and preparing and submitting AM budget requirements for consideration by the Committee on Development Effectiveness (CODE) and the Budget Committee and approval by the Board. The AMLSec heads the DRS and oversees all administrative matters and recordkeeping for the AM (AM Resolution, paras. I.3 and 4.a–f).
46. Under the AM, the IPN continues to independently perform functions assigned to it under the IPN Resolution, including reporting to the Board on compliance matters (AM Resolution, para. II.8.a). To ensure the continued independence of the IPN’s compliance function, the AM Resolution places limitations on the AMLSec’s role with respect to the IPN. IPN members and the IPN Chair coordinate with but are not subject to the supervision of the AMLSec. AM staff assigned to the IPN report to the AMLSec on administrative matters and to IPN members on technical matters. The AMLSec **consults** with the IPN Chair regarding appointments and performance reviews of the IPN’s technical and administrative staff and works with the IPN Chair on the allocation and oversight of its budget (AM Resolution, para. II.8.a–d).

47. The functions assigned to the IPN under the IPN Resolution include receiving and registering requests for inspection, conducting eligibility reviews, making recommendations regarding investigations to the Board, conducting compliance investigations, issuing memoranda to close cases, verifying management action plan (MAP) implementation as approved by the Board, and providing advisory services in the form of lessons learned from its cases. Under the request-for-inspection process, after the Board authorizes the investigation, the AMSec offers requesters and borrowers the opportunity to engage in dispute resolution (DR). If the parties agree, the investigation is held in abeyance (IPN Resolution, paras. e.30–33), and the DRS facilitates the DR process.
48. To protect the independence of the DR process and the free and unconstrained participation of parties, the AMSec will ensure that no IPN members or staff communicate with parties, their representatives, or the DRS staff in connection with any case while the DR process is underway. The AMSec will also ensure that any information disclosed during the DR process is not shared with the IPN nor used in any subsequent compliance investigation (AM Resolution, para. III.14.a–b).
49. Much has been done to implement the AM since the appointment of the AMSec in July 2021, including creating and updating the operating procedures for the AM and IPN, respectively, creating internal protocols for the AM and IPN, staffing and launching the DR process—which is currently facilitating its fourth DR case, developing an AM website, relaunching a quarterly newsletter, and engaging in numerous outreach activities (see paras. 166–169). In addition, the AMSec now serves as the Secretariat of the Independent Accountability Mechanisms Network (IAMNet), which is assumed on a biannual rotating basis by different independent accountability mechanisms (IAMs).

### **Unique Features of the AM Structure**

50. AM implementation has also faced challenges, primarily due to differing interpretations of the AM and IPN resolutions. The AM structure is unique in several respects. First, even though the AMSec heads the AM, the AM is not a pyramid or typical hierarchical structure with a clear chain of command. Both the AMSec and the IPN report independently to the Board, and the AMSec does not supervise IPN members or the compliance work of the IPN staff, which constitutes a major portion of the substantive work performed under the AM umbrella.
51. A second unique feature of the AM structure is that it places two functions in the same unit with strong boundaries to keep them separate. The IPN has independently managed the inspection process for 30 years and, according to the IPN Resolution, is expected to continue to operate independently as it manages requests for inspection from intake to closing, except for the new DR option. At the same time, the DRS's firewall is more restrictive than those of other IAMs reviewed, including the Asian Development Bank, the African Development Bank, the Compliance Advisor Ombudsman (CAO), and the European Bank for Reconstruction and Development.

52. While the AM umbrella offers a one-stop option for requesters, the combination of the IPN's independence and the DRS's firewall complicates communications, collaboration, and sharing of resources and lessons learned. In many respects, the emphasis placed on the independence of one function and the firewall of the other are reasons to separate the two functions at an organizational level. While most other IAMs reviewed by the ERT combine the two functions in one overarching accountability unit, none of them have similar significant boundaries that separate the two functions.
53. Further, according to the IPN's interpretation of the AM Resolution, an IPN firewall also exists because once the AMSec is informed by the IPN that a request has been received, the AMSec *"takes no further action with respect to a request for inspection except when the Executive Directors authorize the Inspection Panel to undertake an investigation"* (AM Resolution, para. 7c), and limitations are placed on the AMSec's role with respect to the IPN (AM Resolution, para. 8).
54. The core responsibilities of the AMSec are a third unique aspect of the AM structure. The World Bank's accountability mechanism is a sequential process triggered by requests for inspection by parties affected by World Bank-funded projects. The DRS, which AMSec heads, is now being offered as an alternative to a compliance investigation—not as a parallel and standalone function—within the context of a preexisting inspection process, which is independent of AMSec supervision.
55. The AMSec heads both the AM and the DRS, and the AMSec also manages the AM's financial, human resource, and administrative matters. The impact of this alignment is largely determined by the interpretation of its intentions. For example, if the AMSec role is viewed as *one of governance and control* rather than one *that provides support and service*, the arrangement could pose a high risk of conflict of interest and complicate the exercise of the IPN's independence. To counterbalance this potential, both the AM Resolution and the terms of reference (TOR) for the AMSec emphasize the need for the AMSec to work, collaborate, and consult with the IPN Chair in matters affecting its resources and administrative activities. In other words, the resolution makes clear that the IPN is expected to participate to some extent in decisions affecting its resources and administrative matters.
56. Based on interviews and a review of written exchanges, the ERT noted contradictions in the Resolutions. For example, the AM Resolution provides that the AMSec is responsible for establishing and managing the AM's work program, budget, and staffing (AM Resolution, para. I.4.a), but the IPN is also expected to perform its functions independently as assigned under the IPN Resolution, and its staff is expected to report to IPN members on technical compliance matters (AM Resolution, para. II.8.a, c.). It is not clear what work programs would exist in the IPN that are not covered by the IPN Resolution. A similar contradiction exists with respect to the AMSec's recordkeeping responsibilities (AM Resolution, para. 1.4.c) and their application to IPN records kept in the performance of its

compliance work. Given that the staff of the DRS and the IPN are not fungible because of firewalls and different required skill sets, it is unclear why they are both then managed on an AM-wide basis rather than within their relevant functions.

### Original Intent

57. To understand the original intent of the IPN and AM resolutions and implementation decisions, the ERT conducted interviews with two former CODE chairs and one former co-chair who served during the 2019–2022 time period, the former General Counsel who chaired the Toolkit Reforms implementation Steering Committee, and two former IPN chairs who served when the parties were discussing and agreeing on reforms. The ERT also reviewed working group and steering committee green sheets and relevant CODE memos.
58. According to interviews with former CODE chairs who oversaw the 2020 reforms and their implementation, the DRS was intended to strengthen the IPN Toolkit but was not put under the IPN due to conflict-of-interest concerns posed by the firewall, which places *“absolute restrictions on Panel communication with the DRS and Parties in connection with an active dispute resolution case”* (internal Protocol, para. 2.f.1). The AM structure was created to house both the DRS and the IPN rather than establish two parallel functions. In terms of the three areas where conflicting views are most predominant, the interviews explicitly confirmed that **the AM structure was not intended to** (1) be a pyramid; (2) change the IPN, which was well-established, respected, and high performing; or (3) limit the independence with which the IPN operates.

## b. IPN's Independence

*Does the current AM institutional structure enable the IPN to continue to carry out its compliance review functions independently in accordance with the IPN Resolution? What are the strengths and weaknesses?*

### Key Issues

A. Two areas potentially impact the ability of the Inspection Panel (IPN) to carry out its compliance functions in accordance with the IPN Resolution.

- First, the Accountability Mechanism (AM) Resolution gives the AM Secretary (AMSec) resource management responsibilities. Whoever controls resources has the potential to control how a function is performed. Examples given of delays in administrative and human resource approvals do not demonstrate a direct or systematic effect on the IPN's ability to independently carry out its compliance work. However, ongoing conflicts and negotiations on administrative and other matters have consumed a considerable amount of the IPN Chair's time and effort.
- Second, the requirement in the AM and IPN resolutions to offer dispute resolution (DR) to both parties increases tensions and scheduling problems during compliance reviews when borrowers are offered DR and requesters turn it down.

B. It is the conclusion of the External Review Team (ERT) that this review offers an opportunity to make changes that will reduce contradictions and ambiguities in the AM Resolution and improve the current AM structure.

59. The AM Resolution describes the AM's organizational structure and the AMSec's role in managing work programs, resource management, recordkeeping, and administrative matters as well as the obligation to work and consult with the IPN. The Resolution also describes the limitations on the role of AMSec with respect to the performance of IPN functions, as outlined in the IPN Resolution. The AM Resolution describes the nature of the IPN's independence *within* the AM and *from* the involvement of the AM Secretary (see para. 36).

60. The IPN Resolution, on the other hand, outlines the functions to be performed by the IPN and refers to the AMSec in the context of dispute resolution but does not explicitly mention the AM structure. It asserts that the IPN will not initiate an investigation until the AMSec communicates whether parties have agreed to engage in a DR process. If they have, the IPN must put its compliance process

on hold until the DR process is completed (IPN Resolution, para. e.32). The IPN Resolution also lays out the steps that the IPN should take at the conclusion of the DR process (IPN Resolution, para. e.33). While the AM Resolution is included as a reference in paragraph 1d of the IPN Resolution, there is no cross-referencing of AM Resolution provisions within the body of the IPN Resolution other than with respect to dispute resolution.

61. There are two areas that have had or do have the potential to affect the IPN's ability to continue to carry out its compliance review functions independently. First is the control of IPN's financial and human resources. Some examples have been given where there were delays in mission travel, performance reviews, and recruitment/hiring activities. These situations made work more challenging, impacted staff morale, and required significant attention of the IPN Chair and intervention by past and current CODE Chairs and their advisors to safeguard IPN's independence. However, without metrics in place to assess how compliance work is measured, it is difficult to conclude with certainty whether these situations materially affected the IPN's ability to carry out its compliance work associated with requests for inspections and advisory activities. More importantly, separating the control of resources from the management of the IPN's compliance work could pose a risk to the IPN's independence under a future AMSec. The person at any organization who controls or has approval authority over the use and expenditure of resources can significantly influence how work is performed. If approval provided on the use of resources does not align with need, either the work or the people performing the work will suffer.
62. Addressing the issue of the IPN's independence in his seminal book "The World Bank Inspection Panel: In Practice,"<sup>16</sup> former Senior VP and General Counsel Ibrahim Shihata, widely recognized as the "architect" of the Inspection Panel, answers the question: "Is the Independence of the Panel Adequately Secured?" stating that "its functional independence is secured by several safeguards," including the selection and appointment terms of Panel Members—no current staff members, nonrenewable appointments, prohibition to work for the World Bank Group ever again—and the fact the Panel has its own budget and a separate Secretariat, including "its own Executive Secretary, Assistant Executive Secretary, and support staff."
63. By delegating the administration of its human and budgetary resources to AMSec, no matter how independent from management it may be, the 2020 amendments to the IPN Resolution significantly removed these "safeguards" and the IPN's actual and perceived independence. Protocols signed between the AMSec and the IPN Chair may facilitate the application of, but do not and cannot amend the terms of a Board Resolution.
64. The second area where the IPN's compliance work is affected relates to the addition of the DRS and the requirement to offer both parties the opportunity to engage in the DR process even if

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<sup>16</sup> Shihata, Ibrahim. 2000. "The World Bank Inspection Panel: In Practice." Washington, DC: World Bank Group. pages 205 -206

the requester does not want such services. In all three compliance cases initiated since the introduction of the DRS, this policy increased tensions during the investigation and created obstacles for the IPN to subsequently proceed with the compliance investigation once the borrower indicated agreement to conduct a DR and the requester insisted on continuing with a compliance review process. Recommendations for addressing this challenge are in chapter 2: Accessibility (see paras. 24 and 31).

65. In assessing options for addressing AM structural challenges, it is essential to understand why the IPN's independence is important in the first place. The Panel is composed of three senior-level members with a mix of multifaceted development expertise, leadership competence, and geographic representation to ensure that it has depth and breadth of competencies and perspectives. This diversity enables a more comprehensive understanding of the issues raised by requesters, which strengthens the quality, impartiality, and legitimacy of the IPN's decisions. Additional reasons for IPN's independence, according to those involved in the original decision-making process and current stakeholders include: (1) the important role the IPN has played in establishing the World Bank as a leader in accountability; (2) the credibility of and trust placed in the IPN externally and internally because of its strong track record; and (3) the role IPN serves as a beacon to the broader IAM community. A well-respected and effective accountability mechanism that assures due process for complainants is an important argument for the World Bank to maintain its immunity from being sued in any national court.<sup>17</sup>
66. The IPN's independence enables stronger accountability, free from pressure or influence, to identify areas of noncompliance that have caused harm to individuals and communities. In addition, the Panel is better able than a single leader to stand up to the natural pressures of compliance work as the Bank takes on greater risks and moves at greater speed. There is resilience, solidarity, and support in numbers, and a panel of three is more likely than an individual to resist external influence and coercion when making compliance determinations in highly sensitive and complex situations. Compliance can carry a heavy burden to ensure that the Bank is accountable to shareholders and project-affected people without undermining the Bank's ambitious agenda. Having a strong, well-established transparent accountability mechanism is at the core of the Bank's value proposition at a time when it is embarking on a strategy to grow more quickly in higher-risk countries, with lending through new instruments and to new priority areas, and with increased delegation to operational departments and borrowers. Any change in the IPN's independence and reporting relationship to the

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<sup>17</sup> Athaly, Joe. 2023. The World Bank, the Inspection Panel and Immunity. American University Washington College of Law. <https://digitalcommons.wcl.american.edu/cgi/viewcontent.cgi?article=1012&context=accountability-perspectives>; Bradlow, Daniel D., *The Inspection Panel and International Law*, 2023, <https://digitalcommons.wcl.american.edu/cgi/viewcontent.cgi?article=1000&context=accountability-perspectives>; Qumba, Mmiselo Freedom, "Balancing International Financial Institutions' Immunity with Private Individuals' Right to Effective Remedy." *South African Journal of International Affairs* (2020). DOI: 10.1080/10220461.2020.1729853; NYU Law School Clinic on International Organizations. 2017. The World Bank Inspection Panel and International Human Rights Law, <https://www.iiij.org/wp-content/uploads/2017/08/The-World-Bank-Inspection-Panel-FINAL-REPORT.pdf>.



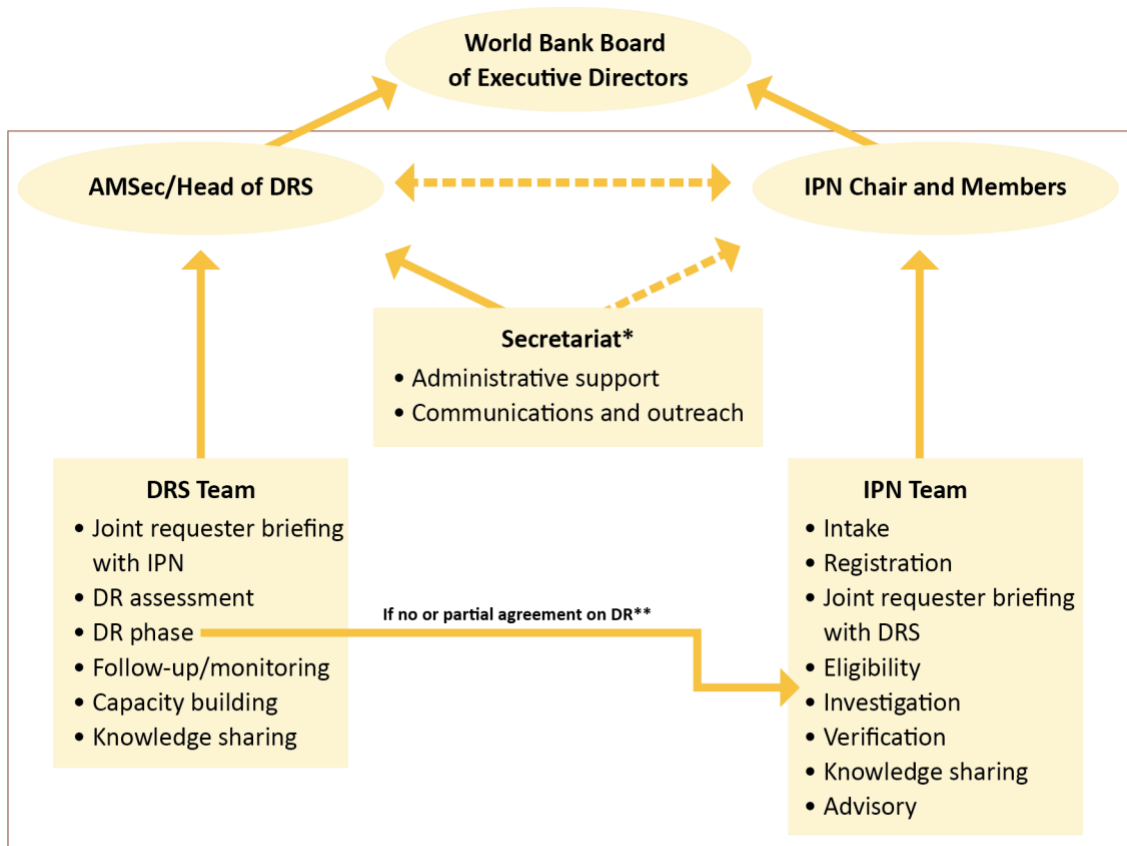
Board could unintentionally communicate a message that the World Bank is reducing its commitment to accountability.

67. **RECOMMENDATION: The ERT recommends retaining the three-member Panel that reports directly to the Board.** This would be a strong statement of the Bank’s commitment to identify and publicly disclose noncompliances to learn, correct mistakes, and improve its performance. The use of a panel to make important decisions is well established in the judicial system and judicial forums, including the World Bank’s Administrative Tribunal, as well in the internal and external appeal and grievance mechanisms of businesses. The three-member Panel brings credibility and rigor to the Bank’s accountability mechanisms.
68. The Panel’s direct reporting relationship to the Board is a key feature of its independence in that its accountability is to the Board, unfiltered by layers of management, and it is solely responsible for the findings, decisions, and recommendations it presents to the Board.
69. The ERT recommends a minimum two-year term for the IPN Chair to ensure continuity of leadership, particularly if the position is formally designated as a managerial position. Paragraph 8 of the IPN Resolution currently stipulates that members of the Panel elect a chairperson for a period of one year. It is particularly important for the IPN Chair to have more time to learn about Bank management policies and procedures, assess and act on the need for changes in priorities, and establish a leadership relationship with the IPN staff, the Board, the AMSec, and key members of management.
70. Given the existing conflicting interpretations of and contradictions within the AM Resolution as well as the challenges in managing a unique organizational structure, which are continuing after almost three years, **the ERT strongly believes this review offers an opportunity to correct ambiguities and contradictions in the AM Resolution and consider other structural options.**
71. **STRUCTURAL OPTIONS:** Three options and their advantages and disadvantages are presented on how the Bank can address current challenges with structural changes. They demonstrate a range of choices but are not comprehensive and the Board can make modifications to any of them. Options one and three assume that the three-member Inspection Panel will be retained, and option two is offered in case the Board decides not to maintain the IPN. The chosen structure should support priority objectives, strategies, and policies for both the Bank and the accountability mechanism. The ERT does not offer a single recommendation regarding structure because the Bank must first determine its priorities in terms of accountability, organizational design, and capacity for change—all crucial to resolving current challenges. The most pressing issues requiring immediate action include resolving differing interpretations of roles and responsibilities; reduce inefficiencies; eliminate the potential for conflict of interest; and protect requester access, safety, and choice. The ERT also offers the medium-term consideration of merging the CAO compliance and DRS functions. Because such a

merger would necessitate a very significant transformation and require lengthy preparation time, the ERT does not propose this as short-term option.

72. The structural options are presented below. The numbering of options does not imply the ERT's preference or recommendation.
  
73. **Option one.** Maintain the current AM structure, with the AMSec and the IPN reporting directly to the Board but change the AM Resolution to clarify that the IPN's independence includes control of its financial and human resources. IPN staff would report to the IPN Chair, who would be the designated manager with complete responsibility for recruiting, hiring, setting performance objectives and work programs, and evaluating performances. The IPN would also have approval authority over expenditures. Alternatively, the IPN could establish a subordinate manager position who reports to the IPN Chair, using one of its existing authorized positions. This would bring delegations of authorities within AM in line with the Bank standard of aligning approval authorities with accountabilities for resource use and management. For the remaining administrative, communication, and outreach functions, the AM Secretariat would continue to report to the AMSec, and the IPN Chair would serve as co-supervisor (see figure 3.1). AMSec would continue to have a primary role in externally representing the AM to elevate awareness; internally strengthening awareness building in World Bank country offices; and facilitating the development of the AM's strategic priorities, key performance indicators, and management structures in partnership with the IPN consistent with recommendations in paragraphs 88 and 120. Finally, the AMSec/Head of DR and IPN Chair would each be responsible for communications specific to their respective functions—DR and compliance—such as, capacity building, lessons learned, and advisories. AMSec/Head of DR and IPN Chair would jointly produce and collaborate on communications that explain how the complaint process works—from access and requester choice to the closing of a case—and that present collective lessons learned from both DR and compliance processes. The objective of all communications is to present the World Bank's accountability mechanism as integrated and complementary without advocacy for or bias toward DR or compliance.

Figure 3.1. Option 1: Variation of Current Structure with Resolution Changes



\*The Secretariat can only be anchored to one position based on the capacities of management systems, which is represented by the solid line to the AMSec. The IPN would be designated as co-supervisor, as represented by the dotted line.

\*\*Whether transfer goes to eligibility or investigation will depend on access criteria adopted.

74. Under option one, the messaging should be clear and consistent: the AMSec and IPN Chair are expected to work in close *partnership* with one another to ensure that the Bank has an effective and cohesive accountability mechanism. Either the current or early access to DRS options is compatible with the modified version of the current structure (for access options see paras. 20–30). Because option one maintains the AM’s unique structure, amendments to the AM Resolution are included below to avoid conflicting interpretations of the intentions of this option:

- a. Paragraph 2 would eliminate the reference to the AM Secretary heading AM.
- b. Paragraph 4 would include a statement describing the intentions for the role of AM Secretary (e.g., providing leadership to build internal and external awareness of the AM and working closely with the IPN to ensure seamless implementation of the DRS).
- c. Paragraph 4.a–c would exclude references covering IPN staff persons to enable the IPN to manage its own human and financial resources and would require the IPN Chair participation in decision making regarding AM-wide functions.

- d. Paragraph 5 would clarify that the AM Secretariat provides support to both the DRS and the IPN and has a dual reporting relationship to the AMSec and to the IPN Chair as a co-supervisor.
  - e. Paragraph 7.c would make it clear that there is no firewall controlling the flow of information from the IPN to the DRS or the AMSec.
  - f. Paragraph 8.c would clarify that IPN staff report to the IPN Chair, or designee, on both technical *and* administrative matters.
  - g. Paragraph 8.d would explain that the IPN Chair, or designee, oversees the appointment, performance reviews, and work programs of all IPN staff and consultants, and is responsible for the allocation and oversight of the IPN's budget.
  - h. Paragraphs 8.e and 14.a–b would impose less restrictive firewalls by specifying what information can and cannot be shared by the DRS function to protect the interests of requesters and borrowers and would clarify that confidentiality does not apply to DRS process, resource, and operational information.
  - i. Paragraph 17 would clarify that the AMSec and the IPN Chair shall seek the advice of the Bank's Legal Vice Presidency on matters related to the Bank's rights and obligations with respect to requests addressed through dispute resolution or compliance review, respectively.
75. The operating procedures, internal protocols, and TORs for the AMSec and IPN Chair would need to be revised to reflect the changes in the AM Resolution. The TORs would more clearly articulate intended roles; expected interactions between offices given the hybrid structure; and expected outcomes for the work environment, programs, and AM staff.
76. Table 3.1 presents the advantages and disadvantages of option one.

