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## ACRONYMS/ABBREVIATIONS

<table>
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<tr>
<th>AC</th>
<th>Accountability Counsel</th>
<th>IPN</th>
<th>Inspection Panel</th>
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<tr>
<td>AP</td>
<td>Action Plan</td>
<td>IRM</td>
<td>Independent Review Mechanism</td>
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<td>ADB</td>
<td>Asian Development Bank</td>
<td>ISS</td>
<td>Integrated Safeguards System</td>
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<td>ADF</td>
<td>African Development Fund</td>
<td>JIYA</td>
<td>Jobs for Youth in Africa</td>
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<td>ADOA</td>
<td>Additionality and Development Outcomes Assessment</td>
<td>HQ</td>
<td>Headquarters</td>
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<td>AfDB</td>
<td>African Development Bank</td>
<td>KPIs</td>
<td>Key Performance Indicators</td>
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<td>BIC</td>
<td>Bank Information Center</td>
<td>M3</td>
<td>Modern Mills of Mali</td>
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<td>BCRM</td>
<td>Compliance Review and Mediation Unit</td>
<td>MAP</td>
<td>Management Action Plan</td>
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<td>BDEV</td>
<td>Office of the Evaluator General</td>
<td>MDBs</td>
<td>Multilateral Development Banks</td>
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<td>CAO</td>
<td>Compliance and Accountability Ombudsman</td>
<td>MICI</td>
<td>Mechanism of Inter-American Development Bank</td>
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<td>CO</td>
<td>Country Office</td>
<td>MOU</td>
<td>Memorandum of Understanding</td>
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<td>CODE</td>
<td>Committee on Operations and Development Effectiveness</td>
<td>MR</td>
<td>Management Response</td>
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<td>CR</td>
<td>Compliance Review</td>
<td>NGO</td>
<td>Non-Governmental Organisation</td>
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<td>CRMU</td>
<td>Compliance Review and Mediation Unit</td>
<td>NSO</td>
<td>Non-Sovereign Operations</td>
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<td>CSO</td>
<td>Civil Society Organization</td>
<td>ON</td>
<td>Niger Office (Office du Niger)</td>
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<td>CSP</td>
<td>Country Strategy Paper</td>
<td>OPIC</td>
<td>Overseas Private Investment Corporation</td>
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<td>DBDM</td>
<td>Development and Business Delivery Model of the Bank</td>
<td>ORQR</td>
<td>Quality Assurance and Results Department</td>
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<td>DRC</td>
<td>Democratic Republic of Congo</td>
<td>PAGL</td>
<td>Office of the Auditor General</td>
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<td>E&amp;S</td>
<td>Environmental and Social</td>
<td>PAPs</td>
<td>Project Affected People</td>
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<tr>
<td>EBRD</td>
<td>European Bank for Reconstruction and Development</td>
<td>PCER</td>
<td>AfDB Communications Department</td>
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<td>EDs</td>
<td>Executive Directors</td>
<td>PCM</td>
<td>Accountability Mechanism of EBRD before 2019</td>
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<td>EIB</td>
<td>European Investment Bank</td>
<td>PIAC</td>
<td>Integrity and Anti-Corruption Department</td>
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<td>EITI</td>
<td>Extractive Industries Transparency Initiative</td>
<td>PBO</td>
<td>Policy Based Operation</td>
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<td>ESAP</td>
<td>Environmental and Social Assessment Procedures</td>
<td>RMC</td>
<td>Regional Member Country</td>
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<td>ESG</td>
<td>Environment, Social, Governance</td>
<td>RT</td>
<td>Review Team</td>
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<td>ESMP</td>
<td>Environmental and Social Management Plan</td>
<td>SDGs</td>
<td>Sustainable Development Goals</td>
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<td>FO</td>
<td>Field Office</td>
<td>S-IAM</td>
<td>Super IAM</td>
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<td>GBV</td>
<td>Gender Based Violence</td>
<td>SMCC</td>
<td>Senior Management Coordination Committee</td>
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<td>Green Climate Fund</td>
<td>SNSC</td>
<td>Environmental and Social Safeguards and Compliance Department</td>
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<td>General Capital Increase</td>
<td>SO</td>
<td>Sovereign Operations</td>
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<td>GRM</td>
<td>Grievance Redress Mechanism</td>
<td>SOMO</td>
<td>Centre for Research on Multinational Corporations</td>
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<td>GRS</td>
<td>Grievance Redress Service</td>
<td>TM(s)</td>
<td>Task Manager(s)</td>
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<tr>
<td>IADB</td>
<td>Inter-American Development Bank</td>
<td>TOR</td>
<td>Terms of Reference</td>
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<td>IAMs</td>
<td>International Accountability Mechanisms</td>
<td>TYS</td>
<td>Ten Year Strategy</td>
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<td>IFC</td>
<td>International Finance Corporation</td>
<td>UA</td>
<td>Unit of Account</td>
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<td>IORP</td>
<td>IRM Operating Rules and Procedures</td>
<td>UNDP</td>
<td>United Nations Development Program</td>
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<td>IPAM</td>
<td>Accountability Mechanism of EBRD after 2019</td>
<td>WBG</td>
<td>World Bank Group</td>
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Executive Summary

1. In line with its Terms of Reference (TOR) this Third Review of the Independent Review Mechanism (IRM) has the following broad objectives:
   (i) To undertake a thorough assessment of the extent to which IRM has been an effective recourse mechanism for people affected by a Bank financed operation and a useful accountability instrument for the Bank. This analysis also considers the effectiveness of the Compliance Review and Mediation Unit (BCRM) in administering the IRM and handling cases through problem-solving exercises, and compliance review, and;
   (ii) To propose recommendations on the revision of the present IRM Enabling Resolution and its Operating Rules and Procedures (IORP) to clarify ambiguities and to review the roles and functions of the BCRM and the IRM Roster Experts in order to enhance their support of the Board’s overall responsibilities.

2. The Review has been divided into three main blocks of analytical work which reflect the main areas outlined in the TORs and are translated into recommendations for adoption by the Bank. The aim is to enhance accountability at the African Development Bank Group (AfDB) and put IRM at par with international accountability standards and procedures, while responding to the concerns of major stakeholders in the process.
   - The first block focuses on evaluating the effectiveness of the IRM as an accountability mechanism for complainants. This includes its capacity to adequately address the needs of complainants and African communities negatively impacted by AfDB operations. This exercise has involved looking at issues such as independence, access, predictability, responsiveness and effectiveness of the IRM. It has specifically entailed examining the evolution of three important and sensitive relationships between the IRM and respectively, the Boards of Directors; Management and Complainants/Civil Society.
   - The second block of analysis focuses on the role of the IRM as an accountability mechanism for the Bank, with special emphasis on effectiveness of the IRM for learning, knowledge management/development and relevance to the AfDB context and Bank policies. This block has looked at the effectiveness of the IRM in enhancing learning and knowledge within the Bank, including IRM experience with Spot-Checks and Advisory Notes.
   - The third block of analysis focuses on the functioning of BCRM as a unit administering the IRM, and seeks to compare it with its peers and international best practices. This block looks at its functions and the current structure of BCRM, including roles, profiles, and duties of Director, staff and IRM Roster of Experts. The Review Team (RT) also examined and revised the 2015 IORP, with the objective of enhancing clarity, weeding out ambiguities and following best practices.

