

CHAPTER I

ACCOUNTABILITY



The University of Victoria's Centre for Global Studies



Idea: Compliance Standards

Tool: Social/Gender Analysis (SGA)

Summary

In the 1980s, the Canadian International Development Agency (CIDA) adopted policies and practices to improve women's participation in development. CIDA began to draw lessons from initiatives that were carried out at the community level and to integrate participatory development into its framework for sustainable development. CIDA generally refers to the participatory approach as SGA, a technique used to identify and engage various stakeholders when the target group of a development project is a non-homogenous group. This technique assesses local needs within a gender framework, enhances accountability, and contributes to the sustainability of a development project.

Background

CIDA recognized early on that policies and programs often have different effects on men and women. SGA is now required for most CIDA policies, programs, and projects before they are implemented. Its application varies according to the nature and scope of initiatives. There are a variety of methods used to understand the relationships between men and women, their access to resources, their activities, and the constraints they face relative to each other. These methods contribute to understanding the different patterns of involvement, behaviour, and activities that women and men have in economic, social and legal structures. The gender perspective focuses on the reasons for the current division of responsibilities and benefits and their effect on the distribution of rewards and incentives.

Method

To be most effective, gender analysis has to be part of each step of a development initiative, from conception design to research, problem definition, planning, implementation, monitoring, and evaluation. Both qualitative and quantitative gender-disaggregated data are collected, highlighting the different roles and learned behaviour of women and men.

Gender Analysis Guidelines

What to ask

- Who is the target (both direct and indirect) of the proposed policy, program or project? Who will benefit and who will lose?
- Have women been consulted on the 'problem' the intervention is to solve? How have they been involved in development of the 'solution'?
- Does the intervention challenge the existing gender division of labour, tasks, responsibilities, and opportunities?
- Is there government commitment to the advancement of women? If so what is the best way to build on it and/or strengthen it?
- What is the relationship between the intervention and other actions and organizations - national, regional or international?
- Where do opportunities for change or entry points exist? And how can they best be used?
- What specific ways can be proposed for encouraging and enabling women to participate in the policy/program/project, despite their traditionally more domestic location and subordinate position?
- What is the long-term impact in regard to women's increased ability to take charge of their own lives, and to take collective action to solve problems?

What to do

- Assess gender relations, the division of labour between men and women (who does what work), and who has access to, and control over, resources.
- Include domestic, reproductive, and community work in the work profile. Recognize the ways women and men work and contribute to the economy, their family, and society.
- Use participatory processes and include a wide range of female and male stakeholders at the governmental level and from civil society - including women's organizations and gender equality experts.
- Identify barriers to women's participation and productivity (social, economic, legal, political, cultural...).
- Research women's practical needs and strategic interests, and identify opportunities to support both.
- Consider the differential impact of the initiative on men and women, and identify consequences to be addressed.
- Establish baseline data, ensure sex-disaggregated data, set measurable targets, and identify expected results and indicators.
- Outline the expected risks (including backlash) and develop strategies to minimize these risks.

Examples

The benefits of conducting a SGA have been documented both by CIDA and by other organizations making use of CIDA's SGA guidelines. The adoption of SGA in the process has led to changes in strategies for development cooperation to meet the needs of women. Incorporation of SGA in macro economic policies, and through this the promotion of gender equality, can contribute to social justice and the success of economic programs. The National Industrial Apprenticeship Program in Brazil, a technical training program, responded to the under-representation of female students, built in SGA from the beginning. A portion of the program focused on a sensitization campaign geared towards students and industry. Promotional materials showed female role models in non-traditional jobs. As a result of undertaking and following through on the SGA, the number of women in technical courses jumped from 13.5% to 31.3% in seven years.