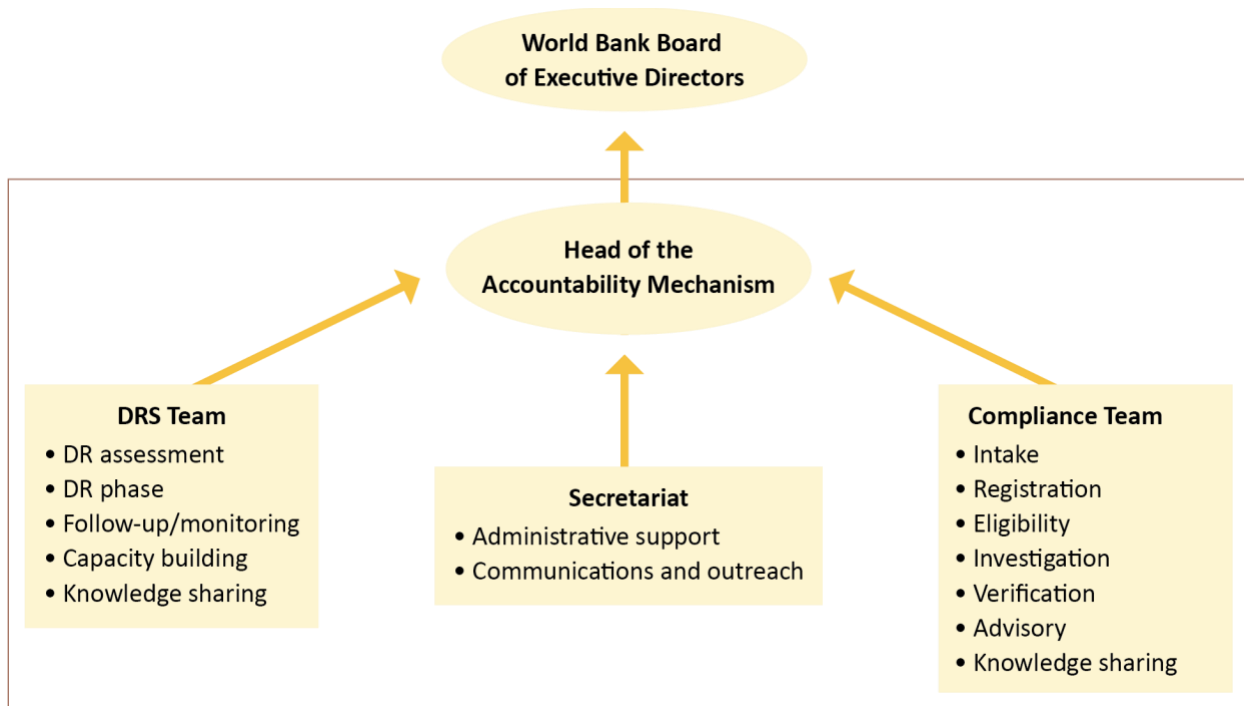
**Table 3.1. Option One Advantages and Disadvantages**

Advantages	Disadvantages
<ul style="list-style-type: none"> <li>a. It supports continuity and allows more time for the DR function and the broader AM to establish themselves by keeping the structure in place while modifying the roles, responsibilities, and authorities.</li> <li>b. It eliminates many of the AM Resolution’s current contradictions and would address the potential for conflict of interest created by the current structure.</li> <li>c. It enables the IPN to continue to operate as it has in the past, which aligns with the articulated intentions of the original designers of the structure.</li> <li>d. It aligns resource management responsibilities with delegations of approval authorities in most other parts of the Bank where approving officials are those who have the most knowledge of how resources will be used, thereby improving both efficiency and accountability.</li> </ul>	<ul style="list-style-type: none"> <li>a. Not all sources of conflict may be eliminated.</li> <li>b. The hybrid structure may still prove to be confusing to some external and internal parties regarding AM-IPN roles and responsibilities and may still prove challenging to align with administrative processes and systems.</li> <li>c. The role of the AMSec would be reduced but would allow the officeholder to dedicate more attention to facilitating the creation of a strategic vision and metrics for the AM, overseeing and expanding the relevance of the DR function, and strengthening its internal and external outreach.</li> </ul>

77. **Option two.** Create a traditional pyramid structure with the dispute resolution, compliance, and secretariat functions reporting to one head who solely reports to the Board and serves as a neutral party relative to dispute resolution and compliance. Staff would be assigned and report to their respective functions both administratively and technically. Because the stature, independence, and legitimacy of the IPN would be significantly reduced if it no longer reported directly to the Board, it should be disbanded and replaced with a manager or team leader who would be responsible for the compliance function.
78. Both internal and external stakeholders have asked the question: Why was the IPN not proposed to be the head of the pyramid structure? The ERT considered this option and determined that it was not feasible without significantly restructuring the IPN. Given the current size of the AM, the management demands of the pyramid structure would be significantly greater than those of the compliance function itself and would require the Panel Chair to be primarily dedicated to management responsibilities. In addition, with its long history of recognized leadership in compliance and its ongoing involvement in conducting investigations, it would be very difficult for the IPN Chair to establish the perception of neutrality in supervising both the compliance and dispute resolution functions. A fourth member with expertise in DR could be added to the Panel, this

would significantly change its dynamics, allocation of work, and considerations regarding rotations to the Chair role. In effect, rather than being eliminated, the conflict-of-interest concerns regarding the AMSec under the current structure (see chapter 5, paras. 139–141) would just be swapped to the IPN Chair.

**Figure 3.2. Option Two: Pyramid Structure**



79. Under option two, the AM and IPN resolutions would be merged, and the AM and IPN operating procedures would also be combined. As with option one, the firewalls should be redefined in the AM Resolution and operating procedures to promote more constructive and valuable exchanges of information without tainting either the DR process or compliance investigations. In addition, either the current or early access to DRS option is compatible with the pyramid structure.

80. Table 3.2 provides the advantages and disadvantages of option two.

**Table 3.2. Option Two Advantages and Disadvantages**

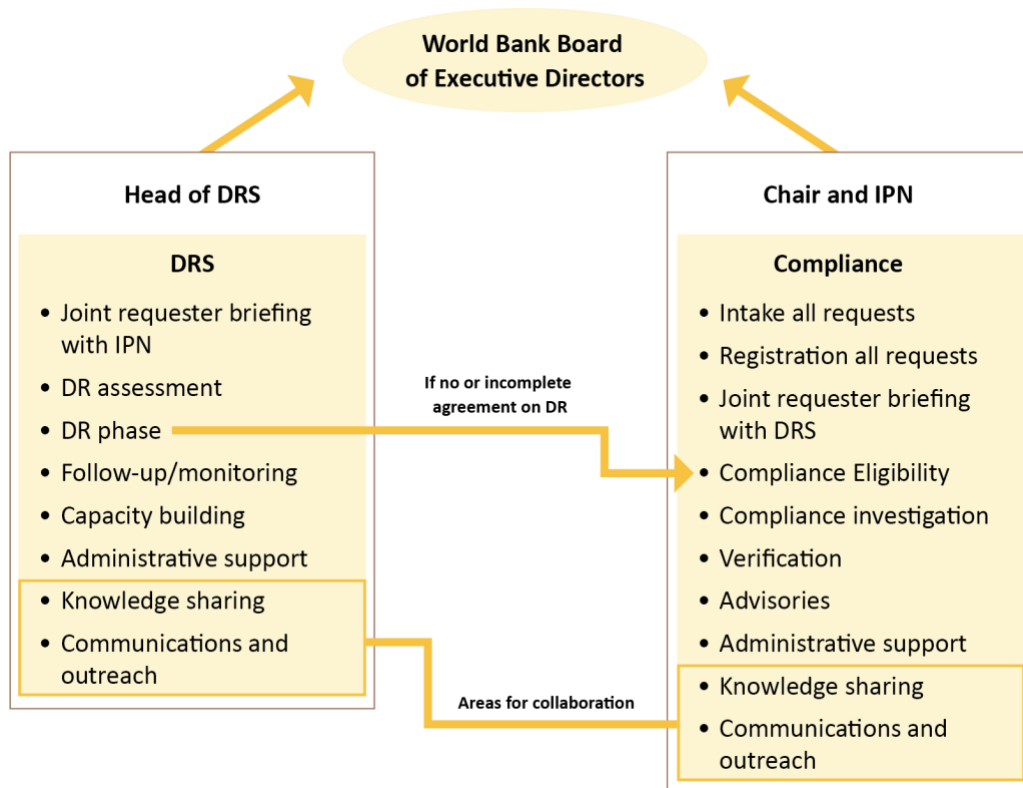
Advantages	Disadvantages
<p>a. The reporting lines are simple, roles and responsibilities are clear, and a single head would more likely be able to build cohesiveness and synergy across the AM.</p> <p>b. It is a pyramid structure comparable to most IAMs.</p> <p>c. It is easy for external parties to understand.</p> <p>d. It more clearly portrays a one-stop complaint process due to the integration of the two functions under a single leader, which is also more efficient.</p> <p>e. The AM’s website would remain largely the same but fold in the case registry and publications from the IPN’s website.</p> <p>f. Tensions over the independence of the IPN and the conflict-of-interest potential that is inherent in the current structure would no longer exist.</p> <p>g. It reduces the number of independent units reporting to the Board.</p>	<p>a. It would eliminate the IPN and diminish the stature of the compliance function.</p> <p>b. It could weaken the AM’s capacity to take on and effectively manage highly visible and complex cases. A three-member panel has greater credibility, trust, and resilience than an individual.</p> <p>c. IPN has a global reputation and disbanding it would put at risk the public’s trust in the World Bank accountability processes as a whole and could provoke a similar shift across the multilateral development bank community. Such a signal could prove costly at a time when the Bank intends to increase lending, delegate more functions to management and borrowers, speed up processes, and expose itself to new activity areas under the Evolution Roadmap agenda.<sup>18</sup></p>

81. **Option three.** This option would separate the functions of the DRS and the IPN, creating two distinct units. Each unit would be self-sufficient in terms of resource allocation and overall management. Separation of the DR and compliance functions only makes sense if requesters have the benefit of getting quick and easier access to DR and if their core complaint management processes are structured for two distinct separate functions. However, since both functions still fall under the broad category of accountability mechanisms, each offering a different alternative to affected parties, close coordination and collaboration under this option would continue to be important to

<sup>18</sup> *Evolving the World Bank Group’s Mission, Operations, and Resources: A Roadmap* (December 18, 2022). [www.worldbank.org](http://www.worldbank.org).

ensure seamless delivery to affected parties. For example, the DRS and the IPN would jointly produce publications and materials on how the World Bank’s accountability mechanism works with its two processes, and they would jointly conduct some outreach activities. The IPN would continue to manage intake and registration of requests for inspection. Once a complaint is registered, the IPN and the DRS would conduct a joint briefing with requesters (see figure 2.1, access option one), who would have five days to decide whether to pursue the DR or compliance review option. Each process would proceed as described in chapter 2, paragraph 20.

**Figure 3.3. Option 3. Complete Separation of the DRS and the IPN**



82. Option three would require substantial changes to the AM Resolution, operating procedures, and TORs for the head of the DRS and the IPN Chair. Decisions would have to be made about how to allocate administrative and communication resources for each function, and/or determine if additional resources are needed. Alternatively, it might be more viable to share outreach and communication services that are housed under DRS because, for example, the independence of the IPN versus the “one AM” approach would no longer be a source of conflict. However, this alternative should be determined by agreement between the head of DRS and the IPN chair in the spirit of efficient collaboration rather than imposed by the Board.



83. Table 3.3 provides the advantages and disadvantages of option three.

**Table 3.3. Option Three Advantages and Disadvantages**

Advantages	Disadvantages
<ul style="list-style-type: none"> <li>a. Its reporting lines are simple, and roles and responsibilities are clear.</li> <li>b. Both IPN and DRS are independent, equal in status, and have direct unmediated access to the Board. This would eliminate current tensions regarding IPN’s independence and reflects the distinct objectives, processes, methodologies, and professional skill requirements of DR and compliance.</li> <li>c. Requester choice is respected as it would be easier for requesters to choose which process they would like to engage with upfront, maximize their agency, and expedite access to their process of choice.</li> <li>d. It best aligns with the current application of firewalls.</li> <li>e. IPN, a cornerstone of the Bank’s accountability, is prominently featured rather than being buried in a broader AM structure and would largely exist as it did prior to the 2020 reforms, except for the separate DR function. Even with a reduction of eligibility assessments and compliance investigations, the IPN would still have substantial work involving the registration and advisory processes as they currently exist.</li> <li>f. The fewer administrative integration points between IPN and DRS would likely result in fewer opportunities for conflict.</li> </ul>	<ul style="list-style-type: none"> <li>a. It would be the costliest per-case option if any new positions are added due to the low volume of cases—an average of one or two per year split between DR and compliance review—unless lowering admissibility criteria increases overall DRS cases and complaints.</li> <li>b. It increases inefficiencies due to duplicate administrative, communication, and outreach functions.</li> <li>c. It may be difficult to justify the expense of a separate DRS unit given that the scope of its responsibilities is much narrower than the IPN’s.</li> <li>d. If close collaboration and coordination is lacking, it could increase competition between the DRS and IPN and result in a fragmented approach to reporting to the Board, outreach, and interaction with external stakeholders.</li> <li>e. A completely distinct DRS function may be confused with the Bank’s Grievance Redress Service function.</li> </ul>

84. **Merging the AM’s compliance and DR functions with corresponding CAO functions** was considered by the ERT. The ERT initially proposed the merger in its draft report disclosed for external stakeholder review as a separate structural option that would align with the Bank’s movement to “One World Bank” and achieve greater economies of scale and consistency in institution-wide scope with other Bank independent functions and IAMs. In its draft report, the ERT proposed merging the IPN compliance function with CAO’s compliance function and merging the AM DRS function with

CAO's DR function. This would provide for synergies built on comparative advantages because the IPN, with its long history and expertise, is widely considered a leader in the compliance function, and CAO is considered the IAM leader in dispute resolution. Given the strong internal and external feedback expressing the urgency to resolve the current AM structural issues and, given that the complexity and policy implications of a CAO-AM merger would require substantial time for analysis and consultation beyond the scope of this review, the ERT no longer presents this under its structure recommendations. However, the ERT believes serious consideration should be given to such a merger in the future, possibly during the scheduled review of the CAO Policy in 2026, with exploratory discussions beginning over the next six months.

85. The joining of CAO and the AM should not be a folding of one function into another but a consolidation of policies, processes, and cultures. A robust and comprehensive process would need to be put in place to establish appropriate policies for both the DR and compliance functions to preserve the strength of each institution's policies and to assess staffing, resource, and operational implications. Any consolidation should be governed by the non-regression principle—that the consolidated mechanisms should be no less consistent with good IAM practices or protective of affected people's interests than what the mechanisms presently provide. Some of the recommendations presented in this report, if approved, would bring AM policies toward some alignment with CAO policies. These recommendations include providing easier and faster access to DR and providing the IPN with a mandate to monitor the implementation of MAPs and the ability to self-initiate eligibility assessments. But very significant differences between the policies of CAO and those of the AM-IPN would remain even if the proposed policy adjustments for the AM and the IPN are adopted. At present, the CAO Policy is significantly more aligned with what is considered good practice among IAMs, which are regularly reviewed and adjusted. A merger would thus require substantive preparation work and CODE leadership to align two very different accountability policies and practices.
86. Greater collaboration and information sharing between the AM and CAO could begin immediately on management and Board reporting processes that would be beneficial regardless of any decisions on merging the functions. One key benefit would be to present to the Board a more holistic view of how the Bank's accountability mechanisms operate and their policy differences, how resource needs are determined, and what are the lessons learned from cases across the Bank. Another benefit would be identifying effective accountability mechanism practices and efficiencies in either the Bank or the International Finance Corporation/ Multilateral Investment Guarantee Agency that could be replicated in its counterpart organization.

87. **Structures.** Structures provide a framework for organizing work and relationships. Culture and behaviors determine how structures are operationalized. Defining structure alone will not fully address the questions about IPN's independence in the context of a broader accountability mechanism, nor will it resolve all existing tensions. If option one is selected, it is essential that the AMSec and the IPN Chair relay consistent messaging on both structural objectives and the shared purpose of all participants in the accountability mechanism, and that they serve as role models for collaboration and coordination. However, all options require that there be, at all levels, a clear understanding of the organizational structure's objectives, roles, responsibilities, and measures of success, as well as a demonstration of coordination and collaboration behaviors, especially by those who head the accountability mechanism functions.
88. **RECOMMENDATION:** The ERT recommends establishing stronger governance processes to allow for the more systematic measurement of the AM's effectiveness and whether the right behaviors are being demonstrated to ensure that the structure is working and that shared interests are achieved, even if the structure is difficult. See appendix D for examples of metrics.
89. During interviews, the question of "who watches the watchers" came up several times. This is a particularly complicated issue for independent functions because the purpose of the independence is to insulate the functions from the type of supervision that could hinder the ability and inclination of independent units to challenge or expose consequential mistakes made by the organization. Therefore, any process specifically put in place to instill accountability for the individual performances of the heads of independent functions must have a very high bar for taking action and should preferably be based on third-party assessments and recommendations conducted by external experts with no ties or ongoing working relationship with World Bank management. Nevertheless, there is room for more structure and accountability in how the AM, the DRS, and the IPN are being managed and measured.
90. This recommendation includes encouraging the Board through CODE to incorporate in its governance role conducting program performance reviews, at least annually, on how the effectiveness of the AM, the DRS, and the IPN are measured and how that correlates with efficiency measures, which preferably include quantitative metrics that can be compared over time. Currently, the IPN is required to report annually to the Board on its activities, and the AM is responsible for producing an annual report. A review of past documents reveals that they are primarily focused on cases. In addition, the FY25 annual budget request presented a significant expansion of information over the prior year to include work plans for the AM Secretariat, the IPN, and the DRS; IPN case statistics; and DRS strategic priorities.

91. The Office of the United Nations High Commissioner for Human Rights defines an effective grievance or accountability mechanism as one that is legitimate, accessible, predictable, equitable, transparent, rights-compatible, and a source of continuous learning. In addition, good IAM practices identified collectively by a group of civil society organizations include independence as key to legitimacy. The IPN and the DRS function separately, but together could identify which of their behaviors demonstrate these principles and what metrics could be easily developed aligned with these principles that could be used to holistically track the effectiveness of the World Bank accountability mechanism. For example, what behaviors demonstrate independence without being isolating, and what behaviors are inconsistent with or undermine independence; what feedback is received on lessons learned, how lessons learned are used, and what impact does it have on World Bank operations and practices? In addition, the DRS and the IPN could provide data on compliance with their own policies and procedures, such as the average time to complete activities (e.g., registrations, eligibility assessment, DR exploration with requesters and borrowers, investigations, DR processes, and monitoring) as well as resource costs required for those activities. Finally, it is important to systematically collect process data and data from requesters and representatives/advisors on the fairness of the dispute resolution and compliance processes, particularly to identify perceptions of any bias or power imbalances in the handling of complaints.
92. The value of reporting on and discussing program performance is that doing so will elevate CODE and Board awareness of how accountability mechanism policies are being operationalized as well as the cost and impact of those policies. During this External Review, without such metrics in place, it was difficult to assess the impact of the AM structure on the IPN's independent execution of its compliance review function or the impact of the 2020 Reforms, or to conduct informed program cost comparisons with other IAMs.

## c. Dispute Resolution

*Does the current AM institutional structure enable the DRS to facilitate a voluntary and independent dispute resolution option for requesters and borrowers (the “Parties”) in the context of Inspection Panel Requests for Inspection? What are the strengths and weaknesses?*

### Key Issues

A. Since the establishment of the dispute resolution (DR) function in 2021, the Dispute Resolution Service (DRS) has already developed an active portfolio, with four of the seven registered complaints proceeding to DR. While under the present system, access to DR is structurally embedded in the access to a compliance investigation, this does not seem to have restricted access to DR.

B. Better transparency is needed on DRS processes and outcomes. The Accountability Mechanism (AM) operating procedures set out principles for the DRS to report on process, outcomes, and whether eligible issues noted in the eligibility report have been addressed. The procedures also provide that DR agreements need not be published if the parties request confidentiality. DR is part of an accountability process that demands transparency. Reporting requirements set out in the AM operating procedures should be met, and whether/how eligible issues have been dealt with should be reported, even for confidential agreements. Specifics about the agreement do not need to be shared.

C. Referral processes from DR back to compliance need to be clarified. An explicit provision should be adopted that requesters have the option of being referred to compliance once the partial DR agreement has been signed. The question of how to treat requesters who originally signed the registered request but then dropped out of the DR process requires attention. The processes of other independent accountability mechanisms (IAMs) that allow requesters to proceed with a compliance investigation after a DR agreement has been signed should be considered.

D. Timelines are tighter for the AM’s DR process than for other IAMs. Tight timelines provide an incentive to reach a conclusion, but time constraints also entail the risk of causing processes to disintegrate and for requesters to feel pressured to sign an agreement. Limited flexibility should be allowed to adjust timelines, but only if both parties agree and the conclusion of a DR agreement is very likely.

E. The DRS has been off to a very active start. It now needs to establish itself as a trusted and respected process. The ERT recommends that a comprehensive, independent, external review be conducted in 24 months by internationally recognized DR experts with expertise of IAM DR processes.

93. **Distribution of requests.** Since the establishment of the AM’s DR function in 2021, seven requests have obtained approval for a compliance investigation. Four of those cases proceeded with a DR function, and three completed the DR process. DR is conducted according to provisions set out in the AM Resolution and operating procedures. The first two DR cases were conducted in accordance with interim operating procedures adopted in 2021 to allow the DRS to start functioning.
94. The fact that four out of seven registered requests proceeded through the DR process rather than the compliance function is noteworthy since the DR is a new function. Table 3.4 shows the distribution of DR and compliance cases for several IAMs for which data could be obtained. Most IAMs, other than the Inter-American Development Bank (IDB) and the Asian Development Bank (ADB), have a slightly higher share of complaints proceeding through the compliance process than through the DR process. For IDB/MICI, more complaints are proceeding through the DR process. The ADB dispute resolution process shares a greater resemblance to the Bank’s grievance redress mechanism, which is handled with management involvement and attracts many complaints.

**Table 3.4. Distribution of Complaints between DR and Compliance Function for some IAMs, 2013–22**

IAM	Dispute Resolution (percentage of cases)	Compliance Review (percentage of cases)	Referral from Dispute Resolution to Compliance (percentage of cases)
AfDB/IRM	41	47	12
EBRD/PCM and IPAM 2015–22 <sup>a</sup>	27	59	9
IDB/MICI	50	13	37
IFC/CAO	26	54	16
ADB/SPF and CRP	82	15	3
EIB/CM (DR function was only established in 2018)	8	89	3

Sources: Data obtained from IAM offices and from IAM annual websites.

a. The European Bank for Reconstruction and Development’s complaint mechanism was established in 2015, originally as Project Complaints Mechanism, subsequently as IPAM).

Note: Some percentages do not add up to 100 percent because some cases dropped out and did not proceed with either DR or compliance.

ADB = Asian Development Bank; AfDB = African Development Bank; CAO = Compliance Advisor Ombudsman; CM = Complaint Mechanism;

CRP = Compliance Review Panel; EBRD = European Bank for Reconstruction and Development; EIB = European Investment Bank;

IDB = Inter-American Development Bank; IAM = independent accountability mechanism; IFC = International Finance Corporation;

IPAM = Independent Project Accountability Mechanism; IRM = Independent Review Mechanism (AFDM); PCM = Project Complaint Mechanism;

SPF = Special Project Facilitator.

95. The present intake process for both the compliance and the DR function is conducted by IPN (see chapter 2: Accessibility) There is concern that the interaction with IPN staff during the rather long registration and eligibility process could bias the choice of requesters toward the compliance function. Evidence from other IAMs, where in some cases it is the DR function, in others the

compliance function, and in others a specialized office that conducts the intake process, do not provide evidence that the institutional arrangement for conducting the intake substantially influences requesters' choices. For example, CAO conducts an exceptionally extensive assessment after the complaint has been admitted examining the nature of the complaint, brief the complainants, guide the complainants and the clients with their choices, and assess whether a DR process could be established. The CAO DR team conducts this assessment on behalf of the CAO. The assessment typically lasts 90 business days and can be extended to 120 business days (see CAO Policy, para. 56). It includes at least one and sometimes additional site visits. Yet more requests filed with CAO proceed to compliance than to DR even though CAO is widely viewed as the professional leader in DR among IAMs and has established robust DR processes.<sup>19</sup> At the end of FY23, CAO recorded 33 complaints in the compliance process and 22 in the DR process.<sup>20</sup> For the period FY14–FY19, 32 percent of cases were referred to DR and 68 percent were referred to the compliance function.<sup>21</sup> In most cases, it was the client that refused DR. In recent years, a somewhat larger share of CAO complaints has been referred to DR. The ERT is of the view that requester choice is not fundamentally influenced by whether the DR or the compliance function conducts the intake process but rather by systemic issues such as: (1) the nature of the complaint; (2) whether requesters had previously attempted a DR process or negotiations with the other party; and (3) whether parties are willing, even in principle, to get involved in a DR process.

96. **Issues for ERT review and adjustments to DR processes.** The ERT is of the view that an effective DR process can be conducted under the present AM structure. It is also of the view that requester choice does not seem to be influenced by the fact that the present intake process is conducted solely by the IPN and is designed for a compliance process. However, this does not detract from the fact that adjustments should be made to the processes. In its recommendations, the ERT focuses on interaction points between the DR and compliance processes. The ERT's observations refer to: (1) access to DR (see chapter 2); (2) restriction of access to DR in certain cases where priorities for public accountability prevail and harms are likely systemic, permanent, and can affect a larger set of people than those who can participate in a DR process or where very significant retaliation risks prevail (see chapter 2); (3) transparency processes, the issuance of monitoring reports, and public disclosure after a DR agreement has been signed; (4) clarification of the referral option from DR to compliance; (5) adjustments to DR timelines; and (6) a review of the DR process.

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<sup>19</sup> For an assessment of the CAO dispute resolution process, see CAO and Concentric Alliance, *CAO Evaluation of Dispute Resolution and Assessment Processes*, March 24, 2023.

<sup>20</sup> Office of the Compliance Advisor Ombudsman (CAO), *Annual Report 2023*, Washington, DC: CAO, <https://www.cao-ombudsman.org/resources/cao-2023-annual-report>.

<sup>21</sup> See External Review of IFC/MIGA E&S Accountability, including CAO's Role and Effectiveness, Report and Recommendations, June 2020, paras. 239–40.