3. The Review has not limited itself to an analysis of BCRM, but has also looked at the context in which it operates and the relationships it harbors with a wide spectrum of stakeholders who are part and parcel of the accountability system and process in the institution, i.e. the Boards, Management and Complainants.

4. The RT used a combination of methods based on the principle of getting as wide a spectrum of views as possible from all relevant levels of the AfDB and a variety of stakeholders involved
in the IRM process. The objective has been to gather information on different aspects of effectiveness of the mechanism, including the policy framework as determined by the Boards resolutions, rules and procedures, in addition to issues of access and knowledge management, lesson learning, and continuous integration of best practices. Therefore, any recommendation proposed has been evidence-based and fully supported by the data gathered, while emphasizing the drawing of lessons, bench marking and adherence to international best practices. A combination of qualitative and quantitative information has been gathered.

5. The RT began with a review of key primary and secondary documentation, including IRM policy documents and guidelines, followed by a desk review of various reports relating to specific cases with an emphasis on cases since 2015. The RT has also reviewed relevant Bank policies and examined their impact on the work of BCRM. Moreover, the RT has looked at the relevant documentation produced by other International Accountability Mechanisms (IAMs), civil society, academics and others on the most current issues relating to international accountability.

6. The RT carried out interviews, at AfDB headquarters, and in Washington DC where it met with several IAMs, the US Treasury Department, and several US-based Civil Society Organizations (CSOs), and also in Mali, one of the Regional Member Countries (RMC) from which a recent Complaint was received. The planned field mission to Kenya could not take place due to the impact of COVID 19. Two periods of public consultations will take place, during which the draft documents will be posted, subsequent to which a full table of comments received will be developed. The previous two Reviews did not involve extended consultation periods, and this was heavily criticized by several CSOs and ran against current best practice for such reviews.

7. The RT frames the Review within both the international accountability context and that of the Bank. In February 2019, the US Supreme Court ruled that an environmental-damages lawsuit could proceed against the IFC of the World Bank, going counter to its claim of immunity from prosecution. The decision left several unanswered questions about the scope of Multilateral Development Bank (MDB) immunity, and thus potential for increases in the risk of litigation against MDBs with a presence in the US or in states that may choose to adopt a similar approach. Subsequent to this, several issues have come under discussion in the realm of international accountability, most being raised to handle some of the failures of IAMs in rectifying non-compliance, while also emphasizing the issue of the cost of such non-compliance to poor communities. This international debate is certainly relevant to the current Review. It demonstrates the reputational risk confronted when IAMs (such as IRM) do not function properly and also the legal risks when the conventional argument of MDBs being immune from legal proceedings may be challenged, and may no longer hold up. It also raises the issue of whether the existence of such IAMs make development institutions more or less risk averse.

8. Regarding the issue of the AfDB context, the Bank has demonstrated a willingness to scale up implementation of its Ten Year Strategy (TYS) through ambitious initiatives articulated through the High5s. All of this goes hand in hand with increased challenges that will have to be faced in managing heightened environmental and social risks for equally ambitious operations in scope, scale and complexity. It is this higher social and environmental risk, and therefore risk to communities from experiencing harm resulting from the implementation of Bank Group operations, that justifies an even stronger independent accountability function such as IRM at the Bank. Moreover, the context of the enhanced decentralization of the Bank
and the Development Business Delivery Model (DBDM) adopted in 2016 provides opportunity for better accessibility to the Bank and IRM services but also improved client responsiveness. This Review, its conclusions, and its resulting recommendations must be seen in such a context.

9. Regarding the relationship between IRM/BCRM and the Boards of Directors, the RT found that although the principle of the oversight role of the Boards/Committee on Operations and Development Effectiveness (CODE) viz-a-viz the BCRM is clear, and in line with international best practice, it needs to be better reflected and made more precise in an amended TORs for CODE and a clear distinction between the role of CODE as against that of the Boards at large. Also, due to the demand driven work nature of IRM, a greater effort by IRM is in order to constantly update the Boards even when there are no active cases under consideration. This interaction should be both formal and informal.

10. The RT characterized the relationship between IRM/BCRM and Management as problematic. This goes beyond the adversarial nature of the relationship between IAMs and Management found in most sister institutions, arising from a feeling of defensiveness when its projects are criticized. Here, this relationship approaches a neglect to follow rules and regulations, whether this concerns adhering to timelines for statutory reports or the obligation to disclose the existence of IRM in project and policy documents, and to clients and/or facilitating access to requisite staff and project documentation. This is in addition to not making sufficient use of Regional and Country Offices as resources to disseminate information about IRM or to facilitate highly needed preventive roles, especially in countries/regions with an abundance of high-risk projects. Moreover, despite the many lessons that BCRM has included in its various documents (Compliance Reviews(CR) and Annual Report etc.) and expressed at the Boards, Management has not indicated how it has made use of these lessons whether in new policies, procedures or Guidance to staff. In addition, this difficult relationship is at least partly attributable to a lack of clear delineations of responsibility, accountability and liabilities between the Bank and the Borrower/client of the Bank with regard to compliance with its own policies and procedures since implementation of Bank’s financed operations is the primary responsibility of Borrowers/clients.

11. This situation requires action and improved communication between BCRM and Management, first to find practical solutions to issues of timelines, ensure availability of responsible staff and project documentation, and allowing ample opportunities for clarification and due diligence throughout the IRM process. In addition, it is important to ensure constant dialogue between both BCRM and Management on issues of common interest, notably as related to interpretation of operational policies, enhancing clarity of the scope of Management responsibility and development effectiveness. The relationship between Management and IRM should focus on two important aspects: first, how to make the IRM process less adversarial and more solutions oriented and secondly to ensure that institutional learning occurs with consequences for the Bank, whether in terms of policy changes, strengthening implementation and/or taking preventive measures going forward.

12. The RT also examined the relationship between IRM and complainants/civil society. The IRM was perceived by civil society and complainants as not having pursued effective engagement due to weak communication with complainants. This situation was further perceived to have caused in some instances a lack of transparency of the IRM processes, and certain provisions of the procedures which further complicated access to IRM resulting in a lack of or insufficient
effective support to send in complaints as required by the OIRP, in addition to a lack of knowledge about the IRM for many potentially affected communities.

13. Although IRM has a roster of CSOs, and, despite the fact that the Banks Enhanced Engagement with CSOs policy document specifically mentions IRM as one of the foci of their activity, this strategic relationship is not being put to the best use. It is proposed that in view of improving relations with CSOs, IRM should follow the lead of some IAMS who have established an external stakeholder advisory group with the objective of providing strategic guidance, advice and feedback in an organized and systematic fashion.

