

# **The Inspection Panel**

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2000

**International Bank for Reconstruction and Development  
International Development Association**

## **Annual Report**

August 1, 1998 to July 31, 1999



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International Development Association**

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## LETTER OF TRANSMITTAL

This Annual Report, which covers the period August 1, 1998 to July 31, 1999, has been prepared by the members of the Inspection Panel for the International Development Bank of Reconstruction and Development (IBRD) and the International Development Association (IDA) in accordance with the Resolution that established the Panel. The Report is being circulated to the President and Executive Directors of both institutions.

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

Jim MacNeill  
Chairman

July 31, 1999

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## OVERVIEW

The Inspection Panel was created in September 1993 by the Board of Executive Directors of the World Bank to serve as an independent mechanism to ensure accountability in Bank operations with respect to its policies and procedures. Established on the eve of the 50<sup>th</sup> anniversary of the World Bank, the Inspection Panel is an instrument for groups of two or more private citizens, who believe that they or their interests have been or could be harmed by Bank-financed activities, to present their concerns through a Request for Inspection. In other words, the Panel provides a link between the Bank and the people who are likely to be affected by the projects it finances.

Subject to Board approval, the three-member Panel is empowered to investigate problems that are alleged to have arisen as a result of the Bank having ignored its own operating policies and procedures.

As directed by the Resolution that established the Panel, the Executive Directors undertook a review of the Panel's experience after two years of operations. The review was concluded on October 17, 1996 with the approval of certain Clarifications of the Resolution. In March 1998 the Board launched a second review of the Panel's operations which ended in April 1999 with the approval of the second Clarifications of the Resolution (see Annex 1,2 and 3 respectively for full text of the Resolution and 1996 and 1999 Clarifications).

The Panel's process is fairly straightforward. Any two or more individuals or groups of individuals who believe that they or their interests have or are likely to be harmed by a Bank-supported project can request the Panel to investigate their complaints. Unless the Panel finds that the Request is outside its mandate the Request is registered. In short, after the Panel receives a Request for Inspection it is processed as follows:

- The Panel decides whether the Request is prima facie not barred from Panel consideration.
- The Panel registers the Request—a purely administrative procedure.
- The Panel sends the Request to Bank Management, which has 21 working days to respond to the allegations of the Requesters.
- The Panel then conducts a short 21 working-day assessment to determine the eligibility of the Requesters and the Request.
- If the Panel does not recommend an investigation, and the Board of Executive Directors accepts that recommendation, the case is considered closed. The Board, however, may approve an investigation against the Panel's recommendation if it so warrants.
- If the Panel recommends an investigation, and the Board approves it, the Panel undertakes a full investigation.
- Panel investigations are not time-bound.
- Three days after the Board decides on whether or not an investigation should be carried out, the Panel's Report (including the Request for Inspection and Management's Response) is publicly available at the Bank's InfoShop and the respective Bank Country Office.
- When the Panel completes an Investigation, it sends its findings and conclusions on the matters alleged in the Request for Inspection to the Board as well as to Bank Management.

- The Bank Management then has six weeks to submit its recommendations to the Board on what actions the Bank should take in response to the Panel's findings and conclusions.
- The Board then takes the final decision on what should be done based on the Panel's findings and the Bank Management's recommendations.
- Three days after the Board's decision, the Panel's Report and Management's Recommendation are publicly available through the Bank's InfoShop and the respective Country Office.
- The Panel's Reports are also posted on its web-site: [www.worldbank.org/inspectionpanel](http://www.worldbank.org/inspectionpanel).



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## INTRODUCTION

The World Bank Inspection Panel completed its fifth year of operation on July 31, 1999. This Report covers the Inspection Panel's operations during this period.

The outgoing chairman and member, Alvaro Umaña Quesada (a Costa Rican national) was replaced by Edward S. Ayensu (a Ghanaian national).

In this fifth year of operation, the Panel received and processed three new formal Requests for Inspection, related to projects in each of the following regions: Latin America: Brazil Land Reform Poverty Alleviation Project; Africa: Lesotho Swissborough Diamond Mining Project; and East Asia and South Pacific: China Western Poverty Reduction Project.

To date the Panel has dealt with a total of 16 formal Requests for Inspection: five from Africa; five from South Asia; five from Latin America; and one from East Asia and South Pacific. Most of these cases have revolved around four sets of Operational Policies: Environment, Resettlement, Indigenous Peoples and Project Supervision. Issues of consultation and/or participation in environmental, resettlement or indigenous peoples development plans — or the lack there of — have been frequently raised. Excluding the pending cases, the Panel has recommended investigations in six of the thirteen registered Requests for Inspection. Of the six, the Board approved only two investigations: the Arun III Hydroelectricity Project in Nepal (which was limited in scope) and the NTPC Power project in India which was restricted to a desk study in Washington, DC.

The Working Group established by the Executive Directors to review the Panel process in September 1997 concluded its review. On April 2, 1999 the Board approved the "Conclusions of the Board's Second Review of Inspection Panel" which amended the 1993 Resolution that established the Panel. The amendment comprised additions to and revisions of both the Resolution and its 1996 Clarifications. The 1999 Clarifications stressed three main issues. First, in the eligibility assessment, the Panel is to focus more on the alleged non-compliance by the Bank with its policies and procedures, and less on harm suffered by the Requesters. At the same time, the Clarifications make it clear that the redress of harm is not a necessary outcome of the Panel process, although actual or potential harm to the Requesters remains a criterion for eligibility. Second, remedial action plans prior to Board consideration of a Panel recommendation were eliminated. Third, the Board reinforced the distinction to be made between Bank failures and Borrower failures in the Management Response to a Request for Inspection and in the Panel's eligibility Report.

In November 1998, the Panel published its first book entitled *The Inspection Panel: The First Four Years 1994-1998*: a case history of the Panel's first four years of experience. The book includes the reports and recommendations on the first ten Requests for Inspection received by the Panel. In the summary of its four years of experience two systemic issues which appear to be interrelated and critically linked to performance are identified. The first is the persistent imbalance that develops in projects that have infrastructure as well as social and environmental components. The Bank usually finances infrastructure, while the social and environmental components are left for counterpart funding and lag behind.

The second is the unequal status that social and environmental components seem to have vis-à-vis other directives in the preparation and execution of projects. A factor that appears to be related to other problems such as the Bank's "approval culture" and its incentive/punishment system for task managers, observing all of the requirements of the environmental, resettlement and other safeguard policies may delay project approval in some cases, and be regarded by some as detrimental for staff career goals.

In the five years since its establishment the Panel's operations have assisted the Bank in its efforts to increase compliance with its own policies and procedures, making the Institution more accountable and transparent in the conduct of its business. The Panel's interventions have also, directly and indirectly, contributed to improving the consultative process available to people who have voiced their doubts about the impact of Bank-financed projects.

Jim MacNeill  
Ernst-Günther Bröder  
Edward S. Ayensu

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## ABOUT THE PANEL

The Inspection Panel consists of three members who are appointed by the Board for non-renewable periods of five years. As provided for in the Resolution that established the Panel, members are selected on the basis of their ability to deal thoroughly and fairly with the requests brought to them, their integrity and their independence from the Bank's management, and their exposure to developmental issues and to living conditions in developing countries. The independence of the Panel is further safeguarded by its structure and operations, which are independent of Bank Management.

**Chairperson.** The Chairperson of the Panel works full-time and the two members part-time as needed for the Panel's operations. The Panel's first Chairperson, Mr. Bröder was appointed by the Board. After the first year Panel members were required to select their Chairperson annually. The chair was filled by Mr. Bröder from August 1, 1998 to March 1, 1999. Mr. Jim MacNeill assumed the Chair in March 1999.

**Members.** The members of the Panel are Jim MacNeill, Chair (member since 1997), Ernst-Günther Bröder (member since 1994), and Edward S. Ayensu, (member since 1998).

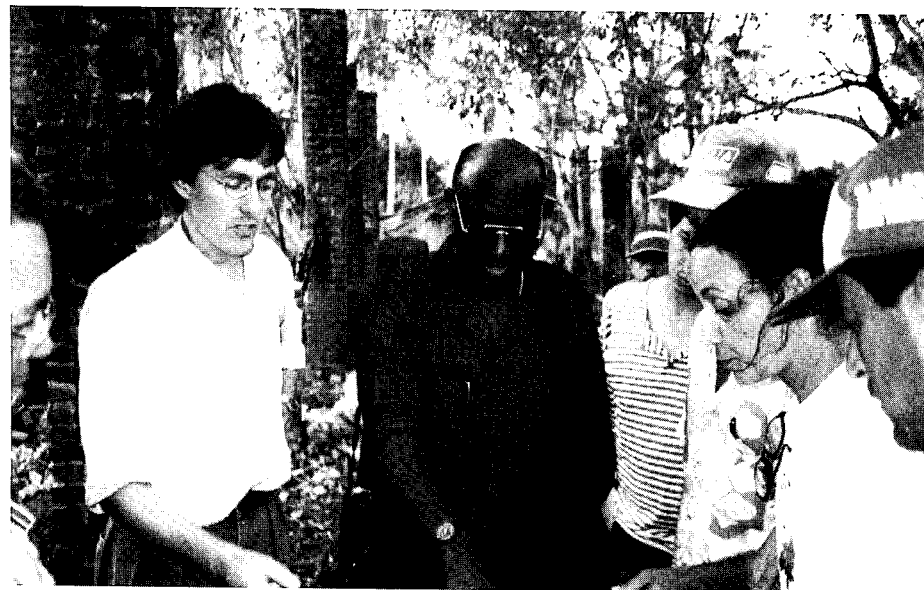
**Secretariat.** The Panel has a permanent Secretariat, headed by the Executive Secretary, Eduardo G. Abbott, a Chilean national. The office also consists of an Assistant Executive Secretary, Antonia M. Macedo, a New Zealand national and a Program Assistant, Pamela Fraser, a Guyanese national. The Secretariat provides administrative support to the Chairman and Panel members, helps in the processing of Requests and responding to queries from potential Requesters, and coordinates other activities such as information dissemination, requests for information, Panel consultations inside and outside the Bank, and disclosure processes.



Panel Chairman Jim MacNeill interviewing a village official in the move-in area, Dulan County, Qinghai Province, China.



Panel member Ernst-Günther Bröder and Executive Secretary Eduardo Abbott examining a site in the Land Reform and Poverty Alleviation Project in Brazil.



Panel member Edward S. Ayensu discussing a point with Requesters and Bank staff about the Land Reform and Poverty Alleviation Pilot Project in Brazil.

## Inspection Panel Members

### **Jim MacNeill, Chairman**

Mr. MacNeill, a Canadian national, is a policy advisor on the environment, energy, management, and sustainable development to international organizations, governments, and industry. He is Chairman Emeritus of the International Institute for Sustainable Development, and a member of the boards of the Woods Hole Research Center and the Wuppertal Institute on Climate and Energy Policy, and a member of the Jury of the Volvo Environmental Prize. He was Secretary General of the World Commission on the Environment and Development (the Brundtland Commission) and lead author of the Commission's world-acclaimed report, "Our Common Future". He served for seven years as Director of Environment for the Organization for Economic Cooperation and Development (OECD). Earlier, he was a deputy minister in the Government of Canada. Mr. MacNeill holds a graduate diploma in Economics and Political Science from the University of Stockholm and Bachelor's Degrees in Science (Math and Physics) and Mechanical Engineering from Saskatchewan University. He is the author of a number of books, publications and articles. He is also the recipient of a number of honorary degrees and awards including the Order of Canada, his country's highest honor. Mr. MacNeill became a member of the Inspection Panel in August 1997.

### **Ernst-Günther Bröder**

Mr. Bröder, a German national, is the former President of the European Investment Bank (EIB), Luxembourg from 1984-1993, where he also served as a director from 1980-1984. He held several supervisory and consultative functions in international banks and other institutions. Mr. Bröder was a Governor of the European Bank for Reconstruction and Development, London from 1991-1993, and a member of the special advisory group for the Asian Development Bank, Manila from 1981-1982. He is a member of the Panel of Conciliators for the International Centre for Settlement of Investment Disputes, Washington, D.C. He started his professional career in the Managing Board's staff of the Bayer Corporation from 1956-1961 and served in the Technical Operations Department's Industry Division of the World Bank from 1961-1964. Before being appointed President of the EIB he served from 1964-1984 in the Kreditanstalt für Wiederaufbau in Frankfurt, where he was a member of the Managing Board from 1975-1984 and its spokesman since 1980. He has written and co-authored several books and articles on financial and economic subjects. Mr. Bröder holds a Doctorate in Economics from the University of Freiburg, and studied political and natural sciences at the Universities of Cologne, Mainz, and Paris. Under the terms of the Resolution that established the Panel, Mr. Bröder served as the Inspection Panel's first Chairperson.

### **Edward S. Ayensu**

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

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## OPERATIONS

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The Inspection Panel received and registered 4 new Requests for Inspection, bringing the total number of Requests received by the Panel to 16.

