

THE NEW ACCOUNTABILITY AND ADVISORY MECHANISM OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION: THE APPLICATION OF INTERNATIONAL BEST PRACTICES OF INTERNATIONAL FINANCIAL INSTITUTIONS

HIMBERG, HARVEY A.

Senior Environmental Specialist, Quality Assurance and Control Unit, Environmentally and Socially Sustainable Development Network; Former Deputy Vice President for Investment Policy and Director, Environmental Affairs at the Overseas Private Investment Corporation, The World Bank, 1818 H Street, N.W., Washington, DC, 20433, U.S.A., hhimberg@worldbank.org

SUMMARY

This paper analyzes the options and outcomes by which the U.S. Overseas Private Investment Corporation (OPIC) recently designed an accountability and advisory mechanism. OPIC's accountability and advisory mechanism although modeled after the "best practices" of the accountability and advisory mechanisms of several international financial institutions was also, of necessity, adapted to conform to the expectations of OPIC's stakeholders and to its identity, structure, and culture as bilateral financial institution and agency of the U.S. government.

1 BACKGROUND: THE OVERSEAS PRIVATE INVESTMENT CORPORATION

The Overseas Private Investment Corporation is an agency of the U.S. government and, as such, occupies a unique position among international financial institutions that support economic and social development in developing countries and emerging markets.¹ Accordingly, the structure and functions of OPIC's new accountability and advisory mechanism reflect its identity as an agency of the US government and other mandates that flow from that relationship. Seven executive branch agencies, including OPIC, are represented on OPIC's fifteen member Board of Directors, all appointed by the President of the United States at the sub-cabinet level.² By statute, OPIC operates under the "foreign policy guidance" of the U.S. Department of State and every transaction assisted by OPIC requires separate State

Department approval on foreign policy grounds. The Overseas Private Investment Corporation is subject to periodic reauthorization requiring affirmative legislative action by the U.S. Congress and Executive Branch with terms historically extended to at most four years and sometimes as little as one year.³ The Overseas Private Investment Corporation's budget, although appropriated from its own funds, must be approved in annual appropriations legislation.

Like the International Finance Corporation and the Multilateral Investment Guaranty Agency – both World Bank affiliates – OPIC works exclusively with the private sector in support of foreign direct investment. Like the International Finance Corporation, OPIC provides medium and long-term project finance (and to a lesser extent corporate finance) to enterprises in developing countries and emerging markets and supports financial intermediaries (such as equity funds and on-lending facili-

ties) that invest in such enterprises and projects. Unlike the International Finance Corporation, OPIC's financing is limited to direct loans (for small business) and loan guaranties (for medium and large projects) and does not include equity for OPIC's account.⁴ Like the Multilateral Investment Guaranty Agency, OPIC provides political risk insurance to mitigate the risks of expropriation, currency inconvertibility, and political violence. However, unlike both the International Finance Corporation and the Multilateral Investment Guaranty Agency, which can support investment originating from any member country, projects supported by OPIC must also have some direct U.S. business connection, typically in the form of equity, debt or other long-term stake in the project.

However, unlike most other bilateral institutions that support overseas investment, OPIC is a development bank and not an export credit agency, according to the Organisation of Economic Co-operation and Development's definition of "export credit agencies."⁵ As such, OPIC supports development through the vehicle of foreign direct investment rather than trade per se; unlike the export credit agencies, OPIC does not finance exports.⁶ Several other industrialized countries have government supported or affiliated development banks that finance investments in developing countries; however these tend to be much smaller than OPIC and the export credit agencies.⁷

In voting to reauthorize OPIC for four years in November 2003, the International Relations Committees of the House of Representatives and the Senate Foreign Affairs Committee recommended that OPIC "follow the best practices of [several international financial institutions] and work with all stakeholders to establish an accountability mechanism."⁸ Both committee reports cited, as examples of "good practice," virtually all of the international financial institutions known to have adopted accountability and advisory mechanisms, including the World Bank Group (consisting of the International Bank for Reconstruction and Development, the

International Finance Corporation and the Multilateral Investment Guaranty Agency), the Asian Development Bank, the Inter-American Development Bank, the European Bank for Reconstruction and Development, the Export Development Corporation of Canada, and the Japanese Bank for International Cooperation.