14. The RT are of the opinion that it is only through a revamping of communications and outreach, and facilitating access, including supporting complainants when they submit Requests, that IRM could improve its image with CSOs/Complainants. Urgent attention should be given to continuous communication between IRM and Complainants throughout the entire IRM process. Otherwise, the long silences experienced will contribute to further eroding IRM’s image. Besides direct communication, the most important tool for this can only be an updated and user-friendly webpage, with a current case management system that can be easily accessed. Publications also have a role to play, thus the merits of an Annual Report in its current traditional format needs to be re-examined, and supplanted by nimble digital tools more focused on reaching civil society and potentially affected communities in a simplified manner. Also, Management need to play their communication role of putting information on IRM in all policy and project documents as stipulated in the IORP, and that IRM should monitor this and inform the Boards accordingly in case of lapses.

15. The RT acknowledge the importance of outreach. The RT propose that an impact evaluation of outreach activities implemented to date be undertaken, from which lessons should be drawn for developing a forward-looking outreach strategy. Also, regarding internal outreach specifically, and given the constant turnover of the Boards, IRM should be systematically involved in the onboarding of new Boards members and the holding of Boards seminars during different times of the year.

16. Furthermore, complainants need to feel protected when they approach IRM, that is why IRM needs to adopt anti-retaliation guidelines and institute a risk analysis for the probability of retaliation surrounding a specific complaint. This is included in the proposed revised IORP.

17. The RT also analyzed the Advisory and Knowledge Management activities of IRM, specifically Advisory Notes and Spot-Checks. It was found that they have not resulted in the outcomes stipulated in the Guidelines, namely, to enhance learning and promote the culture of compliance in the Bank. Although a series of Advisory Notes were produced, largely in 2019, the RT have not found evidence that these were developed in response to a request by the President and/or Boards as stipulated in the Guidelines. They did not go through the prescribed review process and no feedback was received on them, whether from the President, Boards or Management, regarding the advice they contained. They were also not posted on the IRM webpage as stipulated in the Guidelines.

18. Regarding the Spot-Checks, the RT found that they did not necessarily follow the Guidelines whether in terms of selection criteria of projects, processing or expected results. Furthermore, the RT question some of the criteria, thus it found little justification for selecting projects which are at the end of their implementation, or projects that have already gone through a problem-solving exercise. The RT also questioned whether Spot-Checks are the best use of scarce BCRM resources especially in view of its limited staffing. Furthermore, as
demonstrated there is no way of ensuring whether Management actually implemented the remedial actions proposed by the IRM in specific Spot-Checks. Rather, the RT is of the opinion that it is Advisory Notes that should be favoured and expanded, and that the recommendations they make should be systematically shared with Management, who, in turn should demonstrate how they result in concrete changes to policies and/or their implementation. The RT conclude that the area of knowledge creation and drawing of lessons has not proven a strong point for IRM/BCRM, although lessons learnt have been expressed during Board sessions and are mentioned in the Annual Reports. Even the knowledge that has been generated has not been fed back into Bank policies and procedures. This is partly related to the lack of a sustained dialogue between IRM and Management, and convincing it that its findings have value for the institution.

19. Finally, the RT have examined the role, functions and performance of BCRM and have posed the following questions: To what extent does the structure of BCRM facilitate the functions it is responsible for, to what extent is its staffing and resources appropriate, to what extent are its functions clear and its processes for handling complaints unambiguous, and include clear definitions of the roles of the various stakeholders, are the time frames reasonable, to what extent has BCRM acted independently from Management, to what extent are its processes transparent and predictable?

20. The IRM consists of a Compliance Review and Mediation Unit and a Roster of Experts. The BCRM is an organizational unit of the Bank established in accordance with a Resolution of the Boards of Directors of the Bank Group and is the focal Unit of the IRM. According to the 2015 IORP, the activities of IRM are managed by an Organizational Unit Head designated as the Director BCRM. The Director has the overall responsibility for the day to day operations and external relations of the IRM. The Roster of Experts is comprised of three individuals selected in accordance with the rules applicable by the Bank and Fund to the selection of consultants and appointed by the Boards on the recommendation of the President.

21. The RT analysis has acknowledged the success of IRM in solving various problems raised in Complaints it has received and/or identifying areas where Management has not acted in compliance with its own policies resulting in harm to communities. The RT have pointed to several gaps which are undermining the credibility of IRM and hampering its’ independent and efficient functioning. These gaps are related to three major factors. First is the standing and credibility of IRM/BCRM as an accountability mechanism for the Bank. This includes the extent to which it is able to maintain its image and position as an independent and efficient accountability mechanism. The second factor relates to the structure and functioning of BCRM, and the resources it commands. In addition, there are its IORP. In relation to the latter the issue is the extent to which these Rules and Procedures are being adhered to and implemented and the extent to which they conform with standards of best practice in other IAMs. The third factor is the extent to which IRM has been able to act as a source of valued knowledge and lessons learnt for improving Bank operations and enhancing their development effectiveness, and the extent to which it has convinced Bank staff and Management that its findings have value.

22. The RT found that the IRM/BCRM seem to hold a rather marginalized position within the institution as a result of the weak staffing and insufficient resources. This has prevented it from earning the trust and credibility required for its’ work and recommendations to be taken seriously by both Management and complainants/civil society. It has thus conducted its operations without achieving timely results and in the absence of sufficient transparency.
Regarding the second factor, it suffers from lack of resources, especially human resources. This has hindered its efficiency and curtailed its activities notably in terms of the transparency and predictability of its operations, resulting in very lengthy processing of complaints. The RT analysis has indicated that the structure, functions and processes of IRM/BCRM are generally acceptable and do not, apart from some ambiguities and gaps, deviate widely from best practices in other institutions. Rather, the issue is how these processes are being implemented and the wide margin that exists for deviating from them without consequences or sanctions. In addition, IRM/BCRM has not succeeded in using the knowledge it has generated over the years to positively influence the Bank’s policies and its operations, which is of utmost importance as the Bank ventures into riskier sectors and environments.

23. The recommendations proposed by RT aim at creating an accountability system that functions efficiently, that is trusted by all stakeholders and that adopts international best practices of similar global and regional institutions. The recommendations relate to the following areas:

**Changing the Image and Stature of IRM/BCRM at the institutional level**

24. Clear and strong messages from the President, Senior Management and the Boards are in order, each in their own capacity, about accountability being a Bank-wide concern and effort and about the importance, stature, and role of IRM/BCRM within that effort. Such messages should be clearly embedded in various Bank publications and speeches. These include the Bank’s Annual Report, and important speeches by the President and Senior Management at landmark events, such as the Annual Meetings, Africa Investment Forum etc.

25. The Terms of Reference of CODE should be amended to clearly spell out its role viz-a-viz IRM/BCRM. CODE should ensure a hands-on approach and strong engagement with IRM/BCRM.