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**Table 1. Summary of Requests for Inspection as of July 1999**

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<i>Request</i>	<b>Requests Registered</b>	<b>Panel Recommendation</b>	<b>Board Decision</b>	<b>Last Action</b>
#1 Nepal/Arun III	Yes 10/94	Investigation	Approved: limited to substantial compliance	Panel Reports 12/94, /6/95
#2 Ethiopia/Exportation	No 5/95			
#3 Tanzania/Power	Yes 6/95	No investigation	Approved	
#4 Brazil/Rondônia	Yes 6/95	Investigation	Not approved	Reviewed by Panel 3/97
#5 Chile/Pangue	No 11/95			
#6 Bangladesh/Jamuna	Yes 8/96	No investigation	Reviewed in 12 months	Pending
#7 Argentina/Paraguay: Yacyretá	Yes 10/96	Investigation	Not approved	Reviewed by Panel 9/97
#8 Bangladesh/Jute	Yes 11/96	No investigation	Approved	
#9 Brazil/Itaparica	Yes 3/97	Investigation	Not approved	Reviewed 1998
#10 India/NTPC	Yes 5/97	Investigation	Approved/ limited to Desk Study	Report sent 12/97
#11 India/Ecodevelopment	Yes 3/97	Investigation	Not approved	Remedial "Action Plan" 6/99
#12 Lesotho/South Africa/Lesotho highlands water	Yes/ 5/98	No investigation	Approved	
#13 Nigeria/Lagos Drainage and Sanitation	Yes 6/98	No investigation	Approved	
#14 Brazil/Land Reform Poverty Alleviation	Yes 1/99	No investigation	Approved	
#15 Lesotho/Swissborough Diamond Mining	Yes 5/99	No investigation	Approved	
#16 China/Western Poverty Reduction	Yes 6/99	Pending		

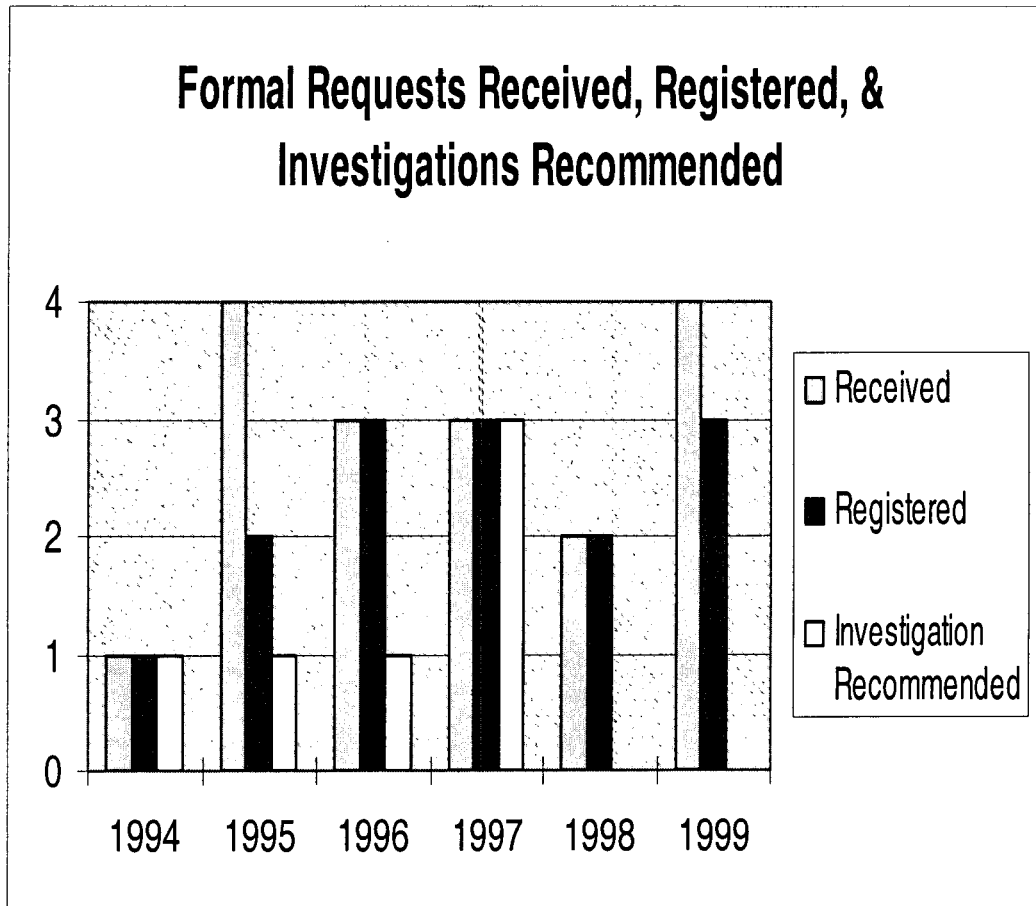
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**Table 2.** *Number of Requests Received, Registered, and Investigations Recommended*

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<b>Year</b>	<b>Requests Received</b>	<b>Requests Registered</b>	<b>Investigation Recommended</b>
<b>1994</b>	<b>1</b>	<b>1</b>	<b>1</b>
<b>1995</b>	<b>4</b>	<b>2</b>	<b>1</b>
<b>1996</b>	<b>3</b>	<b>3</b>	<b>1</b>
<b>1997</b>	<b>3</b>	<b>3</b>	<b>3</b>
<b>1998</b>	<b>2</b>	<b>2</b>	<b>0</b>
<b>1999</b>	<b>4</b>	<b>3</b>	<b>0</b>

**Figure 1. Number of Requests Received, Registered, and Investigations Recommended**





**Table 3. Panel Investigations**  
*Seven Investigations Recommended, Two Authorized as of July, 1999*

Month/Year	Name of Project	Date of Recommendation(s)	Recommendation	Board Decision	Comment
Oct-94	Nepal: Proposed Arun III Hydroelectric	Dec-94	Investigation	Approved	Limited to substantial compliance with 3 policies
Jun-95	Brazil: Rondônia Natural Resources Management	Aug-95, Dec-95	Investigation	Rejected	Panel asked to review the execution of a remedial Action Plan
Sep-96	Argentina/Paraguay Yacyretá Hydroelectric	Dec-96	Investigation	Rejected	Panel asked to review the execution of remedial Action Plans
Mar-97	Brazil: Itaparica Resettlement & Irrigation	Jun-97	Investigation	Rejected	Panel asked to review the execution of a remedial Action Plan
May-97	India: NTPC Power Generation	Jul-97	Investigation	Approved	Limited to Desk Study conducted in Washington, DC
Apr-98	India: Ecodevelopment	Oct-98	Investigation	Rejected	Management asked to prepare a Status Report

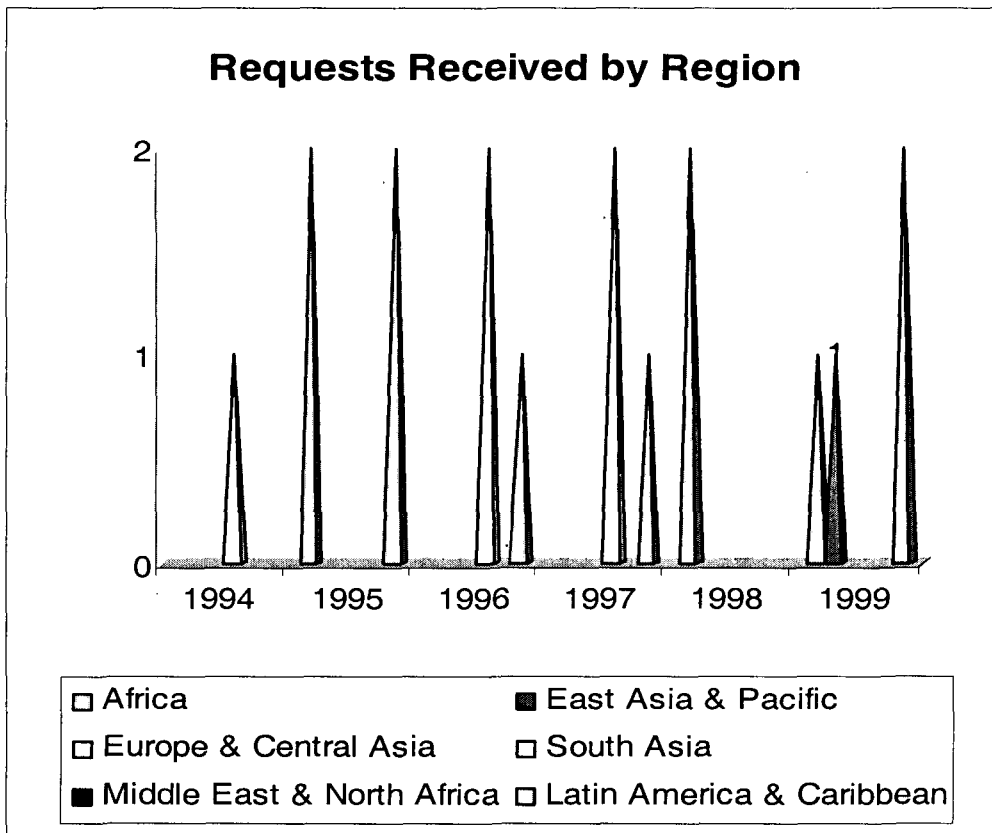
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**Table 4. Number of Requests Received by Region**

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Year	Africa	East Asia & Pacific	Europe & Central Asia	South Asia	Middle East & North Africa	Latin America & Caribbean
1994				1		
1995	2					2
1996				2		1
1997				2		1
1998	2					
1999	1	1				2

**Figure 2. Requests Received by Region**



## Formal Requests Received in FY 1999

### Request No. 14

#### Brazil: Land Reform Poverty Alleviation Project

The Brazil Land Reform Poverty Alleviation Project was designed to reduce rural poverty in Northeast Brazil by: (i) increasing the incomes of about 15,000 poor rural families through improved access to land and participation in complementary, demand-driven community sub-projects; (ii) raising the agricultural output of lands included in the Project; and (iii) pilot testing a market-based approach to land reform in which beneficiaries would obtain financing for the purchase of suitable properties negotiated directly between rural communities and willing sellers. According to Bank Management, if successful, this project would enable the Government to greatly accelerate the pace and lower the cost of its programs to improve land access by the rural poor throughout the Northeast and elsewhere in Brazil. The Project is to be carried out in the northeast states of Bahia, Ceara, Maranhao, Pernambuco, and Minas Gerais.



Construction of housing by family members involved in the Land Reform and Poverty Alleviation Pilot Project.

## **The Request<sup>1</sup>**

The Request, received on December 14, 1998, was submitted by the National Forum for Agrarian Reform and Justice in Rural Areas (Fórum Nacional Pela Reforma Agrária e Pela Justiça No Campo--the Forum), and signed by several NGO representatives including the National Council of Christian Churches of Brazil (Conselho Nacional de Igrejas Cristãs do Brasil) (CONIC), the National Confederation of Agricultural Workers (Confederação Nacional dos Trabalhadores na Agricultura) (CONTAG), and 853 individuals. The Panel registered the Request on January 8, 1999.

The Requesters claimed that they were being or were likely to be materially and adversely affected by the design and execution of the Project. They also claimed that they were likely to be negatively affected by follow-up loans to support similar Projects in Brazil, and that the Project violated the following policies and procedures: OD 4.01 on Environmental Assessment; OD 4.15 on Poverty Reduction; BP 17.50 on Disclosure of Operational Information; and GP 14.70 on Involvement of NGOs in Bank Operations;<sup>2</sup>



Panel members Edward S. Ayensu and Ernst-Günther Bröder discussing the details of the Project at a site with the affected people and World Bank staff.

## **Management Response**

In its Response of March 8, 1999, Management stated that: "... the Brazil Land Reform and Poverty Alleviation Project is a very well designed operation. As a pilot, it is being closely supervised, studied and fine-tuned. The Project is already yielding significant results on the ground

<sup>1</sup> See THE INSPECTION PANEL, *Report and Recommendation on Second Request for Inspection concerning Brazil: Land Reform and Poverty Alleviation Pilot Project (Loan no. 4147-BR)*, June 2, 1999.

<sup>2</sup> GP 14.70 is outside the purview of the Panel. See IBRD/IDA, Good Practice (GP) 14.70 on Involvement of NGOs in Bank Operations.

for a large number of poor rural families in the Northeast of Brazil, and shows exciting promise as a cost-effective, expeditious and non-conflictive means of achieving a redistribution of land assets. It has not and would not replace all alternative approaches to land reform, such as expropriation, but it does constitute an extremely important option in the Government's array of instruments for dealing with serious and longstanding land issues."

Management also noted that: "The Requesters do not demonstrate real or potential harm to any direct Project beneficiaries, nor do they seek to improve the Project design or execution. The objective is to stop the Project and prevent expansion of market-based land reform, because they advocate "punitive expropriation" as the only "legitimate" means to redistribute land assets in Brazil. The foundation of this argument is philosophical, and centers on a policy choice of the Government, and not on the proper application by the Bank of its own policies and procedures."

