

External Review Team
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Re: Stakeholder Feedback on the Independent External Review Team (ERT)'s Draft Report on 2018 and 2020 Reforms to the Inspection Panel Toolkit and Creation of the World Bank Accountability Mechanism

To the External Review Team (ERT):

We are writing to provide feedback on your draft report on the 2018 and 2020 reforms to the Inspection Panel Toolkit and the creation of the World Bank Accountability Mechanism (AM). As civil society organizations (CSOs) and individuals who advise and work with communities seeking remedy for harm caused by World Bank projects, we are pleased that the World Bank Executive Board of Directors commissioned this external review of the AM. We also commend the ERT for thoroughly evaluating the AM's performance.

As the first development finance institution to create an independent accountability mechanism (IAM), the Inspection Panel (IPN), the Bank continues to play an influential role in the accountability field. However, there are several ways that other IAMs have surpassed the AM, including timelines for periodic reviews and the ability to track and verify the implementation of remedial action recommendations. We hope that through this external review, the Board will approve reforms to the AM to correct these and other weaknesses, detailed below.

The external review of the AM comes at a critical time for the World Bank. As part of its Evolution Roadmap initiative, the Bank continues to scale up and fast-track its investments. At the same time, the Bank has begun considering some projects under a new Environmental and Social Framework (ESF) streamlining process, expediting approvals for projects deemed low risk. This year, the International Development Association (IDA) is also undergoing its 21st replenishment, requesting the largest contributions ever from donors. As the Bank changes how it approves projects and seeks to expand its lending portfolio, it must have an AM that can hold the Bank accountable and facilitate remedy for communities harmed by World Bank projects. Otherwise, the World Bank risks missing the mark for its ambitious new agenda, as unremediated harm undermines sustainable development.

Since the creation of the AM in 2021, housing both the dispute resolution (DR) and compliance functions, there has been a lack of clarity of roles and responsibilities between each function, weakening the AM as a whole. While we support the inclusion of a DR function in the AM, the current structure infringes upon the independence of the IPN. We have serious concerns about the Dispute Resolution Service (DRS) operations and its independence from management, and how this dynamic and the structure of the AM have compromised the IPN. We appreciate that the draft report addresses these issues and offers relevant structural reform options.

Communities harmed by World Bank projects must be able to seek accountability and remedy. Unfortunately, it's clear that the current AM is not equipped to support these communities. We are grateful for the Board's recommendation to launch an external review of the AM and support the ERT's recommendation to implement periodic reviews of the AM every five years. While we look forward to continuing to improve the AM during future reviews, the Board must resolve current significant structural and operational issues now to reduce potential conflicts of interest and preserve the independence of both the DR and compliance functions of the AM. Our comments below respond to various issues and options raised in the report and focus on making the AM more effective for project-affected communities:

Structure

In our opinion, the structural challenges with AM are the most pressing for this review. The ERT provides four options for changing the structure of the AM to address operational, independence, and function issues. Many communities have found the process of filing a complaint with the AM to be unclear and confusing, particularly at the point in the process when the DRS offers DR after the IPN determines eligibility. Further, the current structure has slowed the AM's process, delaying communities from receiving remedy when harmed by World Bank projects. There is a clear need for structural reform, and we appreciate the ERT's analysis and description of different options. We strongly agree with the ERT's recommendation for "establishing stronger processes to ensure AM's effectiveness can be systematically measured and the right behaviors are being demonstrated to ensure that the structure is working and that shared interests are achieved even when the structure may be difficult."

The ERT draft report should have also made additional structural recommendations. The report did not include the structural option for the Chair of the IPN to be the head of the AM, which would promote effectiveness and solve many of the failings of the current structure. The IPN has proven to be a strong tool for accountability. Allowing the Chair to head the mechanism builds on this track record, while the IPN's composition of three members ensures that the Chair is informed in their work by two other experts. This dynamic maximizes independence and effectiveness. Having the IPN Chair head the mechanism would not pose a conflict of interest between compliance and DR, as there would be a clear process of transferring between the two functions and a separate, professional staff conducting the DR process.