**Efficient Preventive Measures**

26. The RT find that Management needs to be more proactive in identifying early stage solutions to harms resulting from noncompliance with Bank policies and safeguards, rather than leaving the situation to aggravate, which is when complaints are typically sent. Clearly, functioning Grievance Redress Mechanisms (GRMs) at the project level constitute an integral element of such a change. Management also needs to take a closer look at the pattern of repetitive grievances in complaints. These have without doubt related to issues of compensation and involuntary resettlement. With the Bank’s expansion into financing infrastructure in all parts of the continent, including in fragile countries, there is a much higher risk of these issues repeating themselves. An enhanced role for Country and Regional Offices is an integral part of proposed preventive measures.

**Communications and Outreach**

27. BCRM faces many communication challenges. Concise and focused communications are paramount to successful complaints handling, BCRM should develop a functioning communication and outreach strategy that is in close alignment with that of the Bank. This strategy should be structured to create visibility for the BCRM, simplify the IRM processes for the stakeholders, and enable information sharing and knowledge management at a
continental level as well as internally within the Bank. It should be grounded and focused on i) internal communication ii) external communication and outreach iii) the Bank’s webpage and iv) social media.

Knowledge Management and Advisory Services

28. RT analysis has indicated that insufficient attention and effort have gone into the area of knowledge production and management. BCRM has not been able to use the vast amount of experience and lessons learnt to influence the Bank’s policy agenda. It is recommended that given some of the issues with Spot-Checks, they should not continue automatically as previously. However, they should be allowed only exceptionally and under certain conditions. It is recommended that the Director of BCRM be given the prerogative to initiate Spot-Checks under specific circumstances. These circumstances are elaborated upon in the proposed Revised IORP. Rather, emphasis should be placed on Advisory Notes, while ensuring that they are relevant and truly contribute to lessons learning about noncompliance and specific policy challenges faced by the Bank. The Roster of Experts should be closely involved in the production of these Notes since they are a resource which is not being sufficiently tapped. Wide circulation of these Notes through publications and the webpage is necessary.

Human and Financial Resources

29. The staffing situation in BCRM has been raised repeatedly by most of the stakeholders the RT spoke to. While staffing gaps may not be specific to BCRM and relate to issues of recruitment more generally at the Bank, the impact for BCRM is especially negative in view of the need to be constantly in touch with complainants and the nature of the on demand work which can be very intensive at times. BCRM currently lacks some specific skills and expertise that are needed to address new emerging issues. Other recommendations are made regarding scope and terms of service of the BCRM Director and the Roster of Experts but also some qualitative changes, notably regarding issues such as terms of specific positions and an expanded role for the Roster of Experts. A sustainable solution for the staff shortages can only lie in an accelerated recruitment drive. BCRM is currently operating with only three professional staff members. However, in the interim, and in order to make up for the number of vacancies it is recommended to put in place some temporary measures. It is recommended that the current mandate for the Director of BCRM be amended to one five-year term. Also certain of the Director’s responsibilities should be streamlined. The Rules should also clearly state that BCRM staff should be subject to the same rules and regulations of all Bank staff. Proposals are reflected in the proposed Revised IORP.

30. In addition, it is recommended that the current ban on recruitment into the IRM Roster Experts for persons who have worked for AfDB in the past be removed, while putting in place a clear cooling off period of five years in line with best practice in other IAMs and enforcing the post-employment ban. This should be accompanied by a clear conflict of interest clause whereby if an Expert thinks there is a potential conflict of interest in handling a case, he/she should recuse themselves from that particular case.

31. The RT also recommend expanding the responsibilities of the IRM Roster of Experts beyond just Compliance Review and Spot-Checks, to include the involvement in expanding Advisory
Notes proposed, communication and outreach activities. The RT estimates that they are a valuable resource that are being underutilized.

32. Regarding financial resources, the RT are of the opinion that these should be increased to allow BCRM expand its outreach and knowledge activities, especially Advisory Notes. Given the demand driven nature of IRM it is difficult to specify a figure for such an increase, however RT concurs with the proposal made by BCRM in its Annual Progress Report On Performance of IRM 2019 Work Program, where IRM recommended a contingency resource for the IRM budget base line for BCRM activities to be maintained at UA 500,000 (356000 USD) and for the Roster of Experts to be maintained at UA400,000 (285000 USD).

Developing a Strategic Relationship with Management

33. An improved and more strategic relationship and communication between IRM and Management will go a long way in the direction of streamlining the complaints handling process, achieving remedy for complainants and learning the appropriate lessons along the way. A focal point should be designated within Management, possibly at the front office of the Senior Vice-President (SVP) or the Vice-President Regional Development, Integration and Business Delivery (RDVP) as the custodian for business delivery, to act as a liaison between Management and IRM/BCRM. All Appraisal Reports, and Bank Policy Documents should clearly disclose the existence of IRM and its role in ensuring remedy for Project Affected People (PAPs). There should also be clear messages to Country and Regional Offices regarding the important role they play in the IRM process, whether this relates to communication about IRM and/or receiving complaints.

Streamlining IRM Documentation

34. Several stakeholders have raised with the RT the issue of length, structure, content and tone of both IRM and Management documents. They state that documents tend to be long, the structure is not always uniform and the tone tends to be accusatory, and not always constructive. It has also been raised that remedial actions are not always clear, neither is the responsibility for their implementation. It is imperative that there is an agreement on a standard format for Management Responses (MR), Management Action Plans (MAPs), IRM Eligibility Reports, Compliance Review and Problem Solving Reports. While taking into account the specificities of cases, these standard formats should be abided by. Regarding tone, both Management and IRM should avoid accusatory tones and opt for finding solutions rather than questioning each other’s arguments. MRs need to focus on whether or not the Bank has complied with its policies and the actions it intends to take to ensure compliance. MAPs need to include specific remedial actions that are monitorable and time bound. CRs findings need to be clear as to whether or not the Bank has complied with its policies and procedures. Specific proposals are included in the Guidance Note annexed to the proposed Revised OIRP.