The report also set forth the Committee's expectations regarding the functions, scope, accessibility and transparency of the mechanism. Following Congressional guidance, the design of OPIC's accountability and advisory mechanism took the form of a multi-stakeholder process under the leadership of OPIC's Board of Directors, and senior management with active participation by civil society, private industry and interested members of Congress.

2 TERMS OF REFERENCE FOR OPIC'S ACCOUNTABILITY AND ADVISORY MECHANISM

The terms of reference for the accountability and advisory mechanism as approved by OPIC's Board in September 2004 is a remarkably concise four-page document. This brevity results from the use of concepts and terms that derive their meanings from detailed descriptions provided by other international financial institutions in the terms of reference set forth for their own accountability and advisory mechanisms. It also reflects the expectation that additional refinements would occur as the mechanism is staffed and integrated into OPIC's management structure. The following aspects of Overseas Private Investment Corporation's accountability and advisory mechanism are clearly defined: its functions, structure, stakeholder access, scope of its mandate, lines of authority, and transparency of its recommendations.

2.1 Functions

Consistent with Congressional recommendations, OPIC's accountability and advisory mechanism will perform all three functions associated with these mecha-

nisms in other international financial institutions: compliance review, problem-solving, and advisory. With respect to the “best practices” mandate, OPIC’s choice most closely resembles the functions assigned to the International Finance Corporation/Multilateral Investment Guaranty Agency Compliance Advisor Ombudsman the only other accountability and advisory mechanism that appears to perform all three functions.

Compliance review: Evaluate and report on OPIC compliance with its governing statutes, rules, policies and procedures relating to environment, social, labor and human rights standards in the context of specific projects;⁹

Problem solving: Provide a forum for addressing the concerns of locally affected communities and review and try to resolve outstanding complaints of local communities relating to the impacts of projects supported by OPIC on such communities, with or without allegations of non-compliance on the part of OPIC; and

Advisory: provide advice regarding the adequacy for fulfilling OPIC’s public policy mission, of OPIC’s existing policies and procedures rather than on specific OPIC - supported projects.

Given OPIC’s small size and compliance-oriented culture as a U.S. government agency it is OPIC’s expectation that of the three functions, the problem-solving role will be the most visible consequence of the establishment of an accountability and advisory mechanism. Although the advisory function will be important, to some extent it will formalize existing relationships that OPIC has with stakeholders, such as the quarterly meetings that its President has had with civil society since 2001.

2.2 Structure

The structure of OPIC’s accountability and advisory mechanism differs from that of the Compliance Advisor Ombudsman in that the advisory function is separated from the compliance and problem solving functions. The first two are assigned to the new Office of Accountability, a senior-

level Director of Accountability reporting directly to the President and Chief Executive Officer (See the discussion on authority, below). Rather than charging the Director of Accountability with primary responsibility for advising management on policies and procedures (as is the case for the Compliance Advisor Ombudsman), this responsibility is to be assigned to an Advisory Group organized under OPIC’s existing Office of External Affairs. The Advisory Group will be open to representatives of a broad spectrum of OPIC stakeholders including those from civil society as well as the business communities and will include participation by liaisons of the seven U.S. government agencies represented on OPIC’s Board.

The decision to open the advisory process to as broad as possible a range of internal and external stakeholders seeks to maximize the transparency of the advisory process. To some extent this choice also reflects OPIC’s identify as a US government agency and the concerns that have been raised in recent years regarding the transparency of the advisory process in agency decision-making.¹⁰ The Overseas Private Investment Corporation was encouraged to move in this direction by the example of the external stakeholder advisory committees organized by the Office of the US Trade Representative on various economic, environmental and social issues impacted by trade negotiations.