97. **More public disclosure on DR processes needs to be introduced.** DR is part of the Bank’s public accountability process, and public accountability processes require transparency. In a compliance process, this transparency is assured because the management response, eligibility assessment report, investigation report, and MAP are all posted in the public domain. For all IAMs, public reporting of DR processes is more restrictive than for compliance processes. However, the disclosure processes of the DRS appear to be particularly restrictive. This lack of transparency has been highlighted as a significant weakness of the DRS in comments received by the ERT from external stakeholders during the ERT feedback process. The AM operating procedures set out that *“if a dispute resolution is signed, the report shall also indicate whether the issues recommended for investigation by the Panel in the Report and Recommendation (Eligible Issues), have been addressed in such agreement”* (para. 20.1). They further state that if the parties agree to make a DR agreement public, information is published on the AM’s website (para. 20.3).
98. Confidentiality has been requested for all DR cases so far completed. Thus, the DR agreements are not publicly posted. The DRS has posted three “Notices on the Resolution Agreement” with “Outcome Reports” on the AM’s and IPN’s websites.<sup>22</sup> The first two outcome reports provided no information on the issues addressed.<sup>23</sup> The ERT was informed that more information was not disclosed because parties asked for their agreements to remain confidential. But the AM operating procedures (para. 20.3) only state that the dispute resolution agreement should not be disclosed. The reporting principles set out in paragraph 20.1 should also be adhered to in confidential agreements. Issues addressed need to be presented; eligible issues that have not been addressed must also be disclosed. Specific provisions on how these issues have been addressed do not need to be disclosed as they are part of the DR agreement for which confidentiality is assured. Disclosure on eligibility issues is important for the following reasons:
- a. The AM Resolution (para. 12.d) states that the scope of the DR is limited to project-related issues raised in the request for inspection and identified as the issues to be investigated in the eligibility report. If the scope of issues is restricted and these issues have been explained in the recommendations of a publicly available eligibility report, the DR conclusion report should present these issues.
  - b. The AM operating procedures provide for referrals to compliance for DR processes if agreement has not been achieved on all eligibility issues (para. 20.1). But if there is no reporting on issues that have or have not been addressed, transparency is lacking, and the

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<sup>22</sup> See Dispute Resolution Outcome Report Case No. 21/04/DRS (Nepal—Electricity Transmission and Trade Project and Additional Financing), Dispute Resolution Service, Outcome Report Case No. 21/01–DRS (second Kampala Institutional and Infrastructure Development Project); Nachtigal Hydropower Project and Hydropower Development on the Sanaga River Technical Assistance Project, <https://accountability.worldbank.org/en/news/2024/Independent-Dispute-Resolution-Case-in-Cameroon-Reaches-Settlement>.

<sup>23</sup> The ERT notes that the outcome report for the recently concluded DR on the request on the Cameroon Nachtigal Hydropower Project included some reporting on issues addressed and provided this statement: *“Requesters confirmed that the issues and concerns in their original Request have been addressed to their satisfaction and that the DR Agreement is a full and final settlement of their claims.”* <https://thedocs.worldbank.org/en/doc/05f4c48385ca2b8016eb27049f01d48d-0490092024/original/Cameroon-Notice-of-Dispute-Resolution-Agreement-and-Outcome-Report.pdf>.



appropriateness of interactions between the DR and compliance functions might be questioned.

- c. DR is an important part of the Bank's AM, and accountability requires transparency. The DRS has been subject to criticism that its disclosures are more limited than other IAMs' DR processes.<sup>24</sup> The ERT notes that some IAMs allow more disclosure even for confidential DR processes (for example, the IDB/MICI<sup>25</sup>). Some disclosure also takes place at CAO. If agreements are confidential, CAO may post a redacted agreement with the consent of the parties. CAO updates its website with the case status and, more recently, has provided details to the Board and the public even when some aspects are confidential. Such disclosures happen prior to issuing a comprehensive conclusion report following dispute resolution monitoring.

99. **The DR monitoring process needs to be clarified and made transparent.** The ERT is also of the view that operating procedures should lay out clearer processes for monitoring DR agreements and disclosing monitoring reports. AM operating procedures (para. 24.1) provide that DRS will monitor the implementation of the agreement if the parties agree in the DR agreement to such monitoring. Neither the AM Resolution nor its operating procedures lay out reporting requirements for this monitoring process. Interim monitoring reports should be publicly disclosed by the DRS on the AM website and shared with the Board. If the DR agreements are to be kept confidential, no details on the implementation of specific agreements need to be publicly posted, but generic assessments about implementation progress for DR agreements must be. A provision corresponding to paragraph 68 of the CAO Policy should be adopted in the AM operating procedures.<sup>26</sup>

100. **Lessons learned from DR processes need to be shared.** DR processes often offer important lessons. Because reporting on DR processes and outcomes is typically constrained, the Bank's learning opportunities are more restricted than they would be under a compliance process. CAO has established the practice of issuing comprehensive conclusion reports that provide information on the process, challenges, successes, and lessons learned.<sup>27</sup> The DRS could adopt this practice.

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<sup>24</sup> See <https://www.accountabilitycounsel.org/2024/06/one-year-later-justice-is-delayed-a-joint-statement-on-the-implementation-of-the-kiidp-2-kawaala-community-agreement/>.

<sup>25</sup> See, for example, <https://mici.iadb.org/en/cases/MICI-CII-CO-2019-0152>; <https://mici.iadb.org/en/cases/MICI-BID-CR-2021-0171>; <https://mici.iadb.org/en/cases/MICI-BID-CO-2022-0184>.

<sup>26</sup> Paragraph 68 of the IFC/MIGA Independent Accountability Mechanism (CAO) Policy, June 28, 2021, states: "Where the Parties have reached an agreement through the CAO dispute resolution process, CAO will monitor the implementation of the agreement. CAO will inform the Parties and IFC/MIGA when the case has formally moved to the monitoring phase. CAO will share interim updates with Management and will publish such updates on CAO's websites every six months during the monitoring phase."

<sup>27</sup> See for example, CAO, Dispute Resolution Conclusion report, Regarding Complaint Received in Relation to IFC's Investment in Montelimar Sugar Mill (#32253) Nicaragua, May 2023.

101. **RECOMMENDATION:** The ERT recommends that reporting takes place according to the AM operating procedures (para 20.1). Such reporting should also be adopted for DR processes where parties have requested that the DR agreement remain confidential. The reporting should specify the eligible issues to which the parties have agreed and those to which they have not. No specifics of the agreement need to be disclosed. If parties ask for confidentiality, the DR agreement will not be included in the published report nor uploaded on the AM and IPN websites. In addition, reporting should specify the number of original requesters who signed the agreement and if any of the original requesters exited the DR process, the reasons should be stated. The ERT further recommends that the DRS issue the following items on the AM’s website: (1) interim monitoring reports on the implementation of DR agreements, and (2) substantive conclusion reports after the completion of the DR monitoring process.
102. The AM Resolution and operating procedures should clarify the process for referring unresolved issues to the compliance function. The AM operating procedures (para. 20.5) state that if a DR process concludes without reaching an agreement, the IPN commences an investigation. The only reference to the option of referring cases with partial agreement to compliance cases is provided in the AM operating procedures (para. 20.1), which states: *“Eligible issues unaddressed in a signed DR agreement, and as identified in the report issued by the AMSec, shall following consultation with the Requesters, revert to the Panel for Investigation.”* This provision could be wrongly interpreted to mean that referrals to compliance for nonagreed issues could only be provided if the AMSec reports them. The transfer would thus be contingent on the reporting of issues not included in the DR agreement.
103. The AM Resolution and operating procedures should clarify referral options to the compliance function for requesters who do not sign DR agreements. Neither the AM Resolution nor its operating procedures include a provision about referrals to compliance in cases where not all requesters who submitted the original request to the IPN also signed the DR agreement. Some requesters who first join the DR process do not sign the agreement for many reasons, often including dissatisfaction with the process. For example, the outcome report for the Nepal DR case noted that, of the 48 people who signed the registered request, only 33 signed the DR agreement.<sup>28</sup> There were various reasons why some of the original requesters did not sign, including that some had already received compensation or had left the country. For a group of nine requesters who exited the process without signing the agreement no reason was given.
104. Paragraph 19.4 of the operating procedures provides that if some requesters withdraw but others remain, the DR process continues until its conclusion if the remaining parties agree. The IPN investigation is put on hold unless otherwise decided by the Board based on the recommendation of

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<sup>28</sup> See “Notice of Dispute Resolution Agreement” at <https://www.inspectionpanel.org/sites/default/files/cases/documents/154-Notice%20of%20Dispute%20Resolution%20Agreement-20%20April%202023.pdf>.

the AMSec. But what happens to the requesters who decide not to sign the agreement? The role of the original requesters is important because it was their request that was filed with the IPN and that set in motion the AM process. It was also their decision to proceed with DR, thus launching the DR process. The practice of most IAMs is to allow requesters who exit the DR process to proceed with a compliance investigation, but only after the DR agreement has been signed. A parallel compliance process cannot be opened while the DR process is ongoing. As part of reporting on the outcome of the DR process, the DRS should regularly report on the number of requesters who originally submitted a request to the IPN and the number who signed the DR agreement. The DRS should also provide information on why requesters who originally signed the request left the DR process.

105. **RECOMMENDATION:** The ERT recommends that a provision comparable to paragraph 71 of the CAO Policy be introduced in the AM Resolution and operating procedures:

*“Upon conclusion of the dispute resolution process with partial agreement, CAO will enquire whether the Complainants wish to transfer the complaint to CAO’s compliance function. CAO will transfer the complaint to CAO’s compliance function if one or more complainants provide explicit consent, or otherwise will close the case” (para. 71).*

106. The ERT further recommends introducing into the AM Resolution and AM operating procedures a provision that gives requesters who originally submitted a request to the IPN but subsequently left the DR process the option of proceeding with a compliance investigation after the DR agreement has been signed.

107. **Timelines for dispute resolution.** The AM Resolution (para. 12g) and operating procedures (para. 18.1) provide that a DR process needs to be concluded after one year, which may be extended to 18 months if both parties agree. This timeline is shorter than those of other IAMs, but the limited timeline encourages parties to try to reach an agreement within a given timeframe. Most other IAMs do not specify a time limit for a DR process and thus often experience very drawn-out DR processes. The ERT welcomes that the AM establishes a timeframe but recommends introducing some flexibility in the application of these time restrictions. The ERT learned in interviews with DR participants that, in at least one case, the time pressure experienced in the final days before the agreement was signed led to disorder and a breakdown in processes and was perceived as the undue exercise of influence by the DRS and intimidation by borrowers. Some limited flexibility in applying timelines may therefore be warranted in cases where the conclusion of a DR agreement appears imminent and provided that both parties agree to a time extension.

108. **RECOMMENDATION:** The ERT recommends that timelines could be extended to 20 months provided that the extension will very likely result in a signed agreement and only if both parties agree to a time extension.

109. **A proposal to review the DR process in 24 months.** Since the establishment of the DR function in 2021, much has been achieved. Three DR processes have been completed, and one is ongoing. Operating Procedures have been established, and DR processes are being worked out. The DRS is perceived as having been adequately endowed with budgetary resources and having pursued a very *“hands on approach.”*<sup>29</sup> The ERT conducted interviews with requesters and participants in DR processes. Feedback received on the AM’s DR process ranges from strong appreciation for the engagement of the DRS team, including the frequent travel of DRS staff to support the process on the ground, to criticism that the DRS does not adequately provide a level playing field between the borrower and affected people.<sup>30</sup> Some participants felt pressured by the DRS to sign agreements before the deadline closed the process. The ERT does not take a position on such allegations but reports them as messages received during the review process.
110. The ERT received substantive written comments on the DR process during its external stakeholder feedback process. Comments underline a perceived competition between the DR and the compliance functions to the detriment of requesters. There is a perception that issues unresolved in a DR case are not transferred to the compliance function.<sup>31</sup> Comments highlight insufficient transparency of DR outcomes and call for the issuance of monitoring reports, drafted in consultation with the parties, to increase transparency about the implementation of the agreements. Commentors emphasized the need for the DRS to manage power imbalances between affected people and the borrower/implementing agency and for the DRS to put in place measures during the DR process that would prevent dividing a community by avoiding working with some community members at the detriment of others.
111. The ERT recognizes the importance of a trusted, predictable, and professionally respected DR process as part of the World Bank’s accountability system. The ERT recognizes that the DRS at the World Bank’s AM had a very active start, processes are still new, and professional recognition needs to be gained. A comprehensive external independent review, conducted by recognized internationally DR experts, with expertise in the DR processes of IAMs, could help establish such professional recognition. This review should cover the full extent of DR processes. It should assess, among other topics, the access process to DR; the selection of participants in the DR process; the selection of mediators; the development and signing of framework agreements; the process for selecting issues to include into the DR process; the roles of representatives and advisors;

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<sup>29</sup> For example, the Outcome Report: Case No. 21/04/DRS, Nepal–India Electricity and Trade Project and its Additional Financing, states: *“Between March 6, 2022, and April 1, 2023, ... there were 15 international team missions to Nepal, comprising 35 individual international staff missions, plus essential services provided by local support staff, such as interpretation. These missions were supplemented by regular online meetings and communications, maintaining a constant channel of communication with Parties and stakeholders.”*

<sup>30</sup> The critical role of an IAM DR in trying to lessen power imbalances between parties is often emphasized. See for example, Good Policy Paper, Guiding Practice from the Policies of Independent Accountability Mechanisms, January 2024, para. 62.

<sup>31</sup> Specific references are made to the Nepal and Uganda dispute resolution agreement where, supposedly, agreement was not reached on all disputed issues, but referral to the IPN was not provided because the DR cases were commenced under the AM interim operating procedures which did not provide for such a referral. DR agreements signed on or after the current AM operating procedures were approved, are eligible for referral of unresolved issues to the IPN for a possible Investigation.

communication with parties; the process for managing power imbalances between participating parties; the process for managing conflicting interests of community members; the process for managing retaliation risks and avoiding the coercion of parties to sign DR agreements; the process for information sharing, access to information, and fact finding; the process to reach an agreement on whether a DR agreement should be kept confidential; the process of handling unresolved issues and discussions to transfer the unresolved issues to the compliance process; and reasons why original requesters depart from the DR process. Finally, the external review should assess the monitoring process and the effectiveness of DR agreements and offer proposals on how to improve the transparency process and establish how lessons learned can be distilled from concluded DR processes to foster institutional learning.

112. **RECOMMENDATION:** The ERT recommends that, after 24 months, when more DR cases will have been closed and some experience with monitoring has been gained, an independent external review be conducted by internationally recognized DR experts with experiences in IAM dispute resolutions. Such a review should be separate from the periodic policy review proposed in chapter 7 of this report.

## d. Redundancies

*Are there redundancies in responsibilities and functions between the IPN Chair and the AMSec/Head of DRS that are hindering the effectiveness, efficiency and operational and development impact of the IPN Chair and AMSec/Head of DRS?*

### Key Issues

A. There are two forms of redundancy that were examined related to the responsibilities and functions of the Inspection Panel (IPN) Chair and the Accountability Mechanism Secretary (AMSec)/Head of the Dispute Resolution Service (DRS) to determine if they hinder the efficiency and effectiveness of the Accountability Mechanism (AM):

- Workflow and decision-making authority redundancies created by the AM Resolution, operating procedures, internal protocols, and management systems that cannot accommodate unique structures.
- Redundancies in the functions of the DRS and the IPN created by need to have both functions maintain full capacity in offering two options to requesters: dispute resolution and compliance review. Therefore, since 2021, because of the establishment of these two separate units, the AM's nominal costs have increased by 103 percent, and staffing levels have increased by 80 percent, without a reciprocal increase in requests or cases.

113. The AM Secretariat provides many of the same administrative services to the IPN that were provided when the secretariat reported directly to the IPN through the Executive Secretary, including administrative onboarding for new IPN members and staff assigned to the IPN and offboarding exiting staff; assisting with the acquisition, visas, and travel of consultants to support compliance reviews; procuring office supplies and training; coordinating leave, attendance, and TRS (internal time reporting system); and liaising with the Human Resources Department on the hiring of staff.

114. However, two forms of redundancies exist. First, workflow redundancies are created by the AM Resolution, operating procedures, the AM–IPN internal protocol, and management systems. Second, redundancies are the natural result of offering two complaint process options to people and communities experiencing harm from projects funded by the Bank.

115. The AM Resolution charges the AMSec with managing the AM's work program, budget, administration, and hiring of AM staff and consultants (AM Resolution, paras. I.4.a–d), while also stipulating limitations on those responsibilities as they relate to the IPN and its assigned staff when they are performing compliance work (which constitutes the core work of the IPN), including mission

travel and selection of consultants (AM Resolution, para. 2.8.c). The AMSec and the IPN Chair together created and agreed to an internal protocol, signed on May 19, 2022, to clarify work practices for both parties on matters of administration, case management, and representation. The first instance of redundancy in the workflow involves decision versus approval authority for travel, finance, and human resource matters. The IPN Chair makes a decision and submits it to the AMSec for processing and execution—a redundant administrative task performed by another executive. This is partly due to systems that do not easily accommodate a structure like the AM in their delegation criteria and designation of approving officials.

116. In January 2023, the internal protocol was amended as an interim solution facilitated by CODE Chairs and their advisors pending the outcome of the External Review. The interim amendment eliminates some redundancies by strengthening the role of the IPN Chair in the recruitment of staff assigned to the IPN, removing the AMSec’s role in processing financial expenses related to the work of the IPN, and designating the IPN Chair as co-supervisor to conduct objective-setting and performance reviews for staff assigned to the IPN. However, some areas of redundancy in the internal protocol have not been resolved. For example, the IPN Chair approves the selection of IPN staff and consultants (Internal Protocol, paras. 1.A.f.iv–v), but the AMSec processes the hires. There are also situations where the Human Resources Department requires the AMSec’s approval before the IPN Chair can initiate recruitment activities.
117. The recommendation to modify the AM structure (see paras. 70–83) addresses workflow redundancies by establishing the IPN Chair as a management official with decision and approval authority over human resource, finance, and administrative matters under structural options one and three. This alignment of decision and approval authorities is consistent with Bank practice, where the person with the most knowledge of how resources are used is typically the designated approving official. Under option two, the pyramid structure, the redundancies would not occur because maintaining IPN independence would not be relevant.
118. The second area of redundancy relates to the demand-driven nature of the AM’s work. The Bank now has two avenues for addressing complaints—a compliance investigation process and the newer dispute resolution (DR) process. A certain degree of redundancy is required to ensure both functions, which require different skill sets, have sufficient staff, and are prepared to respond to the choices made by requesters within the timeframes established by the IPN and AM resolutions and operating procedures. Table 3.5 demonstrates the work requirements of the IPN and the DRS, as well as the staffing levels needed to fulfill them. The redundancy results not from the offering of two separate options, but rather the *full staffing levels* for each function so they are each prepared to singly handle the AM’s full caseload of complaints depending on the requesters’ choice of process. This redundancy may be reduced over time as more experience is gained in offering both options and the capacity to make more informed estimates of resource needs for each function is stronger.

**Table 3.5. IPN and DRS Staffing Levels and Work Plans**

IPN	DRS
<b>Staffing level</b>	
Seven, <sup>a</sup> with three additional positions on hold pending external review	Six <sup>a</sup>
<b>Essential mandate that must be staffed to meet established process timeframes</b>	
Managing complaint process includes: <ul style="list-style-type: none"> <li>• Intake</li> <li>• Registration determination</li> <li>• Eligibility report and recommendations</li> <li>• Investigation and report</li> <li>• Verification</li> <li>• Closing</li> </ul>	Case handling includes: <ul style="list-style-type: none"> <li>• Thirty-day DR exploration with parties</li> <li>• DR process</li> <li>• Monitoring</li> <li>• DR outcome reports</li> </ul>
<b>Learning and knowledge management</b>	
<ul style="list-style-type: none"> <li>• One or two topic-specific advisory reports annually</li> <li>• Knowledge-sharing roundtables and discussions</li> <li>• Nontechnical case summaries and video discussions</li> <li>• Publications, blogs, and podcasts on the IPN, its cases, lessons learned, and accountability</li> </ul>	<ul style="list-style-type: none"> <li>• Establishing process for stakeholder feedback on each case</li> <li>• Creating a knowledge management system on case histories and best practices</li> <li>• Sharing lessons learned with Bank management</li> </ul>
<b>Outreach</b>	
Joint AM activities	<ul style="list-style-type: none"> <li>• Building relationships with civil society organizations and strengthening their capacity to support communities during the DR process</li> <li>• Engaging independently with Bank management to integrate information on DRS</li> </ul>

Sources: FY25 AM Budget Proposal (February 13, 2024) and the AM's website.

a. Does not include the IPN members and the AMSec's position.

119. The nominal cost of implementing the 2020 Toolkit Reforms, namely the creation of the AM structure and the DRS function, has been significant, resulting in a 103 percent increase in the budget allocation and an 80 percent increase in staffing levels (FY21 versus FY24), as demonstrated in table 3.6. If the proposed budget for FY25 is considered, the budget allocation increase would be 118 percent, and the staffing level increase would be 110 percent—a doubling of both budget and staff even when adjusting for inflation. The number of requests and active cases managed per year have remained relatively constant, while the average annual number of cases approved for investigation has increased from 1.5 (FY18–21) to 2.3 (FY22–24).



**Table 3.6. Cost of AM Structure Changes Relative to Cases**

	Fiscal Year						
	2018	2019	2020	2021	2022	2023	2024
Budget allocations (US\$)	4,000,000	4,070,000	\$4,148,000	4,214,000	5,854,000	7,959,000	8,540,000
Staffing levels <sup>a</sup>	10	9	8	10	9	16	18
Number of inspection requests received	7	8	5 <sup>b</sup>	5	8	7	4
Cases approved for investigation	3	2	1	1	3	2	2
Number of active cases <sup>c</sup>	10	11	18	9	11	14	14

Sources: Budget allocations were provided by BPS. Staffing levels were provided by the Human Resources Department. The number of cases and requests were gleaned from annual reports and IPN’s website, with clarifications provided by IPN staff.

a. Staff on board as of June 30 of each year (i.e., the end of the fiscal year). For 2024, the data reflect staff on board as of April 30, 2024.

b. Thirteen requests were received that were then consolidated by the project.

c. Cases represent those that are active for some part of the year, including going through the registration process.

**120. RECOMMENDATION:** Consistent with and as a complement to the recommendation in paragraphs 88–92 (IPN independence), the ERT recommends strengthening the rigor of the resource management and governance processes of the DRS and the IPN for all three structural options. As part of strengthening these processes, the DRS and IPN should jointly create a strategic statement for the World Bank accountability mechanism that explicitly describes how the two functions work collaboratively to: (1) ensure project-affected people and communities are aware of the complaint process, (2) provide them an avenue to safely voice their concerns, and (3) help them be heard and exercise choice in how their concerns are addressed. The strategic statement would include the operating philosophy, assumptions, and parameters of how the accountability mechanism mandate is delivered. This would be used as a basis for determining costs and resource needs, such as staffing levels. The ERT recommends that the DRS and the IPN together report to the Board at least annually and as part of the budget process (unless a pyramid structure is approved, in which case, the head of the accountability mechanism would report to the Board and represent both functions) on the annual and aggregate costs of individual cases as well as the average costs for each phase of the complaint process (e.g., registration, eligibility, DR exploration, DR process, compliance investigation, and monitoring), outreach and advisory costs, and how staff time is distributed. At a minimum, the average case and phase costs would include staff and consultant time and compensation, travel/transportation, and fees associated with meetings (venue, materials, and food). It may be helpful to capture other case-related factors that affect costs as well, such as geography, topic of complaint, and complexity. The importance of this information is twofold. It enables the Board to understand the costs of various policies and the rationale for current and future staffing levels.

## 4. Independent Verification of Management Action Plans by the IPN and GIA

*How does the current framework for independent verification of Management Action Plans compare with other MDB independent Accountability Mechanisms (IAMs)? Are the thresholds for triggering independent verification by IPN and GIA appropriate?*

### Key Issues

A. The Inspection Panel's (IPN's) verification mandate for management action plans (MAPs) is much more limited than that of almost all other comparable independent accountability mechanisms (IAMs). The IPN, with input from the Group Internal Audit (GIA), can recommend a verification process to the Board for approval but only under the restrictive conditions set out in the *Framework for Proportionality Criteria and Modalities for Independent Verification of Management Action Plan Implementation* (FPCMAPI). Such a limited mandate is too restrictive for a public accountability mechanism. If World Bank-financed projects resulted or will result in harm, the Bank should be seen making special efforts to facilitate the implementation of remedial actions according to the MAP. A selective verification process conducted by the independent IPN—in addition to Bank management monitoring—would signal the Bank's commitment.

B. The verification framework defines criteria with numerical weighting, which need to be met before the IPN can recommend verification. The External Review Team (ERT) finds this framework complex and unnecessarily prescriptive, and the criteria and weighing process somewhat arbitrary. The system might result in inappropriate outcomes if some—but not enough—criteria are met to allow the IPN to make a recommendation.

C. The ERT strongly believes that such a prescriptive system is unnecessary. The World Bank Board of Executive Directors decides whether a verification process should be conducted. The IPN can only make recommendations. It should have the flexibility to recommend verification as it deems necessary. Restricting the IPN from making recommendations also imposes restrictions on when the Board may consider verifications and how they will be conducted.

D. The ERT believes that the best way forward is to align the IPN’s verification mandate with that of other IAMs and give the IPN the same verification mandate that the Compliance Advisor Ombudsman (CAO) has according to the CAO Policy approved by the International Finance Corporation (IFC) Board in 2021.<sup>32</sup> Bank management considers such a verification mandate for the IPN redundant because Bank management monitors MAPs, provides monitoring reports to the Board, and uploads the reports on the IPN’s website. The IFC has the same process, but CAO does have a verification mandate.

E. The ERT emphasizes that any verification mandate would only assess the implementation of Board-approved MAP actions. Verification would not assess the adequacy of Board-approved MAP actions to address findings of noncompliance.