Revision of the IRM Operating Rules and Procedures

35. RT have undertaken an extensive review and revision of the above document and the Board Resolution currently governing IRM. Once there is a consensus on this revision it will be reflected in the enabling resolution. This revision is based on the following guiding principles:
• Simplifying the rules and weeding out any ambiguities, especially regarding timelines, some of which were not specified, while others were judged by the RT to be unrealistic;

• Ensuring that the IORP facilitate access to IRM, while removing unnecessary obstacles to such access;

• Clarifying roles and responsibilities of the different stakeholders, Director, IRM Roster of Experts, Management, the President and the Boards;

• Adding aspects that were not taken into consideration in the current version notably as regards reprisals and protection of Complainants;

• Taking into account comments made by various stakeholders including BCRM staff, members of CSOs and complainants;

• Benchmarking and International Best Practice;

36. The RT has developed a separate Guidance Note that will serve as an Annex to the IORP. Its purpose is to provide additional detail and justification while leaving the IORP itself as simple and straightforward as possible.
1. Introduction:

1.1 Purpose and Objectives of Review:

1. The Independent Review Mechanism (IRM) was established through Resolution B/BD/2004/9-F/BD/2004/7 adopted by the AfDB Boards of Directors on 30th June 2004. This Resolution was amended through Resolution B/BD/2010/10-F/BD/2010/04 adopted on 16th June 2010. Resolution B/BD/2015/03-F/BD/2015/02 amended the 2010 Resolution and was adopted by the Boards of Directors on 28th January 2015. A first set of IRM Operating Rules and Procedures (IORP) were developed in 2006. These were amended after the adoption of Resolution B/BD/2010/10-F/BD/2010/04 in 2010. They were amended once again in 2015 after adoption of Resolution B/BD/2015/03-F/BD/2015/02.

2. The 2015 Resolution specifically states in paragraph Thirty Nine “The Boards of Directors shall review the experience of the IRM established in conformity with the provisions of Resolution B/BD/2004/9-F/BD/2004/7 after three years from the date of effectiveness of the IRM, which date shall be that of the appointment of the Director. Thereafter, the Boards shall review the IRM every four years or as otherwise decided by the Boards”. In the above context, this is the third in a series of Reviews undertaken for the IRM/BCRM since it started operations in 2006. The previous Reviews took place in 2009 and 2014, respectively.

3. This Review coincides with several other Reviews in the process of being undertaken or completed of International Accountability Mechanisms (IAMs) in sister institutions. The European Bank for Reconstruction and Development (EBRD) have just completed their Review, which resulted in a new Project Accountability Policy. The Inspection Panel of the World Bank undertook a Review of its Tool Kit, and a Board agreement on expanding that Tool Kit has just been reached. Both the Compliance Adviser Ombudsman (CAO) of the International Finance Corporation (IFC) of the World Bank, and the Independent Consultation and Investigation Mechanism of the Inter-American Development Bank (MICI) are also undergoing Reviews. The former is being undertaken by a team of consultants under Board supervision, and the latter by the Inter-American Bank’s Internal Evaluation Department.

4. This Third Review, therefore, comes at an appropriate time and offers ample opportunities for lesson learning, comparisons and benchmarking as appropriate. The Review also comes in the aftermath of the most recent General Capital Increase (GCI) for the AfDB and the 15th Replenishment of the African Development Fund. Documents for both exercises specifically outline the importance of accountability for the institution. Thus, Annex A of the GCI Document, entitled “GCI-VII Programme of Priority Reforms” has a paragraph on Accountability, where Management is expected to submit to the Board of Directors a plan to strengthen mechanisms to support the effectiveness of the Bank’s oversight, compliance and accountability functions (Action 19). More generally, most development thinking now looks at Environmental, Social

1 African Development Bank/African Development Fund Resolution B/BD/2004/9-F/BD/2004/7
3 African Development Bank/African Development Fund Resolution B/BD/2015/03-F/BD/2015/02
4 IRM Operating Rules and Procedures, 2006
5 IRM Operating Rules and Procedures 2015
6 2015 Board Resolution
7 African Development Bank, Board of Governors Documents of Fifth Extraordinary Meeting of the AfDB
8 ADF-15 Deputies Report: An Enabling Environment for Inclusive and Sustainable Transformation, Decent Jobs and Greater Resilience, 2019
and Governance (ESG) priorities of institutions (both public and private) as positive trends that work in the direction of safeguarding the profitability and sustainability of institutions.

1.2 Approach and Methodology of Review:

1.2.1 Approach:

5. The Terms of Reference (TOR’s) (See Annex VII) provided for this assignment are quite extensive and the RT have tried to cover all aspects included in the TORs, to the extent possible. This Third Evaluation of the Independent Review Mechanism has the following broad objectives:

i. To undertake a thorough assessment of the extent to which IRM has been an effective recourse mechanism for people affected by a project and a useful accountability instrument for the Bank. This analysis will also consider the effectiveness of the BCRM in administering the IRM and handling cases through problem-solving exercises, and compliance review, and;

ii. To revise the present IRM Enabling Resolution and its Operating Rules and Procedures to clarify ambiguities and to review the roles and functions of the BCRM and the IRM Experts in order to enhance their support of the Board’s overall responsibilities.9

6. The Review has divided its data collection and subsequent analysis into three main blocks of analytical work which encompass and reflect the main areas outlined in the Terms of Reference. These three blocks, clearly related to each other, have been selected with the probability in mind that they will result in recommendations for adoption by the Bank, with the aim of enhancing accountability at AfDB and putting IRM at par with international accountability standards and procedures, while responding to the concerns of major stakeholders in the process.

- The first block focuses on evaluating the effectiveness of IRM as an accountability mechanism for complainants. This will entail looking at IRM’s capacity to respond to the needs of complainants and African communities, more broadly, that may have suffered harm as a result of the implementation of AfDB-funded operations, and to provide adequate responses to their allegations of harm. This will involve looking at issues such as independence, access, predictability, responsiveness and effectiveness of IRM. It will specifically entail examining the evolution of three important and sensitive relationships: that between IRM and the Boards of Directors, between IRM and Management and that between IRM and complainants/civil society.

- The second block of analysis focuses on the role of IRM as an accountability mechanism for the Bank, with special emphasis on effectiveness of IRM for learning, knowledge management/development and relevance to the AfDB context and Bank policies. This block will look at the effectiveness of IRM in enhancing learning and knowledge within the Bank. It will specifically look at the IRM experience with Spot-Checks and other ways of knowledge enhancement and lesson learning within the institution.

- The third block of analysis focuses on the functioning of BCRM as a unit administering the IRM, and seeks to compare it with its peers and international best practices. This block will look primarily at its functions but also at issues such as the current structure of BCRM, and

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9 Terms of Reference for Third Review of IRM
the extent to which it can be described as fit for purpose, examining roles and profiles, employment terms, duties and conditions of Director, staff and IRM Experts. The Review Team (RT) will also look at the issue of workload and responsibilities of BCRM Director, staff and IRM Experts, and will examine and revise the 2015 IORP, with the objective of enhancing clarity, weeding out ambiguities and following best practices.

7. An important part of the Review’s approach is that it does not limit itself to an analysis of BCRM, but also looks at the context in which it operates and the relationships it harbors with a wide spectrum of stakeholders who are part and parcel of the accountability system and process in the institution. The IRM delivers results through an interactive process involving BCRM, the Boards, Management and Complainants. Regarding the IORP, the RT looks at how they have been implemented to date and introduces revisions to make them simpler, while enhancing access and clarity.