Preliminary Assessment

Gender analysis is a necessary tool to understand the local context and to promote gender equality. It is particularly useful in project design as it helps planners identify constraints and structure projects so that objectives can be met and measured. SGA enhances the opportunities for increased participation and also accountability by development officials who need to ensure that projects are effective. It helps identify the disadvantaged in a society and it explains the structural causes of their disadvantage in terms of social systems. It also determines the best models for incorporating shared decision-making as well as collaborative and empowering mechanisms.

Successful gender analysis requires:

- skilled professionals;
- involvement of local experts who have a solid background in gender equity issues and the needed technical, managerial, and leadership skills to maintain the project;
- participation of significant numbers of women and/or key women members of partner organizations;
- SGA cannot be carried out unless sufficient resources are committed and unless participants are willing to implement the results of the analysis;
- SGA should identify local and national initiatives undertaken by both governments and civil society in order to strengthen and complement these efforts; and
- individuals, groups, and communities affected by development initiatives must be involved from the beginning of the process in order to determine the gender dimensions of the issue at hand. Without local knowledge and expertise, some of the intricacies of the gender roles and social relationships may not be easily understood.

References

CIDA Homepage <http://www.acdi-cida.gc.ca/home>

The CIDA website <http://www.acdi-cida.gc.ca> under the heading *What is Gender Analysis?* provides a very informative overview of tools for SGA and related hyperlinks to other website of interest:

Women's Equality and Empowerment Framework (<http://www.unicef.org/programme/gpp/policy/empower.html>) (3 May 2001).

Harvard Analytical Framework (<http://www.wfp.org/info/themes/gender/ITWACContent/ITWAann10.html>) (3 May 2001).

Navigating Gender: a framework and a tool for participatory development (http://global.finland.fi/julkaisut/taustat/nav_gender/index.html) (3 May 2001). This manual helps apply the theoretical understanding of gender issues in practical work through concepts, definitions, case studies, and examples.

Status of Women Canada. *Gender Based Analysis, A Guide for Policy-Making* (<http://www.swc-cfc.gc.ca/publish/gbagid-e.html>) (3 May 2001).

The Women's Bureau of Human Resources Development Canada. *Gender Based Analysis Backgrounder* (<http://www.hrdc-drhc.gc.ca/wb-bmof/gba/ab-backg.shtml>) (3 May 2001).



Idea: Publication Policy

Tool: Code of Good Practices on Fiscal Transparency, International Monetary Fund (IMF)

Summary

At their 1996 Annual Meetings, the World Bank (WB) and the IMF announced a new focus on corruption and the quality of governance in their member countries. The Asian crisis added impetus to this by bringing attention to the issue of lack of transparency of government policies and activities. Given these developments, the Interim Committee of the IMF Board of Governors adopted the *Code of Good Practices on Fiscal Transparency - Declaration on Principles* in April 1998. Multilateral institutions interested in promoting accountability could apply the elements of this Code to their own operations.

Background

The Code is significant because it represents the first coherent attempt to set a framework of international standards for the conduct of fiscal policy. It supports already existing standards and codes drawn up by bodies such as the UN and the International Organization of Supreme Audit Institutions. The main aim of the Code (see the IMF website <http://www.imf.org/external/np/fad/trans/code.htm> for the full text) is to make governments more accountable for the way in which they raise and spend public funds.¹ It is based on two major assumptions: (1) effective transparency will, over time, result in greater accountability; and (2) greater accountability will, over time, result in fiscal policies that are in general more equitable and more efficient. The principle on Public Availability of Information is particularly relevant as it attends to the timely provision of information. According to this principle, governments must show a commitment, backed by independent verification, to the systematic and routine public provision of all relevant information.²

Method

Although the IMF has been encouraging its 181 member countries to improve fiscal transparency by meeting the requirements of the Code, implementation is on a voluntary basis. The IMF has taken a number of steps to assist implementation, including a series of documents that can be easily accessed on the IMF website <http://www.imf.org/external/np/fad/trans/index.htm> (May 4, 2001). The documents are as follows.