F. An alternative option would be to allow the IPN to recommend verification at the same time the Board considers approving a MAP. The IPN could recommend a verification process for select projects where the investigation report found, *inter alia*, severe harm (or likely harm) to a significant number of project-affected people, significant harm to vulnerable groups, a high risk of repetitive harm, or a high risk of retaliation.

G. Management provides update reports on MAP implementation, which are posted on the IPN’s website. Requesters do not always agree with the findings of these reports. A process should be established for requesters (or their representatives) to present their comments about the posted MAP update reports.

121. The ERT’s terms of reference (TOR) asks: “How does the current framework for independent verification of Management Action Plans compare with other Independent Accountability Mechanisms?” (para. 36, see appendix A). The response: It is much more restrictive than the verification mandate of almost all other independent accountability mechanisms (IAMs), and the limitations laid out in the Framework for Proportionality Criteria and Modalities for Independent Verification of Management Action Plan Implementation (FPCMAPI) are unique. All policies of comparable IAMs, except the People’s Mechanism (PPM) of the Asian Infrastructure Bank (AIIB), have a comprehensive mandate to verify implementation of management action plans (MAPs). See appendix E for an overview of the verification mandates of comparable IAMs, including the Compliance Review Panel (Asian Development Bank), MICI (Inter-American Development Bank [IDB]), CAO (International Finance Corporation [IFC]), and the Independent Project Accountability Mechanism (European Bank for Reconstruction and Development). All IAMs, except for the

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<sup>32</sup> In the CAO policy, the verification mandate is referred to as “compliance monitoring,” even though the monitoring of MAP implementation is the responsibility of IFC/MIGA. The CAO terminology is consistent with that of most IAMs, which describe MAP implementation verification as a monitoring function. But in all cases, it is the operational IFI staff who monitor the MAP implementation; the IAM only performs a supplementary oversight role. This review uses the term “verification” for the MAP implementation monitoring function of IAMs because that is the term used in the IPN Resolution and the TORs for this review.

IDB/MICI, have a verification mandate without requiring Board approval. For all IAMs, management designs the MAP and presents it for approval to their respective boards. Management then monitors the implementation of MAP measures. The IAM periodically assesses the status of MAP implementation. The monitoring is restricted to assessing the implementation of Board-approved MAP measures. The task of an IAM is not to assess whether the Board-approved measures are adequate. The intensity of verification varies by the IAM. IAMs typically verify every complaint for which a MAP has been approved. Some conduct site visits for every verification process; many conduct site visits only selectively for projects that have caused (or are likely to cause) particularly severe harm to a large group of people, including vulnerable people. Some IAM policies provide for time restrictions on IAM monitoring. The PPM of the AIIB only reviews management's monitoring reports.<sup>33</sup> In contrast, the IPN and Group Internal Audit (GIA) need to obtain Board approval for verification and are only allowed to present a recommendation to the Board under the very restrictive conditions laid out in the FPCMAPI.

122. Another unique feature of the IPN/GIA verification mandate is GIA's role. According to paragraph 6 of the FPCMAPI, GIA verifies management actions in the MAP that are intended to address the Bank's governance, policies, procedures, and other internal operational arrangements related to the oversight of the environmental and social risks of Bank projects. GIA may also verify MAP actions at the project level if management actions refer to internal policies and practices of the Bank. The IPN only verifies MAP actions designed to address harm that occurred because of the Bank's noncompliance (FPCMAPI, para. 5). This split mandate for MAP verification provided to the IPN and GIA, is unique. For other IAMs, it is solely the IAM that conducts the verification.
123. Why is an IAM verification mandate important? The compliance investigation process is an essential part of public accountability. If an investigation report finds that there has been noncompliance and related harm linked to failures and omissions by an international financial institution (IFI), it is the responsibility of the IFI to facilitate remedial actions. In most cases, remedial measures are provided through the borrower, but IFIs have a role to play to help assure that these corrective actions are implemented. An IFI has a "duty of care" to affected parties who, partly due to the IFI's failure, were harmed (or will likely be harmed). By approving MAPs, boards ask IFI management to exercise this duty. Management is then charged with monitoring MAP implementation. But IFI management is not always seen as a neutral party. It was found at fault in the IAM investigation report, and management often has strong relationships with the agency implementing the project where noncompliances occurred. Requesters and civil society organizations (CSOs) that represent requesters have expressed the view that it should not only be the party that contributed to noncompliances and harm that subsequently monitors MAP actions. The "duty of care" with respect

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<sup>33</sup> The PPM, the IAM of the AIIB, is currently being reviewed. An external review has recently been completed that strongly recommends giving the PPM a broad-based verification mandate like those of almost all other comparable IAMs (other than the IPN). [https://www.aiib.org/en/how-we-work/public-consultations/project-affected-people-mechanism-policy-review/\\_common/\\_download/PPM-External-Review-Final\\_Website.pdf](https://www.aiib.org/en/how-we-work/public-consultations/project-affected-people-mechanism-policy-review/_common/_download/PPM-External-Review-Final_Website.pdf).

to harmed people requires an additional periodic independent verification. Public accountability calls for that.

124. The IPN did not have any verification mandate until the Toolkit Reforms. While the Bank, through the establishment of the IPN 30 years ago, gained a reputation as a leader in multilateral development bank accountability, the absence of a verification authority, other than exceptional verification mandates provided by the Board for three projects in 1996, 2002, and 2004,<sup>34</sup> is seen as a fundamental weakness of the IPN. CSOs sent strong messages to the Board that the IPN should be given a verification mandate akin to those of other IAMs.<sup>35</sup> As part of the Toolkit Reform process, the IPN received a verification mandate, but it is restricted through the FPCMAPI. This verification mandate is to be applied to requests registered after September 2020. To date, the IPN (with GIA input) has not proposed any requests for verification.
125. The FPCMAPI includes eight criteria presented under the following five headings (see figure 4.1): (1) urgency of redress; (2) risk of repetitive harm; (3) number of vulnerable project-affected people; (4) the complexity of the case; and (5) the risk of retaliation against requesters. If three to five criteria are met, a desk-based verification can be recommended. Only if six to eight criteria are met, a verification with a site visit can be considered. In such cases, the IPN may recommend that the Board authorize the verification of the MAP by the IPN and GIA.
126. The ERT finds the conceptual framework guiding the selection of the eight indicators difficult to understand. The criteria seem focused on different objectives. Some seem to be related to institutional learning (e.g., criterion 7: *“Are the issues new or unique, with a high potential for learning?”*), while others relate to preventing future harm (e.g., criterion 3: *“Is there a risk that the harm in this project might be repeated in other projects?”*). There is also special consideration given to unusually complex projects (criterion 6). The other criteria focus on the significance of harm incurred by the requesters, their vulnerability, the number of project-affected people, and the risk of retaliation. The IPN Resolution, operating procedures, and FPCMAPI cite only one objective for verification: “avoid reputational risks.” The verification framework (para. 2) states: *“The Executive Directors may approve, as an additional reassurance tool for avoiding reputational risks, independent risk-based proportionate verification of implementation of the MAP by the Panel and/or GIA.”* The ERT wonders whether the sole purpose of the verification framework is to avoid reputational risks for the Bank, as stated in the resolution.

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<sup>34</sup> Jamuna New Multipurpose Bridge Project, Paraguay/Argentina Reform Project for the Water and Telecommunications Sectors, SEGBA V Power Distribution Project (Yacyretá) and Mumbai Urban Transport Project (Second Request).

<sup>35</sup> See, for example, the letter signed by 56 civil society organizations asking that the IPN be provided a mandate to verify instances of noncompliances and related harm at <https://www.accountabilitycounsel.org/2019/01/ac-submits-joint-statement-to-wb-board-on-panel-toolkit-review/>.

127. The criteria and the weighting scheme, which require at least three applicable criteria for a recommendation without a site visit and six to eight criteria for a verification recommendation with a site visit, could have unintended outcomes. For example, a project with very significant harm and many affected people might not be proposed for verification if other criteria are not met. At the same time, a project that does not involve significant harm or a significant number of affected people but that is unusually complex, with issues that risk causing similar harm in future projects and that are important for institutional learning, could be recommended. It is difficult to understand why a project that provides for important institutional learning requires independent IPN and GIA verification, while a project involving a large group of requesters that have experienced (or will likely experience) significant harm could not be recommended.

**Figure 4.1. Risk-Based Proportionality Criteria Applied to the MAP**

Risk-Based Proportionality Criteria Applied to the MAP			
	Yes	No	Comments
<b>Urgency of redress</b>			
1. Is urgent or immediate redress required based on the severity of harm experienced?			
<b>Risk of repetitive harms materializing</b>			
2. Is there a risk of repetitive harm in this project?			
3. Is there a risk that the harm in this project might be repeated in other projects?			
<b>Number and vulnerability of project affected people</b>			
4. Does the MAP address vulnerable groups such as women, children, indigenous peoples, marginalized communities, etc., requiring special attention?			
5. Are there significant numbers of project-affected people?			
<b>Complexity of the case</b>			
6. Is the case unusually complex <sup>3</sup> ?			
7. Are the issues new or unique <sup>9</sup> , with a high potential for learning?			
<b>Risk of retaliation against Requesters</b>			
8. Is there a risk of retaliation against Requesters or communities?			

Assessment of Risk-Based Criteria for Basis of Verification and Modalities			
Number of Positive indicators	Basis of Verification	Desk-based Verification	Verification with site visit
6-8	✓		✓
3-5	✓	✓	
0-2	✗		

Source: IPN Operating Procedures, December 2022 (para. 95).

128. The ERT believes that the FPCMAPI criteria are overly prescriptive, lack clarity on why they were selected, and could result in an inappropriate conclusion. A mandatory set of criteria and prescribed weighting matrix seems unnecessary. The Board decides whether verification should be conducted. The IPN (with GIA input) merely makes recommendations. The IPN should have the flexibility to recommend verification if it determines that, among other concerns, the harm is significant, many people are affected, vulnerable groups are involved, the risk of retaliation is high, or there is a risk of repetition of harm. The IPN (with GIA input) should also have the flexibility to recommend whether a site visit should be conducted. The IPN, after having conducted the investigation, is very familiar with the case and should be given the trust and authority to decide when it considers it appropriate to recommend verification to the Board.
129. The ERT recommends that to strengthen public accountability, the IPN be given a verification mandate for the implementation of the MAP like the ones provided to almost all other comparable IAMs and following the verification authority provided in the CAO Policy (paras. 139–146). The CAO Policy provides for a regular verification mandate to CAO without Board approval. CAO has adopted a practice of risk-based verification that conducts site visits only for selected projects with significant risks. Other verification processes are desk-based, including reviewing progress reports submitted by IFC management, seeking the feedback of requesters, and conducting independent assessments based on implementation status reports. CAO prepares an omnibus case report that is provided to the Board.<sup>36</sup> The IPN could adopt a similar stratified approach to verification, where only select complaints are verified through a site visit and verification is largely limited to document review and seeking requester input.
130. Alternatively, the ERT recommends letting the IPN recommend a verification process to the Board for select high-risk cases at the same time the Board receives the investigation report and considers the approval of the MAP. The IPN would only recommend verification for projects for which it is particularly important that the Bank make credible efforts to facilitate the implementation of agreed remedial actions. Requester-related criteria in the FPCMAPI (see figure 4.1), such as criteria one, two, four, five, and eight, could serve as guiding principles for the IPN when making recommendations, but they should not be mandatory. Other criteria might be relevant. The IPN's recommendations could suggest whether the verification should include a site visit or be solely desk-based. The IPN should also decide the timing of the verification. Presenting the recommendation for verification when the Board receives the investigation report and considers the MAP would create synergies. At this stage, Board members become familiar with the findings of the IPN investigation report and need to decide whether to approve the proposed MAP.

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<sup>36</sup> See CAO, *Compliance Monitoring Omnibus Case Report, Q4*, Washington, DC: CAO (2023).

131. During interviews, Bank management representatives informed the ERT that they consider a comprehensive verification mandate to the IPN redundant. Bank management prepares careful monitoring reports on MAP implementation, which are circulated to the Board. These reports are then posted on the IPN's website under *complaint documents*.<sup>37</sup> They are thus accessible to the public. In addition, management provides semiannual update reports to the Board and the IPN on the implementation status of MAPs.<sup>38</sup> Management also emphasizes that MAP update reports receive significant attention from senior management. The ERT was informed that, in many cases, representatives of Operations Policy and Country Services attend consultation meetings with requesters. Management states that the views of requesters are reflected in the MAP update reports because, since the adoption of the Toolkit Reforms, each MAP update report includes a section titled "*Consultations with Requesters on the MAP Implementation Progress.*"
132. The ERT appreciates the efforts of Bank management to provide carefully reviewed MAP update reports and appreciates that these reports include a specific section where management reflects the requesters' positions gathered during consultations. However, CSOs representing requesters have expressed in interviews with the ERT that they disagree with some findings in the update reports and have, in the past, expressed their views to the IPN and select Executive Directors. But there is no process in place for recording these views.
133. The ERT thus recommends that, if the IPN is not given a comprehensive verification mandate on the implementation of MAPs, then a process should be established to allow requesters, their representatives, and affected people to express comments on management progress reports on MAPs. Because these progress reports are uploaded on the IPN website with other complaint process documents, the IPN could, in coordination with management, design a process to allow requesters and their representatives to express their views on uploaded MAP progress reports. If relevant comments are received, a summary of comments should be posted on the IPN's website in an appropriate form and circulated to the Board for information.

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<sup>37</sup> See, for example, Republic of Uganda, North Eastern Road-Corridor Asset Management Project, First Progress Report on the Implementation of Management Action Plan, <https://www.inspectionpanel.org/sites/default/files/cases/documents/149-Management%20Progress%20Report-16%20March%202023.pdf>.

<sup>38</sup> See *Bank Management Action Plan Implementation Update*, April 2023.



134. **RECOMMENDATIONS** for the IPN Verification Mandate:
135. **Option one:** Provide the IPN with a verification mandate aligned with the mandate provided to CAO as outlined in the CAO Policy (2021).
136. **Option two:** Allow the IPN to recommend MAP implementation verification to the Board if there are particularly serious impacts on requesters. Criteria relating to impacts on requesters that are laid out in the verification framework could be used as guiding principles rather than binding requirements. The IPN would only recommend verification of implementation for select MAPs for projects with particularly significant impacts. The IPN should recommend verification to the Board at the same time the Board is considering approval of the MAP. There would be strict adherence to the principle that the verification mandates only focus on the implementation of Board-approved MAP measures.
137. **Option three:** If option one is not adopted, the IPN—in collaboration with management—should develop a process that would allow requesters or their representatives to express their views on the posted MAP update report. A summary should be sent to the Board for information.

## 5. Conflict of Interest

*Does the current model of World Bank's Accountability Mechanism pose any actual or perceived conflicts of interests to the staff involved in various functions, e.g., including with respect to maintaining the firewall between IPN and DRS, internal communication, human resource management and finance decisions, work programming, and office arrangements?*

### Key Issues

A. The dual role of the Accountability Mechanism Secretary (AMSec) as Head of the Dispute Resolution Service (DRS) and the Head of the Accountability Mechanism (AM), which houses both the Inspection Panel (IPN) and the DRS, has the potential to create conflict-of-interest concerns in the management of administrative, human resource, budgetary, and work program matters. However, in response to the question raised in the terms of reference for the External Review Team (ERT), no information was presented to the ERT that indicates the current AMSec has tried to influence financial or human resource decisions to advantage the DRS or to the detriment of the IPN.

B. Concerns were raised in interviews conducted with DRS and IPN staff and with requesters that the design of the complaint process creates opportunities for influence to be exercised on the choice of requesters. Some information was provided that suggests the offering of the DR option to the borrower when requesters do not want to engage in that process is in direct conflict with the interests of the requesters initiating the complaint.

C. The AM's firewalls for the DRS and the IPN are broader and more rigorous than those of other independent accountability mechanisms. The overprotection of these unnecessarily broad firewalls is detrimental to communications, team cohesion, and the work environment at the AM.

138. The External Review Team (ERT) reviewed three areas to determine whether potential, perceived, or actual conflicts of interest exist: the structure of the Accountability Mechanism (AM), the complaint process, and how firewalls are applied at the AM. The ERT concludes that there is the potential for conflict of interest in all three areas, but any suggestion that there are currently instances of conflict of interest is primarily associated with the complaint process and how firewalls are operationalized.

## a. Structure

139. The AMSec plays the dual role of heading of the AM and the Dispute Resolution Service (DRS). The AMSec controls the human and financial resources for the DRS, but also for the Inspection Panel (IPN), which performs its compliance functions independently according to the IPN Resolution. Therefore, in terms of appearance, the AMSec’s role is not one of a neutral party if the interests of the DRS and the IPN conflict or regarding decisions on budgets, expenditures, and performance-rating distributions. However, the ERT was given no information indicating that the current AMSec has tried to influence financial or human resource decisions to the advantage of the DRS and to the detriment of the IPN. To the contrary, the budget of the IPN was \$4.2 million in FY21, immediately prior to the appointment of the AMSec, and is \$4.3 million for FY24 (based on numbers provided by BPS) even though some cases approved for investigation are now going to the DRS and some communications and administrative support activities have been transferred to the AM Secretariat.

140. Table 5.1 shows that the AM appears to be sufficiently resourced based on expenditures relative to budget allocations. However, in a more resource-constrained environment, a different AMSec could be incented to make decisions that advantage the DRS over the IPN.

**Table 5.1. AM Budget Allocations and Outcomes**

Fiscal Year	Budget Allocation (US\$)	Actual Expenses (US\$)	Budget Outcome (US\$)	
			Over by:	Under by:
2021	4,214,000	3,550,029		663,971
2022	5,854,000	5,085,633		768,367
2023	7,959,000	6,718,463		1,240,537
2024	8,540,000	8,540,000*	On target	

Extracted from data provided by World Bank Group BPS on April 17, 2024.

\*Estimated.

141. Interviews with IPN staff indicate that the AMSec normally provides timely approvals and support. While in some cases, IPN members and/or staff have experienced delays in approval for travel, staff performance objectives, staff performance evaluations, and hiring, such delays do not suggest any conflict-of-interest concerns as the ERT saw no indication of bias in favor of the DRS other than in one case where IPN travel was delayed to Uganda. In addition, different views on how information is communicated or presented on the AM website, for example, appear largely based on different branding strategies that do not relate to conflicting interests between the DRS and the IPN or the dual role of the AMSec. However, while the potential for future conflict remains, all the proposed structural options would eliminate the potential for conflict of interest related to the acquisition and management of resources.

## b. Complaint Process

142. DRS and IPN staff and requesters expressed concerns during interviews with the ERT that the design of the complaint process creates opportunities to influence a requester’s choice between the dispute resolution (DR) and compliance processes. After registration but prior to the eligibility assessment, to minimize confusion as the process evolves, the IPN and the DRS hold a joint meeting with requesters to introduce the DRS team and explain next steps in the process, available options, and when those options will be offered.

143. In the ERT’s interviews with DRS team members, concerns were raised about how the rapport established between the IPN and requesters during the admissibility process creates a bias in favor of compliance review. However, the data do not reveal actual bias—four of the seven cases approved for investigation since the DR process was introduced selected the DR option. At the launching of the DRS, three of the first four cases approved for investigation selected the DR option.

Case Number	Case	Date Approved for Investigation	Option Selected
151	Second Kampala Institutional and Infrastructure Development Project (Uganda)	October 20, 2021	DR
154	Nepal–India Electricity Transmission and Trade Project and Additional Financing	March 3, 2022	DR
153	West Africa Coastal Areas Resilience Investment Project, Additional Financing, and Global Environment Facility (Togo)	June 23, 2022	Compliance
159	Nachtigal Hydropower Project and Hydropower Development on Sanaga River Technical Assistance Project (Cameroon)	October 19, 2022	DR
162	Santa Cruz Road Corridor Project (Bolivia)	March 31, 2023	Compliance
165	Resilient National Resource Management for Tourism and Growth (Tanzania)	November 15, 2023	Compliance
166/168	Viet Nam Coastal Cities Sustainable Environment	February 5, 2024	DR

Source: Extracted from IPN cases listed on its website: [inspectionpanel.org](https://inspectionpanel.org).

144. Conflict of interest associated with the complaint process is most likely to occur during the 30-day window when the interest of requesters and borrowers in pursuing DR is explored and it primarily stems from the requirement to offer the DR option to both parties (AM Resolution, para. 11.a). The AM Resolution also states that DR must be agreed to by the parties (AM Resolution, para. 11.b).
145. According to interviews with or information provided by requesters or their representatives, of the seven cases approved for investigation since the launching of the DRS, the requesters of three of them communicated their desire to pursue a compliance review. Requesters in the Bolivia, Togo, and Tanzania cases wanted to engage in a compliance review either because past dispute resolution efforts had failed, or they had a significant fear of reprisal. According to interviews with the AMSec and the DRS team, the DR process was offered to relevant governments because the AM Resolution (para. 11) requires it, because the AMSec believes that it is an opportunity to build a strong foundation for the subsequent compliance review, and that this foundation may also defuse tensions and lower the risk of retaliation against requesters for filing a complaint.
146. The AMSec also expressed the view to the ERT that it is the responsibility of the AMSec to inform governments about the different functions performed by the AM because it is not now occurring during the IPN intake process. However, the IPN does communicate with governments and their Bank Board representatives throughout the complaint process. The government representatives on the Board receive a copy of the request for inspection upon registration of the request, are consulted before IPN eligibility and investigation missions, and get to vote on whether to approve IPN recommendations for investigations. In addition, meetings are held directly with government officials during IPN eligibility and investigation missions.
147. The government of Tanzania publicly expressed its intention to pursue a DR process with requesters<sup>39</sup> after meeting with the DRS team. The requesters felt intimidated by this because they had already declined the DR option when this public announcement was made. It also confused government representatives when the DR process did not proceed. Representatives of requesters in cases in Togo, Bolivia, and Tanzania expressed concerns about the DR offer period continuing after requesters expressed their desire to pursue a compliance investigation.
148. Information from requester interviews and external stakeholder feedback suggests the design of the 30-day DR exploration process and how it is administered create the appearance of conflict of interest. The concern is that the AM is partial to the DR process and has an interest in having as many cases as possible go through the DR process and reaching as many agreements as possible. In addition, offering DR to the borrower is in direct conflict with the interests of the requesters initiating the complaint. In all three compliance cases, offering DR to the borrower was perceived to

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<sup>39</sup> The Citizen, "World Bank Acts on Abuse Claims in Tanzania Park Project," *The Citizen*, December 11, 2023, <https://www.thecitizen.co.tz/tanzania/news/national/world-bank-acts-on-abuse-claims-in-tanzania-park-project-4460654>.

result in further harm to the requesters. Recommendations presented in chapter 2 (Accessibility) to change the admissibility process would eliminate this conflict of interest. Under both options presented, a DR offer would only be presented to borrowers if requesters expressed an interest in exploring the DR option (see paras. 21 and 27).

149. Requesters interviewed by the ERT also revealed concerns about a lack of transparency in the information they were provided on unresolved issues and the optional return of the consideration of those issues back to the IPN for compliance investigation. The ERT cannot verify this information. However, a system where the AMSec also heads the DR function creates the potential for as well as the appearance of competition regarding case handling.
150. **RECOMMENDATION:** The ERT recommends explaining the process for returning unresolved issues from the DR process to IPN for compliance review in brochures, other informational materials, and on the AM and IPN websites (e.g., “*What happens when you file a complaint?*”).

### c. Firewalls

151. The purpose of the DRS firewall is described in the AM Resolution (para. 14):

*“To protect the independence of the dispute resolution process and the free and unconstrained participation of the Parties, the Accountability Mechanism Secretary ensures that no member or staff of the Inspection Panel communicates with the Parties, their representatives or the Dispute Resolution Service staff in connection with the case while the dispute resolution process is ongoing. Neither the Inspection Panel members nor any Inspection Panel staff involved in compliance review will take part in the dispute resolution process in any form.*

*In the event the Inspection Panel initiates an investigation in accordance with paragraph 33 of the Inspection Panel Resolution, the Accountability Mechanism Secretary ensures that information disclosed in a dispute resolution process is not used in the Inspection Panel’s compliance investigation. The Accountability Mechanism Secretary, Dispute Resolution Service staff, Management observers and mediator(s) do not communicate with or share information with the Inspection Panel concerning the dispute resolution process. The Dispute Resolution Service and Accountability Mechanism Secretary will not opine on the compliance review process or outcome.”*

152. Paragraph 15 of the AM Resolution ensures that parties have the option of keeping their agreement and identities confidential.

153. The IPN also contends that a firewall exists to preserve the independence of its operations. According to the AM Resolution (para. II.7.c):

*“The Accountability Mechanism Secretary takes no further action with respect to a Request for Inspection except when the Executive Directors authorize the Inspection Panel to undertake an investigation of the Request in accordance with paragraph 29 of the Inspection Panel Resolution.”*

154. The AM Resolution (para. 8) then describes how the AMSec’s role and supervision is limited to ensure the continued independence of the IPN. Both provisions protect the IPN from interference but do not restrict IPN from sharing information within the AM.

155. It is important to both the DRS and the IPN that their processes be conducted in confidence and without interference. However, the two firewalls are operationalized to such an extent that they impede communication, making it difficult to form a cohesive team across the AM; and the emphasis placed on confidentiality beyond protecting the interests of requesters and borrowers undermines accountability in the administration of the DR and compliance functions. The firewalls isolate the units from each other to the detriment of the AM’s work efficiency and potentially to its clients, which is a conflict of interest.