2.3 Stakeholder Access

In general terms, OPIC’s accountability and advisory mechanism will be accessible to all stakeholders to the same extent as other offices that deal directly with the public, such as the Office of External Affairs. However, with respect to two functions assigned to the Office of Accountability – compliance review and problem solving – the issue of access was one of the more contentious issues debated during the stakeholder consultations. The question of which party has “standing” to initiate a compliance review or problem solving effort has been controversial in all

accountability and advisory mechanism processes. In this connection, OPIC conducted a detailed review of the practices of other accountability and advisory mechanisms and discussed the issue at length with its stakeholders before making a decision to provide access to the Office of Accountability as follows:

2.3.1 Compliance Review

For compliance review purposes, standing to file a complaint with the Office of Accountability is available to: (1) "impacted communities in the host country" (2) "those documented as their authorized representatives;" and (3) OPIC Management and Board.

In this regard, access to OPIC's accountability and advisory mechanism appears more liberal than that of the International Finance Corporation/Multilateral Investment Guaranty Agency Compliance Advisor Ombudsman whose Operational Guidelines reserve the right to trigger compliance audits to investigations by the Compliance Advisor Ombudsman itself or at the request of the management of International Finance Corporation or the Multilateral Investment Guaranty Agency,¹¹ and at the same time less liberal than Canada's Export Development Corporation which permits virtually any self-identified stakeholder to access the Corporation's compliance program.

The Overseas Private Investment Corporation's standing provision on compliance reviews appears to be generally consistent with the practices of the International Bank for Reconstruction and Development's Independent Inspection Panel; the European Bank for Reconstruction and Development's Independent Recourse Mechanism; the Asian Development Bank's Special Project Facilitator; the Inter-American Development Bank's Independent Investigation Mechanism and Japanese Bank for International Cooperation's Compliance Mechanism, all of which permit locally affected persons to request initiation of a compliance review.¹²

In any case, although the external

stakeholders defined above may contact the Office of Accountability to request a compliance review and the Office of Accountability can recommend that such a review be conducted, the final determination to conduct such a review is to be made by the President (see discussion of "authority," below).

2.3.2 Problem-Solving

For problem-solving purposes, standing to file complaints with the Office of Accountability is available to (1) impacted communities in the host country, (2) those documented as their authorized representatives and (3) project sponsors.

With the inclusion of project sponsors, OPIC's problem solving portal provides broader access to external stakeholders than either of the two accountability and advisory mechanisms that have with a comparable problem solving mandates: the International Finance Corporation/Multilateral Investment Guaranty Agency Compliance Advisor Ombudsman's Ombudsman, and the Asian Development Bank's Special Project Facilitator.

In the latter two cases complaints may be filed by locally affected people or their designated representatives but not by project sponsors (companies borrowing or receiving investments from the International Finance Corporation and companies or host governments in the case of Asian Development Bank). OPIC proposed extending this standing to project sponsors as way of enhancing the neutral mediation role that the Office of Accountability is expected to play in its problem solving capacity, to reduce the risk that sponsors would always tend to assume that Office of Accountability intervention amounted to advocacy on behalf of locally-impacted communities and to maximize the opportunities for the Office of Accountability to interact on the project level where local communities may lack the information or resources to initiate a problem-solving review.

OPIC's decision to so limit standing is consistent with its primary objective justi-

fication in establishing an accountability mechanism: to provide a dedicated portal through which locally affected communities could engage OPIC senior management outside of the decision-making authority for project approval and routine monitoring. The same logic applies to the decision to give sponsors the right to initiate problem solving reviews: they are direct stakeholders in the project.

With respect the accountability and advisory mechanism's advisory functions, broad representation of civil society within the Advisory Group, the presence in the Advisory Group of key management and Board liaisons, and the flexibility afforded by the informality of a process not restricted by the Federal Advisory Committee Act will ensure that NGOs and other external stakeholders have direct access to OPIC decision makers with respect to agency's policies and procedures over a full range of policy issues.