- *Manual on Fiscal Transparency*. This provides clarification on the four principles and detailed guidance on the implementation of the Code, as well as a list of abbreviations, a glossary, and references (including website addresses) to good practices in member countries. First produced in 1998 to assist countries seeking to implement Code requirements, it is subject to periodic revisions to address developments in particular areas and to take into account lessons from experience in implementing the Code. For countries starting from a low base, the manual also identifies a subset of good practices that should form the core focus of initial efforts at increasing transparency. The IMF welcomes comments or feedback, which can be directed to Bill Allan (wallna@imf.org) or Murray Petrie (mpetrie@imf.org).
- *Questionnaire on Fiscal Transparency*. This provides a means for authorities to review the transparency of their country's fiscal management system in reference to the Code. Guidance to answering specific questions can be obtained either by referring to the relevant section of the Manual or by a key word search of the web version: <http://www.imf.org/external/np/fad/trans/index.htm>

There is also an electronic mailbox (fisctran@imf.org) where inquiries about the questionnaire can be sent to IMF staff; country authorities can use it to request comments from IMF staff on completed questionnaires. The questionnaire can be downloaded from the site.

- *Self-Evaluation Report on Fiscal Transparency.* This provides a summary assessment of a country's fiscal management system based on the responses in the questionnaire. The report can then be used as a basis for formulating plans to improve fiscal transparency. Comments from IMF staff can be received following a request at fisctran@imf.org.

Example

The United Kingdom was the first country to complete and publish an assessment of its level of compliance with the Code, followed by Argentina and Australia. These assessments can be found on the IMF website.³ The Code can also assist civil society to press for greater transparency, and being backed by an official international institution such as the IMF can add to the credibility of efforts by civil society. Indeed, the relevance of the Code has been recognized by NGOs. The Institute for Democracy in South Africa, in conjunction with the Washington, DC-based Center on Budget and Policy Priorities, used the IMF Fiscal Code to produce a detailed assessment of the transparency of South Africa's fiscal management practices. The study concluded that although progress has been made in removing the secrecy that obscured public finances in the apartheid years, important areas still need to be enhanced. It made a number of specific recommendations aimed at increasing transparency and facilitating greater participation by the South African legislature and civil society.⁴

Preliminary Assessment

The Code is useful in promoting accountability as it provides a framework to measure transparency and benchmarks of good practice. Its implementation can contribute to good governance in several ways.⁵ First, it can lead to better-informed public discussion about the design and results of policies. Second, it can make governments more accountable for the implementation of policies. Third, it can help strengthen credibility and public understanding.

The Code facilitates surveillance of policies by country authorities, financial markets, and international institutions. International institutions such as the IMF can enhance transparency in connection with surveillance and technical assistance activities. The Code can assist civil society in pressing for access to the information required. In order to address local needs, NGOs may wish to modify and supplement the Code to capture the key elements in that particular country and to reflect key priorities.⁶ Institutions interested in adopting an effective Code could make reference to the following model⁷:

Code of Good Practices on Transparency - Declaration on Principles

I. Public Availability of Information

The public should be provided with full information on past, current, and projected activities.

- Information should be published regularly and should cover all central operations in detail.
- A public commitment should be made to the timely publication of information.
- Advance release date calendars for reporting to the public should be announced.

II. Preparation, Execution, and Reporting

1. Documentation should specify policy objectives, the framework, and identifiable major policy risks.
 - A statement of policy objectives and an assessment of sustainable policy should provide the framework for annual operations.
 - Any rules that have been adopted should be clearly specified.
 - Major policy risks should be identified and quantified where possible.
2. Data should be classified and presented in a way that facilitates policy analysis and promotes accountability.
3. Procedures for the execution and monitoring of approved policies should be clearly specified.
4. Reporting should be timely, comprehensive, and reliable.

III. Independent Assurances of Integrity

The integrity of information should be subject to public and independent scrutiny.

- An auditor should be appointed to provide timely reports to the public.
- Forecasts (including underlying assumptions) should be available for scrutiny by independent experts.
- The statistics office should be provided with institutional independence to order to enhance the integrity of statistics.