156. The DRS firewall exceeds what is practiced by other independent accountability mechanisms (IAMs), such as the CAO/International Finance Corporation, the IPAM/European Bank for Reconstruction and Development, CRP-SPF/Asian Development Bank, African Development Bank, SECU/United Nations Development Programme, and CME/European Investment Bank, which all take a more common-sense approach. While the AM Resolution closes the door on all communication related to a case during an ongoing DR process, and no information disclosed during the DR process is ever used in subsequent compliance reviews, other IAMs are more targeted in limiting what can be shared, such as the agreement or information disclosed by borrowers, that could bias a compliance review. Because no cases have yet moved from the DRS to the IPN, it is unclear how the firewall between the two functions would be managed in that context.

157. Three themes emerged from the ERT’s interviews with IAM heads about firewalls and the problems they can create. First, firm firewalls create silos that cannot co-exist under the same roof, particularly if team members do not talk with one another and if one party is hiding information from the other. Second, the failure to share information that then must be recreated/resolicited after handoff to or from DR is inefficient and results in a duplication of efforts. Third, requesters may feel vulnerable at handover points if the receiving DR or compliance team does not know anything about the case, including the experiences and current situation of the requesters—continuity of care to prevent further trauma is an important consideration.

158. **RECOMMENDATION:** The ERT recommends that modifications be made to the AM Resolution (paras. 7 and 14) and internal protocol (paras. 2F.1 and h) to clarify specifically what information or what aspects of processes must be kept confidential and why, such as to encourage candor by the parties to the dispute resolution process without fear that their statements will be held against them in a compliance review. The Resolution should provide room for parties, particularly requesters, to agree on what of their own information can be shared if any issues ultimately proceed to a compliance review, to avoid duplicate gathering of information. It also should be made clear that firewall protections and confidentiality does not apply to DRS or IPN operational information, such as internal resources used in specific cases or who at the AM or the World Bank participated in those cases.

## d. Obstacles

*Are there obstacles to complaints to be handled in the IPN or DRS process?*

159. The answer to this question has two parts. The first relates to what is applicable to the remit of all IAMs. The second involves the introduction of requester choice into the IPN process—letting requesters decide if they want to pursue DR or a compliance review. Chapter 2 (Accessibility) describes numerous obstacles that IAMs face in handling complaints under their purview, ranging from difficulty meeting procedural requirements to concerns about retaliation and confidentiality, resource disparities, limited enforcement authority, and even stakeholder opposition.

160. Stakeholder opposition can occur when the IPN, or any other IAM compliance function, assesses a situation where harm is alleged to have been caused by a development project or program due to: (1) operational policy violations, (2) eventual noncompliance by member countries or their agencies with contractual obligations; or (3) enforcement or supervision failure by the Bank. The compliance function performed by the IPN is an important component of responsible governance to identify problems, preferably at early stages, and correct them, minimize harm caused, and prevent replication. However, compliance findings tend to be taken as criticism with potential adverse consequences rather than an opportunity to learn, correct a mistake, and make future improvements. While the IPN only has the authority to establish due diligence and supervision failures of Bank management and staff, IPN investigations must follow well-established methodologies, often including site visits, to determine whether there are noncompliances with Bank policies and related harm. Borrowers sometimes object to investigations conducted in their countries, which is a severe obstacle to meaningful, adequate investigations. Some borrowers retaliate against people or communities involved in submitting requests for inspection.



161. Several initiatives to address issues associated with resistance to compliance reviews are already present in the IPN's operations and procedures. For example, as part of eligibility and investigation missions, the IPN meets with requesters as well as with government and project officials to brief them on the scope and procedures related to the request for inspection.<sup>40</sup> Rather than having change imposed on them, management is charged with developing management action plans to address the investigation's findings.
162. In addition, the IPN has published Guidelines to Reduce Retaliation Risks and Respond to Retaliation During the Panel Process and produces the Emerging Lessons Series to share learning gleaned from cases.
163. The second component of the answer relates to the situation created by letting requesters choose between two different paths. Challenges to the process include requesters, as a group, having different interests regarding what process to pursue or agreements to reach, which could also jeopardize partial agreements that allow some requesters to obtain satisfaction regarding their demands while others proceed to a compliance review for unresolved issues. This is particularly problematic when the incentive for borrowers to pursue DR is to avoid the compliance review process.
164. Such issues, while emerging at the Bank are a typical part of compliance and dispute resolution processes and are not unique to it. Situations must be carefully managed to diffuse investigation resistance. Working closely with project officials, communities, requesters, and Bank staff is essential to addressing conflicting interests as early as possible.

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<sup>40</sup> Interactions between the Panel and borrower and project officials during the eligibility stage are described in the IPN Resolution (paras. 33, 42, and 51).

## 6. Communications, Outreach, and Collaboration

### a. Communications and Outreach

*Have the AMSec/Head of DRS and IPN been able to effectively disseminate information on the new structure, processes, workflow, and outcomes to different stakeholders? What are the strengths and weaknesses?*

#### Key Issues

A. The operating procedures and internal protocol of the Accountability Mechanism (AM) and the Inspection Panel (IPN) outline expectations that outreach efforts inform the public in a coordinated manner. The AMSec's outreach focuses on accountability in general and dispute resolution (DR) in particular. The IPN's outreach focuses on compliance issues. The AM is supposed to have one website and produce an annual report and quarterly newsletters.

B. Initially the IPN, and later the AM, announced the *2020 Inspection Panel's Toolkit Reforms* through a variety of modalities, including seminars targeting regional civil society organizations, jointly conducted workshops with other independent accountability mechanisms (IAMs), and the development of short informational videos.

C. Both the AM and the IPN have actively engaged in outreach efforts that reflect good IAM practices. Two noteworthy practices are the AMSec's outreach to country offices and the methodical approach the IPN developed to target countries for outreach.

D. Coordination of the IPN's and the AM's communications could be strengthened.

165. Both the AM and the IPN operating procedures state that "A prerequisite for the effective functioning of the Accountability Mechanism is that options are known to people whose rights and interests may be affected by Bank Projects" (see IPN operating procedures, para. 109, and AM operating procedures, para. 29.1). Both operating procedures further explain how the AM and the IPN are expected to inform the public and coordinate outreach activities that include events, meetings, and conferences. Both the AM and the IPN are expected to facilitate learning by sharing insights from cases in an annual report, other publications, and meetings.

166. The AM–IPN internal protocol provides greater detail on when the IPN and the AMSec are expected to coordinate outreach, what outreach activities can be performed independently, and the role of the AM Senior External Affairs Officer in providing leadership and support (para. 3.a). IPN outreach focuses on compliance issues; the AMSec focuses on accountability generally and dispute resolution (DR) in particular. The AM–IPN internal protocol indicates that the AM will have one website that explains the mandates, operations, and procedures of the AM, the IPN, and the Dispute Resolution Service (DRS), as well as how to file a request for inspection. The AM is required to produce an annual report and a quarterly newsletter (Internal Protocol, para. 3.f). It is through these communication modalities that the AM and the IPN disseminated information to stakeholders on the new structure, processes, cases, workflow, and outcomes.
167. Because the launch of the *2020 Inspection Panel’s Toolkit Reforms* occurred during the COVID-19 crisis, initial outreach efforts were held virtually. During FY21, IPN hosted a discussion about the Bank’s social and environmental reforms’ impact on project-affected communities and released a series of short videos explaining the 2020 IPN Toolkit changes and their importance. The IPN conducted or participated in virtual seminars with other independent accountability mechanisms (IAMs) throughout the year and gave presentations or participated in panel discussions at civil society, professional, and academic forums on the impact of accountability mechanisms, learning from key cases, and the role of civil society. Targeted countries included Argentina, Brazil, Costa Rica, Panama, Nigeria, South Africa, Fiji, Viet Nam, Cambodia, and Uzbekistan.
168. Throughout FY22, and after the appointment of the AMSec in July 2021, the AMSec and representatives of the IPN jointly participated in a series of virtual and in-person workshops with other IAMs, as well as workshops conducted by the AM, to explain the Bank’s AM in the context of the 2020 Toolkit Reforms. Collectively, these events targeted civil society organizations (CSOs) in Türkiye, Benin, the Caribbean, six Central African countries, Nepal, Pakistan, Bosnia and Herzegovina, Croatia, and Montenegro.
169. Active outreach continued in FY23 and FY24 to strengthen existing relationships with international CSOs and expand outreach to regional CSOs through joint events with other IAMs and AM- or IPN-sponsored events. In October 2023, over 120 CSOs attended an AM-sponsored event in Marrakesh during the World Bank Group’s annual meetings. Outreach by both the AM and the IPN included presentations on accountability topics and lessons learned at professional and academic events. As the DRS function has gained experience with DR cases at the Bank, AM outreach has included forging a partnership with the External and Corporate Relations Vice Presidency, offering capacity-building workshops to CSOs, and engaging Bank management and country offices on lessons learned. The outreach efforts are consistent with the good practices of other IAMs.

170. There are two noteworthy areas of outreach. The first is the AM's early efforts to engage with Bank management and project staff in country offices where projects originate as well as in sector forums. Feedback from requesters and CSOs indicate that elevating awareness of accountability mechanisms in the countries and communities where projects are located is the best way to inform communities of the Bank's complaint process. Sharing lessons learned at the country-office level improves compliance and increases the inclination of country offices to ensure that communities are aware of the complaint mechanisms. A second noteworthy outreach practice is the methodical approach that the IPN developed to target its outreach to countries where the Bank has a concentration of projects at high risk of causing harm. The intention is not to fish for complaints but rather to create avenues for identifying and addressing unresolved cases of project-related harm and noncompliance as early as possible.
171. The AM, the DRS, and the IPN are actively engaged in outreach efforts, but the cohesiveness of their combined efforts and their collaboration could be strengthened. There continues to be two linked websites—one managed by AM and one managed by IPN—and the FY23 annual report has not yet been published. In addition, there are different points of view on the best branding strategy to foster trust in and credibility of the World Bank's commitment to institutional accountability, continuous improvement, and providing remedy to project-affected people. Given the structural changes that occurred in 2020, what is more important: to position the AM as a parent with the IPN and the DRS as its subunits, which would ultimately be building a new brand, or to position the creation of the AM and the launching of the DRS as an outgrowth of the IPN, which would continue to build and expand on an already existing brand?
172. **RECOMMENDATION:** In chapter 3 (Structure, paras. 65–67), the External Review Team (ERT) recommends and outlines the reasons why the Bank should retain the three-member Inspection Panel. If that recommendation is accepted, then the ERT recommends that the Bank continue to build on the IPN's reputation because of its strategic advantage and the trust it brings to the Bank. However, the overarching message is the Bank's commitment to accountability and giving voice to communities that experience harm because of Bank-financed projects, and the IPN, along with the DRS, offer tools for meeting that commitment. If the current structure is maintained, there must also be room for branding what has been added as a complement to what has long existed. What this means is that the IPN brand, the work it produces, and the role it plays in the Bank's AM would continue to be significantly prominent and recognized because it enhances the AM and World Bank's reputation. However, if the current structure is retained, it must be made clear that the IPN is a part of that structure even though it maintains its independence. Ensuring consistency in messaging and integrating and designing communications to make it easy for project-affected people to access and understand the process is of paramount importance under all structural options.

173. Under options one and two, the AMSec/Head of DR and IPN Chair would be expected to create an integrated communication strategy based on the principles of equity and joint decision making to outline joint and respective communication activities, materials, and publications and how they will be approached to ensure cohesiveness. The strategy should include how to strengthen outreach at the country-office level to elevate awareness of the Bank's accountability mechanism among project affected people and in communities.

## **b. Collaboration with Other IAMs**

### *Does the IPN and the AMSec/Head of DRS collaborate effectively with other IAMs?*

174. The IPN's operating procedures set out collaboration principles of the IPN for co-financed projects (para. 72). If a request about a co-financed project is filed with the IPN as well as with other independent accountability mechanism (IAMs), the IPN will do its best to coordinate with the co-financers' IAMs but will process the request according to the requirements set out in the IPN Resolution. The policies of many other IAMs also assert this principle. IAMs of major multilateral development banks (MDBs) conduct their own investigations according to their own policies but try to cooperate closely to minimize the burden on the borrower and requesters. Many share experts, conduct joint missions and—if their policies align—cooperate on noncompliance findings. During the 2020–23 period, for which the External Review Team (ERT) reviewed cases, the IPN has not engaged in a coordination process with any other IAMs. The ERT therefore cannot offer any observations on this subject.

175. A question currently being discussed among MDBs is how to design processes if—as part of partnership arrangements and an increasing alignment of environmental and social (E&S) policies—only the E&S policy of the lead financial partner would be applied. Such a process would facilitate project implementation as the borrower would not be burdened with implementing the policies of several MDBs. The question then arises: in such situations, should a complaint only be directed to the IAM of the MDB whose E&S policies are applied? The answer is: it depends. It is important to recall that the focus of an IPN compliance investigation (and all other IAM compliance investigations) is not to assess the borrower's compliance but to determine if there was a failure on the Bank's part to observe its operational policies and procedures with respect to project design, appraisal, and/or implementation (see IPN Resolution, para. 38). A referral of complaints to the IAM of the MDB whose E&S policies are being applied would result in findings on whether the staff and management of the other MDBs are in compliance. There would be no finding on failures and omissions of the MDB whose policy is not applied. Directing complaints to the other IAM would thus only be possible if the Bank delegates all responsibilities to the other MDB. If the Bank limits its role to simply providing the financial resources to the project and assumes no oversight obligations, then the complaint should be directed to the other IAM. However, as the Bank's Articles of Agreement

provide that the Bank ensures that the proceeds of any loan are used only for the purposes for which the loan was granted, it is not clear, whether the Bank could delegate all responsibilities for project preparation and supervision to another IFI. If the Bank maintains a role in project design, preparation, and supervision even if the E&S policies of another MDB are applied, then the complaint should still be allowed to be filed with the IPN. Noncompliance with policies would then need to be established with respect to the E&S policy of the MDB whose policy is applied. But failures and omissions by the Bank would be established regarding the duties that the Bank assumes in terms of project oversight in such partnership arrangements. As the scope of the IPN policy is broader than E&S policies, there might be additional failures and omissions not related to E&S policies. IPN procedures would require some adjustments, and the scope of the IPN investigation would be reduced.

176. Cooperation processes for DR are also set out in the Accountability Mechanism (AM) operating procedures (para. 10). The Dispute Resolution Service (DRS) just closed one joint DR process,<sup>41</sup> where the IAM of the African Development Bank (AfDB) and the Compliance Advisor Ombudsman (CAO) were also involved. The DRS followed relevant AM procedures and signed a memorandum of understanding with the mechanisms. It was agreed that the three mechanisms would jointly manage the DR process, with a co-mediation team appointed by the DRS and CAO. The DRS also monitored the DR agreement in collaboration with the CAO and AfDB's Independent Review Mechanism. Conducting joint DR with several IAMs poses significant challenges and is more difficult than collaboration processes in a compliance investigation. Unlike compliance investigations, several DR processes cannot be conducted on the same issues in parallel. And varying DR policy requirements (such as different requirements regarding how long a DR can proceed) can pose significant obstacles. The AMSec proposed to the ERT that, in DR process cases that involve several IAMs, a division of labor should be established among the participating IAMs. This could be done by mutual agreement, where one IAM takes the lead, and the others take on more passive roles as observers or supporters. If the DR process is already operating, the late entry IAM would not seek a lead role but would act as an observer. Or requesters could be required to select which IAM's DR process they want to initiate. As part of the collaboration with the Independent Accountability Mechanisms Network (IAMNet), IAMs with prominent DR functions can initiate a process to establish principles of alignment when collaborating with other IAMs in DR processes. Principles should be established on roles and responsibilities, cost-sharing, resource allocation, timeframes, and process.<sup>42</sup>

177. **RECOMMENDATION:** The ERT recommends that the AMSec, as Head of the DRS, introduce options into the operating procedures that provide for some flexibility on timelines and processes, including

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<sup>41</sup> Cameroon: Nachtigal Hydropower Project and Hydropower Development on the Sanaga River Technical Assistance Project, <https://thedocs.worldbank.org/en/doc/05f4c48385ca2b8016eb27049f01d48d-0490092024/original/Cameroon-Notice-of-Dispute-Resolution-Agreement-and-Outcome-Report.pdf>.

<sup>42</sup> See also proposals made in *CAO Evaluation of Dispute Resolution and Assessment Processes*, Washington, DC: CAO, March 24, 2023, pp. 53–54.

the possibility of delegating cases to another IAM if the DR process involves several IAMs. Of particular concern is the relatively short timeline laid out in the AM Resolution for a DR process. This timeline might need to be adjusted somewhat for cases where a DR process is conducted in collaboration with other IAMs.

178. The AM is currently serving as the IAM Secretariat (2022–24) for IAMNet, which involves frequent interactions with the 23 IAM members and requires resources. The Secretariat is assumed on a rotating basis by the IAMs of major MDBs. IAMNet plays an important role in supporting the exchange of expertise among IAMs and working toward establishing good practices for compliance reviews and DR. IAMNet members appreciate the strong support provided to the network by the AM.

## 7. Other Issues

179. The Toolkit Reforms introduced some important elements but was a partial reform. Previous reforms conducted in 1996 and 1999 only reflected adjustments to processes. Unlike other independent accountability mechanisms (IAMs), the Inspection Panel (IPN) policy, adopted in 1993, remained unadjusted in critical dimensions, and did not reflect evolving good practices in many current IAM policies. The need for clarity of the access and eligibility assessment criteria has been referred to in this review, and the restricted verification mandate has been laid out. But there are other areas where IPN policies deviate significantly from what the Independent Accountability Mechanisms Network (IAMNet) considers good practice: the fact that the IPN cannot offer any views on management action plans (MAPs) (see IPN Resolution, para. 42) but is then asked to provide a view on the adequacy of consultations and might even conduct a mission to assess whether adequate consultations took place, but solely “by government invitation.”<sup>43</sup>
180. This process of being prohibited from expressing views on the MAP but then being asked to provide assurances that adequate consultations have been conducted is highly unusual. Other IAM policies also hold management solely accountable for developing MAPs, but management seeks input from the IAM, and boards request the view of the IAM before approving the MAP (see, for example, CAO Policy paras. 133–36,) or ask Management to seek the input into the proposed MAP before submitting it to the Board (see ADB Policy para. 190). Some IAMs have the right to provide recommendations concerning their findings. Compared with other IAM policies, the language of the IPN Resolution is complex, at times contradictory, and lacks clarity. The IPN operating procedures attempt to establish some clarity, but because the IPN Resolution is the primary policy instrument, and operating procedures need to be guided by this primary document, the objective of achieving clarity and consistency is not fully accomplished. The ambiguity in the policy limits predictability in processes as Panel members rotate.
181. Other IAMs conduct regular external review processes, typically at five-year intervals, and subsequently adjust their respective policies. Presently, review processes are ongoing for the IAMs of the European Investment Bank, the Asian Development Bank, the European Bank for Reconstruction and Development, and the Asian Infrastructure Investment Bank. Regular reviews and policy adjustments have also been carried out for the Compliance Advisor Ombudsman (CAO).<sup>44</sup> The ERT considers this multiannual external review process very important as IAM policies can be

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<sup>43</sup> See IPN 2020 Resolution, para. 42 at <https://www.inspectionpanel.org/sites/default/files/documents/InspectionPanelResolution.pdf>.

<sup>44</sup> See *External Review of IFC/MIGA E&S Accountability*, including CAO’s Role and Effectiveness, Report and Recommendations, June 2020, for the last comprehensive review which resulted in the revised CAO policy adopted in 2021. See also: “The CAO’s Three Effectiveness Reviews: Context, Content, and Results: A Summary of CAO’s 2003, 2006, and 2010 Effectiveness Reviews, May 2012, <https://www.cao-ombudsman.org/sites/default/files/2014-07/Summary-CAO-Three-Effectiveness-Reviews-May-2012.pdf>.



comprehensively assessed and then aligned with emerging good practices. These review processes also help establish convergence among IAM policies, which greatly facilitates IAM cooperation in cofinanced projects involving several IAMs.

182. The ERT's position that the IPN—unlike other IAMs—was not subject to regular reviews was challenged. Comments argued that the Board carried out at least six reviews over the past three decades, which led to adjustments. The ERT does not agree with this position and is of the view that—until the Toolkit Reforms—the IPN had only experienced limited adjustments. There were two reform processes, one in 1996 and one in 1999. The first was mandated by the IPN Resolution that established the Panel.<sup>45</sup> It confirmed the Panel's function, defined several terms, and acknowledged some Panel practices, but it did not result in any changes in the Panel's composition, role, or responsibilities. The 1999 review<sup>46</sup> was prompted by continuous disagreements among Board members when considering Panel recommendations for investigations. It was indeed the product of consultations and a working group report. It resulted in several procedural changes and “instructions” for the Panel, management, and even the Board on how to proceed in handling panel cases. Still, there were no significant adjustments to the Panel's initial structure, role, or functions.
183. Subsequently, the IPN was included in a broader review of the five independent accountability mechanisms conducted by the Board.<sup>47</sup> This review did not lead to any substantive adjustments in Panel processes or structures. In 2015, the IPN itself commissioned a study titled “Comparative Study of Functions and Trends in IFI Accountability Mechanisms.”<sup>48</sup> Adjustments did not emerge from this study. The IPN had its first significant reform process under the “Toolkit Reforms,” approved in 2018 and 2020. In preparation for these reforms, an external review was conducted.<sup>49</sup> However, the IPN Resolution was only partly revised. A significant part of the IPN Resolution has not been adjusted since the IPN was established in 1993.
184. **RECOMMENDATION:** The ERT recommends that the Board establish the principle of conducting external comprehensive multiannual reviews (potentially at five-year intervals) for the AM and the IPN—a widely accepted practice among other IAMs.

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<sup>45</sup> The World Bank Inspection Panel, Resolution No. IBRD 93-10 and Resolution No. IDA 93-6, September 22, 1993, para. 27, <https://www.inspectionpanel.org/sites/default/files/documents/Resolution1993.pdf>.

<sup>46</sup> *1999 Clarification of the Board's Second Review of the Inspection Panel*: <https://www.inspectionpanel.org/sites/default/files/documents/ClarificationSecondReview.pdf>.

<sup>47</sup> See *External and Independent Review of the Oversight and Accountability Units of the World Bank, 2010–2011*.

<sup>48</sup> Udall, Lori, “Comparative Study of Functions and Trends in IFI Accountability Mechanisms,” 2015.

<sup>49</sup> See Bradlow, D. *External Review of the Inspection Panel's Toolkit*, 2018, <https://documents1.worldbank.org/curated/en/562131583764988998/pdf/External-Review-of-the-Inspection-Panel-s-Toolkit.pdf>.

# Appendixes

Appendix A. Terms of Reference

Appendix B. Recommendations Summary

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## Appendix A. Terms of Reference

### FOR THE EXTERNAL REVIEW OF THE BOARD APPROVED REFORMS TO THE INSPECTION PANEL TOOLKIT AND CREATION OF THE WORLD BANK ACCOUNTABILITY MECHANISM

#### BACKGROUND

1. In August 2016, the Bank's Board of Executive Directors approved a new Environmental and Social Framework (ESF) which expanded protections for people and the environment in Bank- financed investment projects. The ESF brought the Bank's environmental and social policies into closer harmony with those of other development institutions, and made important advances in areas such as transparency, non-discrimination, social inclusion, public consultation, and accountability – including systematic requirements for Bank-financed projects to have grievance redress mechanisms.
2. In 2017, the Board commissioned an external review of the Inspection Panel's Toolkit following Board approval of the Environmental and Social Framework (ESF). After years of intense work and analysis, the Board approved reforms to strengthen the Inspection Panel (IPN), on October 31, 2018 the Board approved the first package of reforms to (i) formally recognize the Inspection Panel's advisory role in its mandate; (ii) issued clarifications on the use of Bank- Executed Trust Funds; (iii) formalize the Panel's current practice to coordinate with the accountability mechanism of co-financier (s) to process complaints arising from co-financed projects in the most efficient and effective way possible; and (iv) update the procedures for sharing the Inspection Panel's Investigation Report with requesters ahead of Board meetings in the most efficient and effective way possible.
3. On March 5, 2020, a second set of reforms were approved by the Board: (i) extending the time limit under which requesters can file a complaint by fifteen months beyond Bank project closure, to be applied to new projects approved after the revised Inspection Panel Resolution goes into effect; (ii) allowing independent and proportionate risk-based verification of Management Action Plans (MAPs) by the Inspection Panel and/or Group Independent Audit (GIA), when approved by the Board; and (iii) establishing a new accountability mechanism housing the Panel and a dispute resolution function (DRS), independent of Management and supplementing Management's existing Grievance Redress Service.
4. In order to give legal effect to its decisions , the Board approved - on September 8, 2020 - the (i) Resolution on the World Bank Inspection Panel (Resolution No. IBRD 2020-0004 Resolution No. IDA 2020-0003 – "IPN Resolution"); (ii) the Resolution on the World Bank Accountability Mechanism (Resolution No. IBRD 2020-0005 Resolution No. IDA 2020-0004 – "AM Resolution"; (iii) The selection Procedures for the Accountability Mechanism Secretary; and; (iv) the Terms of Reference (TORs) for the Accountability Mechanism Secretary (AMSec). The Board also approved a review of the proposed changes in three years' time to assess effectiveness, efficiency, and operational and development impact. After the Board's approval of the above-mentioned Resolutions and to operationalize the

Resolutions, the Inspection Panel updated its operating procedures and the Accountability Mechanism prepared its operating procedures.