### **The Panel's Report**

In every case, in determining eligibility, the Panel has to ascertain whether there is any *prima facie* evidence of acts or omissions of the Bank, resulting from violations to its own policies and procedures, that have or may have caused material adverse effects on people affected by a Bank-financed project. As provided in paragraph 7 of the 1999 Clarifications, however, the Panel is not to report at this stage on the Bank's failure to comply with its policies and procedures or its resulting material adverse effect.

The Panel's Report was based on the Request, the Response, and additional information provided by the Requesters, IBRD Management, local NGOs and Federal and State government officials, as well as the observations of the Inspection Panel Members Edward S. Ayensu (Lead Inspector) and Ernst-Günther Bröder (Panel Member)<sup>3</sup> who visited a representative sample of sub-projects in the States of Pernambuco and Bahia on April 22 through April 30, 1999.

The Panel Members visited project sites selected by both the Requesters and Management and met with the beneficiaries and their leaders as well as with several leaders of other project sites. They were able to discuss and raise issues of cultivation, output projections and their personal situations before and during that stage of project execution.

Management provided the Panel with evidence of efforts to inform and consult with potential project beneficiaries in the Project states.

During its assessment, the Panel neither encountered any situation that constituted *prima facie* direct material harm to the Project participants nor was it provided with evidence of actual or potential price increases for agricultural land that may result in a deterioration of the Requesters' present living conditions. On the contrary, the Projects that the Panel visited showed marked improvements in the livelihood of the participants at this stage of the process. The direct beneficiaries of the Project did emphasize, however, that they needed three main types of assistance: technical assistance to improve their agricultural projects and marketing skills; working capital to facilitate the sustainability of their projects; and assistance to improve their management skills especially in the conduct of the actions of the officers of their associations.

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<sup>3</sup> Assisted by Eduardo G. Abbott, Executive Secretary of the Inspection Panel.

Of particular concern to the Project in certain States of Brazil was the impact of continuous drought in project site areas. Special attention was needed by the beneficiaries of the Project with respect to water harvesting technologies, adaptation of seed cultivators to local soil conditions for both domestic and commercial crops and the improvement of their livestock.

Given the Project beneficiaries' lack of resources, the terms and conditions of credits for land purchases, initial investments and working capital are essential to ensure the success of their projects and to avoid the likelihood of the possible harm alleged in the Request.

The Panel's assessment was also made on the basis of the introduction of improved revised terms of the loans received by the beneficiaries for the purchase of land claimed by Management in the Response, and confirmed by the Ministry of Agrarian Reform and other government agencies during the Panel's visit: "20-year repayment period with three years of grace, and a fixed interest rate of 4%" (para 4.10). Contrary to what was stated in the Management Response, the Project beneficiaries do not have access to the highly subsidized PROCERA credit. The Panel, however, received assurances that a similar line of credit will be available to them.

In the light of the above, the Panel did not recommend an investigation of the matters alleged in the Request.



Partially completed houses at a Project site.

**Request No. 15**  
**Lesotho: Lesotho Highlands Water Project**  
**Loan No. 4339-LSO**  
**From Swissbourgh Diamond Mines (Pty) Ltd & Others**

The Lesotho Highlands Water Project is a common undertaking between the Governments of the Kingdom of Lesotho and the Republic of South Africa under a treaty signed in 1986. The Project consists of a large water scheme to be developed progressively in five successive phases. The initial phase, known under the Treaty as Phase 1A was initiated in 1986 and was financed by an IDA Credit through the Lesotho Highlands Water Engineering Project to carry out the required feasibility studies. After the successful conclusion of those studies, a consortium of international lenders, including the Bank, was mobilized to provide the funding for the construction of the initial series of dams and tunnels required for the storage and delivery of waters from Lesotho to South Africa. The Bank provided funding for US \$100 million equivalent.

Lesotho and South Africa are now proceeding with the implementation of Phase 1B of the Project which consists mainly of the construction of a third dam in the Mohale area in addition to a diversion tunnel at Matsoku to channel additional waters into the Kaste dam towards the intake and transfer tunnels for delivery to South Africa. The Bank is providing a US \$45 million equivalent loan granted to LHDA.

### **The Request**<sup>4</sup>

The Request, received on April 26 1999, was the second Request received by the Panel related to this Project. It was filed by a group representing nine mining companies registered in the Kingdom of Lesotho and South African nationals who are shareholders in the Lesotho companies and have invested in the mining rights in Lesotho. The Panel registered the Request on May 14, 1999.

The Requesters claimed that as a direct result of the implementation of the Lesotho Highlands Water Project, their interests and investments rights in Lesotho had been unlawfully expropriated by the Government of Lesotho, and that no compensation had been offered or paid by the Lesotho Highlands Development Authority (LHDA) and/or the Government of Lesotho (GOL) and/or the Government of the Republic of South Africa (RSA) and/or the Trans-Caledon Tunnel Authority (TCTA). They further claimed that expropriation had occurred with the knowledge, support and concurrence of the World Bank who funded both phases of the Project.

The Requesters alleged that they have suffered harm, and continue to suffer harm as a result of failures or omissions in the appraisal, monitoring and implementation by the Bank of the Project. They maintained that they have been deprived of their property rights and their entitlement to prompt, effective, and adequate compensation. They argued that deprivation would not have occurred if the Bank had complied with its policies and procedures.

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<sup>4</sup> See THE INSPECTION PANEL, Report and Recommendation on Request of Inspection concerning Lesotho: Lesotho Highlands Water Project (Loan No: 4339-LSO), July 23, 1999.



The Requesters further alleged that the Bank proceeded with financing of the Project even though it had full knowledge of the expropriation and disputes between the Requesters and the Governments of the two countries and the Project authorities. They claimed that the failure of the Bank to take steps to ensure that their rights were duly respected before proceeding to the appraisal and financing of Phase 1A and 1B constitutes complicity in the acts of expropriation and in the disputes, and violates its operational policies and procedure. The Requesters claimed that the Bank violated the following policies and procedures: OP /BP 7.40 on Disputes over Defaults on External Debt, Expropriation and Breach of Contract; and BP 17.50 on Disclosure of Operational Information

### **Management Response**<sup>5</sup>

Management responded on June 15, 1999, stating that it had fully complied with the requirements of OP 7.40 and BP 17.50. With respect to the alleged violation of OP 7.40, it noted that: "the requirements of the said policy are that when the Bank considers lending for a country with ongoing disputes relating to expropriation of property of aliens, the Bank must form for itself an opinion as to whether the concerned country is making reasonable efforts to settle the disputes and as to whether the said disputes are substantially harming the country's international credit standing..." Management further noted that in light of all the circumstances described above, the Bank's informed opinion throughout the processing of both Phase 1A and Phase 1B projects has been that the Borrower was making reasonable efforts to settle the dispute with the Requesters in a manner consistent with the requirements of OP 7.40.

With respect to the alleged violations of the requirements of BP 17.50, Management stated that: "it should be noted that BP 17.50 was adopted by the Bank in September 1993; therefore, its requirements were not in effect when Loan No. 3393-LSO was granted for LHWP Phase 1A." With respect to Loan No. 4339-LSO, the Requesters had asked the Bank to submit to them any and all information and documents in the Bank's files as they pertain to the LHWP. The disclosure requirements stipulated under BP 17.50 do not require the Bank to provide open and full access to the Bank's project files to the public or to the Requesters, as they had claimed. In keeping with the letter and spirit of BP 17.50, the staff advised the Requesters to contact the Public Information Center (now the Infoshop) to obtain all information pertaining to the Project that was available for release to the public in accordance with the provisions of BP 17.50.

Since the Panel was not satisfied that the Response provided evidence of compliance or intent to comply with Bank policies and procedures, it requested Management in a Memorandum dated June 30, 1999 "[t]o provide evidence of the Bank's compliance with BP 17.50, OP 7.40 and especially with BP 7.40 which is referred to in detail in the Request of Inspection." The Country Director for Lesotho and South Africa responded to the Panel on July 6, 1999.

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<sup>5</sup> For a complete version of the Management Response see THE INSPECTION PANEL, *supra* note 4.

## The Panel Report<sup>6</sup>

The Panel proceeded to determine whether the Request met the eligibility criteria. To this end, Messrs. Jim MacNeill and Edward Ayensu, carried out an initial field visit.<sup>7</sup> They met with the Requesters, with representatives of the GOL and RSA, and with senior officials of the LHDA and the TCTA. The Panel also consulted with Bank officials in Washington and Pretoria and with the staff of the Executive Director representing Lesotho and South Africa.



Panel members Jim MacNeill and Edward S. Ayensu, and Executive Secretary Eduardo Abbott, holding discussion with a team from Swissborough Diamond Mines (Pty) Ltd in South Africa in connection with the Lesotho Highlands Water Project.

The Panel was satisfied with the *prima facie* evidence about the existence of a dispute over expropriation of mining leases in Lesotho throughout the appraisal and implementation of the project and that one of the main subjects of this dispute concerns a mining lease over an area included in the project area. In the Panel's view, however, there was *prima facie* evidence that Management has failed to comply with some of the relevant policies and procedures of the Bank.

Paragraph 2 of BP 7.40 states that: "[i]f, at the time a loan is presented to the executive directors for approval, there are any substantial amounts in dispute between the borrowing country and suppliers or lenders to, or investors in, that country, the matter is mentioned in the Memorandum and Recommendation of the President/President's Report." In the Panel's opinion, at the time Loan 4339-LSO was submitted for Board approval (April 30, 1998) the Bank was aware of the existence of an ongoing dispute over the expropriation of rights over certain mining leases and that the amounts in dispute were substantial. The amounts claimed by the Requesters in 1991 ranged from a "conservative" Rand (R) 81,654,540 to R 620,698,545 (well over one hundred million

<sup>6</sup> Id., *supra* note 5.

<sup>7</sup> Assisted by Mr. Eduardo G. Abbott, Executive Secretary of the Inspection Panel.

dollars) plus monetary adjustment and interests. Both TCTA (since 1994) and LHDA (since 1996) have reflected this dispute as a contingent liability in their annual financial statements, although in the widely varying amounts of R 507 million and R 81 million respectively. Regardless of the merits of the on-going legal disputes, the Panel was in no doubt that at the time Loan 4339-LSO was "presented to the Executive Directors for approval" there were substantial amounts in dispute between LHDA (the borrower), GOL, RSA and TCTA, and the Requesters. In spite of the foregoing, the PAD did not mention the dispute. Management's behavior on this matter seems to be in clear violation of the above-referenced paragraph 3 of BP 7.40.

Paragraph 1 of BP 7.40 contains other specific procedural provisions to be followed by Management in cases of disputes over expropriation. The paragraph establishes the procedure to be followed to allow the Regional Vice President to decide on the Bank's position on the matter. Although Management's Response and a review of project files do not provide a clear description as to how the decision was made, it is clear that the Bank decided to continue lending to Lesotho, because in its opinion, the borrower was making reasonable efforts to settle the dispute.

Compliance or non-compliance with the provisions of OP 7.40 is more difficult to ascertain since the OP seems to provide considerable latitude to Management when establishing how reasonable are a country's efforts to settle a dispute over expropriation and to what extent such dispute may be affecting its international credit standing. And the Panel did not find any *prima facie* evidence of facts or factors that would indicate that Management's position on this matter could be regarded as unreasonable.

Concerning BP 17.50, paragraph 5 states that "[i]f an interested party requests additional technical information about a project under preparation, the country department director releases factual technical documents, or portions of such documents, after consulting with the government to identify any sections that involve confidential material or that could compromise relations between the government and the Bank." According to information provided by Management however, it simply referred the Requesters to the InfoShop. The Panel was not satisfied that Management has complied in full with the provisions of this paragraph.

The Panel concluded that Management had failed to comply with some of the applicable policies and procedures as explained above. In its judgment, however, there seemed to be no direct link between any actions and/or omissions of the Bank and the harm claimed by the Requesters.

In terms of the alleged harm, the Panel noted that the Requesters were currently appealing the April 29, 1999 High Court judgment in the Lesotho Court of Appeals, and therefore had not exhausted all of the possible legal remedies available to them.

Based on the foregoing, the Panel did not recommend an investigation into the matters alleged in the Request.

## Request No. 16 China: Western Poverty Reduction Project

The objective of the China Western Poverty Reduction Project is to reduce the incidence of absolute poverty in remote and inaccessible villages of three provinces: the Inner Mongolia Autonomous Region ("Part A"), the Gansu ("Part B") and the Qinghai ("Part C") Provinces, and to assist about 1.7 million people. In all three locations, the Project expects to increase income and productivity in both farm and off-farm activities. Living standards in poor rural areas is also expected to be raised through improvement of basic rural infrastructure and enhanced access to social services such as health and education.