1.2.2 Methodology:

8. The RT has used a combination of methods based on the principle of getting as wide a spectrum of views as possible from all relevant levels of the AfDB and a variety of stakeholders involved in the IRM process, as will be explained below. The objective has been to gather information on different aspects of effectiveness of the mechanism, including the policy framework as set by the Board resolutions, rules and procedures, in addition to issues of access and knowledge management, lesson learning, and continuous integration of best practices. Therefore, any recommendation proposed has been evidence-based and fully supported by the data gathered, while emphasizing the drawing of lessons, benchmarking and adherence to international best practices. A combination of qualitative and quantitative information has been gathered.

9. The RT began with a review of key primary and secondary documentation, including IRM policy documents and guidelines, followed by a desk review of various reports relating to specific cases with an emphasis on cases since 2015. The RT has also reviewed relevant Bank policies and examined their impact on the work of BCRM. Moreover, the RT has looked at the relevant documentation produced by other IAMs (notably results of recent reviews), civil society, academics and others on the most current issues relating to international accountability.

10. The RT carried out interviews, at AfDB headquarters and elsewhere as will be indicated below. The RT have avoided attribution of ideas/information to specific individuals, but have rather focused on general trends and directions. Interviews have been based on an indicative interview questionnaire, which has been used flexibly and has been intended to help guide the discussion. It was tailored to each group of stakeholders/interviewees. This has focused on the areas outlined above. To the extent possible these have been face-to-face interviews, otherwise Skype or phone was also used. A visit to Washington DC allowed meetings with the Inspection Panel of the World Bank, CAO of the IFC, MICI of the Inter-American Development Bank and the US Treasury Department. This is in addition to meeting several US-based CSOs such as the Bank Information Center, Accountability Council, International Rivers and academics at American University. A full list of persons interviewed is included as Annex I.

11. It was intended that the RT would undertake two missions to RMCs from which complaints have been received, namely Mali and Kenya. Several criteria, in agreement with BCRM were used to select the specific countries for the field visits. These criteria included: number of complaints coming from a specific RMC, regional balance, whether it was a compliance review or problem-solving exercise, whether the complaint concerned a sovereign or non-sovereign operation, etc.
12. These missions were intended to interview local stakeholders including the complainants, local
civil society, staff of concerned Project Implementation Units, government officials and staff of
the country and/or regional office. These missions were to be preceded by a desk review of the
specific cases and were to examine how cases have been handled at both field and HQ levels and
whether the results have achieved remedy for the communities concerned. They have not been
intended to try to second guess BCRM actions, but rather to understand and place them in the
right context. These visits were also intended to constitute an opportunity to explain the Review
purposes and process, and provide indicative dates for the period of public consultation, while
courage the different stakeholders to send in comments and participate. An emphasis was to
be placed on interaction with the respective country offices and ensuring their buy-in into the
process of the Review. In effect, due to the impact of COVID 19 only the Mali mission took
place, in addition a planned BCRM workshop to be held with CSOs in Southern Africa was also
cancelled.

13. Two periods of public consultations will take place. During these periods the draft documents
will be posted, subsequent to which a full table of comments received will be developed. The
previous two Reviews did not involve extended consultation periods, and this was heavily
criticized by several CSOs and ran against current best practice for such reviews. For the current
Review, these two periods will provide opportunities for gathering as many viewpoints as
possible and will undoubtedly contribute to a greater buy in into IRMs image and capacity as a
credible and trustworthy complaints mechanism for African communities.

1.3 **Summary of Previous Reviews, Outcomes and Lessons Learnt**

14. In the context of the document review for this assignment, the RT examined different models for
carrying out Reviews in other institutions. These have varied between evaluations carried out by
the Independent Evaluation Department of institutions, reviews carried out by a team of
consultants selected on an individual basis but working under Board supervision, to Reviews
that are carried out by a firm, as is the case here. Each model has its pros and cons but must in
the end be suitable to the requirements of the organization. The underlying success factor should
always be the independence of the evaluation/review, its resourcing and the extent to which it
results in recommendations that are accepted by the institutions’ governing bodies and which
leads in the direction of positive change for the mechanism, the institution and the various
stakeholders involved in the accountability process. Although real, the risk of a Review
weakening rather than strengthening a mechanism must be mitigated for, especially through
thorough consultations and implementable recommendations around which there is broad buy-
in.

15. The two previous Reviews of IRM were undertaken in 2009 and 2014, respectively. They were
both undertaken by individual consultants and both resulted in changes to the relevant Board
Resolution and amendments of the Operating Rules and Procedures. The following summarizes
the RT’s views on these documents. Regarding the first review, the RT found it was not based
on a holistic vision of the role of IRM/CRMU in enhancing effectiveness of Bank operations and
did not sufficiently reference the specific context the Bank is operating in. Some of the
recommendations were rather vague, were not the result of specific analysis and were clearly not
amenable to implementation. Furthermore, some of the recommendations failed to clearly
differentiate between actions that were in the purview of IRM and those that were within the
responsibility of other Bank Departments. The Second review also lacked a holistic vision of how improved accountability could enhance Bank effectiveness and many important issues were missed out. It is rather unclear what African problem-solving approaches (as called for by the Review) would be and how they would compare with the IRM Rules and Procedure.

16. In the context of this Review the RT have sought to learn some of the lessons from the previous Reviews, including the following:

- Recommendations need to be as clear as possible and a distinction must be made between those that fall within the purview of IRM and those directed at the Boards and/or Management;
- In addition to public consultations the different categories of stakeholders need to be kept abreast systematically about developments in the different phases of the Review. This can be done through periodic updates on the IRM webpage;
- Importance of consultations in RMCs with different categories of stakeholders;
- Importance of benchmarking with other IAMs, and taking into account current issues under debate in international accountability.

17. In addition to the above Reviews, the Report Entitled “Glass Half Full: The State of Accountability in Development Finance”\(^{10}\) has undertaken an evaluation of all IAMs, including IRM, against the United Nations Guiding Principles on Effectiveness Criteria for Non-Judicial Grievance Mechanisms.\(^{11}\) These principles are: legitimacy, accessibility, predictability, equitability, transparency and rights compatibility. The conclusion of the Review is as follows: “In general, it is difficult to track the extent to which AfDB is learning from experience and changing its policies in response to IRM cases and reports on trends and challenges”.\(^{12}\) A set of Recommendations directed at AfDB was provided, derived from the application of the above mentioned principles. These are included in Annex V of this Report.\(^{13}\)

18. On January 11\(^{th}\) 2019 a coalition of CSOs addressed the AfDB Boards of Directors and the President concerning the Consultation Process for the Third Review of IRM. They referred to the previous Review whose consultation process they found to be inconsistent with standard practice at other IAMs. They stated that in the previous Review only the Consultant’s report was initially disclosed for public comment and full drafts of the revised policy documents were only disclosed following CSO requests. CSOs were only given a short time period to prepare comments. The CSOs request that the current Review take the following into account at a minimum:

- Include regular updates on the process and opportunities to provide feedback;
- Disclose the full draft of revisions to the Resolution and Operating Rules and Procedures
- Provide for two rounds of public comments on the drafts
- Disclose a matrix of all comments received on the drafts outlining which were or were not adopted and why