5. In practice, implementing the current AM Model, as framed in the Resolution, has presented challenges, ranging from varied interpretations on Terms of Reference and the exercise of “independence, to administration control over human and financial resources, as well as representation discrepancies and communication mismatch, in fulfillment of AM and IPN mandates.

#### **OBJECTIVE OF THE REVIEW**

6. On behalf of the Bank’s Board of Executive Directors, its Committee on Development Effectiveness (CODE) has commissioned an External Review to assess the effectiveness, efficiency, as well as operational and development impact of the 2018 and 2020 Reforms and their implementation.

a) Structure.

a1) Does the current AM institutional structure enable the IPN to continue to carry out its compliance review functions independently, in accordance with the Inspection Panel Resolution? What are the strengths and weaknesses?

a2) Does the current AM institutional structure enable the DRS to facilitate a voluntary and independent dispute resolution option for requesters and borrowers (the “Parties”) in the context of Inspection Panel Requests for Inspection? What are the strengths and weaknesses?

a3) Are there redundancies in responsibilities and functions between the IPN Chair and the AMSec/Head of DRS that are hindering the effectiveness, efficiency and operational and development impact of the IPN Chair and AMSec/Head of DRS?

a4) How does the current framework for independent verification of Management Action Plans compare with other MDB independent Accountability Mechanisms (IAMs)? Are the thresholds for triggering independent verification by IPN and GIA appropriate?

b) Accessibility.

b1) Are the compliance and dispute resolution functions accessible to Parties?

c) Conflict of Interests.

c1) Does the current model of World Bank's Accountability Mechanism pose any actual or perceived conflicts of interests to the staff involved in various functions, e.g. including with respect to maintaining the firewall between IPN and DRS, internal communication, human resource management and finance decisions, work programming, and office arrangements?<sup>1</sup>

c2) Are there any obstacles for complaints to be handled in the IPN or DRS process?

d) Communication and Outreach.

d1) Have the AMSec/Head of DRS and IPN been able to effectively disseminate information on the new structure, processes, workflow, and outcomes to different stakeholders? What are the strengths and weaknesses?

d2) Does the IPN and the AMSec/ Head of DRS collaborate effectively with other IAMs?

7. The Review should include consultations with but not limited to, the World Bank Executive Directors, in particular current CODE members and former CODE-Chair and Co-Chair; the AMSec the Inspection Panel members, the Head of Dispute Resolution and AM staff; the Group Internal Audit, relevant members of WBG Management , including the WBG Senior Vice President and General Counsel: requesters (including those who have been through the Panel and DR processes); civil society organizations (including those who have engaged with the Panel and the AM Sec and DRS, representatives of the executing units and government officials. and other relevant external stakeholders.

#### **SELECTION OF THE INDEPENDENT PANEL**

8. The Review will be conducted by an External Review Panel of at least three independent experts, which will be selected by CODE and proposed to the Board for approval. The expert consultants will be chosen for their high international professional stature, expertise, and deep knowledge on independent accountability mechanisms (DR and/or compliance), structures, good practices, and governance; as well as on change management processes and procedures.

9. To avoid any actual or perceived conflicts of interest, the External Review Panel members to be selected will be required, via an Affidavit, to have had no contractual relationships with the IPN, DRS or the World Bank's AM over the last five years that might influence the members' assessments, recommendations, deliberations and conclusions. Any expert consultants and research assistant that the

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<sup>1</sup> Budget issues are expected to be taken up by the External Review of the 5 Is budgets (BC/GS2023-011; CODE/GS2023-0008).

External Review Panel may recruit to support its work must also be free of any actual or perceived conflict of interests and meet the same requirements.

## **PROCESS**

10. Once endorsed by CODE, the Committee will submit the Terms of Reference for the Review to the Board for approval on an absence of objection basis. CODE will oversee the Review process.

11. An Approach Paper will be prepared by the External Review Panel for CODE's consideration prior to the launch of the Review itself. The Approach Paper should refine and clarify the purpose, focus, scope, and limitations of the Review, within the Terms of Reference. It should outline the general approach and methods, including the core assessment criteria, the normative framework that will be used, the list of interviewees with relevant stakeholders (including those mentioned in paragraph 7), the timetable and key deliverables, as well as protocols for reporting and disclosure.

12. Within a month of the start of the external reviewers' contract and in line with past practices, the External Review Panel will share the Approach Paper with the Accountability Mechanism Secretary/Head of DRS, the Inspection Panel members, CODE-Chair and CODE-Co-Chair, Vice-President of Operations Policy and Country Services (OPCS) and the WBG General Counsel for factual review, after which it will be sent to CODE for consideration.

13. The External Review Panel is expected to share the Draft Report with recommendations, no more than four months after CODE's consideration of the Approach Paper, with the CODE Chair and CODE-Co-Chair, Accountability Mechanism Secretary/Head of DRS, and the Inspection Panel Members, Vice-President of OPCS and the WBG General Counsel for factual review prior to presenting it to CODE for approval for disclosure for public consultation in a formal meeting.

14. Following CODE's discussion, the External Review Panel, with support of the Accountability Mechanism Secretary/Head of DRS, and the Inspection Panel and CODE Secretary will promptly publicly disclose the full Draft Report with recommendations to solicit feedback from external stakeholders for a minimum of 30 days.

15. The External Review Panel will revise the draft Report, as appropriate, and will share it with the Accountability Mechanism Secretary/Head of DRS and the Inspection Panel members, and the Vice-President of OPCS and the General Counsel for factual review. The Final Report with recommendations will be submitted to CODE for consideration in a formal meeting, and after to the Board for approval.

## **TIMELINE**

16. Timeline - If approved by the Board, the External Review is expected to commence in early Q2 FY24 and take approximately 7 months.

## Appendix B. Recommendations Summary

Recommendations	Paragraph/s
<b>Chapter 2. Accessibility</b>	
<p><b>Requirements for registration and eligibility assessment processes should be clarified and simplified.</b>            Access criteria laid out in the IPN Resolution are complex, unclear, partly contradictory and do not lay out what are registration and what are eligibility criteria. Criteria for registration and eligibility assessment need to be revised. At the registration stage, requesters should simply be required to allege the harm and not allege noncompliances and Bank failures and omissions.</p>	13
<p><b>IPN should be given the right to self-initiate an eligibility assessment</b> as many affected people do not dare to file a request. The IPN should be allowed to self-initiate an eligibility assessment if:</p> <ul style="list-style-type: none"> <li>i. An eligibility assessment is necessary to review environmental and social compliance issues or other operational policies of systemic importance to the World Bank; or</li> <li>ii. Concerns exist regarding particularly severe harm; or</li> <li>iii. Project-affected people may be subject to or fear reprisals, preventing them from lodging a complaint.</li> </ul> <p>Criteria for self-initiated eligibility assessments would need to be defined and should be somewhat more stringent than for request-based processes. The Board would approve the investigation if recommended.</p>	17–18
<p><b>There should be simpler and faster access to DR.</b> The ERT recommends the following options:</p> <p><b>Option 1:</b> Requesters should proceed to DRS right after registration and a joint briefing by DRS and IPN if they are interested in exploring the possibility to proceed with a DR process. DRS would first conduct a short assessment whether the issues raised in the request are suitable for a DR process and if yes, attempt to reach agreement on a DR process within 40 business days. If agreement on a DR process is reached, DR would proceed. If agreement cannot be reached, the request would be referred to the IPN compliance process. The IPN would continue to conduct the registration process for all requests.</p> <p><b>Option 2:</b> If the faster DR access option is not adopted, the present access process should be maintained, with one important adjustment. The AMSec should offer DR not concurrently to both parties, but first to the requesters. If the requesters after five working days decide to proceed with the compliance investigation, they should be allowed to do so without any further interruption. In such a case, AMSec should not provide information about DR nor offer DR to the other party. Only requesters who are interested in exploring the DR option would be transferred to DRS and DRS would then have 40 business days to try to reach agreement for a DR process. (This is also a conflict-of-interest recommendation.)</p> <p>If neither of these options are adopted, then the present period of 30 working days should be maintained as requesters who do not wish to pursue DR would be transferred to DRS and the compliance process would be interrupted—against their wishes.</p>	<p>20–26</p> <p>27–31</p> <p>31</p>
<p><b>IPN to continue to conduct registration for all requests and eligibility assessments.</b>            The IPN should continue to conduct the registration and eligibility assessments as criteria for the registration and eligibility assessment are presently designed as a continuum, and an institutional separation of the registration and eligibility assessment would add confusion and weaken predictability. Moreover, the eligibility assessment process is directly linked to the compliance investigation and thus needs to be conducted by the IPN, which is in charge of the compliance review process.</p>	32

<p><b>Some particularly severe requests should only be pursued through a compliance review process.</b> In a few cases where there is a particularly strong need for Bank accountability, requests should only be pursued through a compliance process as they provide for more transparency. Such public accountability is particularly needed in cases of gender-based violence or severe physical harm. In addition, a compliance review is more suitable for addressing persistent long-term harm, the impact of which reaches beyond the group of DR participants. This is typically the case for long-term environmental and social impacts that cause persistent harm by permanently altering living environments. Such impacts of harm require systemic mitigation approaches for all affected people, not only those who sign up to a DR agreement.</p>	34
<p>In access option 1, the DRS would determine in the assessment whether DR is a suitable process. In access option 2, the IPN would recommend to the Board in the eligibility assessment whether the request should only be processed through a compliance process. The Board would approve or reject this recommendation as part of its approval of the compliance investigation.</p>	35
<p><b>Review of the investigation report by requesters.</b> Requesters should be allowed to review the investigation report as laid out under paras. 45 and 46 of the IPN Resolution, but the review should be allowed to take place outside of Bank country offices for all requesters, not only for those who have requested confidentiality. If possible, the report should be translated into local language. If the full report cannot be translated, then the summary of findings needs to be translated into the local language.</p>	39
<p><b>Dissemination of Information about the AM.</b> Information about the World Bank AM should be provided on the World Bank’s country websites. If the website is in a local language, then the information should also be in the local language. Information about access to grievance redress—including a description of the AM and the GRS, should also be included in the initial project information document and, more prominently in the project appraisal document, including references to it in the table of contents. Project teams should make special efforts to provide information to project-affected people directly and through borrowers and implementing agencies. World Bank Senior Management could provide more leadership by asking country offices and project teams to support the appropriate dissemination about the World Bank AM by the borrower.</p>	42
<p><b>Chapter 3. Structure</b></p>	
<p><b>b. IPN Independence</b></p>	
<p><b>Structural and changes in the Resolutions and Operating Procedures</b> should be made to address existing challenges created by AM’s current structural contradictions and by the ambiguities of the AM and IPN resolutions around the roles and responsibilities of AMSec and IPN’s independence.</p>	70
<p>The <b>three-member IPN Panel</b> that reports directly to the Board should be retained as a demonstration of the Bank’s commitment to a strong compliance mechanism. The Panel would continue to function independently in accordance with the IPN Resolution.</p>	67
<p>The <b>minimum term for the IPN Panel Chair</b> should be two years to ensure continuity of leadership, particularly if the position is formally designated as a managerial position.</p>	69
<p><b>Three options for structural changes should be considered:</b></p> <p><b>Option 1:</b> Continue with the current structure with modifications to the AM Resolution and related changes in AM Operating Procedures, Internal Protocols, and TORs for the AMSec and the IPN Panel Chair to reflect the transfer of human resource and financial responsibilities back to the IPN.</p> <p><b>Option 2:</b> Adopt a pyramid structure with one head reporting to the Board, and replace the IPN with a manager responsible for the compliance function reporting to the head of the pyramid.</p>	71–83



<p><b>Option 3:</b> Separate the DR and IPN compliance review functions into two distinct organizational units, each reporting to the Board, and with early access to DR provided after a request has been registered and a joint briefing session for requesters has taken place.</p> <p><b>Note:</b> ERT initially proposed an option to combine the compliance functions of the IPN and CAO as well as the DR functions of the AM and CAO in its draft report. The merging of CAO and AM functions is no longer included as a proposed short-term option because of strong internal and external stakeholder feedback expressing urgency to resolve the current AM structural issues and recognition that policy implications of a CAO–AM merger would require substantial time for analysis and consultation. ERT contends such a merger should be given serious consideration, possibly as part of the CAO Policy review in 2026, and discussions should begin in the near future.</p>	84–86
<p><b>Stronger governance processes should be established to systematically measure and monitor the AM’s effectiveness</b> and whether the right behaviors are being demonstrated to ensure the structure is working and that shared interests are achieved even when the structure may be difficult. The recommendation encourages the Board, through CODE, to include in its governance role conducting annual program performance reviews on how the effectiveness of the AM, DRS, and IPN are measured and how that correlates with efficiency measures, which preferably include quantitative metrics that can be compared over time.</p>	88
<p><b>c. Dispute Resolution</b></p>	
<p><b>Disclosure on DR cases</b></p> <ol style="list-style-type: none"> <li>1. Reporting on DR should take place according to the AM operating procedures (para. 20.1) for DR processes in which parties have requested that the DR agreement remain confidential. The reporting should specify the issues to which the parties have agreed and those to which they have not. No specifics of the agreement need to be disclosed. If parties ask for confidentiality, the DR agreement will not be uploaded on the AM and IPN websites. In addition, reporting should specify the number of original requesters who signed the agreement and if any of the original requesters exited the DR process along with the reasons.</li> <li>2. The DRS should post interim monitoring reports on the implementation of DR agreements and issue a substantive conclusion report after it completes its DR monitoring process. This would be an important source of learning from DR processes.</li> </ol>	101
<p><b>Referral from DR to Compliance</b></p> <ol style="list-style-type: none"> <li>1. <b>After partial DR agreement.</b> A provision comparable to the following language from the CAO Policy (para. 71) should be introduced in the AM Resolution and Operating Procedures: <p style="margin-left: 40px;"><i>“Upon conclusion of the dispute resolution process with partial agreement, CAO will enquire whether the Complainants wish to transfer the complaint to CAO’s compliance function. CAO will transfer the complaint to CAO’s compliance function if one or more complainants provide explicit consent, or otherwise will close the case.”</i></p> </li> <li>2. <b>Original requesters to Compliance who do not sign the DR agreement.</b> A provision should be introduced into the AM Resolution and Operating Procedures that requires that requesters who originally submit a request to IPN but then subsequently leave the DR process should be given the option of proceeding with a compliance investigation after the DR agreement has been signed. The DRS outcome report should state how many of the requesters who submitted the request for registration signed the DR agreement.</li> <li>3. <b>The process for returning unresolved issues from the DR process to the IPN for a compliance review should be prominently explained</b> on the AM and IPN websites, in information materials, and in brochures. (Conflict of Interest Recommendation)</li> </ol>	<p>105</p> <p>106</p> <p>150</p>

<p><b>Provide some time flexibility for DR processes.</b> The DR timeline for a DR process could be extended from the current 18 months to 20 months provided that both DR parties agree and a DR agreement appears very likely within the 20-month time period.</p>	108
<p><b>Review of the DR process.</b> The Bank DR process is a new process that has been off to a very active start but needs to establish itself as a fully trusted and respected process. After 24 months, when more DR cases will have been closed and some experience with monitoring has been gained, an external review should be conducted by internationally recognized DR experts with strong expertise in IAM DR processes.</p>	112
<p><b>d. Redundancies</b></p>	
<p><b>Strategic resources planning.</b> The DRS and IPN should strengthen the rigor of their resource management and governance processes for all structural options. The DRS and the IPN should jointly create a strategic statement that explicitly describes how the two functions work collaboratively and guides how resources are applied and needs are determined, including articulating assumptions and parameters used. The DRS and the IPN (under any structure) should meet jointly with CODE and the Budget Committee annually to report on program costs as a complement to the annual CODE meetings on accountability mechanism program effectiveness reviews.</p>	120
<p><b>Chapter 4. Independent Verification of Management Action Plans by the IPN and GIA</b></p>	
<p><b>The IPN should be given a broader and more flexible verification mandate. The ERT provides three options to consider:</b></p>	134
<p><b>Option 1:</b> The IPN should be given a verification mandate like most comparable IAMs, in line with the verification authority provided in the CAO Policy (paras. 139–146), which provides a regular verification mandate to CAO without Board approval. Verification would only be conducted on the implementation of Board-approved MAP measures, not on the appropriateness of these measures.</p>	135
<p><b>Option 2:</b> The IPN would recommend a verification process to the Board for select high-risk cases at the same time the Board considers the approval of the MAP. The IPN would only recommend verification for such requests where it is particularly important that the Bank makes credible efforts to facilitate the implementation of agreed remedial actions. Requester-related criteria in the verification framework, such as criteria one, two, four, five, and eight, could serve as guiding principles for the IPN when making recommendations, but they should not be mandatory. The IPN’s recommendations could suggest whether the verification include a site visit or be solely desk-based, as well as the timing when verification should take place. Verifications would only focus on the implementation of Board-approved MAP measures, not on the appropriateness of these measures.</p> <p><b>Option 3.</b> If option 1 is not adopted, the IPN, in collaboration with management, should develop a process that would allow requesters or their representatives to express their views on posted MAP update reports. If relevant comments are received, a summary of comments should be posted on the IPN’s website in an appropriate form and circulated to the Board for information.</p>	136
<p><b>Chapter 5. Conflict of Interest</b></p>	
<p><b>Adjusting the firewall principles.</b> Modifications should be made to the AM Resolution (paras. 7 and 14) to clarify what information/aspects of processes must be kept confidential to protect the interests of borrowers and requesters, and to allow room for either party to agree on what of their own information can be shared if any issues proceed to a compliance review to avoid duplicate gathering of information. It should also be made clear that firewalls and confidentiality does not apply to internal DRS or IPN operational matters, such as resource costs of individual cases or who from the AM or the World Bank participate in any DRS process.</p>	158

<b>Chapter 6. Communications, Outreach, and Collaboration</b>	
<b>AM/IPN branding strategy.</b> If the recommendation to retain the three-member Inspection Panel (para. 64) is accepted, then the Bank should continue to build on the IPN’s reputation in its branding and communications because of the strategic advantage and trust it brings to the Bank. If the current structure is maintained, there must also be room to brand what has been added as a complement to what has long existed. This would mean, for example, that communications and the websites would present IPN at a more comparable level with AM rather than being subsumed under AM’s brand. Under the current structure, it also means that IPN’s communications acknowledge that it is part of AM.	172
<b>Cooperation processes with other IAMs in DR processes.</b> The AMSec, as head of the DR, should introduce options into the operating procedures that provide for some flexibility on timelines and processes, including the possibility of delegating cases to another IAM if the DR process involves several IAMs.	177
<b>7. Other Issues</b>	
<b>Regularly planned external reviews.</b> The AM and IPN policies should be regularly reviewed on a multiannual basis (potentially at five-year intervals) with subsequent adjustments to policies to assure that the AM/IPN policies remain aligned with emerging good practices. Such regular review processes are implemented in most other IAMs of MDBs.	184

## Appendix C. IAM Comparison Data

### Number of Complaints, Size of Lending Program, and Number of Projects Approved for Selected IAMs (2013–2022)

	ADB	AfDB	EBRD (2015–22)	EIB
Admitted complaints	116	17	22	278
Number of projects approved	3547	2675	4042	4519
Size of lending program (US\$)	311.77 billion	81.49 billion	115.99 billion	804.6 billion
Average commitment per project	87.89 million	30.46 million	28.69 million	178.05 million
Rate of admitted complaint per project (10-year average)	0.0327	0.0064	0.0054	0.0615 <i>EIB has a lower access threshold than other IAMs</i>
% admitted that go to DR	82%	53%	36%	11% <i>EIB/CM only has a DR function since 2018</i>
% admitted that go to compliance	15%	47%	59%	89%
% admitted that are transferred from DR to compliance	0%	12%	9%	3%
% admitted that go to neither DR nor compliance	3%	0%	5%	0%

	IDB	IFC	WB
Admitted complaints	32	112	48
Number of projects approved	1155	3370	5639
Size of lending program (US\$)	130.99 billion	199.34 billion	491.4 billion
Average commitment per project	113.41 million	59.15 million	87.14 million
Rate of admitted complaint per project (10-year average)	0.0277	0.0332	0.0083
% admitted that go to DR	87%	42%	6% <i>WB/AM only has a DR function since 2021</i>
% admitted that go to compliance	13%	54%	88%
% admitted that are transferred from DR to compliance	37%	16%	0%
% admitted that go to neither DR nor compliance	0%	4%	6%

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## Appendix D. Key Performance Indicators

### Examples of Key Performance Indicators

- Different types of indicators:
  - Process (e.g., met time frames, volume)
  - Input (e.g., costs, consultations, number of engagements)
  - Output (e.g., investigations, reports, recommendations)
  - Outcome (e.g., ultimate impact)
  
- Specific to assessment mechanisms:
  - Timeliness—time to complete DRS and compliance processes
  - Number and type of outreach efforts
  - Number and percentage of eligible complaints, investigations, DRs
  - Resolution rate (DRS)
  - Percentage of Compliance issues identified and corrected
  - Percentage of Remedies achieved with intended impact.
  - Feedback from stakeholders on awareness of, accessibility of, satisfaction with and/or trust in AM process
  - Transparency—appropriate disclosure, safeguarding confidentiality
  - Compliance with reporting requirements (annual report, quarterly newsletters, etc.)
  - Costs per number of complaints/cases
  - Sharing of lessons learned—number and relevance of knowledge sharing products and how shared/used—what impact did they have.

### Measures identified by IPN

The Panel currently reports on its website number requests received, registered, approved for investigation and completion as well as percentages registered and approved for investigation.

IPN has identified measures for targeting outreach as well as the following five outcome measures:

1. **Redress of harm** to affected people through Management and Borrower actions designed to address or mitigate a project's adverse impact.
2. **Identifying systemic issues** within the institution, leading to the Bank
3. Providing policy clarifications and improved guidance to staff
4. Strengthening of environmental and social safeguard capacity
5. Lessons and improvements in future Bank operations



## Measures used by CAO

Productivity and efficiency numbers, most of which are volume and timeliness:

- Number of new complaints meeting eligibility criteria
- Number of reports summarizing complaint assessment process/results
- Percentage of active DR cases reaching interim agreements
- Number of DR processes concluded with agreements
- Number of compliance appraisal reports published
- Number of draft compliance investigation reports sent for factual review
- Number of compliance investigation reports published
- Number of cases in monitoring
- Average Cost per case and for each step in process

Outcome measures:

- Effective resolution of complaints
- Enhanced E&S project performance
- Improved E&S performance through learning

## Appendix E. Verification Mandates of IAMs

Institution/IAM	Verification mandate?	Timeframe	Site visits?	Who receives verification reports?
AfDB/IRM	Yes	Not specified. For MAP, until it is fully implemented	Yes	The Board
ADB/SPF	Yes	Project specific, not to generally exceed two years	Yes	Annual report to the president, with a copy to the Board
ADB/CRP	Yes	Project specific, not to generally exceed three years	Yes	The Board
AIIB/PPM	Only review of Management Progress Reports of MAPs	Timeline laid out in Dispute Resolution Agreement and MAP	No	
EBRD/IPAM	Yes	Not specified, but until MAP or problem-solving agreement is fully implemented	Yes	The President and the Board
EIB/CM	Yes (monitors recommendations as laid out in the investigation report)	No later than 24 months after the investigation report	Not typically done	Not specified
IDB/MICI	Yes (as determined by the Board)	Not to exceed five years from the date the DR agreement was signed, or from the approval of the MAP	Yes	To the Board, at least annually
IFC/CAO	Yes	Not specified	Yes, selectively	The Board
UNDP/SECU	Yes	Not specified, but until UNDP is addressing the noncompliances	Yes, optional/as needed	Not specified, updates included in annual report to UNDP administrator
UNDP/SRM	Yes	Not specified, but report to be released annually	Yes, optional/as needed	Not specified

## Appendix F. List of Interviews

Includes interviews conducted at the approach paper stage.