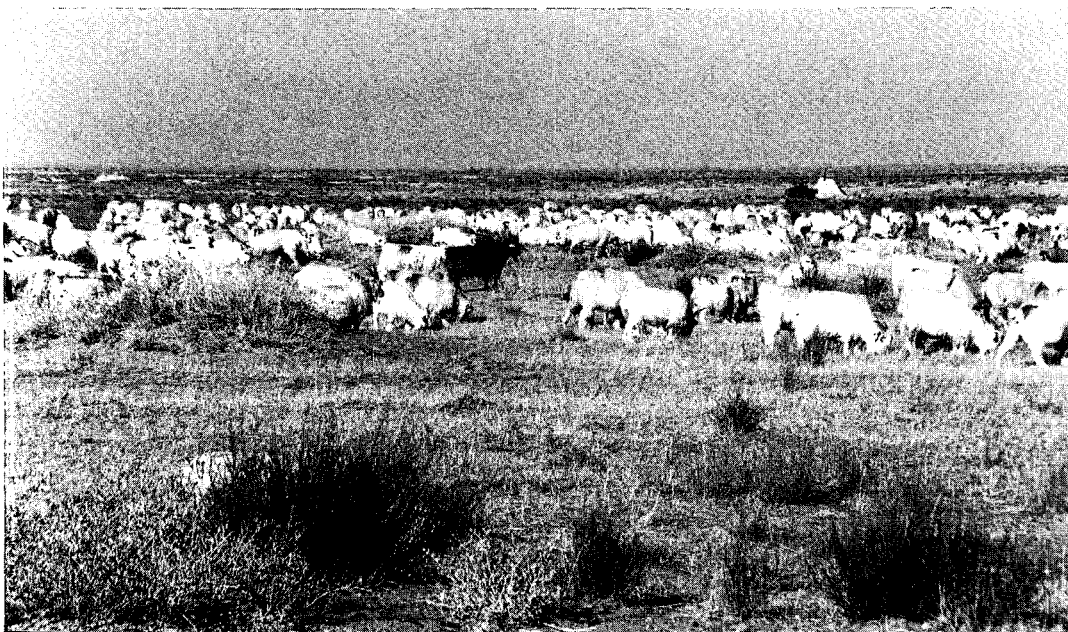


Move-out area of Xipo Village, Shishan Township in Datong County where lack of water and poor quality soils results in poor grain yields.

The Qinghai component, or Part C of the Project (which is the subject of the Request) includes a component designed to benefit 57,775 poor farmers from heavily eroded hillsides in the Haidong Prefecture in the eastern part of Qinghai. They are to be voluntarily resettled 300 miles further west to the barren plains in Dulan County in Haixi, a Mongol and Tibetan Autonomous Prefecture of Qinghai Province, an area now inhabited by about 4,000 people.

The World Bank is contributing a total of US \$160 million equivalent to the project. \$100 million in concessional funds financed through an IDA Credit, and \$60 million financed through an IBRD Loan. \$50 million is earmarked to benefit 674,000 people in the Inner Mongolia Autonomous Region; \$70 million to benefit 930,000 people in the Gansu Province; and \$40 million to benefit

people in Qinghai Province, including the 57,750 who are moving out, the 110,000 who are staying, and the 4,000 who live in and around the move-in area.



Move-in area of proposed Xiangride-Balong Irrigation sub-district, Dulan County where Mongol herders forage their sheep.

### **The Request<sup>8</sup>**

The Request, received on June 18, 1999, was submitted by the International Campaign for Tibet (ICT), a U.S. based non-governmental organization acting in a representational capacity for the affected people living in the project area. The Panel registered the Request on June 18, 1999.

Six days after the Request was filed the Board of Executive Directors approved financing for the Project. The Executive Directors however, "agreed that no work be done and no funds be disbursed for the \$40 million Qinghai component of the project until the Board decides on the results of any review by the independent Inspection Panel." This is the component that is the subject of the Request for Investigation.

The Requesters claimed that the lives and livelihoods of Tibetan and Mongolian ethnic peoples living in the Tibetan and Mongol Autonomous Prefecture would suffer potentially irreversible harm if the Project went forward. They claimed that the Project involved great social and environmental risk, as well as a serious risk of escalation of ethnic tension and conflicts over resources. They believed if the Project moved forward it would constitute a serious threat to the ethnic minorities in the area and the fragile ecosystem in which they live. They further claimed the classification of the Project as Category B for the purposes of environmental evaluation constituted a violation of OD

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<sup>8</sup> See THE INSPECTION PANEL, *Report and Recommendation on Request for Inspection concerning China: Western Poverty Reduction Project (Credit No. 3255-CHA and Loan No. 4501-CHA)*, August 18, 1999.

4.01. They also claimed that civil society was not able to evaluate the Project's Environmental Assessment and Resettlement Plan because the Bank failed to disclose it to the public until about six months after appraisal.

In sum, the Requesters claimed alleged violations of the following policies and procedures: BP 17.50 on Disclosure of Operational Information; OD 4.01 on Environmental Assessment; OD 4.20 on Indigenous Peoples; OD 4.30 on Involuntary Resettlement; OP 4.09 on Pest Management; OP/BP 4.37 on Safety of Dams; OP 12.10 on Retroactive Financing; and OD 10.00 on Investment Lending: Identification to Board Presentation

### **Management Response<sup>9</sup>**

In its Response of June 19, 1999, Management noted that the Project was in compliance with OD 4.20 on Indigenous Peoples. Management did recognize, however, "that some of the Project's qualitative aspects regarding ethnic minorities could have been better anticipated and addressed in loan documentation."

Management stated that it was in full compliance with OD 4.01 on environmental assessment, since whether to assign the Project to Category A or B was a matter of "judgment." Management noted that it was in compliance with OP 4.04 on Natural Habitats, OP 4.37 on Safety of Dams, and OP 12.10 on Retroactive Financing. It also states that it has been consistent with OD 10.00 on standards for quality at entry and in broad consistency with policies on Pest Management in OP 4.09 and BP 4.01.

On the question of disclosure of information, Management agreed that there was "a shortcoming in the timeliness" with which the Environmental Assessment report and Resettlement Action Plan were sent to the Bank's Infoshop in Washington, DC.

Management pointed out that a number of Project "refinements" had been made since external concerns about the Qinghai component were raised in late April. They maintained that internal reviews confirmed compliance with safeguard policies, but "identified areas that would benefit from additional qualitative strengthening during implementation." The Response stated that a small team of senior management staff went to Qinghai Province to make an "independent assessment of the situation and the efficacy of the plan," and negotiations with the Chinese Government were reopened.

### **The Panel's Report**

At the time of writing of this Report the Panel is in the process of making its assessment of the claim.

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<sup>9</sup> For the complete Management Response, see THE INSPECTION PANEL, *supra* note 8.

## Further Action on Earlier Requests

### Request No. 11

#### India: Ecodevelopment Project at the Rajiv Gandhi Nagarahole National Park

On April 3, 1998, the Panel received a Request from an organization called the Nagarahole Budakattu Janara Hakkusthapana Samithy (NBHJS) representing one of the groups of tribal people living in an area known as Rajive Gandhi National Park, Nagarahole, Karnataka State, India. The Request claimed they had and would suffer harm because IDA Management had violated IDA policies and procedures in the preparation of the India Ecodevelopment Project. The project is intended to conserve biodiversity in seven globally significant protected areas (PAs) using ecodevelopment measures including improved project area (PA) management, reduction of negative impacts of local people on PAs and the establishment of programs, including assistance to local people, environmental education, and impact monitoring.



Adivasi (tribal) people standing before a home in a haadi (village) in Rajiv Gandhi (Nagarahole) National Park.

## The Panel Report<sup>10</sup>

The Panel's Report, dated October 21, 1999, was based on the Request, the Response, and additional information provided by the Requesters, IDA Management, local NGOs and Indian officials. In addition, the Panel considered information obtained during the Inspector's (Mr. Jim MacNeill's) visit to Delhi and the project site during August 30 – September 4, 1998.<sup>11</sup> During his visit, the Inspector met with the Requesters and representatives of local NGOs, and with tribal people in several different villages (haadi). He also consulted with the Director of Project Tiger and officials in the Department of Economic Affairs (DEA) in New Delhi, with senior Karnataka State officials in Bangalore, and with senior and other Forestry officials in the park.

The Requesters asked for an investigation into their claims in order to ensure that tribal resident in the Park will have a real choice on whether to remain in their communities or to resettle voluntarily outside the park.

In spite of the recognized "history of mistrust between the tribal people and the government" at this "most challenging of the seven sites," Management acknowledged that the Project did not carry out the "identification of local preferences through direct consultation" at the appraisal stage. It appeared that GEF guidelines on participation were not followed either.

Instead of complying directly with the OD 4.20's directives in the appraisal phase, Management intended that "more detailed consultation" would follow during implementation. This decision had a number of consequences. Most important, perhaps, it denied most of the long-resident adivasi or tribal peoples of the park any significant input on the basic assumptions and concepts underlying the indicative plan, including the traditional rights of the adivasi to use the resources of the park, the nature of future microplanning processes, and their role in the future management of the park.

Management admitted that no separate Indigenous Peoples' Development Plan was prepared during the appraisal stage, as required by OD 4.30. In the Panel's view, if an Indigenous People's Development Plan had been prepared, it would have further exposed the tension between biodiversity protection objectives and the condition and aspirations of the indigenous people at Rajiv Gandhi National Park. It would have enabled significant input on the basic assumptions and concepts underlying the Ecodevelopment Project. And it may well have exposed the weakness of some of the premises under which the Project was conceived, at least for this particular park.

One of these premises, during the indicative planning phase, was that there is (or would be) a significant demand for relocation. The Panel found that the overwhelming majority of the resident tribal population has opted to stay.

Another key Management premise appeared also to be in question: namely, that the tribal population resident in the park have the option to stay or to leave; and that these are true options, with equal weight and value in terms of the support they are to receive from project

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<sup>10</sup> See THE INSPECTION PANEL, Report and Recommendation on Request for Inspection concerning India: Ecodevelopment Project, Rajiv Ghandi National Park (Nagarahole — Credit No. 2916-IN, GEF Trust Fund Grant No. TF028479 IN), October 21, 1998.

<sup>11</sup> Mr. MacNeill was accompanied by Mr. Alvaro Umaña, Panel member and Chairman from August 1997 to July 1998, when his four-year term on the Inspection Panel expired.



resources. In fact, the combination of the 1972 Wildlife Act, a 1997 Supreme Court decision, official expectations concerning whether the tribals will opt to stay or leave, and the elimination of their rights to use the land and forests in which they dwell, taken together, conspired to undermine the reality of the stay option.

The Panel found a profound difference between the expectations of Management and those of state officials concerning the role and scope of microplanning and the investments which are to follow the approval of microplans. Management stated that *"...microplans are required prior to each set of investments at the village level. (They) must be prepared by, and be agreeable to, the involved people...and (they)... would ultimately cover 100 percent of interested villages..."* State officials were equally unequivocal in telling the Panel that microplans will not be undertaken for any of the 58 haadi (villages) within the park.

At the time of the Inspector's visit, three microplans had been completed, all for communities outside the park; and more microplans for communities outside the park were planned. Yet, although it appeared that the overwhelming majority of the adivasi (some 97 percent) wished to remain in their communities within the park, no microplans for communities within the park were under preparation and none was foreseen. Thus, there was a growing imbalance between the apparent choices of the people and the microplanning process to guide project investments. In order to ensure compliance with the loan covenants, the Panel found that it was urgent that IDA supervision should assist in correcting this and avoid serious future imbalances.

The Panel found prima facie evidence that the Bank has failed to observe its policy on Indigenous Peoples in the design and appraisal phases. In its view, there is a significant potential for serious harm although, given the processes now underway, it may not become evident for some time.

The Panel also found that certain key premises underlying the design phase of the Project at the Nagarahole site were flawed, as a result of which there was a significant potential for serious harm. It therefore recommended that the Executive Directors authorize an investigation into this case.

The Board did not authorize an investigation into this case.

**Request No. 12**  
**Lesotho/South Africa: Phase 1B of Lesotho Highlands Water Project**

On April 23, 1998, a group of residents from Alexandria in the Gauteng province of the Republic of South Africa (RSA) delivered a Request to the World Bank office in Pretoria. The Panel received the Request in Washington, D.C on May 6, 1998. The Requesters claimed they have and will suffer harm because Bank Management had violated policies and procedures in the preparation of Phase 1A of the project for which financing was approved in 1991, and the then proposed Phase 1B of the Lesotho Highlands Water Project, (together referred to as LHWP).



Chairman of the Panel, Mr. Jim MacNeill, discussing the Lesotho Highlands Water Project with the villagers.

## The Panel's Report

The Panel's Report, dated August 19, 1998, examined the eligibility of the Requesters and the eligibility of the substance of the Request for an investigation.<sup>12</sup> The Panel found that the Requesters are eligible to file a Request in accordance with the Resolution establishing the Panel, subsequent "Clarifications" and the Panel's "Operating Procedures".

Throughout much of the claim, the Requesters argued for a delay of about 10 months in the funding decision on Phase 1B. They claimed that a delay is feasible, would result in substantial savings, and would enable the parties to focus on other priorities, including increasing access to water and repairing and upgrading the inadequate water delivery systems in Alexandra, Soweto and other poor townships.

The Request was submitted on April 23, 1998, several weeks before the Bank Board's meeting on June 4, 1998, when the Board decided to proceed with the loan for Phase 1B. During meetings with the Requesters, they indicated that they were aware of the fact that the Board had now so decided and they stated that, "since it was now a done deal", they no longer wished to pursue their request for a delay. As a result, the Panel did not pursue this aspect of the Request.