2.4 Scope

Following Congressional guidance, the scope of the Office of Accountability's compliance review and problem solving activities are focused on OPIC's statutory mandates and subordinate policies and procedures relating to environmental and social concerns, labor and human rights. This is at once both narrower and broader than the scope of activity for the accountability and advisory mechanism of other international financial institutions.

OPIC's model would in the first instance appear to be comparable to the scope of the compliance audit role of the International Finance Corporation/Multilateral Investment Guaranty Agency Compliance Advisor Ombudsman which is to determine "whether the International Finance Corporation or the Multilateral Investment Guaranty Agency staff, and in some cases the project sponsor, have complied with the International Finance Corporation or the Multilateral Investment Guaranty Agency social and environmental policies, guidelines and procedures."¹³ However, the scope of OPIC's Office of

Accountability is narrower in that it seeks only to determine OPIC's compliance with its own requirements, and does not envisage making determinations as to sponsor compliance. OPIC takes the view that determinations of sponsor compliance with the conditions included in its loan agreements and insurance contracts should remain within the full discretion of OPIC management, including its Office of Legal Affairs, and not delegated to an accountability office. Not only is this a matter of principle; as a practical matter, sponsor compliance is technically a matter of compliance with contract conditions. Absent such conditions, a sponsor cannot be found to be non-complaint. As finance agreements and insurance contracts are not publicly disclosed documents, there is no practical basis on which a locally-impacted community, or any other external stakeholder for that matter, can allege that an OPIC-supported sponsor is in violation of a particular contractual condition. This difference between the scope of OPIC and the International Finance Corporation compliance mechanisms may reflect differences in the transparency policies of these respective agencies, matter to be discussed more fully in the section of transparency, below.

With respect to the problem solving function, the scope of OPIC's accountability and advisory mechanism activity is also narrower than the grounds for complaints considered under the International Finance Corporation/Multilateral Investment Guaranty Agency Compliance Advisor Ombudsman problem-solving or ombudsman roles which "may relate to any aspect of the planning, implementation or impact of projects."¹⁴ In practice, the International Finance Corporation/Multilateral Investment Guaranty Agency Compliance Advisor Ombudsman has taken complaints on economic and social matters that are outside the scope the International Finance Corporation or the Multilateral Investment Guaranty Agency environmental or social policies.

The scope of the OPIC accountability and advisory mechanism's advisory role is similar to that of the International

Finance Corporation Compliance Advisor Ombudsman – the only other accountability and advisory mechanism with a defined advisory role, with its focus on agency policies and procedures rather than specific projects. However, in OPIC's case, the Advisory Group is not limited to environmental, social, labor and human rights matters, but also includes issues of "transparency" and "the full range of OPIC public policy mandates, including U.S. economic effects and the 'cumulative impacts' of OPIC policies and procedures."

There is one other aspect in which OPIC's accountability and advisory mechanism has a potentially broader scope than the AMs of other international financial institutions and this reflects OPIC's relatively comprehensive and prescriptive mandate labor rights mandate, compared to other international financial institutions. Since 1986, OPIC has been required to take worker rights conditions into account in determining country eligibility for its programs. As a result OPIC programs in several countries have been suspended at various times on worker rights grounds.¹⁵

Since 1993 OPIC has also been statutorily prohibited from supporting any project that "contributes to violations of internationally recognized worker rights," and has been required to include specific worker rights compliance language in every finance agreement and insurance contract it issues for projects. Along with prohibitions of forced labor and child labor that are increasingly common to loan conditionality in IFI-sponsored projects, OPIC's language references the rights of association, collective bargaining, minimum wages, hours of work and occupational health and safety. OPIC interprets and applies this language to require sponsor compliance, wherever feasible, with the applicable conventions of the International Labor Organization (whether or not the host country, or for that matter, the US, is a signatory to the particular convention). OPIC's interpretation of "labor rights" is considerably broader than the current norm among international financial institutions, where consensus on the need to guarantee the rights of association