Interviewees	Job Title	Function
Orsolya Szekely	Accountability Mechanism Secretary	AMSec Staff
Oriana Bolvaran	Senior Executive Assistant	AMSec Staff
Robert Doherty	Consultant	AMSec Staff
Jennine Meyer	Senior External Affairs Officer	AMSec Staff
Yoshiko Ogushi	Junior Professional Officer	AMSec Staff
Katalin Horvath	Program Assistant	AMSec Staff
William Romans	Head of Operations of the Dispute Resolution Service	DRS
Scott Adams	Senior Dispute Resolution Officer	DRS
Marcos Favero	Dispute Resolution Officer	DRS
Orla Said	Analyst	DRS
Harini V	Analyst	DRS
Mark Goldsmith	Panel Chair	IPN
Ramanie Kunanayagam	Panel Member, Former Panel Chair	IPN
Ibrahim Pam	Panel Member	IPN
Evelyn Dietsche	Panel Member	IPN
Serge Selwan	Senior Operations Officer	IPN
Richard Wyness	Senior Environmental Specialist	IPN
Sandie Okoro	Former Senior Vice President/General Counsel	Former IPN and Former Bank Sr. Managers
Dilek Barlas	Former Executive Secretary, IPN	Former IPN and Former Bank Sr. Managers
Gonzalo Castro De La Mata	Former Panel Chair	Former IPN and Former Bank Sr. Managers
Edith Brown Weiss	Former Panel Member and Chair, Law Professor	Former IPN and Former Bank Sr. Managers
Alvaro Umaña Quesada	Former Panel Member and Chair	Former IPN and Former Bank Sr. Managers
Richard Bissell	Former Panel Member and Chair	Former IPN and Former Bank Sr. Managers
Werner Kiene	Former Panel Member and Chair	Former IPN and Former Bank Sr. Managers
Zeinab Elbakri	Former Panel Member	Former IPN and Former Bank Sr. Managers
Maartje van Putten	Former Panel Member	Former IPN and Former Bank Sr. Managers

Janine Ferretti	Ombudsperson, CAO	Other IAMs and Dispute Resolution Experts
Gabriela Stocks	Head of Compliance, CAO	Other IAMs and Dispute Resolution Experts
Nokukhanya Ntuli	Principal Specialist, Dispute Resolution, CAO	Other IAMs and Dispute Resolution Experts
Estefania Torres Barrera	Advisor, CAO	Other IAMs and Dispute Resolution Experts
Victoria Marquez	Chief Accountability Officer, IPAM, EBRD	Other IAMs and Dispute Resolution Experts
Imrana Jalal	Head of OPCS, ADB and former chairperson of IPN	Other IAMs and Dispute Resolution Experts
Elisea G. Gozun	Chairperson, CRP, ADB	Other IAMs and Dispute Resolution Experts
Andrea Repetto Vargas	Head of MICI, IDB	Other IAMs and Dispute Resolution Experts
David Simpson	Head of IRM, AfDB	Other IAMs and Dispute Resolution Experts
Paul Goodwin	Head of SECU, UNDP	Other IAMs and Dispute Resolution Experts
David Fairman	Dispute Resolution Expert	Other IAMs and Dispute Resolution Experts
Gina Lea Barbieri	Dispute Resolution Expert	Other IAMs and Dispute Resolution Experts
Daniel Bradlow	Member of SECU, UNDP, Professor	Other IAMs and Dispute Resolution Experts
Anke D'Angelo	Group Internal Audit (GIA) Vice President and Auditor General	Group Internal Audit
Ed Mountfield	Vice President, OPCS	Bank Management and Staff
Maninder Gill	Director, OPSEF	Bank Management and Staff
Qays Hamad	Operations Advisor, OPSEF	Bank Management and Staff
John Kellenberg	GRS	Bank Management and Staff
Archana Narasimhan	Resource Management Analyst	Bank Management and Staff
Aravind Seshadri	Senior Resource Management Officer	Bank Management and Staff
Lily Chu	Director, Strategy and Operations, Independent Evaluation Group (IEG)	Bank Management and Staff
Mercy Tembon	Vice President and Corporate Secretary, Corporate Secretariat (SEC)	Bank Management and Staff
Roman Binder	HR Business Partner	Bank Management and Staff
Tess D'Souza-Magee	HR Business Partner	Bank Management and Staff
Anna Bjerde	Managing Director of Operations	Bank Management and Staff
Axel van Trotsenburg	Senior Managing Director	Bank Management and Staff
Christopher Stephens	Senior Vice President/General Counsel	Bank Management and Staff

Victor Mosoti	Chief Counsel, LEGEN	Bank Management and Staff
Bastian Delich	Senior Counsel, LEGEN	Bank Management and Staff
Dustin Schaefer	Campaigns on Multilateral Development Financial Institutions, Urgewald	CSOs/Stakeholders/Experts
Margaux Day	Executive Director, Accountability Counsel	CSOs/Stakeholders/Experts
Stephanie Amoako	Policy Director, Accountability Counsel	CSOs/Stakeholders/Experts
Joe Athialy	Executive Director, Centre for Financial Accountability	CSOs/Stakeholders/Experts
Lori Udall	President, Montpelier Consulting	CSOs/Stakeholders/Experts
David Hunter	Law Professor, American University	CSOs/Stakeholders/Experts
Carla Garcia Zendejas	Director; People, Land, and Resources; Center for International Environmental Law	CSOs/Stakeholders/Experts
Elana Berger	Executive Director, Bank Information Center	CSOs/Stakeholders/Experts
Pieter Jansen	Public Banks Politics and Policies, Both Ends	CSOs/Stakeholders/Experts
Shankar Limbu	Human Rights Attorney, Lawyers' Association for Human Rights of Nepalese Indigenous Peoples (Nepal representative)	Requesters/Representatives
Geoffrey Ssebagala	Country Director, Witness Radio (Uganda representative)	Requesters/Representatives
Anuradha Mittal	Executive Director, Oakland Institute (Tanzania representative)	Requesters/Representatives
Mario Paniagua	Advisor for Indigenous Peoples, Fundación Tierra (Bolivia representative)	Requesters/Representatives
Group of requesters and participants in Dispute Resolution Process	Nepal: Nepal-India Electricity Transmission and Trade Project (P115767) and its Additional Financing (P132631)	Requesters/Representatives
Group of requesters and participants in Dispute Resolution Process	Uganda: Second Kampala Institutional and Infrastructure Development Project (KIIDP-2) (P133590)	Requesters/Representatives
Group of requesters and participants in Dispute Resolution Process	Viet Nam: Viet Nam Coastal Cities Sustainable Environment Project (P156143) - Second Request	Requesters/Representatives
Rodrigo Fernando Duran Gonzales	Vice-Ministry of Public Investment and External Financing	Government Representatives
Ramathan Ggoobi	Permanent Secretary and Secretary to the Treasury, Ministry of Finance Uganda	Government Representatives
Kiryowa Kiwanuka	Attorney General of Uganda	Government Representatives
Albert Musisi	Commissioner, Macroeconomic Policy Department, Ministry of Finance Uganda	Government Representatives
Trần Hoà Nam	Vice Chairman, Khánh Hòa PPC (Provincial People's Committee), Viet Nam	Government Representatives
Nguyễn Thanh Hiến	Director, Khánh Hòa DPMU (Development Project Management Unit), Vietam	Government Representatives

L. Felice Gorordo	Alternate Executive Director, EDS01	World Bank EDs and Advisors
Ruchira Srinivasakrishnan	Advisor to the Executive Director, EDS01	World Bank EDs and Advisors
Rachel Bayly	Treasury Department (participated in meeting with EDS01)	World Bank EDs and Advisors
Jeffrey Baker	Treasury Department (participated in meeting with EDS01)	World Bank EDs and Advisors
Robin Tasker	Alternate Executive Director, EDS03	World Bank EDs and Advisors
Charlotte Clapham	Advisor to the Executive Director, EDS03	World Bank EDs and Advisors
Michael Krake	Executive Director, EDS05	World Bank EDs and Advisors
Jürgen Zattler	Former Executive Director, EDS05, and Former CODE Chair	World Bank EDs and Advisors
Christiane Hieronymus	Senior Advisor to the Executive Director, EDS05	World Bank EDs and Advisors
Katharine Rechico	Executive Director, EDS07	World Bank EDs and Advisors
Edward Tierney	Senior Advisor to the Executive Director, EDS07	World Bank EDs and Advisors
Olga Fuentes	Alternate Executive Director, EDS08	World Bank EDs and Advisors
Gabriel Baldivieso	Advisor to the Executive Director, EDS08	World Bank EDs and Advisors
Javier León Astete	Advisor to the Executive Director, EDS08	World Bank EDs and Advisors
Adrian Fernandez	Former Executive Director, EDS08	World Bank EDs and Advisors
Katrina Harrigan	Advisor to the Executive Director, EDS09	World Bank EDs and Advisors
Kerstin Sumana Wijeyewardene	Alternate Executive Director, EDS09	World Bank EDs and Advisors
Hayrettin Demircan	Executive Director, EDS10	World Bank EDs and Advisors
Nathalie Francken	Alternate Executive Director and MIGA Director, EDS10	World Bank EDs and Advisors
Katarina Kovacova	Advisor to the Executive Director, EDS10	World Bank EDs and Advisors
Abdulaziz Al Mulla	Executive Director, EDS11	World Bank EDs and Advisors
Yaarub Al-Yaarubi	Senior Advisor to the Executive Director, EDS11	World Bank EDs and Advisors
Rajender Kumar	Advisor to the Executive Director, EDS12	World Bank EDs and Advisors
Rajeev Topno	Senior Advisor to the Executive Director, EDS12	World Bank EDs and Advisors
Rajesh Khullar	Former Executive Director, EDS12, and Former CODE Chair	World Bank EDs and Advisors
Abdoul Salam Bello	Executive Director, EDS13	World Bank EDs and Advisors
Harold Tavares	Alternate Executive Director, EDS013	World Bank EDs and Advisors
Armand Atomate	Senior Advisor to the Executive Director, EDS13	World Bank EDs and Advisors
Mamadou Diallo	Senior Advisor to the Executive Director, EDS13	World Bank EDs and Advisors
Zarau Kibwe	Alternate Executive Director, EDS14	World Bank EDs and Advisors

Azhari Elamin	Advisor to the Executive Director, EDS14	World Bank EDs and Advisors
Emmanuel Plingloh Munyeneh	Advisor to the Executive Director, EDS14	World Bank EDs and Advisors
Marcos Chiliatto	Executive Director, EDS15	World Bank EDs and Advisors
Karen Rodriguez	Senior Advisor to the Executive Director, EDS15	World Bank EDs and Advisors
Marcelo Laraburu	Advisor to the Executive Director, EDS15	World Bank EDs and Advisors
Wempi Saputra	Executive Director, EDS16	World Bank EDs and Advisors
Sakun Lambasara	Alternate Executive Director, EDS16	World Bank EDs and Advisors
Dalyono	Senior Advisor to the Executive Director, EDS16	World Bank EDs and Advisors
Ha Thanh Khuong	Senior Advisor to the Executive Director, EDS16	World Bank EDs and Advisors
Nur Atiqah Mohd Yassin	Advisor to the Executive Director, EDS16	World Bank EDs and Advisors
Azrin Rahim	Advisor to the Executive Director, EDS16	World Bank EDs and Advisors
Eugene Rhuggenaath	Executive Director, EDS19	World Bank EDs and Advisors
Sharmila Bihari	Senior Advisor to the Executive Director, EDS19	World Bank EDs and Advisors
Koen Davidse	Former Executive Director, EDS19, and Former CODE Co-chair	World Bank EDs and Advisors
Lene Lind	Executive Director, EDS20	World Bank EDs and Advisors
Mikko Sihvola	Advisor to the Executive Director, EDS20	World Bank EDs and Advisors
Khalid Bawazier	Executive Director, EDS22	World Bank EDs and Advisors
Suhail Saaed	Advisor to the Executive Director, EDS22	World Bank EDs and Advisors
Alexey Morozov	Senior Advisor to the Executive Director, EDS23	World Bank EDs and Advisors
Dzhanneta Medzhidova	Senior Advisor to the Executive Director, EDS23	World Bank EDs and Advisors
Lidar Tumakov	Advisor to the Executive Director, EDS23	World Bank EDs and Advisors
Dominique Favre	Executive Director, EDS24	World Bank EDs and Advisors
Benedikt Huerzeler	Senior Advisor to the Executive Director, EDS24	World Bank EDs and Advisors
Ayanda Dlodlo	Executive Director, EDS25	World Bank EDs and Advisors

**External Review of the Board Approved Reforms of  
the Inspection Panel Toolkit and Creation of the  
World Bank Accountability Mechanism  
Approach Paper**

**February 2024**



## **Note from the External Review Panel**

The External Review Panel (ERT) submits the Approach Paper referred to in paragraphs 10 and 11 of its Terms of Reference (TORs). As provided in the TORs, the ERT requested factual comments from the Accountability Mechanism Secretary/Head of DRS, the Inspection Panel members, the CODE-Chair and CODE-Co-Chair, the Vice-President of Operations Policy and Country Services (OPCS), and the WBG General Counsel.

To a certain extent, the comments received - many of them not factual in nature and misrepresenting some ERT statements- seemed to confirm one of the premises of the TORs that *"[I]n practice, implementing the current AM Model, as framed in the Resolution, has presented challenges, ranging from varied interpretations on Terms of Reference and the exercise of independence, to administration control over human and financial resources, as well as representation discrepancies and communication mismatch, in fulfillment of AM and IPN mandates."*

The ERT appreciates these comments, and many of them are reflected in the Approach Paper. All provide essential inputs for the next stage of our work as they provide written interpretations, statements, and background information that are very useful for the Review.

Artraud Hartmann, Cindy Petitt and Eduardo Abbott

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## Acronyms

ADB	Asian Development Bank
AfDB	African Development Bank
AIIB	Asian Infrastructure Investment Bank
AM	Accountability Mechanism
AMSec	Mechanism Secretary
CAO	IFC and MIGA Compliance Advisory Ombudsman
CODE	WBG Committee on Development Effectiveness
DRS	Dispute Resolution Service
FMO/DEG	Dutch Entrepreneurial Development Bank
EBRD	European Bank for Reconstruction and Development
EIB	European Investment Bank
ERT	External Review Team
GCF	Green Climate Fund
GIA	Group Independent Audit
GRS	Grievance Redress Service
IAM	Independent Accountability Mechanism
IAMNet	Independent Accountability Mechanism Network
ICM/MICI	Independent Consultation and Investigation Mechanism (IDB)
IDB	Inter-American Development Bank
IFC	International Finance Corporation
IPN	Inspection Panel
MAP	Management Action Plan
MDB	Multilateral Development Bank
MIGA	Multilateral Investment Guarantee Agency
MoU	Memorandum of Understanding
OP	Operational Policies
OPCS	World Bank Operations Policy and Country Services
PROPARCO	Private sector financing arm of Agence Francaise de Developement Group
SECU	Social and Environmental Compliance Review and Stakeholder Response Mechanism
TORs	Terms of Reference
UNDP	United Nations Development Programmes
WB	World Bank
WBG	World Bank Group

# **External Review of the Board Approved Reforms of the Inspection Panel Toolkit and Creation of the World Bank Accountability Mechanism Approach Paper**

## **I. Introduction**

1. This Approach Paper responds to Terms of Reference (TOR) provided to the External Review Team (ERT). The TOR is attached in ANNEX 1. The Approach Paper is structured according to the questions laid out under paragraphs 6 (a)-(d) of the TOR. Effectiveness and efficiency considerations, referred to in the TOR's initial paragraph, are considered as part of the assessment conducted to respond to these TOR questions.

2. The ERT conducted preliminary interviews (see ANNEX 2) and literature reviews to identify key issues and determine methodologies to be applied. This paper lays out issues as perceived by the ERT after this initial period. Issues are presented with the purpose of focusing on how the ERT will address the questions raised. At this early stage, the ERT does not take positions on the questions posed in paragraph 6 of the TOR and does not lay out options for responses.

3. The purpose of the Review is to assess the reforms adopted as part of the Inspection Panel's (IPN) Toolkit Reforms. Paragraph 6 of the TOR states: "On behalf of the Bank's Board of Executive Directors, its Committee on Development Effectiveness (CODE) has commissioned an External Review to assess the effectiveness, efficiency, as well as operational and developmental impact of the 2018 and 2020 Reforms and their implementation." The context, components of the Toolkit Reforms, and Board approved Resolutions and the operating procedures for the IPN and Accountability Mechanism (AM) are presented in paragraphs 2-4 of the TOR (see ANNEX 1). In 2020, the Board also approved a review of changes introduced by the Toolkit Reforms in three years' time. As the Resolution on the World Bank Inspection Panel Resolution No. IBRD 2020-004 – Resolution No. IDA 2020-003 (IPN Resolution), and the Resolution on the World Bank Accountability Mechanism Resolution No. IBRD 2020-005 – AM Resolution No. 2020-004 were approved in 2020, this Review will focus on the time period 2020-2023.

4. The World Bank has been a leader in establishing a compliance review function. The IPN was established 30 years ago, which was widely heralded as a landmark event<sup>2</sup> and set in motion the establishment of Independent Accountability Mechanisms (IAMs) in all Multilateral Development Banks (MDBs) and IFC. IAMs operate according to policies, procedures and practices, which have continued to evolve over the last decade and increasingly converged into norms around good practices. The IPN, being the oldest and most experienced IAM, is of particular importance within this IAM system and respected for its rigorous investigations and for the transparency and predictability in its processes.

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<sup>2</sup> See for example, Bradlow, Daniel, *International Organizations and Private Complaints: The Case of the World Bank Inspection Panel*, Virginia International Law, 1993-1994; 34; 553-614; Hey, E. *The World Bank, Inspection Panel Towards the Recognition of New Legally relevant relationship in International Law*, Hofstra Law and Policy Symposium 2, 61-74; Shihata, Ibrahim, *The World Bank Inspection Panel: In Practice*, Oxford University Press 2nd edition, 2000, 261-267.

5. However, as there was no Dispute Resolution (DRS) function, the IPN did not gain experience in interactions with DRS as did other IAMs which have long experiences in operating with both a dispute resolution and a compliance function. The Toolkit Reform process established this DRS function. DRS provides people who allege being actually or potentially harmed by a World Bank-funded project the possibility to agree on actions to address harm without a compliance investigation process. In 2015, the Bank established the Grievance Redress Service (GRS) to address complaints submitted to the Bank in a Management led approach. In contrast, the DRS function established under the AM Resolution operates independently from Bank Management and reports to the Board.

6. Providing people the possibility to file a “complaint” (request) and seek access to remedy becomes even more important as the World Bank embarks on its “Evolution Roadmap”.<sup>3</sup> The Evolution Roadmap lays out strategic objectives to enlarge the lending volume, broaden the lending focus on Global Challenges, and achieve lending through more efficient processes. A trusted, transparent, predictable, and effective accountability mechanism, including both dispute resolution and compliance review processes, is an important complement to this agenda. Access to “grievance redress” must be assured as the Bank moves forward with a larger, broader, and faster lending program.

## **II. Methodological Approaches for the Review**

### **A. Methodology**

7. The ERT will conduct the Review according to the following methodology: a review of the present structure and practices in relation to the policies laid out in the IPN and AM Resolutions and Operating Procedures, a review of relevant documents and research literature to include research on learnings from practices of IAMs; interviews with stakeholders (categories of stakeholders and a preliminary list of interviewees are presented in ANNEX 3); and a review of requests that have been processed through compliance reviews or dispute resolutions since 2020 by the IPN and the AM. The ERT plans to conduct interviews with requesters and borrowers, if agreement is obtained by the parties to participate in such interviews. As parties that concluded DR processes requested confidentiality, access for interviews might be limited for the ERT. Furthermore, the ERT intends to conduct selected benchmarking of AM/IPN with other IAMs such as ADB, EBRD, AfDB, EIB AIIB, IFC, IDB in order to learn from their experiences in some areas relevant for this review. When reviewing other IAMs, the ERT will not only take account of IAM policies but also of implementation practices. Topics listed below are considered for benchmarking:

- (a) Access criteria for dispute resolution and compliance processes, including representation allowed for requesters.

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<sup>3</sup> See, Ending Poverty on a Livable Planet: Report to Governors on World Bank Evolution,” DC2023-0004, September 28, 2023.

- (b) Interaction processes between dispute resolution and compliance functions. ERT will look at what point, according to which criteria, and through what processes are complaints referred to dispute resolution or compliance reviews.
- (c) Disclosure of dispute resolution assessments, agreements, and monitoring.
- (d) Definition and practices in executing the firewalls between dispute resolution and compliance functions.
- (e) Verification policies and practices of Management Action Plans (MAPs).

## B. The Feedback Process

8. The TOR states in paragraph 14: “*The External Review Panel, with support of the Accountability Mechanism Secretary/Head of DRS, and the Inspection Panel and the CODE Secretary will promptly publicly disclose the full Draft Report with recommendations to solicit feedback from external stakeholders for a minimum of 30 days*”. The ERT proposes the following approach for this feedback process:

- (a) It is a limited feedback process on a draft report, not a complete consultation process as is typically conducted for policy revisions. Time and resource constraints require this feedback process to be limited in time and scope.
- (b) The feedback period will remain strictly limited to 30 calendar days as to adhere to the tight timeline envisaged for the Review.
- (c) During the feedback period three virtual sessions will be held for stakeholders in different time zones (US and Latin America, Europe, Africa and Asia). These virtual sessions will provide an opportunity to ask questions and seek clarifications. Oral comments will need to be provided in writing before the deadline to be considered.
- (d) The ERT will consider only written feedback received before the deadline for feedback.
- (e) The ERT will review written comments and assess whether adjustments should be made in the final report. The decision on which comments to consider in the final report rests solely with the ERT.
- (f) A summary of written feedback received will be provided to CODE as a separate note together with the final report.

9. The ERT will assess findings from the above methodology and feedback received based on how current practices of the Bank’s Accountability Mechanism and its constituent parts (i) compare with norms and practices of other IAMs as they relate to the scope of this Review and Bank circumstances and (ii) correspond with the 2020 reforms outlined in governing Resolutions, operating procedures, and internal protocols. The objectives of the 2020 Toolkit Reforms will also be taken into consideration. These objectives were: strengthening the Bank’s accountability framework, including a strong dispute resolution function and strong compliance function; maintaining IPN’s independence and maintaining standards of excellence established by the IPN; strengthening Board oversight, maintaining strong Bank management accountability, enabling strong coordination, and gaining efficiency; as well as openness to future consideration of an institutional arrangement harboring compliance and dispute resolution for both sovereign and private sector projects.

10. The ERT will make recommendations (see TOR paragraphs 13 and 14) for each of the questions raised in its TOR. The criteria for assessing each solution considered will be the extent to which it (i) is feasible to implement, (ii) will result in sustainable improvement to the circumstance it is designed to address, and (iii) adds value commensurate to its cost. In a few cases, in addition to the recommendations, alternative options may be presented with the possible advantages and disadvantages of each.

### C. **Timing and Deliverables**

11. The ERT will share a draft report with recommendations no later than ten weeks after CODE considers the Approach Paper and a final report no later than three weeks after the close of the feedback process with external Stakeholders. A timeline with anticipated dates is attached (see ANNEX 4).

## III. **Structural Issues**

12. The toolkit reform created an AM, which according to the AM Resolution is headed by the Accountability Mechanism Secretary and consists of two constituent parts: the Bank's long-existing IPN and a new DRS. The two constituent parts operate as separate and independent functions and have no role in the other function to avoid conflicts of interest. The IPN will not opine on policy compliance in dispute resolution issues/cases or the outcome of the dispute resolution process (IPN Resolution paragraph 32), and the DRS and AMSec will not opine on compliance review cases, process, or outcomes (AM Resolution paragraph 14b).

13. The AMSec's responsibilities include serving as head of the DRS function and performing administrative and financial management functions for both the DRS and the IPN, as well as human resource management and performance evaluation functions for all staff (other than the Inspection Panel Members). The IPN is governed by a separate IPN Resolution as well as the AM Resolution. Both Resolutions reaffirm the importance of the IPN function and provide that IPN is expected to continue to perform its compliance functions with independence. In addition, the IPN has an important advisory function. The AM Resolution outlines limits on the role of the AMSec aimed at ensuring the continued independence of IPN. The AM resolution does lay out areas of cooperation between the IPN and the AMSec. Both the AMSec and the IPN have a reporting line to the Board. Staff working substantively with the IPN on requests submitted to the IPN report administratively to the AMSec.

### A. **Paragraph 6a1 of the TOR: Does the current AM institutional structure enable the Inspection Panel (IPN) to continue to carry out its compliance review functions independently, in accordance with the Inspection Panel Resolution? What are the strengths and the weaknesses?**

14. Paragraph 6 of the AM Resolution states. "*The IPN will continue to carry out its compliance review functions independently, in accordance with the Inspection Panel Resolution.*" Paragraph 7a further states: "*Functions assigned to the Inspection Panel under*



*the Inspection Panel Resolution are performed independently by the Inspection Panel including reporting to the Board of Directors on compliance matters.”* The AM Resolution further lays out that the IPN should coordinate with but not being subject to the supervision of the AMSec. According to the AM resolution, the AMSec “consults” with the IPN Chairperson on appointment and performance reviews of staff assigned to the IPN and works with the IPN Chairperson on allocation and oversight of the IPN budget (AM resolution paragraphs 8c and d<sup>4</sup>).

15. The External Review TOR states (paragraph 5): “...implementing the current AM Model, as framed in the Resolution, has presented challenges, ranging from varied interpretations on Terms of References and the exercise of independence to administration control over human and financial resources, as well as representation discrepancies and communication mismatch, in fulfillment of AM and IPN mandates.” Based on preliminary interviews conducted, the ERT supports this statement. At present, the system seems marked by multiple conflicts that center on different interpretations as well as inconsistencies within authorizing documents, including AM and IPN Resolutions and AMSec’s Terms of Reference. How IPN’s independence is defined, particularly regarding control over its financial and human resources, is also subject to different opinions and interpretations. Concerns have been raised that the present structure, where administrative and budgetary controls are exercised for the IPN by the AMSec, weakens both IPN’s effectiveness and its independence. For example, if there is undue oversight or delays in obtaining approvals for budget expenditures, mission travel, job performance appraisals, and hiring of staff, it could impact IPN’s ability to achieve its compliance review function as laid out in the IPN Resolution.

16. Over the past two years, numerous meetings have been conducted, two protocols have been signed by the IPN and the AMSec seeking agreement on some operating issues, and operating procedures for both AM and IPN have been created; however, differences in views continue to prevail. Interviews suggest that different views of AMSec responsibilities relative to IPN’s independence are rooted in wide ranging interpretations about what objectives the current AM structure was designed to achieve.

17. At this stage, the ERT does not take a position on expressed views. The ERT will need more review time to assess whether the current structural setup does, in fact, compromise an effective, independent compliance and associated advisory function as laid out in the IPN Resolution. The ERT will assess whether revisions in the present structure are required or adjustments in administrative processes would suffice to provide a framework for effective cooperation and IPN case handling that fully supports IPN’s independence. Given the different interpretations of what IPN independence means, ERT will layout these different points of view and what is potentially at stake with each in determining what is appropriate for the IPN to conduct its functions.