Endnotes

1. Murray Petrie, Chief Executive, Transparency International (New Zealand) and Consultant to the IMF on Fiscal Transparency, *The IMF Fiscal Transparency Code: A Potentially Powerful New Anti-Corruption Tool*. Paper presented at the 9th International Anti-Corruption Conference, October 10–15, 1999, Durban. http://www.transparency.de/iacc/9th_iacc/papers/day4/ws2/d4ws2_mpetrieimf.html (May 4, 2001)
2. Ibid.
3. Ibid.
4. Ibid.
5. IMF, Introduction, *Code of Good Practices on Fiscal Transparency - Declaration on Principles*. <http://www.imf.org/external/np/fad/trans/code.htm> (May 4, 2001)
6. Petrie, *The IMF Fiscal Transparency Code*.
7. This is based on the IMF Code. See IMF website: <http://www.imf.org/external/np/fad/trans/code.htm> (May 4, 2001)

References

IMF. Introduction, *Code of Good Practices on Fiscal Transparency - Declaration on Principles*. <http://www.imf.org/external/np/fad/trans/code.htm> (May 4, 2001)

Petrie, Murray. *The IMF Fiscal Transparency Code: A Potentially Powerful New Anti-Corruption Tool*. Paper presented at the 9th International Anti-Corruption Conference, October 10–15, 1999, Durban. http://www.transparency.de/iacc/9th_iacc/papers/day4/ws2/d4ws2_mpetrieimf.html (May 4, 2001)

Potter, Barry, and Humphreys, Richard. *The IMF Transparency Code*. Presentation given on February 23, 1999, Cape Town. <http://www.internationalbudget.org/conference/2nd/imf.htm> (May 4, 2001)

Idea: Dedicated Departments

Tool: Environmental Department, World Bank (WB)

Summary

The Environmental Department, a unit within the WB, is charged with overseeing the broad implementation of WB policies on environmentally sustainable development. The Department's activities include environmental assessment, supervision of the WB's safeguard policies on sustainable development, and the delivery of its own portfolio of environmentally focused projects. These activities are closely coordinated with those of the Social Development and Rural Development Departments of the WB.

Background

Environmental issues have gained increasing importance for the WB as the focus of its lending has shifted over several years towards more sustainable models of development and poverty alleviation. Early guidelines that applied a "do no harm" approach, which mitigated against the most adverse affects of projects on natural habitats and ecosystems, have given way to more pro-active initiatives to improve environmental conditions in poor countries and at the global level. Most recently, the WB has established a new Vice Presidency for Environmentally and Socially Sustainable Development, with a mandate to raise the profile of environmental practice in all of the institution's activities. The work of the Environmental Department will now be coordinated with that of the Social Development and Rural Development Departments, which together form the WB's new Environmentally and Socially Sustainable Development Network (ESSD).

Method

The Environmental Department fulfils its mandate through the following general areas of activity.

Environmental Assessment (EA)

EA is used to examine environmental risks and benefits associated with WB lending operations. This tool is an integrated part of project identification and design, helping to ensure that project options under consideration are environmentally sound. Over the last decade, about 14% of the WB's lending portfolio was classified as requiring a full environmental assessment, while a further 35% was classified as requiring more limited environmental analysis. EA includes:

- linkages with social assessments;
- analysis of alternatives;
- public participation through consultation with affected people and NGOs; and
- disclosure of information.

Safeguard Policies/ Operations Policies

The Environmental Department has a major role in the implementation of WB's 10 safeguard policies, all of which fall within the broader policy of EA. These policies are mandatory

directives to ensure minimum standards of operational performance by WB projects with regard to cultural property, disputed areas, forestry, indigenous peoples, international waterways, involuntary resettlement, natural habitats, pest management, and safety of dams. The new ESSD strategy has established a Quality Assurance and Compliance Team to promote the “greening” of the WB, by integrating the safeguard policies into all aspects of its lending and advisory work. The safeguard policies are set out in the WB’s “Operational Policy Manual,” available on its website: www.worldbank.org/environment/op-policies.htm.