Concerning consultations, the Requesters cited steps taken by civic leaders, beginning in July 1996, to make their concerns known to the South African Government. Moreover, the Request mentions that Rand Water, together with Bank staff, was involved in earlier discussions in September 1995, and in an October 1995 DWAF conference. The Requesters claimed that the South African Government has not responded in appropriate ways.

More seriously, they claimed that there has been "explicit intimidation by the South African government against the use of the World Bank Inspection Panel mechanism to help resolve the concerns." During field consultations, this was raised with the parties involved, including the Requesters, and, separately, with leaders of the Civic Associations who, the Requesters claimed, were intimidated into withdrawing their original request. No evidence was found to support this claim of intimidation.

There was widespread agreement that, prior to May 1994, the concept of 'meaningful consultations' within the South African context of apartheid was an oxymoron, and that any requirement to encourage such consultations was then hardly realistic. Since May 1994, however, civil society organizations in South Africa have enjoyed those freedoms which are a pre-condition for meaningful consultations, and they rejoice in them. The Inspector was also able to confirm that, beginning in September 1995, consultations did take place between project authorities in South Africa and local NGOs, which the Bank is supposed to encourage according to paragraph 9 of OD 4.00. Some NGOs appear to consider the results disappointing, since the South African Government did not accept their "perspective" that Phase 1B should be delayed.

The "PAD" recognizes that, "until very recently, consultation in South Africa has only been at the bulk retailer level. It has been agreed that for any future projects there will be even more

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<sup>12</sup> See THE INSPECTION PANEL, *Report and Recommendation on Request for Inspection concerning Lesotho/South Africa: Phase 1B of Lesotho Highlands Water Project* (Credit No. 8853-LSO) August 18, 1998.

collaboration. Until recently there has been little direct consultation with ...communities. However future consultations are now planned.”

Thus, the Panel found that the NGOs appear to have brought their concerns to the Bank's attention. By its own admission, the Bank Management failed to observe the policy on consultation until shortly before April 30, 1998.

The Requesters also claimed that the Bank “has not fully investigated demand-side management options during the planning of either phase of the LHWP.” Supply-side management has been the keystone of water policy in virtually all countries. Demand-side management has great potential but is a relatively recent development in the energy field and even more recent in the water field. In its Response, Management noted correctly that when the Treaty was concluded in 1986, demand-side side management techniques were not yet fully developed anywhere in the world, nor were they included in OD 4.00 at that time. As a consequence, the feasibility studies conducted for the Phase 1A Project could not have integrated demand-side management techniques as it is practiced nowadays.

Based on its field visit, the Panel came to understand why Bank Management in its Response states that it was satisfied that the GSA has adequately considered demand-side management alternatives in relation to the decision to proceed with Phase 1B. Significant progress in implementing such measures was observed at the national level. In October 1995, the Department of Water Affairs and Forestry published a “Vaal Augmentation Planning Study” in which it assessed water demand management in the Vaal River System Supply Area. The Bank reviewed this study and found it satisfactory. One may legitimately argue about the merits of the report, but its existence clearly demonstrates that demand-side management was ‘considered’ as required by the OD. Thus, the Panel was satisfied that Bank Management appeared to have considered demand management as required by the OD.

The Requesters claim that since the Project will result in water cost increases for poor users and, since it will add supply that is not needed at this time, it does not meet the standard of social equity described in OD 4.15 on Poverty Reduction. Furthermore, they feel that it will more likely be a disincentive for conservation in contradiction of the terms of OP 4.07.

Management responded that price increases would have been even higher without Phase 1A, and a delay in Phase 1B would more likely lead to higher rather than lower water prices. In addition, they maintain that since Rand Water pays a set rate per cubic meter consumed (not a fixed annual ‘take or pay’ rate) this will not provide a disincentive to conservation. According to their analysis, bulk water prices will not be increased if Phase 1B is implemented on schedule together with conservation (demand management). Management has accepted TCTA's and DWAF's bulk water pricing as fully consistent with this OD.

In discussions with senior officials from TCTA, DWAF, Rand Water, and the municipalities of Alexandra and Soweto, the Inspector was informed that water prices have risen at all levels. These increases are a consequence of a number of factors, one of which is the LHWP. The relationships and linkages between these factors, however, are anything but direct; in fact, they are long, complex and tenuous.

The Panel found that, at the municipal retail level in Gauteng, a host of factors impact on water charges, and on their collection, and it is simply not possible to isolate one factor against the others. In Alexandra and Soweto, the poor are largely dependent on communal standpipes, not metered facilities. In these cases, there is a lower rate. It is a flat rate which is applied to each house in the environs of a standpipe. While this flat rate has increased somewhat, it is viewed as a lifeline rate, even by some of the NGOs. Again, this is contrary to assertions made in the claim concerning the 'lack of lifeline tariffs.' Indeed, the GSA and the DWAF actively support the adoption of lifeline tariff systems to ensure that every person has at least a basic level of service. Rand Water made it clear that they too support lifeline tariff systems, as do the municipalities.

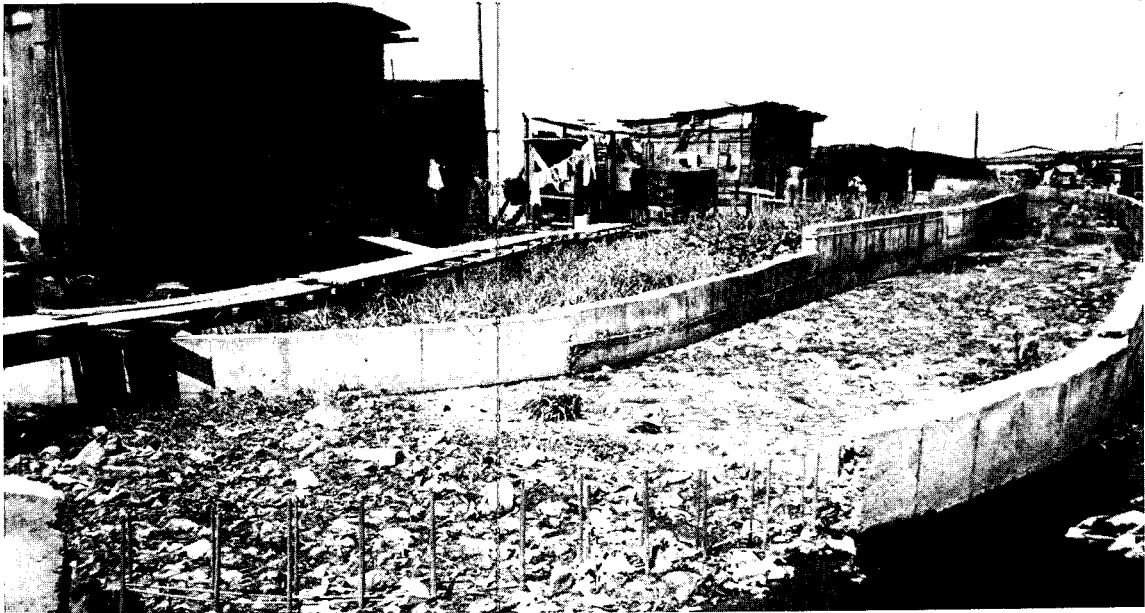
During the field visit, the Inspector encountered a wide range of views concerning lifeline rates amongst NGOs and the poor users he spoke to at the standpipes. Some NGO leaders favor a lifeline rate of zero for the first 25-50 liters per day. Some are prepared to accept a real charge but would like to see it kept as low as possible. This is a local debate. Whatever their level, in principle the effect of these lifeline rates are to shield the very poor from most if not all of any extra burden imposed by the LHWP. Following a long analysis, the Panel concluded that Bank Management appeared to have supported the RSA's approach to provide water in a manner that is socially equitable while assisting it in aiming for both cost recovery and conservation. In light of this, the Panel found that the Bank appeared to have complied with this OD.

There is no doubt, as the Requesters claimed, that for reasons of historical neglect poor communities suffer widespread inequities in terms of lack of or limited access to water. This imposes enormous hardships, especially on people dependent on communal access, who have to carry water in buckets and makeshift containers, often for great distances. Water prices have increased and some are unable to afford water sufficient for basic health and hygiene. Leaky infrastructure is causing severe wastage and health problems. Conditions are harsh and unsanitary for millions of people in Alexandra, Soweto and other poorer townships. But the Panel is not satisfied that there is prime facie evidence linking this situation to the Project, nor with the Bank's decision to proceed with financing 1B.

While recognizing that the Requesters' concerns about the conditions on the ground are valid, the Panel found no connection between these conditions and any observance or not by the Bank of its own policies and procedures. Rather, they appear to be a part of the enormous legacy and odious burden of apartheid. In this context, the Panel did not recommend to the Executive Directors an investigation into this Request for Inspection.

### Request No. 13 Nigeria: Lagos Sanitation Project

On June 16, 1998, in Lagos, Nigeria at the Bank's Resident Mission, the Social and Economic Rights Action Center (SERAC) filed a Request for Inspection on behalf of the Center and that of individuals, families, and community development associations. The Requesters claimed that they had been directly affected and harmed by the IDA-financed Lagos Drainage and Sanitation Project (Credit No. 2517-UNI). The Panel received this Request on June 18, 1998. The principal object of the project was to improve the storm-water drainage system in parts of Lagos—Lagos mainland, Lagos Island and Apapa—which suffer from regular flooding, caused by heavy rainfall. The project was also to support the upgrading of other urban services such as improvement of the solid waste management and waste-water disposal systems.



Part of the Bank-financed construction of the drainage system in Lagos

In brief, the Requesters stated that the IDA-financed project in the slum communities in Ijora Badia and Ijora Oloye has resulted in forced eviction of some 2,000 persons who have lost their homes and businesses, while thousands of others face an imminent threat of eviction. The Requesters further alleged that the Bank has done harm to the affected people because of its failure to follow its own policies and procedures applicable to this Project, and make reference to a series of alleged violations of IDA's Operational Directives, Operational Policies, and Articles of Agreement. IDA Management's Response, dated July 30, 1998, refuted all of the Requesters' claims and asserted that it has complied with all relevant policies and procedures in the design and implementation of the project.

## **The Panel Report**<sup>13</sup>

The Panel's Report is based on the Request, the Response, and additional information provided by the Requesters and IDA Management. In addition, the Panel considered the information obtained by Edward S. Ayensu ("Inspector") during his site visits in Lagos (September 9–13, 16 and October 15-17, 1998).

Based on the written evidence provided by SERAC and interviews conducted by the Inspector with people in the project area who feel affected by the design and execution of the project, the Panel found that the Requesters are eligible to file a Request in accordance with the Resolution's establishing the Panel (IBRD No. 93-10 and IDA 93-6).

On the determination of the eligibility of the substance of the Request, the Panel had to examine in detail the assertions made by the Requesters and IDA's Management Response. In addition, the Panel took into consideration its review of project files and the substance of the correspondence and meetings between the Requesters and Management and of the interviews conducted by the Inspector with affected people and IDA consultants. Discussions were also held before, during, and after the site visits with both SERAC and IDA officials, as well as with the Lagos State Government officials and the construction engineers. Discussions were held with the Sole Administrator of the Lagos Local Government and finally with a number of private Lagos residents who live and/or are very familiar with the sites in question and are also knowledgeable about the local politics.

Having examined the evidence fully, the Panel was satisfied that the Project had contemplated resettlement or compensation arrangements, before the commencement of the construction works in most project sites.

The evidence gathered by the Panel suggested that, unlike the situation with the Arakan Barracks resettlement program, in which Management fully followed IDA's Operational Directives, a similar attempt was not made to compensate or resettle some affected people in the Ijora Oloye community.

The Panel found that IDA should have considered similar resettlement or compensation arrangements for 32 shanty rooms and 10 block rooms that belong to 18 owners in the Ijora Oloye community. These dwellings were identified by the Inspector during his site visit and both IDA and project officials have formally agreed that compensation will be provided to its owners in accordance with IDA policies.

On the afternoon of Sept. 13, 1998, the Requester stated that SERAC would be satisfied if the affected people in Ijora Oloye are compensated for the demolition of their properties. The Panel believes that such compensation, albeit late, would be consistent with IDA policies.

The Panel was satisfied that the project's proposed improvement to the drainage systems in Lagos is consistent with the IDA's strategy of poverty reduction and human development in

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<sup>13</sup> See THE INSPECTION PANEL, *Report and Recommendation on Request for Inspection concerning Nigeria: Lagos Drainage and Sanitation Project (Credit No. 2517-UNI)*, November 10, 1998.

Nigeria. It did not find evidence of discrimination against women and children in all the areas affected by the Project.

On the issue of Project Monitoring and Evaluation, the Panel felt that a much closer supervision by IDA should have been provided, notwithstanding the fact that during the Credit negotiations, the primary responsibility for monitoring the project execution was assigned to responsible officials of the Lagos State Government, since they were poised to meet regularly with the community leaders and help resolve difficulties between the community and the contractors. Management, however, did drive home the fact that they did not have the financial resources to observe every activity related to project execution as part of its normal supervision.