18. The ERT will review: (i) AMSec and IPN interactions, how authorities are defined and exercised to support and/or inhibit IPN’s independence; (ii) past efforts to resolve conflicting

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<sup>4</sup> Paragraph 8c of the AM Resolution provides: “Accountability Mechanism staff assigned to the Inspection Panel report to the Accountability Mechanism Secretary on administrative matters but to Inspection Panel members on technical matters, such as the compliance investigation itself, the composition of compliance teams, and their mission, travel, and selection of consultants.”

interpretations and inconsistencies in authorizing documents, the impact of these efforts, and why in some instances they have not resulted in a shared view and aligned actions; (iii) what would be required to develop a consensus view among involved parties on how IPN's independence is defined, and (iv) options for resolving current challenges, and the likelihood of their success as well as potential barriers to success.

19. The ERT will review documents, conduct interviews with affected parties to understand current practices, and review IAM structures and practices of other MDBs to learn from other established processes.

**B. Paragraph 6a2 of TOR: Does the current AM institutional structure enable the DRS to facilitate a voluntary and independent dispute resolution option for requesters and borrowers in the context of Inspection Panel Requests for Inspection? What are the strengths and weaknesses?**

20. According to the IPN Resolution, all requests are filed with the IPN, which then assesses admissibility and eligibility according to criteria laid out in the IPN Resolution. If warranted by the eligibility assessment, the IPN seeks approval from the Board for an investigation. Only after the Board authorizes an investigation, the DRS function explores whether the parties would be agreeable to proceed with a dispute resolution. Both parties, the requesters and the borrower (or the institution charged with implementing the project on the borrower's behalf), must agree to a dispute resolution process for it to commence. If no agreement can be reached within thirty business days, the request is returned to the IPN to proceed with a compliance investigation.

21. In its preliminary interviews, the ERT noted tensions around key issues related to: (i) the access criteria to DRS; (ii) potential for influencing requester choices; (iii) transparency measures in dispute resolution and reporting requirements to ensure accountability; and (iv) the firewall established between dispute resolution and the compliance function.

22. The ERT heard concerns that the present access through the IPN eligibility process is too restrictive and could crowd out the dispute resolution function, which only can become active after an investigation has been authorized by the Board. The IPN eligibility assessment acts as a "filter" to ensure that only requests where alleged harm can be linked to a potential violation of a relevant Bank policy<sup>5</sup> can enter into the dispute resolution function.

23. The concern about limiting access to DRS needs to be balanced with its potential advantages. The 'filter function' of the IPN eligibility process assures that only complaints where alleged harm can be related to potential policy non-compliances can enter the Bank's accountability system. There is the view that the Bank's accountability system should only be available for cases where there is potential non-compliance with Bank policies. Moreover, the fact that the Board has already approved the compliance investigation before a DRS can start may provide incentives for some borrowers who find a DRS process preferable over a

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<sup>5</sup> Paragraph 44 of the IPN Operating Procedures (December 2022) states: "*The Request asserts 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.*" The Panel confirms that the Request includes a description of the harm or potential harm (material adverse effects) that, according to Requesters, is the result of a serious violation by the Bank of its policies and procedures."

compliance investigation to enter into a dispute resolution process. Importantly, in cases where a dispute cannot be completed or is only partially completed, the compliance phase can be started without delay as the Board has already authorized an investigation. This accelerates the processing of requests that cannot be successfully concluded under a DRS process.

24. The initial decision whether to pursue a compliance or a dispute resolution process needs to rest fully with the requesters. For a DRS both parties need to consent. Several factors were identified by those interviewed that may influence the free choice of requesters. First, having requesters enter through the IPN with an eligibility process may bias requesters towards the IPN compliance investigation because a first rapport has been established between IPN and the requesters. Second, the introduction of the DRS team after the IPN eligibility process may cause confusion for the requesters. To offset the potential for confusion and bias, the IPN and DRS have established a practice whereby DRS is presented during an initial briefing meeting with requesters, but the DRS role at this point may be too limited to accomplish its intended purpose. Third, the AM Resolution states the AMSec offers an opportunity for dispute resolution to “the Parties” (paragraph 11 a). According to preliminary interviews conducted, this provision is being put in practice by asking both parties about their interest in dispute resolution even if the requester has stated unwillingness to pursue dispute resolution. This has the potential to undermine the free agency of requesters when the more powerful party wishes to pursue the DRS process and applies intimidating tactics to influence requesters in favor of the DRS. This is a twofold problem— influence and retaliation. Requesters under all IAMs are increasingly experiencing retaliation and “requester agency” is a principle to be protected. A more common dispute resolution practice is for the requester choice to be the first step with no further consultations on possibilities for DRS if requesters firmly exclude a dispute resolution process.

25. Despite concerns about bias being built into the intake process, since 2021, when dispute resolution first became active, half of the requests approved for investigation by the Board have proceeded with a dispute resolution, while half of the requests have proceeded with a compliance review.

26. One major concern expressed during the preliminary interview process is its perceived lack of transparency in the DRS process, particularly if the parties want confidentiality. Reporting on the AM’s first two dispute resolution cases, where parties requested confidentiality, is very limited and thus may not provide the level of transparency warranted for a trustworthy accountability system, even recognizing that DRS processes overall provide much less information to the public than compliance processes.

27. Concerns were raised about the firewall between the DRS and IPN and whether this firewall overly restricts interactions and opportunities to move the process forward and to share learnings, including compliance patterns observed through DRS that may help strengthen accountability. Firewalls between DRS and compliance processes are established at all IAMs, primarily to protect confidentiality during the DRS process and to protect the parties so that information revealed, and positions taken during the DRS process will not subsequently be used in a compliance investigation process. However, firewalls in other IAMs processes do not prevent some information sharing on requesters and processes.

28. The ERT will review the strengths and weaknesses of the present access approach to DRS. It will compare this access approach with other IAMs' access policies and practices. ERT will consider why the Board, during the Toolkit Reforms, opted for an access process through the IPN eligibility assessment process and whether this unduly restricts access to the dispute resolution function. It will (i) interview users of the DRS and the IPN compliance processes and other stakeholders to identify any factors that may have influenced their decision-making. These interviews are contingent upon agreement of the parties to participate in such interviews; (ii) compare disclosed reports of completed DRS cases with those of other IAMs to identify gaps in disclosure and (iii) assess how confidentiality may be protected without compromising transparency and accountability. It will also review the operating practices of IAMs to understand how 'firewalls' are exercised. The ERT will assess the interaction points between the IPN and the DRS functions, especially the referral back option to compliance, if a dispute resolution process did not reach an agreement on all issues or if not all requesters remained within the dispute resolution process. A well defined, transparent and predictable referral back option is important to assure that the IPN compliance review process can function.

**C. Paragraph 6a3 of TOR: Are there redundancies in responsibilities and functions between the IPN Chair and the AMSec/Head of DRS that are hindering the effectiveness, efficiency and operational and development impact of the IPN Chair and AMSec/Head of DRS?**

29. As described in the sections above, the Bank has an AM structure that tries to balance the priorities of efficiency and full use of resources on the one hand and protecting firewalls between and independence of the separate functions on the other hand. Balancing efficiency with assuring the independence of IPN in performing its compliance function has caused considerable stress.

30. Prior to creation of the AM, an Executive Secretary who reported to the IPN performed or oversaw all administrative activities and managed the IPN staff. When AM was created, the Executive Secretary role was eliminated due to Toolkit Reform Working Group consensus that it was redundant given the responsibilities of the AMSec and Panel Chair.<sup>6</sup>

31. The impact of eliminating the IPN Executive Secretary role has highlighted the difficulty of efficiently and effectively providing administrative support to a function that is designed to operate with complete independence in its compliance review function as outlined in the IPN Resolution. The implementation of this decision, in some respects, allegedly may have created greater inefficiencies and redundancies because what was once perceived as a relatively simple process of managing IPN human and financial resources has become fraught with conflict that not only impacts AM and IPN, but also may have impacted the work of CODE, Executive Directors, the Legal Department, Budget Department, Operations Policy and Country Services, and the People and Culture (PAC) functions that are brought in to help resolve the conflicts.

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<sup>6</sup> See "Implementation of Board Decisions on IPN Toolkit – Issues for Steering Group Meeting on July 16, 2020 and Steering Committee Minutes of Session II, July 16, 2020" CODE2020.

32. One source of conflict is different interpretations of roles, responsibilities, and authorities. However, another source of conflict is whether priorities of efficiency gained from consolidating substantive administrative matters under the AMSec and protecting IPN independence can be feasibly met without one of those priorities taking on a higher importance relative to the other priority.

33. In January 2023, an interim effort to address administrative challenges was to amend the AM Operating Protocols to clarify a more substantive role by the IPN Chair in the approval of financial expenses, recruitment processes and staff performance reviews. These changes address some IPN concerns about being able to effectively and independently perform its compliance functions. Although this was designed as a temporary solution pending the External Review, the result is redundancy in that two executive leaders are now involved in managing human and financial resources for a small unit. If one of the roles is primarily to process requests mostly of a financial nature without providing substantive input based on agreement or lack of adequate insight of how work is being performed in IPN, it raises questions about administrative accountability as well as the necessity and value-add of such a role as a longer term solution. It is important to note that some level of redundancy is likely inevitable where protection of firewalls between and independence of the constituent AM functions is a strong priority. The question is what type of redundancy best serves the interest of the organization and at reasonable cost.

34. The ERT will assess whether revisions in the present structure are required or adjustments in administrative processes would suffice to provide for a framework for effective cooperation and IPN case handling that fully supports IPN's independence.

35. The ERT will review documentation on the design and implementation of the AM structure, roles, and responsibilities; interview staff in AM secretariat, DRS and IPN and other involved parties on what is working well and what continues to be challenging and seek their insights on optimal solutions; interview staff in the other independent functions in the Bank to better understand how their administrative functions are managed; and discuss with the PAC and Budget departments alternatives for addressing human resource and financial management in AM/IPN to minimize redundancy and potential for conflict.

**D. Paragraph 6a4 of TOR: How does the current framework for independent verification of Management Action Plans (MAPs) compare with other MDB Independent Accountability Mechanisms (IAM)? Are the thresholds for triggering independent verification by the IPN and the Group Internal Audit (GIA) appropriate?**

36. According to the IPN Resolution, Management shall be responsible for monitoring the implementation of the MAPs and Management shall submit progress reports to the Executive Directors on the implementation of the MAP (see paragraph 47 of IPN Resolution). IPN may recommend and the Executive Directors may approve, as an additional reassurance tool for avoiding reputational risks, independent risk-based proportionate verification of the implementation of the MAP by the IPN and/or GIA. The IPN would then verify the implementation of Management's actions in the MAP that have been agreed to with the borrower and are designed to address harm that occurred due to the Bank's noncompliance (see IPN

Resolution paragraph 51). The GIA verifies Management’s actions in the MAP intended to address the Bank’s governance, policy, and procedures, and other internal operational arrangements for its oversight of environmental and social risks of Bank projects. GIA may also verify MAP actions at the project level if Management actions refer to internal policies and practices of the Bank (see IPN resolution paragraph 51).

37. A Framework for Proportionality Criteria for risk-based verifications and modalities was approved by the Board and is incorporated in the IPN Resolution and Operating Procedures. The Framework lays out five risk categories and eight criteria according to which the IPN (with input from GIA) decides whether a request can be proposed to the Board for approval to conduct verification. The risk categories are: (i) urgency of redress, (ii) risk of repetitive harms materializing, (iii) number and vulnerability of project affected people, (iv) complexity of the case; and (v) risk of retaliation against requesters. Verification would only be proposed by the IPN and/or GIA if more than 2 criteria are applicable. If 3-5 criteria are applicable, a desk-based verification could be conducted. In case of 6-8 applicable criteria, the IPN and GIA could propose a verification with a site visit. Verification is, in principle, only to take place after substantial implementation of the MAP with deviation from this principle only allowed in exceptional cases and with approval of the Executive Directors. Verification is usually restricted to one site visit only. As of the date of the drafting of this Approach Paper, the IPN and GIA have not asked the Executive Directors for the approval of a verification process.

38. These verification principles deviate significantly from almost all other IAMs of MDBs. The principle of Management monitoring of MAPs also prevails in other MDBs. However, the policies of almost all other IAMs of MDBs provide for a mandate to verify implementation of MAPs in addition to the Management monitoring, in most cases through several verification processes and with site visits. The objective of the verification process of other IAMs is not determined to “avoid reputational risks” (as stated in paragraph 48 IPN Resolution). The verification process of other IAMs is to help ascertain that the MAP is appropriately implemented, and harm is adequately addressed to help assure that in cases where investigations found noncompliance and related harm, access to remedy is provided.

39. During the preliminary ERT interviews, views were expressed that the Bank’s compliance review function does not require this broader verification process as performed in most other IAMs. The ERT was told that in the Bank, management reports regularly to the Board on the MAP's implementation, and these progress reports are shared with requesters and posted on the Bank's websites. Although there is no formal venue, requesters and external stakeholders could thus raise objections if they believe that Management progress reports do not accurately report on measures taken. It is argued that a more expansive IPN/GIA verification process might therefore be redundant. Moreover, views were expressed that a regular and broader role of IPN/GIA in the verification process could lead to confusion and dissatisfaction of borrowers who would be burdened with interactions of both the IPN and Bank Management. Some interviewees argued that there should be a clear entry and end point of the IPN process that should not be extended by a continuing verification process as exercised in other IAMs. Importantly, the argument was made that the Bank has a strong record of MAP implementation and thus a separate IPN verification process of MAPs was not needed.

40. In accordance with the TOR, the ERT will compare the IPN/GIA verification policies with policies and processes of other IAMs. It will largely restrict this comparison to IAMs of other larger regional MDBs (ADB, IADB, EBRD, EIB, AfDB, AIIB). This comparison will be conducted by policy reviews and interviews on practices in other IAMs/MDBs. The ERT will also compare the Bank verification mandate with the mandate of CAO. It will review the reporting process of the Bank Management on MAPs and assess whether this process is sufficiently rigorous and accountable to reduce the need for a broader and more regular verification process as exercised in other IAMs. This assessment of the reporting process is important as in the preliminary interviews, the ERT was told that a verification process as conducted in other IAMs is not needed, as the Bank has this robust and transparent reporting process.

41. The TOR asks for an assessment whether thresholds for triggering independent verification by IPN and GIA are appropriate. The ERT will assume a three-fold approach to address this task: (i) reviewing whether the thresholds are appropriate within the restrictions laid out for verification in the IPN resolution, (ii) examining the reasons IPN did not propose any verifications to the Board regarding complaint cases processed since the adoption of the verification framework, and (iii) considering what thresholds the ERT might be appropriate if a broader verification mandate were to be recommended

#### IV. Accessibility

##### A. Paragraph 6b1 of TOR: Are the compliance and dispute resolution functions accessible to Parties?

42. The IPN, while long established and well recognized as a leader on compliance review processes among the IAMs, only receives a small number of requests when compared with the overall Bank lending program. The number of requests referred to DRS is also limited (so far two dispute resolutions have been completed and one dispute resolution is ongoing). However, dispute resolution in the present system is contingent upon filing a request with the IPN. The limited number of requests filed with the IPN thus also limits the number of DRS cases.

43. The small number of requests may be the result of, among others: (i) potentially affected people do not know about the IPN and the DRS; (ii) the access criteria to the IPN and the DRS could be too restrictive; (iii) the representation system laid out in the IPN Resolution might be too restrictive. The IPN policy only accepts local representatives and only in exceptional cases allows for international representation. As most requesters are working with representatives, this restriction to local representation may be significant; (iv) requesters may fear reprisals or retaliation for filing a request and be unwilling to take that risk;<sup>7</sup> and (v) with the establishment of the Grievance Redress System (GRS) at the Bank many complaints are already handled by the

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<sup>7</sup> All IAMs notice increasing levels of intimidation and reprisals among requesters, see for example, The World Bank Inspection Panel, Right to be heard, Intimidation and Reprisals in World Bank Inspection Panel Complaints, December 2021; Human Rights Watch, At Your Own Risk, Reprisals against Critics of World Bank Group Projects, 2015. Information provided by other IAMs will be evaluated during the Review to assess the relevance of this issue.

GRS system. These are issues referred to during the preliminary interviews of the ERT. There could be further causes for access restrictions that emerge during the work of the ERT as the review progresses.

44. A specific access issue presented to the ERT during preliminary interviews was the access requesters had to the Panel's investigation report following its submission to the Board and the President, and improvement in access provided by the Toolkit Reform. If done promptly, this would allow the requesters to present their views on the investigation's outcome before the Board considered the report and Management's action plan dealing with the Panel's findings. However, unless they have requested confidentiality of their names, requesters can only access the report at the nearest Bank's country office during two consecutive working days under alleged restrictive conditions<sup>8</sup>. The ERT will assess whether this access practice may need to be revisited.

45. The ERT will assess communications and outreach efforts conducted by the AMSec and the IPN and will review whether further efforts are needed to make the Bank's Accountability System (Dispute Resolution and IPN) more widely known. Reforms and exercised over the last three years for completed investigation reports and compare processes with policies and processes of other IAMs that also provide access to requesters to read investigation reports before submission of the report to its Boards. Due to time and budgetary constraints, the ERT will not be able to assess whether fear of reprisals and retaliation prevents affected people from filing requests.

## V. Conflict of Interest

### A. Paragraph 6c1 of TOR: Does the current model of World Bank's Accountability Mechanism pose any actual or perceived conflicts of interests to the staff involved in various functions, e.g. including with respect to maintain the firewall between IPN and DRS, internal communication, human resource management and finance decisions, work programming and office arrangements?

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<sup>8</sup> The IPN Resolution provides: "*h. Sharing the Investigation Report with Requesters. 45. Following submission of the Panel's investigation report to the Executive Directors and President, the Panel shall share the report's table of findings with the requesters. The Bank also shall make the Panel's full investigation report accessible in hard copy to requesters at the nearest country office. The requesters will be given the opportunity to read the report in the Bank's country office during two consecutive working days, but may not remove the report, make photocopies, take pictures, or reproduce the report or parts of it by any other means. 46. A confidentiality agreement shall be signed by the requesters before they are provided access to the table of findings and the full report. **If the meeting is held off Bank premises in order to preserve the confidentiality of the requesters, the modalities will be agreed between the Panel and Management (Emphasis added).***



46. According to the AM Resolution, the AMSec carries out administrative and human resource management functions for the Accountability Mechanism as a whole (including Dispute Resolution and the Inspection Panel) and concurrently oversees/heads the dispute resolution function (see paragraphs 4e and 12a of AM Resolution). This dual function could pose conflict of interest in some situations where, for example, DRS and IPN have divergent interests.

47. The ERT will assess to what extent the endowment of oversight functions and the heading of the dispute resolution function in the position of the AMSec does constitute a conflict of interest. If the ERT determines that there is evidence or a strong likelihood of conflict of interest in the design and operation of the AM structure, then the ERT will present recommendations on how these conflict of interest constellations should be addressed.

48. The ERT will become familiar with the respective responsibilities of the AMSec as head of dispute resolution and in discharging the functions laid out in paragraphs 4 a-d of the AM Resolution. It will conduct interviews with staff of the AM Secretariat, the DRS function, and IPN function on perceived or experienced conflicting interests. The ERT will work with both the AMSec and the IPN Panel Members, represented through the IPN chair, to assure that appropriate voice is provided to their respective views.

**B. Paragraph 6c 2 of TOR: Are there obstacles to complaints to be handled in the IPN or DRS process?**

49. Compliance review processes have sometimes faced challenges with some Bank shareholders, particularly when the function's purpose is perceived as determining harm and noncompliance with Bank policies. While the IPN only has the authority to establish due diligence failures of Bank management and staff, IPN investigations require to establish whether there are non-compliances with Bank policies and related harm through site visits. Borrowers at times do object to investigations taking place in their countries.

50. The introduction of the DRS function into the Bank's AM has created a new dimension of challenges and natural tensions that may complicate the handling of complaints. For example, the number of cases recommended and approved for investigations remains relatively low, which could create competition between the two functions for the opportunity to apply expertise and perform valuable work. This competition may manifest by trying to influence the choice of requesters or by uncooperative interactions, both of which are detrimental to trust building across AM and are a disservice to requesters and to borrowers.

51. The new AM has two alternative paths that present opportunities for requesters to have greater choice as well as the risk of potential confusion among requesters that results in their simultaneously reaching out to both the IPN and DRS staff. There may also be different interests among requesters as to what process to pursue.

52. The ERT will conduct interviews with staff in both the DRS and IPN functions to identify situations in which the handling of a request has been made more difficult because of any form of interference, influence, lack of cooperation, or other obstacles.

## VI. Communications and Outreach

### A. Paragraph 6d1 of TOR: Have the AmSec/Head of DRS and IPN been able to effectively disseminate information on the new structure, processes, workflow and outcomes to different stakeholders? What are the strengths and weaknesses?

53. AM and the IPN Operating Procedures state that “*A prerequisite for the effective functioning of the Accountability Mechanism is that options are known to people whose rights and interests may be affected by Bank Projects*” (see IPNOP paragraph 109 and AMOP paragraph 29.1). AM and the IPN Operating Procedures further explain how AM and IPN are expected to inform the public and coordinate proposed outreach to include events, meetings, and participation in conferences. Both AM and IPN facilitate learning through an annual report, other publications, and meetings.

54. The AM-IPN Internal Protocol provides greater detail on when IPN and AMSec are expected to coordinate outreach, what outreach activities can be performed independently, and the role of the AM Senior External Affairs Officer in providing leadership and support (paragraph 3a). The AM-IPN Internal Protocol indicates AM will have one website that explains the mandates, operations and procedures of the AM, IPN and DRS, and how to file a Request for inspection. The AM is required to produce an annual report and a quarterly newsletter (paragraph 3f). It is through these communication modalities that AM overall and IPN specifically disseminate information on its new structure, processes, cases, workflow, and outcomes to different stakeholders. The effectiveness of these efforts can be measured by (i) the processes that are followed to reach stakeholders and (ii) the resulting impact on the clear and accurate understanding among stakeholders of the Compliance and DRS processes and how they operate.

55. In terms of process, preliminary interviews and review of relevant documents and websites suggest that what is outlined in operating procedures and internal protocol is being met in some areas, but has not yet been fully implemented regarding coordination, publications, and website. For example, there are two separate websites (AM and IPN) that contain inconsistent information in some places. While the AM website provides links to the Quarterly Newsletter Accountability Matters from January 2023 to January 2024, the IPN website only provides links for the Accountability Matters newsletters through March 2022. The last published Annual report on both websites is for the 2021-2022 fiscal year. External stakeholders expressed concern about the potential confusion that separate websites, outreach, and branding efforts may cause.

56. Based on preliminary interviews, views of what is meant by IPN independence may conflict with coordination expectations as outlined in operating procedures and agreed to in internal Operations.

57. The ERT will explore through interviews and document reviews: where coordination between AM, DRS and IPN is effective, where there are challenges, and what factors contribute to those challenges. It will examine the status of AM and IPN website integration and publication of the FY23 annual report, how is stakeholder awareness currently measured and monitored, and

efforts that have been made to communicate the new structure and work processes jointly and the coherence of those communications.

**B. Paragraph 6d2 of TOR: Does the IPN and the AMSec/Head of DRs collaborate effectively with other IAMs?**

58. The IPN Resolution lays out the collaboration principles of the IPN in case of co-financed projects (paragraph 72). It states that if a request is filed with the IPN that is also filed with other IAMs relating to a co-financed project, the IPN will do its best to coordinate with the accountability mechanism of co-financiers but will process its request within the requirements laid out in the IPN resolution. This principle of cooperation is laid out in several IAM/MDB policies and corresponds to established practices. IPN is widely seen as actively cooperating with other IAMs who frequently interact with the IPN to seek guidance and seek alignment on practices. This informal cooperation practice is appreciated among IAMs. However, there has not been a formal coordination process during the 2020-2023 time period as there have not been complaints handled by the IPN that had also been filed with other IAMs.

59. Cooperation procedures are also laid out in paragraph 10 of the AMOP. These refer to cooperation between the IPN and the AM and for cooperation on a DRS process in cases that a DRS is conducted at one or several other IAMs. So far, one case carried out by DRS required cooperation between DRS and other IAMs.<sup>9</sup> In interviews with DRS and IPN the ERT will learn how these cooperation principles laid out in the IPN Resolution and AMOP are put into practice.

60. The AM has taken on a very active role within the IAMNetwork, which is a network where all IAMs of larger MDBs and selected other IAMs that meet agreed criteria are members.<sup>10</sup> The AMSec is presently performing the role of Secretariat for the IAMNetwork which rotates among network members. The AM was actively engaged in the preparation of the Annual Meeting of the IAMNet in 2023. IAMs appreciate that the AMSec has taken on the role of Secretariat for the IAMnet.

61. The ERT will review outreach and publication materials of the IPN and AM, conduct interviews to establish cooperation processes and learn how cooperation occurs with other IAMs that conduct dispute resolution on complaints relating to co-financed projects.

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<sup>9</sup> See, <https://thedocs.worldbank.org/en/doc/1030598f29a6f58ece0495d408389c5d-0490092022/original/2022-12-01-AMS-N>. See also <https://www.cao-ombudsman.org/cases/cameroon-nachtigal-hydropower-co-01> and <https://www.afdb.org/en/documents/cameroon-nachtigal-hydropower-project-notice-registration>

<sup>10</sup> See, <https://accountability.worldbank.org/en/iamnet>

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