Environmental Portfolio

This portfolio consists of projects with clear environmental objectives. Its current value, which includes 97 stand-alone environmental projects, plus numerous sector initiatives with primarily environmental objectives, is approximately \$15 billion, or 10% of WB’s total lending.

Publications and Data

The Environmental Department publishes the results of its work in an extensive collection of studies, reports, manuals, and data bases. These are available on line, and through the ESSD Advisory Service, an information clearinghouse of ESSD initiatives. A yearly overview of activities, including reports from all regions, is found in the publication entitled *Environment Matters*: <http://www-esd.worldbank.org/envmat/home.html>.

Preliminary Assessment

The WB Environmental Department is an important source of funding and technical support for addressing the urgent environmental problems that prevent so many states from achieving their goals of sustainable social and economic development. Past experience has shown that large investments of western capital and expertise alone do not always translate into tangible improvements, and in many cases have served to exacerbate existing problems. The WB has demonstrated a commitment to reforming its approaches to global development; however, careful monitoring and assessment of outcomes will be required over several years to determine whether the new strategy can make a difference.

Idea: Advisory Committee

Tool: World Commission on Dams Forum (WCD)

Summary

The WCD Forum was an advisory group created to provide consultation from a broad cross-section of constituencies during the WCD's 14-month mandate, from May 1998 to November 2000. The Forum also assisted with the dissemination and implementation of the recommendations contained in the WCD's final report, released in November 2000¹. The Forum helped hold the WCD accountable to its promise of adopting an inclusive and democratic review process.

Background

The WCD was the outcome of a 1997 workshop on large dams held in Gland, Switzerland, attended by 39 representatives of government, NGOs, the private sector, multilateral institutions, and affected peoples' organizations. The participants resolved to establish an impartial commission (World Commission on Dams) to review and examine controversies and debates related to the management of the planet's dams, water, and energy resource development. A Reference Group was formed from among the participants at Gland and charged with the task of developing a mandate and financing structure for the new WCD, and overseeing the selection of its 12 commissioners. Upon its inauguration in May 1998, the WCD decided to retain the Reference Group to act as a consultative body to the review. A new group comprised of select members from the original Reference Group plus additional participants, including economists, engineers, social activists, indigenous groups, lending institutions, aid agencies and utilities, was established and given the title of WCD Forum.

Method

Consultation

The WCD's 14-month work program was structured around three meetings with the WCD Forum, providing an opportunity for consultation and feedback at different phases of the project. At the Forum's first meeting in Prague, March 25–26, 1999, the WCD reported on the progress made during its first year. Forum members worked through plenary sessions and smaller work groups to further refine the issues they wished to have addressed by the WCD.

The second meeting of the Forum was held in April 2000 in Cape Town (see Annex 1). Data collected from the WCD's research activities were presented in advance to Forum members, enabling smaller groups of industry and NGO representatives to prepare their responses to the WCD's work to date. During the three-day meeting with the Commissioners of the WCD, Forum members scrutinized and debated the "knowledge base" presented to them in preparation for the synthesis of all the data into a final report.

The third and final meeting of the Forum in February 2001 coincided with the release of the WCD's report. It concentrated on Forum members' responses to the report and on setting goals for the future.

Consensus

Beyond its immediate consultative purpose, the WCD Forum, like the WCD itself, was engaged in a broader experiment to apply conflict resolution methods at the international level. Organizations that accepted appointment to the Forum did so with the understanding that maintaining consensus at each

step of the way would be essential to achieving the project's secondary goal of pioneering an effective framework for cooperative decision-making between civil society and the private sector on global issues. At the end of the process, not all Forum members were supportive of the conclusions drawn by the report; however, participants at the February 2001 meeting did reach agreement on the report's overall viability as a legitimate reference point from which all parties could move forward into action.