\(^{10}\) Glass Half Full: The State of Accountability in Development Finance, 2016
\(^{11}\) Ibid
\(^{12}\) Ibid
\(^{13}\) Ibid
• Publish final draft before Board approval
• Include several opportunities for in-person consultation and outreach meetings throughout the Region.\(^{14}\)

1.4 Current Trends in International Accountability:

19. In February 2019, the US Supreme Court ruled that an environmental-damages lawsuit could proceed against the IFC of the World Bank, going counter to its claim of immunity from prosecution. The decision left several unanswered questions about the scope of Multilateral Development Bank (MDB) immunity, and thus potential for increases in the risk of litigation against MDBs with a presence in the US or in states that may choose to adopt a similar approach.\(^{15}\)

20. The events leading to the courts 7-1 decision began over a decade ago when Coastal Gujarat Power in India started up a coal-fired power plant in the Indian Port City of Mundra. This was partially financed by a US $450 million loan from the IFC. Thousands of fishermen and farmers were negatively impacted. Emissions from the plant heated estuaries and seawater killed fish and destroyed mangroves. Furthermore, air pollution and groundwater contamination sickened families. In 2011, a group of beneficiaries filed a complaint against the IFC claiming that the institution had not enforced environmental safeguards which had the intention of minimizing unintended consequences of the project. The CAO had already agreed with this conclusion in their Report dating from 2013. The IFC issued a document acknowledging an action plan but no substantive action was in fact taken.\(^{16}\)

21. Community groups and social-justice organizations welcomed the ruling as a tentative victory. The community group filed suit against the IFC in the US, where the former is based, with the help of a CSO, Earth Rights International, in Washington DC. The IFC did not comment on whether it had acted responsibly; instead it argued that it could not be sued because international organizations based in the US are protected from prosecution for commercial activity. With the Supreme Court’s ruling limiting this immunity, the case will go back to the lower courts.\(^{17}\)

22. The case raised the question: How can the World Bank (and similar institutions) be held accountable? The general viewpoint was that IFC must consult people affected by its projects to draft comprehensive reform which should include elevating the mandate of the CAO beyond its current advisory role. Second, IAMs should monitor follow-up actions. Third, funds should be set aside to help the harmed party when projects fail. Fourth, international development agencies must be able to learn from their mistakes. The World Bank should invest in mandates and mechanisms to collect data that can establish a baseline against which to evaluate project outcomes. Finally, when complaints are verified, the people affected should receive

\(^{14}\) Letter from Accountability Counsel with Joint Recommendations to AfDB Boards of Directors on the Consultation Process of the IRM Review, 11th January 2019
\(^{15}\) Daniel Bradlow, Multilateral Development Banks, Their Member States and Public Accountability: A proposal” p.10
\(^{16}\) Vijaya Ramachandran “The World Bank Must Clean up its act” World View 19th March 2019
\(^{17}\) Ibid
compensation in a timely manner. One line of thought however, is that such efforts could make the IFC more risk-averse.\textsuperscript{18}

23. The decision by the Supreme Court means that borrower countries now face a real possibility that their MDB-funded projects could end up in foreign courts where the outcomes are not necessarily known and could prove embarrassing.\textsuperscript{19} In a world where there is heightened awareness about climate change, MDBs which are generally seen to have the state of the art social and environmental safeguards should demonstrate increased willingness to adhere to such standards.

24. One proposal being forwarded to deal with some of these challenges is to have a single IAM (a super- IAM) which would be created by agreement between all participating MDBs to serve all MDBs. The latter would be independent of all MDBs and would handle complaints according to a single set of agreed procedures and budget.\textsuperscript{20}

25. A related proposal would be the establishment of an Assistance Fund (or in some writings a Remedy Fund) whose purpose would be to provide assistance to communities that the S-IAM finds have been harmed by an MDBs non-compliance with its policies. Such a Fund would avoid situations and problems that could arise (which is the case at present) where the concerned MDB covers the cost of its non-compliance, but in actual fact it is the borrower member states that cover such costs through the loan they have taken.\textsuperscript{21}

26. Several civil society organizations have argued in a similar direction that the World Bank should put a percentage of its profits into a “remedy fund” to compensate communities harmed by IFC-backed projects. The call comes in response to growing concerns about how IFC manages and mitigates its investments especially in fragile and conflict-affected countries where risks are higher. Professor David Hunter of American University is leading on this idea of a Remedy Fund. He is calling for IFC to rebalance its approach so that communities shoulder less of the risk, as they access grievance mechanisms and the pooled Fund itself, and reap more of the benefits associated with development projects. Hunter’s idea is that the Fund would be administered by independent accountability groups like CAO and could be used to directly compensate affected individuals or pay for community backed projects aimed at overcoming damage. Some funds could also be spent on helping communities prepare complaints to international organizations when they have been or might be harmed by development projects.

27. Furthermore, at a seminar held in November 2018 at Washington University School of Law on the occasion of the 25\textsuperscript{th} anniversary of the establishment of the Inspection Panel, this issue was thoroughly debated. Some of the trends in thinking at the seminar, include that strengthening of accountability mechanisms and making them more effective is an important guard against the possibility of being stripped of immunity in a court of law. One of the tools for such strengthening is having viable Management Action Plans (MAPs) that provide remedy to

\textsuperscript{18} Ibid
\textsuperscript{19} Ibid
\textsuperscript{20} For more details see Daniel Bradlow: Multilateral Development Banks, Their Member States and Public Accountability: A proposal"
\textsuperscript{21} Ibid
communities and institutional learning that results in changes in policies and procedures of an institution.22

28. From the above, it is clear that several issues are under discussion in the realm of international accountability, most being raised to handle some of the failures of IAMs in rectifying non-compliance, while also emphasizing the issue of the cost of such non-compliance to poor communities. This international debate is certainly relevant to the current Review, it demonstrates the reputational risk confronted when IAMs (such as IRM) do not function properly and also the legal risks whereby the conventional argument of MDBs being immune from legal proceedings may be challenged, and may no longer hold up. It also raises the issue of whether the existence of such IAMs make development institutions more or less risk averse. Several of these issues are raised below specifically in the context of the IRM and AfDB.

1.5 The Third IRM Review and Current AfDB Context:

1.5.1 Scaling up Implementation of the Bank’s Ten-Year Strategy through the High5s:

29. This Third IRM Review primarily covers the period 2015 to 2020. This period is characterized by the decision taken by the Bank in May 2016 to scale up investments and implementation of its Ten Year Strategy (TYS) 2013-2022,23 as a response to ambitious development engagements from African and world leaders, and the specific challenge to ensure their attainment in Africa.