Of the structural recommendations that the ERT draft report made, our preference is **Option 3**. This option would completely split the functions of the DRS and the IPN, creating two separate units. Each unit would be self-sufficient in terms of resource allocation and overall management, and the IPN would continue to lead the compliance function. We support options to preserve the independence of the IPN to investigate when World Bank projects cause harm and an independent DRS to mediate issues between communities and borrowers. In this way, this option meets the bar. However, the ERT would need to clarify the relationship between the DRS and IPN under this option. There are several outstanding questions; for instance, could communities approach the DRS and IPN simultaneously? If this option is approved, it will be essential that the functions are structured as equal peers, reporting directly to the Board. We

envision that under this option, the position of the World Bank Accountability Mechanism Secretary (AMSec) would completely go away, as it would be redundant.

Below we share the following concerns and recommendations on the remaining structure options presented in the ERT draft report:

1. **Option 1:** Maintain the current 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.
 - a. CSO comment: This option offers the most minor changes from the current AM structure. We support the ERT's recommendation to allow the IPN to report directly to the Board and control its financial and human resources. Generally, this option would solve some operational and independence issues, but we are concerned that it may not go far enough to solve the fundamental structural challenges that have severely undermined the effectiveness of the current system. Under this option, we encourage the ERT to provide recommendations for clarifying the roles of DRS and IPN to outside stakeholders. If this option is chosen, the IPN should also be given total independence and control over its strategy and communications.
2. **Option 2:** Create a traditional pyramid structure with the dispute resolution, compliance, and secretariat functions reporting to one head who reports solely to the Board...Because the stature 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 who would be responsible for the compliance function.
 - a. CSO comment: We oppose this option because it would result in the elimination of the IPN. While not perfect, the IPN has been instrumental in facilitating the provision of remedy for communities harmed by World Bank projects. Further, it has a global reputation and is trusted by communities and CSOs around the world. Disbanding the IPN would put communities' and CSOs' trust in the World Bank accountability processes as a whole at risk, and we strongly advise against it. We also have serious concerns with this option due to current hiring processes, which need to be improved and be more structurally independent of management.
 - b. In the [Good Policy Paper: Guiding Practice from the Policies of Independent Accountability Mechanisms](#), we acknowledge that a pyramid structure can be a satisfactory structure for IAMs under certain circumstances, including a robust hiring process that ensures that a single head is not beholden to management. However, we also suggest that a mechanism run by a senior IPN member is an acceptable alternative. As we mentioned above, we encourage the ERT to include the option of the Chair of the IPN heading the entire mechanism because that would allow the Bank to maintain the IPN. As this pyramid option does not maintain the IPN, we oppose it.
3. **Option 4:** The IPN's function would merge with CAO's compliance function, and the AM's DR function would merge with CAO's DR function. The IPN would remain intact

and lead the compliance function, and a single head would be established for the DR function. Both the DR and IPN functions would report to the Board.

- a. CSO comment: This option can potentially create many other political and unforeseen problems. It would take a significant amount of time to work through these issues and put in place necessary safeguards to protect the entire World Bank Group accountability system against possible negative outcomes. For this reason, we believe this option shouldn't be considered now, but may be worth exploring in the future.

Accessibility

A key challenge of the Accountability Mechanism has been the process through which a community files a complaint and chooses to begin a DR process with the DRS or goes through a compliance process with the IPN. We recommend reforming the AM to allow requesters to select their preferred accountability function early in the process, ideally immediately after eligibility. This recommendation aligns with the ERT's assertion that the "principle of requester choice must be respected." Requesters should receive a detailed, joint briefing with the IPN and the DRS describing the differences between the DR and compliance processes. Once requesters decide on their preferred accountability process, there should be guardrails in place to prevent the DRS or the IPN from seeking to influence or change this decision. In this regard, one of the ERT's recommendations is to prevent the AMSec from offering DR to borrowers if requesters indicate they wish to proceed with a compliance investigation with the IPN. We strongly support this recommendation and believe it would simplify several accessibility issues.