and collective bargaining remain controversial.¹⁶

OPIC's worker rights mandate and its inclusion within the scope of its accountability and advisory mechanism, provides a potential opportunity for the workers in an OPIC-supported project (whether organized or not), as locally-impacted communities, to file complaints with the accountability and advisory mechanism that could generate problem solving activity in the form of labor-management mediation or compliance reviews regarding the application by OPIC of its statutory worker rights requirements. It is unclear whether this recourse is available to project workers under any other IFI accountability mechanism.

To a lesser extent, OPIC's statutory requirements on human rights distinguish the scope of OPIC's accountability and advisory mechanism activities from those of its IFI counterparts. Although far less prescriptive than its worker rights requirements, OPIC is required to "take human rights into account in the operation of its programs" and to refrain from providing assistance to projects that provide direct or significant indirect assistance to governments with a "consistent record of gross violations of human rights. Although human rights have barely begun to appear on the agendas of international financial institutions it is not yet an actionable policy on the project level.¹⁷

In practice OPIC defers to the guidance of the US State Department's Bureau for Human Rights, Democracy and Labor in implementing its human rights statutory requirement, and once having done that it is not clear on what basis a complaint could be filed with OPIC's Office of Accountability regarding OPIC compliance with its human rights mandate. However, where companies are implicated in human rights violations in connection with OPIC-assisted projects, there may be an opportunity for creative problem solving on the part of the Office of Accountability. Moreover, there are tools under development by human rights NGOs could provide international financial institutions with the means to impose some form of human rights condi-

tionality on project sponsors. Once actionable, such conditions could become the basis for activity by accountability mechanisms.

In one area OPIC departed from the recommendation of the Congressional Committee report. Whereas the report included "corruption" among the environmental and social concerns to be within the purview of the accountability and advisory mechanism, OPIC concluded that existing statutory requirements in application of the Foreign Corrupt Practices Act took precedence over Committee report language and that OPIC should rely on existing procedures, including referral of credible allegations of corruption to the Department of Justice and the Securities and Exchange Commission rather than charge the accountability and advisory mechanism with investigating corruption allegations. Should any information come to the attention of the Office of Accountability regarding corruption allegations on the part of OPIC-supported sponsors, the Office of Accountability would treat this information the same way as any other OPIC employee.

2.5 Authority

The Congressional Committee reports recommended that OPIC "insure the independence and integrity of the evaluations and advice provided by the accountability mechanism."

This raised the question of whether the accountability and advisory mechanism should report directly to the OPIC Board of Directors or to the President of OPIC, all appointees of the President of the United States. The international financial institutions follow a mixed practice. In some cases the AM reports to the Board: the International Bank for Reconstruction and Development Inspection Panel reports to the International Bank for Reconstruction and Development Board of Directors as does the Asian Development Bank's Compliance Review Panel and the International Monetary Fund's Independent Evaluation Office.¹⁸ In other instances the accountability officer reports to the President or

other chief executive officer.¹⁹ In some international financial institutions the chief accountability officer is an employee of the organization while in other cases the officers or officers have the status of independent experts who perform their duties on a project-specific basis.

In OPIC's case, OPIC has made it clear that the Director of Accountability will be an employee of OPIC and that the work and reports of the Director of Accountability will be integrated into the overall decision-making of the agency under governance of the President and CEO and the Board of Directors, where agency authority will continue to reside.²⁰

The decision to have the OPIC Director of Accountability report directly to OPIC's President and CEO and not to the Board was facilitated by the fact that unlike the international financial institutions which have resident full-time resident Boards of Directors who may be required to approve nearly every agency transaction, OPIC has a part-time Board that meets quarterly to approve the agencies budget, major projects and policy initiatives. Moreover, OPIC's President and CEO is currently, by designation of the President of the United States, also the Chairman of OPIC's Board.