30. The Bank’s TYS places emphasis on specific sectors led by Infrastructure, in addition to a focus on fragile countries. This has entailed that the Bank is effectively working in both high risk sectors and high risk groups of countries. Specifically, with a view to scaling up in five key areas of its TYS, the Bank identified five priority areas referred to as High 5s.24 They aim to light up and power Africa, feed Africa, industrialize Africa, integrate Africa, and improve the quality of life for Africans. In addition, the Bank has identified critical cross-cutting areas namely, climate change, fragility, gender and governance that are to be fully mainstreamed into the Bank’s operations.

31. The willingness of the Bank to scale up implementation of its TYS through ambitious initiatives articulated through the High5s goes hand in hand with increased challenges that will have to be faced in managing heightened environmental and social risks for equally ambitious operations in scope, scale and complexity. It is this higher social and environmental risk, and therefore risk to communities from experiencing harm resulting from the implementation of Bank operations, that justifies an even stronger accountability function at the Bank. This Review, its conclusions, and its resulting recommendations must be seen in such a context.

22 Summary of Discussions held at Washington School of Law on occasion of 25th Anniversary of World Bank Inspection Panel
23 AfDB’s Ten Year Strategy
24 AfDB’s High5s
1.5.2 Enhanced Decentralization and Bank’s Development and Business Delivery Model (DBDM)

32. In 2016, the Bank adopted a new Business Delivery Model together with a new organizational structure in order to improve and accelerate execution of the High5s. The DBDM introduced among others, an enhanced decentralization with the creation of five (05) Regional Directorates in 2016 representing the five regions of the Bank. Each Regional Director General is responsible and accountable for efficient and effective operation management. This context is conducive for improving the Bank’s effectiveness, accountability, responsiveness, accessibility and outreach, engagement and dialogue with stakeholders at the operational level. It also has implications on the current and future orientation of the IRM function as decentralization offers an improved opportunity to raise awareness about IRM, but also facilitates processing of complaints at a lower level.

33. To address the increased Environmental and Social challenges generated by the implementation of the High5s, the new DBDM also included upgrading of the Environmental and Social Safeguards and Compliance Division into a full Department (SNSC) with the mandate of enhancing and mainstreaming environmental and social sustainability into all Bank operations across the entire project cycle. SNSC is in charge of “managing E&S reputational risks associated with operations under implementation, and responding to related internal audit reports and complaints registered by the IRM”.

34. Beyond its operational mandate as part of operations Task Teams, the SNSC Department has a corporate mandate related to policy and strategic orientation and compliance, strictly with respect to the Bank’s environmental and social safeguards policy.

1.5.3 Integrated Safeguards Systems (ISS)

35. In December 2013, the Bank approved the Integrated Safeguards Systems (ISS) in line with the dual objective of the TYS, namely: (i) ensuring that the continent achieves inclusive growth and (ii) transitions to green growth through environmental and social sustainability. In order to implement its environmental and social safeguards under ISS, the Bank has adopted five Operational Safeguards (OS): (a) Environmental and Social, (b) Involuntary resettlement land acquisition, population displacement and compensation, (c) Biodiversity and ecosystem services, (d) Pollution prevention and control, hazardous materials and resource efficiency, and (e) Labour conditions, health and safety.

36. The RT note that there is a tendency by most stakeholders interviewed to limit the safeguard role of IRM to only these five OS, whereas its mandate covers other Bank policies and procedures. This may be related to the fact that the nine (09) registered complaints since 2015, all relate to E&S issues.

37. Under the ISS, the Bank requests its clients to establish credible and independent local Grievance and Redress Mechanisms (GRMs) to help resolve affected people’s grievances and concerns regarding the environmental and social impacts of a project.

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26 Environment and Social Safeguards Strengthening Action Plan, p.2
28 Ibid. p.18
38. In 2019, an evaluation of the ISS by the Bank’s Evaluation Office (IDEV) revealed several constraints limiting the ability of the Bank to ensure compliance and the dissemination of knowledge and E&S best practice.29

1.5.4 Private Sector Operations:

39. With the increased share of Private sector operations, referred to as Non-Sovereign Operations (NSOs), in the Bank Group portfolio, it can be expected that IRM will witness an increase in complaints from NSOs. From 2015 to date, out of nine (9) complaints, two (2) concerned NSOs. In this regard it is important to examine some of the specificities of such operations, notably with regards to implementation of Bank safeguards policies. NSOs are guided by nine (9) core principles emanating from the Bank Group Private Sector Strategy. Among these, there is a specific principle on compliance with safeguards in order to ensure that “the Bank’s NSOs are anchored on social, environmental, and fiduciary responsibility, anti-corruption, and ethical integrity.”30

40. The ISS Policy and Operational Safeguards state that “to foster more inclusive growth, the ISS seeks to enhance the capacities of the private sector to mainstream environmental and social sustainability into their operations to ensure that project-affected populations participate in and derive sustained economic benefits from operations in their communities”.31

41. The ISS acknowledges that the changing profile of Bank clients, which includes more private sector ones, requires that some adjustments are made in ISS implementation to accommodate the specific features of NSOs. For instance, private sector clients typically engage with the Bank later in the project cycle than public sector ones.

42. Within the ISS, the Environmental and Social Assessment Procedures (ESAP) provide detailed guidelines on how to implement operational safeguards at any stage of the project cycle for both Sovereign (SO) and NSOs. However, the Bank Group ESAP differs for NSOs slightly from those for SOs. Specifically, the responsibility of adhering to the ISS lies with the NSOs sponsors throughout the project cycle, whereas the Bank is responsible for monitoring compliance and applying sanctions in case of non-compliance.

43. For Category 1 or Category 2 operations where there is a negative E&S impact, the client is required to put in place a credible and independent local grievance mechanism to address concerns and resolve complaints raised by people affected by the NSO. However, individuals or communities affected by a NSO have access to all other grievance redress mechanisms of the Bank.32

44. One of the findings of the recent Evaluation of the ISS specifically states that whereas the ISS is supposed to apply to all Bank operations, evidence indicates that they are still more focused on investment project financing to the neglect of Policy Based Operations (PBOs), sector or regional investment programs and private sector lending.33

29 IDEV: Evaluation of the AfDB’s Integrated Safeguards System pp 4-5
30 Policy on Non-Sovereign Operations, 29 May 2019, p.11
31 AfDB’s Group, ISS Policy Statement and Operational Safeguards. Safeguards and Sustainability Series, Volume 1, December 2013. ISS contribution to LTS: (Box 1 p16)
32 Policy on Non-Sovereign Operations, 29 May 2019, p.38
33 ISS Evaluation pp28-29
1.5.5 Scope of Third Review

45. The Review, as stated earlier, examines three interrelated areas. These are: the set of important relationships that IRM has with three important stakeholders in the IRM process, the area of knowledge generation and management resulting from IRM complaints handling experience, and IRM/BCRM structure, resources and processes. These three areas are fundamental to the efficiency, transparency and predictability of IRM/BCRM’s work. They determine, to a great extent, the results achieved by IRM, and therefore merit detailed analysis.

Figure 1: Scope of the Review