On access to DR, the draft report presents two options. As stated above, we believe that in any case, the choice of the requester should dictate which function is pursued. That being said, we think that Option 1- Requesters have direct access to the DRS after registration and a comprehensive briefing- is the better option because DR would not be restricted to policy noncompliance and communities would have quicker access to the function. The ERT needs to clarify how direct access to the DRS would work in practice. The ERT describes that a potential drawback of this approach is that "Public accountability of the Bank might be perceived as being weakened. In the proposed direct access option, there is a registration notice but no eligibility report posted in the public domain which would provide some public information on the alleged harm and possible noncompliances, albeit would not provide a finding." Based on this potential drawback, the ERT should provide a framework for what happens if a DR process is underway but the IPN finds the complaint is not eligible. We recommend the ERT explore whether this option and the publishing of an assessment or eligibility report could exist simultaneously.

Option 2- Maintain Present Access Process Adjusted for Requestor Choice- is less ideal. However, we agree that if the current access process is maintained, the adjustments recommended by the ERT would address some of the accessibility issues.

Additionally, under the Accessibility section, we endorse the following recommendations from the ERT:

1. Simplify the criteria for registration and eligibility
2. Allow the Inspection Panel (IPN) to initiate its own eligibility assessment and align its policy with CAO Policy (para. 81) provisions
3. Complaint registration and eligibility assessment continue to be undertaken by the IPN, as is presently the case
4. Information about the World Bank's AM be provided on the Bank's country websites in the local language
5. Information about access to grievance redress, including a description of the AM, should be included in the initial project information document and in the staff appraisal document
6. Project teams make special efforts to provide information to project-affected people directly and through project clients

We encourage the ERT to improve the following recommendations on accessibility:

1. Certain complaints should not be transferred to a DR process, for example, when there is an indication of significant structural 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
 - a. CSO comment: We strongly support preventing certain types of issues, including those described by the ERT, from being addressed through a DR process. However, we encourage the ERT to present options for how, should complainants wish, a complaint can be bifurcated so that certain issues raised in a complaint that do not cross this threshold may go through a DR process, while other elements, such as allegations of gender-based violence, can proceed through a compliance investigation with the IPN.
2. All requesters have access to the report under the conditions set out in paragraphs 45 and 46 of the IPN Resolution but that all requesters—not just those who have requested confidentiality—be allowed to review the final investigation reports outside of World Bank country offices
 - a. CSO comment: We support the intention of this recommendation but encourage the ERT also to recommend that communities have access to copies of the report in their own language.

Dispute Resolution

Addressing how the DRS operates is critical to improving how the AM functions and serves communities. Under the current AM structure, communities must choose between DR or a compliance investigation. Different stakeholders, including the World Bank, borrowers, and AM staff, have different incentives around community members' decision to pursue a compliance investigation or DR. This structure has led to unnecessary competition between the IPN and DRS, to the detriment of communities seeking remedy for harm they have experienced due to World Bank projects.

Since the creation of the AM, we have also had serious concerns about the independence and function of the DRS. Management has an inherent interest in cases going to DR instead of compliance, as there would be less scrutiny on the actions of the Bank. The relationship between the DRS and management, combined with the role of the AMSec in approving the IPN's budget and managing IPN staff, has compromised the IPN and the DRS. Additionally, the AMSec has sought to prevent cases from moving swiftly to compliance, pursuing the possibility of DR despite clear indications that requesters have chosen compliance. In one case, these efforts led to a government initially refusing to permit a visit by the IPN for a compliance investigation, delaying the process by several months.