The Panel found that while most of the Operational policies and particularly the OD 10.04 on Economic Evaluation of Investment Operations seem to have been followed during the preparation of the Project, the sociological considerations did not appear fully integrated into the project design. The two project consultants interviewed by the Inspector did express their concerns about the lack of appropriate measures which should have been introduced in the project design to ensure the effective maintenance of the drainage channels constructed under the Project. The Panel concurred with this view.

The Panel was of the opinion that the Lagos Drainage and Sanitation Project will improve the health standards and the living conditions of the affected communities in the Ijora Badia and Ijora Oloye and of the project areas, which is in accordance with IDA's policies and procedures.

After careful examination of the Request for Inspection, the Response and the Inspector's onsite examination of the facts and other findings, and the assurances received by the Inspector that the remaining affected project area people will be compensated in accordance with IDA policies, the Panel did not recommend an investigation in response to the Request for Inspection.



## Request No. 6 Bangladesh: Jamuna Bridge Project

The Jamuna Char Integrated Development Project (IDA Credit 2569-BD) Request for Inspection was filed on August 23, 1996. The Request was filed on behalf of char (island) dwellers<sup>14</sup> in the Jamuna River by a local NGO group called the Jamuna Char Integrated Development Project. The Requesters claimed that they were not included in the project's resettlement and rehabilitation programs, in spite of past and potential harm to their livelihoods and islands where they lived and worked, and that they had suffered harm as a result of the construction of the bridge and the river training works. The project included the construction, operation, and maintenance of a bridge over the Jamuna River to connect the eastern and western parts of Bangladesh in order to stimulate economic growth; it was also related resettlement and rehabilitation activities.



An inhabitant of a char in the Jamuna River showing his land deed to Panel Member, Ernst-Günther Bröder at one of the Panel's public hearings in the project area.

IDA Management denied any policy violations in its Response, but noted that the *char* people were to be compensated under the Erosion and Flood Action Plan (EFAP). In the Panel's initial assessment of the Request for Inspection the Panel found that the Project's 1993 Resettlement Action Plan did not specifically identify or provide assistance for people living on islands in the Jamuna River as involuntary resettlers. It did find however, that the EFAP agreed upon on September 7, 1996, after the Request was filed, could be construed as an adequate and enforceable basis for IDA to comply with its resettlement policy and meet the islanders' concerns. As a result, the Panel concluded that although the Bank had not followed some of its policies and procedures on resettlement and environmental assessment, the EFAP if implemented satisfactorily, could address the Requester's concerns, and did not recommend an investigation into the Project. The Board accepted the Panel's recommendation that an investigation was not warranted, but asked IDA Management to submit a progress report on the implementation of the

<sup>14</sup> Islands in the Jamuna River are called *chars*. An estimated 4 million people, know as char people, live on these islands. Flooding during the monsoon season regularly submerges fields and settlements—sometimes temporarily, sometimes permanently—making the *char* people a particularly vulnerable group in Bangladesh.

Revised Resettlement Action Plan and the Environmental Action Plan. The Panel was invited to provide comments on the progress report. IDA Management submitted this report to the Board in May 1998.

### **The Panel Report**<sup>15</sup>

As mandated by the Board, the Panel reviewed the EFAP aspects of the Progress Report and visited the project area in June 1998. The Panel concluded that despite some delays and problems, the overall approach of Bangladesh Rural Advancement Committee (BRAC) the NGO responsible for executing the technical aspects of the EFAP, was appropriate, and that it had been very successful at identifying people affected by the Project, estimating damages incurred, and initiating payment of compensation. The Panel did find that some procedural omissions during project preparation continued to cause problems. *Char* people complained that affected *chars* have not been demarcated accurately and that the cost of obtaining the documents required to file for compensation was too expensive. There was also confusion over demarcation was caused by the initial deficiencies of public information and the consultation process, as well as, by the fact that the media and other sources had provided incorrect information on the affected areas. The Panel noted that addressing the problem would require providing correct information on the impact of the Project on the *char* people. The Panel also noted that since the impact area was first estimated new measurements and projected measurements suggest that the impact area may be larger than originally estimated, which could require a change in the definition of the impact area in the EFAP and therefore, a possible extension of the EFAP's time limit beyond year 2000. The Panel therefore felt that if such changes to the EFAP were made as needed, the existing remedial measures would be adequate to address the concerns raised in the Request. It also stressed that continued meaningful participation by the *char* people as well as Bank supervision and constant monitoring of the compensation process would be necessary.

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<sup>15</sup> See The Inspection Panel, Report on Progress on Implementation of Erosion and Flood Action Plan on Request for Inspection concerning Bangladesh: Jamuna Bridge Project (Credit 2569-BD), August 14, 1998.

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## OUTREACH AND DISCLOSURE

During this period the Panel continued to participate in a number of outreach activities both externally and internally, including:

- A seminar on the Panel's role and functions held as part of the public launching of the Panel's first publication: "The World Bank Inspection Panel: The First Four Years (1994-1998)".
- Active participation in the consultation meeting with the representatives of civil society called by the Executive Directors of the World Bank as part of the Second Review of the Inspection Panel.
- Meetings with the members of the Bank's NGO Steering Committee.
- Participation in meetings with the Bank's NGO field coordinators.
- Consultation meetings with NGOs on the Second Review of the Inspection Panel process organized by the Panel in Washington, D.C.

### **Disclosure**

The Panel has made every effort to keep its processes open and transparent -- consistent with the public disclosure policy adopted by the Bank's Board in 1993, and the special accountability required of an inspection mechanism as established in 1994. The Inspection Panel's website, which continuously updates the status of Panel activities, has continued to receive a high number of queries.

### **The Panel Register**

In an effort to deal transparently with Requests, the Panel has maintained a Register. The Executive Secretary records the dates and all actions taken in connection with the processing of a Request, as well as the dates on which any formal notification is sent or received. This Register is open to the public. Similar information is also disseminated through the Panel's home page, accessible via the Internet, to ensure wider disclosure.

A notice that a Request has been registered, and all other notices or documents issued by the Panel, are made available to the public at: (1) the Bank's InfoShop in Washington, D.C.; (2) the Bank's Resident Mission, Regional or Country Office for the country where the project relating to the Request is located or at the relevant regional office; and (3) at the Bank's Paris and Tokyo offices.

When permitted by the Resolution, the Bank makes documents relating to each Request available to the public. Under Paragraph 25 of the Resolution, Requests for Inspection, Panel Recommendations and Board decisions are to be made available to the public after the

Executive Directors have considered a Panel Recommendation on, and/or the results of, an investigation. During the 1996 review by the Board, the Directors clarified that provision to ensure that Management Responses would also be made available, within three days after action by the Board, along with the documents already cited. The Board also said that Management should make available any legal opinions issued by the Bank Legal Department related to Inspection Panel matters promptly after Board action, unless the Board decides otherwise in a specific case.

### **World Bank Annual Meetings**

The Panel has participated in each Annual Meeting of the World Bank since 1994, using the opportunity to meet with Government officials, private organizations and citizens and numerous NGO representatives. Where the Annual Meeting is held outside the United States, it has been particularly useful to make organizations from that region more aware of the Panel's work, the extent of its mandate, and more conscious of the procedures for requesting an inspection.

### **Public Inquiries**

As stated above there continues to be a substantial demand for general information about the Panel and its activities from the press, NGOs and other organizations, academics, Bank staff and others. The unprecedented nature of the Panel in international organizations naturally gives rise to basic curiosity and misunderstandings about the role of the Panel. The availability of the *Operating Procedures* in several languages responds to the needs of many such public inquiries.

### **Second Review of the Inspection Panel Mechanism**

In October 1996 the Board completed the review of the Inspection Panel mandated in the establishing Resolution. This resulted in some "Clarifications" to the Resolution, which are included in Annexes 1 through 3 of this Report. In September 1997, the Board concluded that they should again review the functioning of the Inspection Panel. In February of 1998, after considering proposals by the Senior Vice President and General Counsel and the Inspection Panel's comments, the Board of Executive Directors decided to create a Working Group composed of three Part I and three Part II Executive Directors to review the operation of the Inspection Panel and propose some solutions primarily to address the tendency of the Board to split mainly between borrowing and non-borrowing members in cases where the Panel has recommended an investigation. The Working Group completed its work and proposed several clarifications to the Resolution that established the Inspection Panel. Acting on a proposal by the Working Group, the Board of Executive Directors approved on April 20, 1999 a document entitled "Conclusions of the Board's Second Review of the Inspection Panel" which "confirms the soundness of the Resolution establishing the Inspection Panel" and "provides clarifications of its application". (see the full text in Annex 3).

## **Sources of further Information**

- **The Inspection Panel's Web-site:** [www.worldbank.org/inspection\\_panel](http://www.worldbank.org/inspection_panel)
  - Provides current information on Panel cases and activities
  - Displays each step in the processing of Requests
  - Panel Reports
  - Panel *Operating Procedures*, IBRD/IDA Resolution establishing the Panel, and the 1996 and 1999 Clarifications to the Resolution.
  
- **World Bank Infoshop**  
701 18<sup>th</sup> Street, NW, Washington, D.C. 20433  
Tel: (202) 473-2941; Fax (202) 477-0604  
Web-site: [www.worldbank.org/infoshop](http://www.worldbank.org/infoshop)
  
- **World Bank Public Information Centers**  
*PARIS*  
66 avenue d'Iéna, 75116 Paris, France  
Tel: (33-1) 40 69 30 26; Fax: (33-1) 40 69 30 69  
Email: [pparis@worldbank.org](mailto:pparis@worldbank.org)  
  
*TOKYO*  
10<sup>th</sup> Floor Fukoku-Seimei Building.,2-2-2 Uchisaiwai-cho,  
Chiyoda-ku, Tokyo 100, Japan  
Tel: (813) 3597-6676; Fax (813) 3597-6695  
Email: [ptokyo@worldbank.org](mailto:ptokyo@worldbank.org)
  
- **Bank Resident Missions, Regional or Country Office**  
Where the project relating to a Request is located

All Requests for Inspection should be forwarded to the Inspection Panel or sent to any World Bank office around the world for onward transmission to the Inspection Panel.

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## ADMINISTRATION AND BUDGET

The Resolution provides that the "Panel shall be given such budgetary resources as shall be sufficient to carry out its activities." The Panel's annual funding level has been set at about \$1.5 million in real terms for each of the first four years.

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

The demand-driven nature of the Panel's work requires a flexible budgetary strategy to ensure that sufficient resources are available to process all Requests received. Annex 4 contains a breakdown of the Panel's budget and expenditures for FY 1999.

**ANNEX 1**

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September 22, 1993

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT  
INTERNATIONAL DEVELOPMENT ASSOCIATION

**Resolution No. IBRD 93-10**

**Resolution No. IDA 93-6**

**"The World Bank Inspection Panel"**

The Executive Directors:

Hereby resolve:

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

**Composition of the Panel**

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

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

4. Members of the Panel shall be selected on the basis of their ability to deal thoroughly and fairly with the requests brought to them, their integrity and their independence from the Bank's Management, and their exposure to developmental issues and to living conditions in developing countries. Knowledge and experience of the Bank's operations will also be desirable.

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

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

7. The Panel member initially appointed for five years shall be the first Chairperson of the Panel, and shall hold such office for one year. Thereafter, the members of the Panel shall elect a Chairperson for a period of one year.
8. Members of the Panel may be removed from office only by decision of the Executive Directors, for cause.
9. With the exception of the Chairperson who shall work on a full-time basis at Bank headquarters, members of the Panel shall be expected to work on a full-time basis only when their workload justifies such an arrangement, as will be decided by the Executive Directors on the recommendation of the Panel.
10. In the performance of their functions, members of the Panel shall be officials of the Bank enjoying the privileges and immunities accorded to Bank officials, and shall be subject to the requirements of the Bank's Articles of Agreement concerning their exclusive loyalty to the Bank and to the obligations of subparagraphs (c) and (d) of paragraph 3.1 and paragraph 3.2 of the Principles of Staff Employment concerning their conduct as officials of the Bank. Once they begin to work on a full-time basis, they shall receive remuneration at a level to be determined by the Executive Directors upon a recommendation of the President, plus normal benefits available to Bank fixed-term staff. Prior to that time, they shall be remunerated on a *per diem* basis and shall be reimbursed for their expenses on the same basis as the members of the Bank's Administrative Tribunal. Members of the Panel may not be employed by the Bank Group, following the end of their service on the Panel.
11. The President, after consultation with the Executive Directors, shall assign a staff member to the Panel as Executive Secretary, who need not act on a full-time basis until the workload so justifies. The Panel shall be given such budgetary resources as shall be sufficient to carry out its activities.