Information Exchange

Between meetings, Forum members publicized the WCD's activities within their own constituencies, and served as a pipeline for feedback from those sectors back to the WCD. The Forum's role in the "post-commission" phase is to oversee the establishment of a temporary "Dams and Development" unit, hosted by the UN Environment Program, to promote the conclusions and recommendations of the WCD within the international community.

Preliminary Assessment

The WCD Forum played an important role in holding the WCD review process accountable to a broad cross-section of competing interests and perspectives. As a result of having had their voices and concerns effectively channelled to the WCD through the Forum structure, most of the key NGOs, international agencies, and development banks involved in the project—including the World Bank—have pledged full support for the WCD's recommendations.

Endnotes

1. WCD (2000), *Dams and Development: A New Framework for Decision-Making. The Report of the World Commission on Dams*. London: Earthscan.

References

World Commission on Dams Website: www.dams.org.

Annex 1

WCD Forum Members as of the April 2000 Forum Meeting

Affected Peoples' Groups

CODESEN, Coordination for the Senegal River Basin, Senegal
 Federación de Indígenas del Estado Bolívar/COICA, Venezuela
 Grand Council of the Cree, Canada
 MAB, Movimento dos Antigos por Barragens, Brazil
 NBA, Narmada Bachao Andolan, India
 SUNGI Development Foundation, Pakistan
 Cordillera People's Alliance

Bilateral Agencies / Export Credit Guarantee Agencies

BMZ, Federal Ministry for Economic Co-operation and Development, Germany
 NORAD, Norwegian Agency for International Co-operation, Norway
 JBIC, Japan

SDC, Swiss Agency for Development and Co-operation, Switzerland
Sida, Swedish International Development Agency, Sweden
U.S. Export/Import Bank, United States

Government Agencies

United States Bureau of Reclamation, United States
LHWP, Lesotho Highlands Water Project, Lesotho
Ministry of Water Resources, China
National Water Commission, Mexico
Ministry of Mahaweli Development, Sri Lanka
Ministry of Water Resources, India

International Associations

ICID, International Commission for Irrigation & Drainage, New Delhi
ICOLD, International Commission on Large Dams, South Africa
IEA, International Energy Agency, Paris
International Hydropower Association (IHA)
International Association for Impact Assessments (IAIA)

Multilateral Agencies

ADB, Asian Development Bank, Manila
AFDB, African Development Bank, Abidjan
FAO, UN Food and Agriculture Organization, Rome
IDB, Inter-American Development Bank, Washington
UNDP, United Nations Development Programme, New York
UNEP, United Nations Environment Programme, Nairobi
WB, World Bank, Washington

NGOs

Berne Declaration, Switzerland
ENDA, Environmental Development Action, Senegal
Help the Volga River, Russia
IRN, International Rivers Network, United States
ITDG, Intermediate Technology Development Group, United Kingdom
IUCN, The World Conservation Union, Switzerland
Sobrevivencia-Friends of the Earth, Paraguay
WWF, World Wide Fund for Nature, Switzerland
DAWN, Fiji
Transparency International (TI)
WEED, Germany
Swedish Society for Nature Conservation
Wetlands International, Japan

Private-Sector Firms

Enron, United States
Harza Engineering Firm, United States

Siemens, Germany
ABB, Switzerland
Saman Engineering Consultants
Hopewell Holdings
Electric Power Development Corporation

Research Institutes/Resource Persons

Centro EULA, Ciudad Universitaria Concepcion, Chile
ISPH, The Institute of Hydroelectric Studies and Design, Romania
Tropical Environmental Consultants Ltd., Senegal
WRI, World Resources Institute, United States
Water Research Institute, Israel Institute of Technology
Winrock International, Nepal
Focus on the Global South, Thailand
International Water Management Institute (IWMI)
Worldwatch Institute
Wuppertal Institut