We appreciate the ERT's assessment of these issues and agree with the following recommendations:

1. Reporting takes place according to the AM operating procedures (para 20.1). This reporting should also take place 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 uploaded on the AM and IPN websites.
2. A provision comparable to the following language from the CAO Policy be introduced in the 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).
3. Introducing into the AM operating procedures a provision that requesters who originally submitted the request to IPN but then subsequently left the DR process should be given the option of proceeding with a compliance investigation after the DR agreement has been signed.
4. After 24 months, when more DR cases will have been closed and some experience with monitoring has been gained, an external review will be conducted by two recognized DR experts.

We encourage the ERT to improve the following recommendations:

1. The DRS issues a substantive conclusion report after it completes its DR monitoring process.
 - a. CSO comment: This would be an excellent addition but, to improve the transparency of the DRS, periodic monitoring reports on implementation should be paired with this conclusion report.
2. The AMSec/Head of DR should be given the authority to extend the timeline to 20 months in cases where the parties are about to close an agreement but need additional

time to settle the process. The AMSec/Head of DR extension should only be provided in cases that are very likely to result in signed agreements.

- a. CSO comment: Additional guardrails should be in place to verify that both parties are in agreement on the extension and that there's transparency around this agreement. Under this recommendation, there is a risk that the borrowers would be incentivized to seek additional time to continue through a DR process while the requesters are ready to move the case to a compliance investigation. In another scenario, even adding 20 months might not be enough time. The 24-month external review of the DRS proposed by the ERT should further examine this timeline issue and how to best provide flexibility and effectiveness.

Redundancies

We support both of the ERT's recommendations to reduce redundancies:

1. Under any organizational structure but particularly if the current structure is maintained, approving authorities be aligned with accountability in a manner consistent with the rest of the Bank, which is the person with the most knowledge of how resources will be used should be the approving official.
2. A strategic vision be created jointly by the DRS and IPN for the World Bank accountability mechanism (regardless of structure option selected) that explicitly states the contribution of each and guides how resources are applied and how resource needs are determined.

Independent Verification of Management Action Plans (MAP) by the IPN and Group Internal Audit (GIA)

As described in the draft report, the IPN's current monitoring or verification mandate is much weaker than that of other IAMs and does not allow it to independently verify that the Bank and client are adequately implementing remedial actions they have committed to. In our experience supporting communities through many IAM processes, we have seen that independent monitoring has been crucial for communities to receive all aspects of remedy on a reasonable timeline. Almost no other institution trusts its management, which has been found noncompliant in the first place, to monitor how it is addressing non-compliance. The verification regime introduced in 2020 does not go far enough to ensure independent monitoring of implementation. We support reforms to the AM to provide the IPN with the necessary authority to fully monitor the Bank and client's implementation of remedial actions.

Of the three options presented by the ERT, we strongly prefer **Option 1**- The IPN be given a verification mandate for the implementation of the Management Action Plan (MAP) like the ones provided to almost all other comparable IAMs and following the verification authority provided in the CAO Policy (paras. 139–146). This is our preferred option, as it would bring the IPN in line with other IAMs and provide the IPN with full authority to verify and track the implementation of MAPs.

We have the following recommendations and concerns on the remaining ERT options for addressing the verification issue:

1. **Option 2:** Allowing the IPN to 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 projects for which it is particularly important that the Bank make credible efforts to facilitate the implementation of agreed remedial actions.
 - a. CSO comment: Option 1 is much stronger because this option inserts the Board into decisions about which cases should have verification, potentially politicizing the process and keeping the IPN behind its peers on this issue.
2. **Option 3:** If the IPN is not provided a comprehensive verification mandate on the implementation of MAPs, comparable to CAO's, then a process should be established to allow requesters, their representatives, and affected people to express comments on management progress reports on MAPs.
 - a. CSO comment: Allowing comments on MAP progress reports would be a positive way of giving communities more of a voice in the accountability process. However, this option still doesn't give the IPN the authority to verify MAPs. We encourage the ERT to consider how to provide the IPN a verification mandate similar to the CAO's and allow community comments on MAP progress reports.