### **Powers of the Panel**

12. The Panel shall receive requests for inspection presented to it by an affected party in the territory of the borrower which is not a single individual (i.e., a community of persons such as an organization, association, society or other grouping of individuals), or by the local representative of such party or by another representative in the exceptional cases where the party submitting the request contends that appropriate representation is not locally available and the Executive Directors so agree at the time they consider the request for inspection. Any such representative shall present to the Panel written evidence that he is acting as agent of the party on behalf of which the request is made. The affected party must demonstrate that its rights or interests have been or are likely to be directly affected by an action or omission of the Bank as a result of a failure of the Bank to follow its operational policies and procedures with respect to the design, appraisal and/or implementation of a project financed by the Bank (including situations where the Bank is alleged to have failed in its follow-up on the borrower's obligations under loan agreements with respect to such policies and procedures) provided in all cases that such failure has had, or threatens to have, a material adverse effect. In view of the institutional responsibilities of Executive Directors in the observance by the Bank of its operational policies and procedures, an Executive Director may in special cases of serious alleged violations of such policies and procedures ask the Panel for an investigation, subject to the requirements of paragraphs 13 and 14 below. The Executive Directors, acting



as a Board, may at any time instruct the Panel to conduct an investigation. For purposes of this Resolution, "operational policies and procedures" consist of the Bank's Operational Policies, Bank Procedures and Operational Directives, and similar documents issued before these series were started, and does not include Guidelines and Best Practices and similar documents or statements.

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

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

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

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

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

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

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

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<sup>1</sup> This will be deemed to be the case when at least ninety five percent of the loan proceeds have been disbursed.

## Procedures

16. Requests for inspection shall be in writing and shall state all relevant facts, including, in the case of a request by an affected party, the harm suffered by or threatened to such party or parties by the alleged action or omission of the Bank. All requests shall explain the steps already taken to deal with the issue, as well as the nature of the alleged actions or omissions and shall specify the actions taken to bring the issue to the attention of Management, and Management's response to such action.
17. The Chairperson of the Panel shall inform the Executive Directors and the President of the Bank promptly upon receiving a request for inspection.
18. Within 21 days of being notified of a request for inspection, the Management of the Bank shall provide the Panel with evidence that it has complied, or intends to comply with the Bank's relevant policies and procedures.
19. Within 21 days of receiving the response of the Management as provided in the preceding paragraph, the Panel shall determine whether the request meets the eligibility criteria set out in paragraphs 12 to 14 above and shall make a recommendation to the Executive Directors as to whether the matter should be investigated. The recommendation of the Panel shall be circulated to the Executive Directors for decision within the normal distribution period. In case the request was initiated by an affected party, such party shall be informed of the decision of the Executive Directors within two weeks of the date of such decision.
20. If a decision is made by the Executive Directors to investigate the request, the Chairperson of the Panel shall designate one or more of the Panel's members (Inspectors) who shall have primary responsibility for conducting the inspection. The Inspector(s) shall report his/her (their) findings to the Panel within a period to be determined by the Panel taking into account the nature of each request.
21. In the discharge of their functions, the members of the Panel shall have access to all staff who may contribute information and to all pertinent Bank records and shall consult as needed with the Director General, Operations Evaluation Department and the Internal Auditor. The borrower and the Executive Director representing the borrowing (or guaranteeing) country shall be consulted on the subject matter both before the Panel's recommendation on whether to proceed with the investigation and during the investigation. Inspection in the territory of such country shall be carried out with its prior consent.
22. The Panel shall submit its report to the Executive Directors and the President. The report of the Panel shall consider all relevant facts, and shall conclude with the Panel's findings on whether the Bank has complied with all relevant Bank policies and procedures.
23. Within six weeks from receiving the Panel's findings, Management will submit to the Executive Directors for their consideration a report indicating its recommendations in response to such findings. The findings of the Panel and the actions completed during project preparation also will be discussed in the Staff Appraisal Report when the project is submitted to the Executive Directors for financing. In all cases of a request made by an affected party, the Bank shall, within two weeks of the Executive Directors'

consideration of the matter, inform such party of the results of the investigation and the action taken in its respect, if any.

### **Decisions of the Panel**

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

### **Reports**

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

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

### **Review**

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

### **Application to IDA projects**

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

**ANNEX 2****REVIEW OF THE RESOLUTION ESTABLISHING THE INSPECTION PANEL  
1996 CLARIFICATION OF CERTAIN ASPECTS OF THE RESOLUTION**

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

***The Panel's Function***

Since the Resolution limits the first phase of the inspection process to ascertaining the eligibility of the request, this phase should normally be completed within the 21 days stated in the Resolution. However, in cases where the Inspection Panel believes that it would be appropriate to undertake a "preliminary assessment" of the damages alleged by the requester (in particular when such preliminary assessment could lead to a resolution of the matter without the need for a full investigation), the Panel may undertake the preliminary assessment and indicate to the Board the date on which it would present its findings and recommendations as to the need, if any, for a full investigation. If such a date is expected by the Panel to exceed eight weeks from the date of receipt of Management's comments, the Panel should seek Board approval for the extension, possibly on a "no-objection" basis. What is needed at this preliminary stage is not to establish that a serious violation of the Bank's policy has actually resulted in damages suffered by the affected party, but rather to establish whether the complaint is prima facie justified and warrants a full investigation because it is eligible under the Resolution. Panel investigations will continue to result in "findings" and the Board will continue to act on investigations on the basis of recommendations of Management with respect to such remedial action as may be needed.

***Eligibility and Access***

It is understood that the "affected party" which the Resolution describes as "a community of persons such as an organization, association, society or other grouping of individuals" includes any two or more persons who share some common interests or concerns.

The word "project" as used in the Resolution has the same meaning as it generally has in the Bank's practice, and includes projects under consideration by Bank management as well as projects already approved by the Executive Directors.

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

*and/or implementation of projects*, including cases of alleged failure by the bank to follow-up on the borrowers' obligations under loan agreements, with respect to such policies and procedures.

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

### ***Outreach***

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

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

### ***Composition of the Panel***

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

### ***Role of the Board***

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

October 17, 1996

**ANNEX 3****1996 Conclusions of the Board's Second Review of the  
Inspection Panel**

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

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

1. The Board reaffirms the Resolution, the importance of the Panel's function, its independence and integrity.
2. Management will follow the Resolution. It will not communicate with the Board on matters associated with the request for inspection, except as provided for in the Resolution. It will thus direct its response to the request, including any steps it intends to take to address its failures, if any, to the Panel. Management will report to the Board any recommendations it may have, after the Panel completes its inspection and submits its findings, as envisaged in paragraph 23 of the Resolution.
3. In its initial response to the request for inspection, Management will provide evidence that
  - i. it has complied with the relevant Bank operational policies and procedures; or that
  - ii. there are serious failures attributable exclusively to its own actions or omissions in complying, but that it intends to comply with the relevant policies and procedures; or that
  - iii. the serious failures that may exist are exclusively attributable to the borrower or to other factors external to the Bank; or that
  - iv. the serious failures that may exist are attributable both to the Bank's non-compliance with the relevant operational policies and procedures and to the borrower or other external factors.

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

4. When Management responds, admitting serious failures that are attributable exclusively or partly to the Bank, it will provide evidence that it has complied or intends to comply with the relevant

operating policies and procedures. This response will contain only those actions that the Bank has implemented or can implement by itself.

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

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

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

any definitive assessment of a serious failure of the Bank that has caused material adverse effect will be done after the Panel has completed its investigation.

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

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

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

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

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

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

- e. The related loan has not been closed or substantially disbursed (Resolution para. 14c).
  - f. The Panel has not previously made a recommendation on the subject matter or, if it has, that the request does assert that there is new evidence or circumstances not known at the time of the prior request (Resolution para. 14d).
10. Issues of interpretation of the Resolution will be cleared with the Board.
  11. The "preliminary assessment" concept, as described in the October 1996 Clarification, is no longer needed. The paragraph entitled "The Panel's Function" in the October 1996 "Clarifications" is thus deleted.
  12. The profile of Panel activities, in-country, during the course of an investigation, should be kept as low as possible in keeping with its role as a fact-finding body on behalf of the Board. The Panel's methods of investigation should not create the impression that it is investigating the borrower's performance. However, the Board, acknowledging the important role of the Panel in contacting the requesters and in fact-finding on behalf of the Board, welcomes the Panel's efforts to gather information through consultations with affected people. Given the need to conduct such work in an independent and low-profile manner, the Panel – and Management – should decline media contacts while an investigation is pending or underway. Under those circumstances in which, in the judgement of the Panel or Management, it is necessary to respond to the media, comments should be limited to the process. They will make it clear that the Panel's role is to investigate the Bank and not the borrower.
  13. As required by the Resolution, the Panel's report to the Board will focus on whether there is a serious Bank failure to observe its operational policies and procedures with respect to project design, appraisal and/or implementation. The report will include all relevant facts that are needed to understand fully the context and basis for the panel's findings and conclusions. The Panel will discuss in its written report only those material adverse effects, alleged in the request, that have totally or partially resulted from serious Bank failure of compliance with its policies and procedures. If the request alleges a material adverse effect and the Panel finds that it is not totally or partially caused by Bank failure, the Panel's report will so state without entering into analysis of the material adverse effect itself or its causes.
  14. For assessing material adverse effect, the without-project situation should be used as the base case for comparison, taking into account what baseline information may be available. Non-accomplishments and unfulfilled expectations that do not generate a material deterioration compared to the without-project situation will not be considered as a material adverse effect for this purpose. As the assessment of material adverse effect in the context of the complex reality of a specific project can be difficult, the Panel will have to exercise carefully its judgement on these matters, and be guided by Bank policies and procedures where relevant.
  15. A distinction has to be made between Management's report to the Board (Resolution para. 23), which addresses Bank failure and possible Bank remedial efforts and "action plans," agreed between the borrower and the Bank, in consultation with the requesters, that seek to improve project



implementation. The latter "action plans" are outside the purview of the Resolution, its 1996 clarification, and these clarifications. In the event of agreement by the Bank and borrower on an action plan for the project, Management will communicate to the Panel the nature and outcomes of consultations with affected parties on the action plan. Such an action plan, if warranted, will normally be considered by the Board in conjunction with the Management's report, submitted under Resolution para. 23.

16. The Panel may submit to the Executive Directors for their consideration a report on their view of the adequacy of consultations with affected parties in the preparation of the action plans. The Board should not ask the Panel for its view on other aspects of the action plans nor would it ask the Panel to monitor the implementation of the action plans. The Panel's view on consultation with affected parties will be based on the information available to it by all means, but additional country visits will take place only by government invitation.

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

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

19. The Board recognizes that enhancing the effectiveness of the Inspection Panel process through the above clarifications assumes adherence to them by all parties in good faith. It also assumes the borrowers' consent for field visits envisaged in the Resolution. If these assumptions prove to be incorrect, the Board will revisit the above conclusions.

## ANNEX 4

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

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## **INTRODUCTION**

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

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

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

### **Composition**

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

### **Purpose**

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

### **Functions**

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

Panel's findings and Management's recommendations, the Executive Directors will consider the actions, if any, to be taken by the Bank.

### **Participants**

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

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

### **Administration**

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

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

## **SUBJECT MATTER OF REQUESTS**

### **Scope**

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

**Limitations**

2. The Panel is not authorized to deal with the following:
  - (a) complaints with respect to actions which are the responsibility of other parties, such as the borrower, or potential borrower, and which do not involve any action or omission on the part of the Bank;
  - (b) complaints against procurement decisions by Bank borrowers from suppliers of goods and services financed or expected to be financed by the Bank under a loan/credit agreement, or from losing tenderers for the supply of any such goods and services, which will continue to be addressed by Bank staff under existing procedures;
  - (c) Requests filed after the Closing Date of the loan/credit financing the project with respect to which the Request is filed or when 95% or more of the loan/credit proceeds have been disbursed; or
  - (d) Requests related to a particular matter or matters over which the Panel has already made its recommendation after having received a prior Request, unless justified by new evidence or circumstances not known at the time of the prior Request.

**PREPARATION OF A REQUEST**

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

**A. Who Can File a Request**

4. The Panel has authority to receive Requests which complain of a violation of the Bank's policies and procedures from the following people or entities:
  - (a) any group of two or more people in the country where the Bank financed project is located who believe that as a result of the Bank's violation their rights or interests have been, or are likely to be adversely affected in a direct and material way. They may be an organization, association, society or other grouping of individuals; or
  - (b) a duly appointed local representative acting on explicit instructions as the agent of adversely affected people; or
  - (c) in exceptional cases, referred to in paragraph 11 below, a foreign representative acting as agent of adversely affected people; or
  - (d) an Executive Director of the Bank in special cases of serious alleged violations of the Bank's policies and procedures.

## **B. Contents of a Request**

5. In accordance with the Resolution, Requests should contain the following information:
- (a) a description of the project, stating all the relevant facts including the harm suffered by or threatened to the affected party;
  - (b) an explanation of how Bank policies, procedures or contractual documents were seriously violated;
  - (c) a description of how the act or omission on the part of the Bank has led or may lead to a violation of the specific provision;
  - (d) a description of how the party was, or is likely to be, materially and adversely affected by the Bank's act or omission and what rights or interests of the claimant were directly affected;
  - (e) a description of the steps taken by the affected party to resolve the violations with Bank staff, and explanation of why the Bank's response was inadequate;
  - (f) in Requests relating to matters previously submitted to the Panel, a statement specifying what new evidence or changed circumstances justify the Panel revisiting the issue; and
  - (g) if some of the information cannot be provided, an explanation should be included.