It is OPIC's expectation that the Office of Accountability would receive and investigate claims from eligible parties, draw independent conclusions and make recommendations to the President regarding OPIC compliance or future steps to resolve a conflict. Although the findings and recommendations of the Office of Accountability will be reviewed in the first instance by OPIC's President, the Office of Accountability will have a regular opportunity to report its activities to the full Board of Directors or a subset of the Board membership.

Beyond reporting mechanisms, the independence of OPIC's Office of Accountability will be ensured by its ability to review all documents relating to a project under its purview, to interview staff that worked on the project, to conduct site visits and to employ consultants and bring in expertise as need to respond to specific requests, subject to all of the normal budget con-

straints that apply to OPIC as a federal agency.

2.6 Transparency

The Congressional Committee report expressed the view that OPIC's accountability mechanism should "be transparent in its operations and outputs."²¹ OPIC recognizes that maximizing transparency and information disclosure is critical for the Office of Accountability's credibility and public confidence in the process.

OPIC has sought to emulate the best practices of the international financial institutions with respect to the transparency of its decision-making process regarding in particular environmental and social matters. For example, OPIC has adopted practices similar to that of the International Finance Corporation for public disclosure and consultation regarding Environmental Impact Assessment for Category A projects. However, it is more difficult for OPIC to simply adopt the public disclosure practices of international financial institutions than it is to emulate other due diligence and project monitoring practices because, as a US government agency, OPIC is subject to the statutory and regulatory framework of the U.S. government with respect to information disclosure, particularly information of a business confidential nature. The Freedom of Information Act contains a presumption of disclosure subject to exemptions including the protection of the integrity of the internal government deliberative process and information that is legitimately business confidential. The protection of the latter category of information is reinforced by criminal provisions of the Trade Secrets Act that apply to OPIC employees, including the Office of Accountability, in an individual capacity.

Subject to these applicable laws, it is expected that the Office of Accountability's reports would be made available to claimants and to project sponsors and that wherever possible, Office of Accountability findings would also be made public in a timely manner. Wherever necessary, appropriate measures will be taken to

maintain the confidentiality of communications where companies request such protection.

3 CONCLUSION

The application of international "best practices" to the design of an accountability mechanism for a bilateral financial institution can provide a useful framework for identifying options regarding access, standing, scope and transparency. However, to be effective, such a mechanism needs to be responsive to the expectations of the institution's particular stakeholders as well as reflect the institution's political and institutional culture. It is to be expected that OPIC's model will continue to evolve in

4 REFERENCES

- ¹ OPIC operates its programs in approximately 150 such countries. A current OPIC country eligibility list can be found at www.opic.gov.
- ² The agencies include the Departments of State, Treasury, Commerce, Labor, the Office of US Trade Representative and the Agency for International Development. The other eight members, also appointed by the President of the United States, are from the U.S. private sector and are required to include at least one representative each from small business, organized labor and cooperatives.
- ³ In 1977 and again in 1996 controversy over OPIC's very existence resulted in one year reauthorizations; in 1997 OPIC was reauthorized for two years. OPIC's current reauthorization is set to expire in December 2007.
- ⁴ In 1999 OPIC's authorizing statute provided for a pilot equity program limited to sub-Saharan Africa and the Caribbean, but Congress has not appropriated funds for this program due to its reluctance to having the US government as an owner of foreign assets.