Conflict of Interest

It's clear that the current structure of the AM creates a significant risk for conflict of interest. In general, we support the ERT's recommendations for eliminating this risk by reforming the structure of the AM. We agree with the following recommendations from the ERT:

1. Give the IPN control over its human and financial resources, which would address the potential for conflict of interest in situations related to the acquisition and management of resources.
2. Offer the DR option first to requesters and if requesters firmly indicate that they wish to pursue a compliance review, the AMSec will not contact or offer DR to the borrower to eliminate the perceived conflicts of interest that have occurred (para. 24).
 - a. CSO comment: Compliance and DR should be offered simultaneously to requesters at the outset of the complaint, paired with a joint briefing for requesters on the different timelines, outcomes, and processes, explained in a clear and culturally sensitive way. The DRS and the IPN must respect the accountability process chosen by requesters after an initial briefing. We agree with the ERT's recommendation that DR should only be offered to the requesters first and only if requesters indicate they wish to begin a DR process should the borrower be contacted.

3. Explaining the process for returning unresolved issues from the DR process to IPN for a compliance review in brochures, other information materials, and information on both the AM and IPN websites (e.g., "What happens when you file a complaint?").
4. 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.
 - a. CSO comment: We agree with this recommendation, but there is still the potential for human error and judgment. We are concerned that this recommendation doesn't include enough guardrails to prevent stakeholders, particularly borrowers, from using information obtained during a DR process to defend themselves during a compliance process later, delaying accountability and remedy for project-affected communities.
5. 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.
6. The AMSec, as head of the DRS, 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.
 - a. CSO comment: Under this recommendation, it will be critical that communities do not feel pressured to reach an agreement by the DRS deadline if the other IAMs don't have the same timeline restriction.

Missing Components

We broadly support most of the ERT's recommendations as productive and basic steps forward. However, in some cases, the ERT does not go far enough. We encourage the ERT to increase its ambition by including the following recommendations in the final report:

1. Allow communities to select their representation in all cases
2. Remove the requirement for prior engagement with management prior to filing a complaint
3. Allow the IPN to make recommendations for remedial actions
4. While potentially challenging, explore options to allow communities to pursue DR and an IPN compliance investigation in any order or even simultaneously

Further, under any of the structural options, the ERT draft report should have recommended that the World Bank-led Grievance Redress Service be subsumed into the independent DRS. As the ERT draft report correctly stated, "it is now important that the DRS establish itself as a fully trusted and predictable process that, through well respected mediators, helps establish a level playing field among parties." Effective independent DR functions at IAMs offer more transparency than their bank-led counterparts, and their independent monitoring helps ensure implementation and redress. Certainly, then, the World Bank's overall accountability would be

improved if the independent and more transparent DRS took over the cases of the non-independent and non-transparent GRS.

Next Steps

After the ERT finalizes its report, the Board should act quickly to decide which structure to put in place. The remaining recommendations should then be implemented by the IPN and the DRS within the next 6 months. We expect transparency in the decision making in response to this review and a robust public consultation period on any new procedures stemming from this review.

Sincerely,

Bank Information Center - United States
Accountability Counsel - United States
Arab Watch Coalition - MENA
Center for International Environmental Law (CIEL) - United States
Lumière Synergie pour le Développement - Sénégal
Urgewald - Germany
Fundeps - Argentina
Peace Point Development Foundation (PPDF) - Nigeria
Inclusive Development International - United States
Recourse - Netherlands
MenaFem Movement for Economic Development and Ecological Justice - Morocco
The Oakland Institute - United States
Oyu Tolgoi Watch - Mongolia
Rivers without Boundaries Coalition - Mongolia
Green Advocates International - Liberia
JUHUDI Community Support Center - Kenya
Oil Workers' Rights Protection Organization (OWRPO) - Azerbaijan
The Bretton Woods Project - United Kingdom
CEE Bankwatch Network - Czech Republic
Jamaa Resource Initiatives - Kenya
Sustentarse - Chile
Gender Action - United States
Psychological Responsiveness NGO - Mongolia
Protection International - Belgium