## **C. Form of Request**

### **Written**

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

### **Format**

7. No specific form is necessary: a letter will suffice. A Requester may wish to refer to the guidance and use the model form specifying required information. (Attached as Annex 2)

### **Language**

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

### **Representatives**

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

10. If the Request is submitted by a non-affected representative, he/she must provide evidence of representational authority and the names and contact address of the party must be provided. Proof of representational authority, which shall consist of the original signed copy of the affected party's explicit instructions and authorization, must be attached.
11. In addition, in the cases of non-local representation, the Panel will require clear evidence that there is no adequate or appropriate representation in the country where the project is located.

#### **Documents**

12. The following documents should be attached:
  - (a) all correspondence with Bank staff;
  - (b) notes of meetings with Bank staff;
  - (c) a map or diagram, if relevant, showing the location of the affected party or area affected by the project; and
  - (d) any other evidence supporting the complaint.
13. If all the information listed cannot be provided an explanation should be included.

#### **D. Delivery of Request**

14. Requests must be sent by registered or certified mail or delivered by hand in a sealed envelope against receipt to the Office of The Inspection Panel at 1818 H Street, N.W., Washington, D.C. 20433, U.S.A. or to the Bank's resident representative in the country where the project is located. In the latter case, the resident representative shall, after issuing a receipt to the Requester, forward the Request to the Panel through the next pouch.

#### **E. Advice on Preparation**

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



## **PROCEDURES ON RECEIPT OF A REQUEST**

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

### **A. Register**

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

### **Contents of Notice**

18. The notice of registration shall:
  - (a) record that the Request is registered and indicate the date of the registration and dispatch of that notice;
  - (b) the notice will include the name of the project, the country where the project is located, the name of the Requester unless anonymity is requested, and a brief description of the Request;
  - (c) notify the Requester that all communications in connection with the Request will be sent to the address stated in the Request, unless another address is indicated to the Panel Secretariat; and
  - (d) request Management to provide the Panel, within 21 days after receipt of the notice and Request, with written evidence that it has complied, or intends to comply with the Bank's relevant policies and procedures. The notice shall specify the due date of the response.

### **B. Request Additional Information**

19. If the chairperson finds the contents of the Request or documentation on representation insufficient, he/she may ask the Requester to supply further information.
20. Upon receipt of a Request, the chairperson shall send a written acknowledgement to the Requester, and will specify what additional information is required.
21. The Chairperson may refuse to register a Request until all necessary information and documentation is filed.

### **C. Outside Scope**

22. If the chairperson finds, that the matter is without doubt manifestly outside the Panel's mandate, he/she will notify the Requesters, of his/her refusal to register the Request and of the reasons therefor; this will include but not be limited to the following types of communications:
- (a) Requests which are clearly outside the Panel's mandate including those listed above at paragraph 2;
  - (b) Requests which do not show the steps taken or effort made to
  - (c) Requests from an individual or from a non-authorized representative of an affected party;
  - (d) any correspondence, including but not limited to letters, memoranda, opinions, submissions or requests on any matter within the Panel's mandate which are not requests for an inspection; and
  - (e) Requests that are manifestly frivolous, absurd or anonymous.

### **Records**

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

### **D. Need for Review**

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

### **E. Revised Request**

25. If the Requester receives significant new evidence or information at any time after the initial Request was submitted, he/she may consider whether or not it is serious enough to justify the submission of a revised Request.
26. If a revised Request is submitted, the time periods for Management's response and the Panel recommendation will begin again from the time such Request is registered.

## MANAGEMENT'S RESPONSE

27. Within 21 days after being notified of a Request, Management shall provide the Panel with evidence that it has complied, or intends to comply with the Bank's relevant policies and procedures. After the Panel receives Management's response, it shall promptly enter the date of receipt in the Panel Register.
28. If there is no response from Management within 21 days, the Panel shall notify the President and the Executive Directors and send a copy to the Requester.

### Clarification

29. In order to make an informed recommendation, the Panel may request clarification from Management; in the light of Management's response, request more information from the Requester; and provide relevant portions of Management's response for comment. A time limit for receipt of the information requested shall be specified; and
  - (a) whether or not such clarification or information is received within the time limit, make its recommendation to the Executive Directors within 21 days after receipt of Management's response; or
  - (b) in the event it is not possible for the Requester to provide the information quickly, the Panel may advise the Requester to submit an amended Request; the Executive Directors and Bank management will be notified that the process will begin again when the amended Request is received.

## PANEL RECOMMENDATION

30. Within 21 days after receiving Management's response, the Panel shall make a recommendation to the Executive Directors as to whether the matter should be investigated.

### A. Basis

31. The Panel shall prepare its recommendation to the Board on the basis of the information contained in:
  - (a) the Request;
  - (b) Management's response;
  - (c) any further information the Panel may have requested and received from the Requester and/or Management and/or third parties; and
  - (d) any findings of the Panel during this stage.

## **B. Required Criteria**

32. If, on the basis of the information contained in the Request, it has not already been established that the Request meets the following three conditions required by the Resolution, the Chairperson, in consultation with the other Panel members may, if necessary, designate a Panel member to conduct a preliminary review to determine whether the Request:
- (a) was filed by an eligible party;
  - (b) is not time-barred; and
  - (c) relates to a matter falling within the Panel's mandate.

## **Criteria for Satisfactory Response**

33. The Panel may proceed to recommend that there should not be an investigation, if, on the basis of the information contained in the Request and Management's response, the Panel is satisfied that Management has done the following:
- (a) dealt appropriately with the subject matter of the Request; and
  - (b) demonstrated clearly that it has followed the required policies and procedures;  
or
  - (c) admitted that it has failed to follow the required policies and procedures but has provided a statement of specific remedial actions and a time-table for implementing them, which will, in the judgment of the Panel, adequately correct the failure and any adverse effects such failure has already caused.

## **Preliminary Review**

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

35. Although it may not investigate Management's actions in depth at this stage, it will determine whether Management's failure to comply with the Bank's policies and procedures meets the following three conditions:
- (a) whether such failure has had, or threatens to have, a material adverse effect;
  - (b) whether, the alleged violation of the Bank's policies and procedures are, in the judgment of the Panel, of a serious character; and
  - (c) whether remedial actions proposed by Management do not appear adequate to meet the concerns of the Requester as to the application of the Bank's policies and procedures.

### **Initial Study**

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

### **C. Contents**

37. On the basis of the review, the Panel shall make its recommendation to the Board as to whether the matter should be investigated. Every recommendation shall include a clear explanation setting forth reasons for the recommendation and be accompanied by:
- (a) the text of the Request and, where applicable, any other relevant information provided by the Requester;
  - (b) the text of Management's response and, where applicable, any clarifications provided;
  - (c) the text of any advice received from the Bank's Legal Department;
  - (d) any other relevant documents or information received; and
  - (e) statements of the majority and minority views in the absence of a consensus by the Panel.

### **D. Submission**

38. The recommendation shall be circulated by the Executive Secretary of the Panel to the Executive Directors for decision. The Panel will notify the Requester that a recommendation has been sent to the Executive Directors.

## **BOARD DECISION AND PUBLIC RELEASE**

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

### **Notification**

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

### **Public Information**

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

## **AN INVESTIGATION**

### **A. Initial Procedures**

42. When a decision to investigate a Request is made by the Board, or the Board itself requests an investigation, the Chairperson shall promptly:
- (a) designate one or more of the Panel's members (Inspector(s)) to take primary responsibility for the investigation;
  - (b) arrange for the Panel members to consult, taking into account the nature of the particular Request, on:
    - (i) the methods of investigation that at the outset appear the most appropriate;
    - (ii) an initial schedule for the conduct of the investigation;
    - (iii) when the Inspector(s) shall report his/her (their) findings to the Panel, including any interim findings; and
    - (iv) any additional procedures for the conduct of the investigation.
43. The designated Inspector(s) shall, as needed, arrange for a meeting with the Requester and schedule discussions with directly affected people.
44. The name of the Inspector(s) and an initial work plan shall be made public as soon as possible.

## **B. Methods of Investigation**

45. The Panel may, taking into account the nature of the particular Request, use a variety of investigatory methods, including but not limited to:
- (a) meetings with the Requester, affected people, Bank staff, government officials and project authorities of the country where the project is located, representatives of local and international non-governmental organizations;
  - (b) holding public hearings in the project area;
  - (c) visiting project sites;
  - (d) requesting written or oral submissions on specific issues from the Requester, affected people, independent experts, government or project officials, Bank staff, or local or international non-governmental organizations;
  - (e) hiring independent consultants to research specific issues relating to a Request;
  - (f) researching Bank files; and
  - (g) any other reasonable methods the Inspector(s) consider appropriate to the specific investigation.

## **Consent Required**

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

## **C. Participation of Requester**

47. During the course of the investigation, in addition to any information requested by the Inspector(s), the Requester (and affected people if the Requester is a non-affected Representative or an Executive Director) or Bank staff may provide the Inspector(s) either directly or through the Executive Secretary with supplemental information that they believe is relevant to evaluating the Request.
48. The Inspector(s) may notify the Requester of any new material facts provided by Bank staff or by the Executive Director for, or authorities in the country where the project is located.
49. To facilitate understanding of specific points, the Panel may discuss its preliminary findings of fact with the Requester.

#### **D. Participation of Third Parties**

50. During the course of the investigation, in addition to any information requested by the Inspector(s), any member of the public may provide the Inspector(s), either directly or through the Executive Secretary, with supplemental information that they believe is relevant to evaluating the Request.
51. Information should not exceed ten pages and include a one-page summary. Supporting documentation may be listed and attached. The Inspector(s) may request more details if necessary.

### **PANEL REPORT**

#### **Contents**

52. The report of the Panel (the "Report") shall include the following:
  - (a) a summary discussion of the relevant facts and of the steps taken to conduct the investigation;
  - (b) a conclusion showing the Panel's findings on whether the Bank has complied with relevant Bank policies and procedures;
  - (c) a list of supporting documents which will be available on request from the Office of The Inspection Panel; and
  - (d) statements of the majority and minority views in the absence of a consensus by the Panel.

#### **Submission**

53. Upon completion of the Report, the Panel shall submit it to:
  - (a) the Executive Directors: accompanied by notification that the Report is being submitted to the President on the same date; and
  - (b) the President: accompanied by a notice against receipt that within 6 weeks of receipt of the Report, Management must submit to the Executive Directors for their consideration a report indicating Management's recommendations in response to the Panel's findings.



## **MANAGEMENT'S RECOMMENDATIONS**

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

## **BOARD DECISION AND PUBLIC RELEASE**

55. Within 2 weeks after the Executive Directors consider the Panel's Report and the Management's response, the Bank shall inform the Requester of the results of the investigation and the action decided by the Board, if any.
56. After the Bank has informed the Requester, the Bank shall make publicly available:
- (a) the Panel's Report;
  - (b) Management's recommendations; and
  - (c) the Board's decision.

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

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

## **GENERAL**

### **Business Days**

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

### **Copies**

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

### **Consultations**

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

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

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

### **Legal Advice**

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

### **Confidentiality**

63. Documents, or portions of documents of a confidential nature will not be released by the Panel without the express written consent of the party concerned.

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

64. The Executive Secretary shall record in the Register all actions taken in connection with the processing of the Request, the dates thereof, and the dates on which any document or notification under these procedures is received in or sent from the Office of The Inspection Panel. The Requester shall be informed promptly. The Register will be publicly available.
65. A notice that a Request has been registered and all other notices or documents issued by the Panel will be available to the public through the Bank's PIC in Washington, D.C.; at the Bank's Resident Mission in the country where the project is located or at the relevant regional office; at the Bank's Paris, London and Tokyo offices; or on request from the Executive Secretary of the Panel.

## **GUIDANCE ON HOW TO PREPARE A REQUEST FOR INSPECTION**

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

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

### **These key questions must be answered:**

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

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

**You may wish to use the attached model form.**

**MODEL FORM:  
REQUEST FOR INSPECTION**

To: The Executive Secretary  
The Inspection Panel  
1818 H St., NW, Washington, D.C. 20433, U.S.A.  
(or to a World Bank Country/Regional Office)

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

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

6. We believe the action/omission is the responsibility of the Bank.

7. We have complained/made an effort to complain to Bank staff by [describe]:

Please attach evidence or explanation.

8. We received no response; or  
We believe that the response(s) (attached/not attached) is unsatisfactory because:[describe why]:

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

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

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

DATE: \_\_\_\_\_  
SIGNATURES: \_\_\_\_\_  
CONTACT ADDRESS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Attachments: [Yes][No]  
We authorize you to make this  
Request public [Yes][No]

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**ANNEX 5*****The Inspection Panel Budget  
July 1, 1998 to June 30, 1999***

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Fees - Panel Members	327.8
Salaries*	426.6
Temporaries	38.6
Consultants Short-term	4.5
Overtime	.8
Travel - Members/Staff	157.6
Benefits*	213.3
Equipment/Contractual Services	40.3
Internal Computing/Other Costs	64.2
Office Occupancy	115.9
<b>Total Expenses</b>	<b>1,389.6</b>
<b>Original Budget</b>	<b>1,705.2</b>

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\* Includes the Chairman's  
salary





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