- ⁵ OECD. Arrangement on Guidelines for Officially Supported Export Credits. Paris, 1998.
- ⁶ The investments OPIC supports can and do use OPIC financing to buy goods and services from the United States as well as other countries, as well as to export products, subject to OPIC restrictions on support of activities that have the potential to displace US domestic production and employment.
- ⁷ A number of the European development banks belong to informal association, the European Development Finance Institutions (EDFI). For a complete list and description of these institutions, all of which are somewhat smaller and less active than OPIC, see <http://www.fmo.nl/en/links/edfi.php>.
- ⁸ House committee on International Relations, Overseas Private Investment Corporation Amendments Act of 2003, 108th Congress, 1st Session, Report 108-339, November 3, 2003.
- ⁹ The OPIC accountability and advisory mechanism compliance review function is a bit narrower than the IFC/MIGA Compliance Advisor Ombudsman as the latter oversees “audit of IFC’s and MIGA’ social and environmental performance both on systemic issues and in relation to sensitive projects (emphasis added). See IFC/MIGA, (Revised) Operational Guidelines for the Office of the IFC/MIGA Compliance Advisor Ombudsman, November 2004 at http://www.cao-ombudsman.org/html-english/about_opguidelines.htm.
- ¹⁰ Government in the Sunshine Act 5 U.S.C. 552b.
- ¹¹ “Compliance audits may be triggered by Ombudsman investigations or undertaken on a case-by-case basis at the request of management or on the Compliance Advisor Ombudsman’s own initiative.” (Revised) Operational Guidelines for the Office of the IFC/MIGA Compliance Advisor/Ombudsman, op. cit.
- ¹² International Bank for Reconstruction and Development/International Development Association, The Inspection Panel: Operating Procedures, 1994; European Bank for Reconstruction and Development, Independent Recourse Mechanism, April 29, 2003; Inter-American Development Bank, The Independent Investigation Mechanism, June 30, 2000; Japan Bank for International Cooperation, JBIC’s New Accountability Mechanism to Environmental and Social Guidelines, April 2003 (powerpoint).
- ¹³ Compliance Advisor Ombudsman, Operational Guidelines, op cit.
- ¹⁴ op cit.
- ¹⁵ OPIC programs in Chile, Romania, Nicaragua, Mauritania, and the Central African Republic have been suspended on worker rights grounds as a result of findings by the Office of the U.S. Trade Representative that these countries failed to meet the “taking steps” criteria required for beneficiary status under the Generalized System of Preferences (GSP) trade program. GSP and OPIC eligibility have since been restored. Liberia remains ineligible for GSP OPIC on worker rights grounds. Other countries – e.g. El Salvador, Guatemala, Bangladesh - have been subject to extensive multi-year reviews of worker rights conditions. Independent of the GSP eligibility, OPIC has suspended and since restored its programs in Ethiopia and South Korea; OPIC programs remain suspended in Saudi Arabia, Qatar and the United Arab Emirates on worker rights grounds.
- ¹⁶ Most recently, the IFC has moved toward a more extensive definition of worker rights by referencing the rights of association and collective bargaining in its new proposed Performance Standard on Labor and Working Conditions.
- ¹⁷ World Bank President Urges ‘radical shift,’ Financial Times May 18, 2004; Exim..., EGCD.
- ¹⁸ It is unclear why the IMF was cited in the Committee report among the list of IFIs

having accountability mechanisms as the IMF's role is to provide balance of payment support to countries and it does not support investment projects as is the case for development banks and export credit agencies. The IMF's IEO does not respond to claims filed by external stakeholders.

- ¹⁹ The IFC/MIGA Compliance Advisor Ombudsman reports the President of the World Bank group, and not to IFC's Executive Vice President, who is the chief management official at IFC *Compliance Advisor Ombudsman, Operational Guidelines, op cit).;. The Asian Development Bank's Special Project Facilitator (who implements the problem solving function at the Asian Development Bank) reports directly to the Presi-

dent and not to the Board. Asian Development Bank Accountability Mechanism, May 2004; JBIC's mechanism reports to Governor of JBIC, a position comparable to the President of OPIC. (Japan Bank for International Cooperation, JBIC's New Accountability Mechanism to Environmental and Social Guidelines, April 2003 (powerpoint)) The Independent Investigation Mechanism of the IADB appears to report to both the President and to the Board of Directors (Inter-American Development Bank, The Independent Investigation Mechanism, June 30, 2000).

- ²⁰ OPIC has recently filled the DA position on a three year contractual basis.

- ²¹ HIRC report, op. cit.