River Basin Authorities

Confederación Hidrográfica del Ebro, Spain
Mekong River Commission, Cambodia
Volta River Authority, Ghana
Jordan Valley Authority, Jordan

Utilities

Electrobras, Brazil
Hydro-Québec, Canada
Nepal Electricity Authority, Nepal
Mini Hydro Division, Philippines
Electricité de France, France

Idea: Peer Review

Tool: Trade Policy Review Mechanism, World Trade Organization (WTO)

Summary

The WTO has established an internal Trade Policy Review Body (TPRB) to administer its Trade Policy Review Mechanism (TPRM). The mechanism is designed to affect member states' compliance with trade obligations through a mandatory, transparent report.

Background

Individuals and companies involved in trade have to know as much as possible about the conditions of trade. Thus, it is fundamentally important that regulations and policies are transparent. In the WTO, this is achieved in two ways.

- Governments must inform the WTO and fellow members of specific measures, policies, or laws they have enacted, through regular notifications; and
- Regular reviews of the trade policies of individual countries are conducted by the WTO.

The TPRM was an early result of the Uruguay Round; it was provisionally established at the Montreal Mid-Term Review of the Round in December 1988. Article III of the Marrakesh Agreement permanently established the TPRM as a basic function of the WTO. Its objectives are to:

- improve the quality of public and intergovernmental debate on the issues;
- enable a multilateral assessment of the effects of policies on the world trading system; and
- improve adherence by all members to the rules by achieving greater transparency in and understanding of trade policies through regular monitoring.

The TPRM is not intended to serve as a basis for enforcement, however.

Each review assesses the policies of individual members, taking into account the country's wider economic and developmental needs. They are peer reviews, designed to encourage governments to follow more closely the WTO rules. In practice, the reviews have two broad results: they enable outsiders to understand a country's policies and circumstances, and they provide feedback to the reviewed country on its performance in the system.

Method

The TPRB is actually the WTO General Council operating under special rules and procedures. In 1997 this body voted in favour of allowing international intergovernmental organizations observer status at meetings. Thus, the IMF and World Bank, as well as other interested multilateral institutions, can sit in on TPRB review meetings. At the first meeting of each year, a chairperson for the year is elected from among the member representatives. Each year's program of reviews is adopted by the middle of the previous calendar year.

For each review, four documents are prepared:

- *the government report*, a policy statement by the government of the member under review;
- *the Secretariat report*, a detailed report that is independently prepared by economists in the Secretariat's Trade Policy Review Division (TPRD);

- a *first press release*, based on the Secretariat report, including a summary of the Secretariat report and parts of the government report; and
- a *second press release*, which states the conclusions of the TPRB chairperson on the member's review.

Data collection and preparation for a review takes approximately 10 months. The current staff of the TPRD consists of a director, 16 economists, and 11 support staff. Although the TPRD seeks the cooperation of the member country when preparing its report, the Secretariat bears sole responsibility for the facts presented and views expressed.

A report consists of detailed chapters examining the member's trade policies and practices and describing trade policy-making institutions and the macroeconomic situation. These chapters are preceded by the Secretariat's Summary Observations, which summarize the report and present the Secretariat's perspective on the member's trade policies. Once the report is prepared, it is presented to the TPRB for examination.

The TPRB then meets to discuss the report. The TPRB members, as well as two designated discussants, can put forward any questions regarding the findings of the report. The discussants are chosen beforehand and it is their duty to examine the report and stimulate the debate. Questions for the member under review must be submitted in writing a week before the scheduled meeting, and discussants are required to submit an outline of relevant points at least one week prior to the meeting.

After this review meeting, the Secretariat report and the member's policy statement are published, along with the minutes of the meeting and the text of the TPRB chairperson's concluding remarks, delivered at the meeting's conclusion. All completed reviews are posted on the WTO website. Eighty-one have been completed to date.

The frequency of reviews of a member is related to its share of world trade in goods and services. The schedule for review is:

- every two years for the four largest trading entities (the European Union is considered as one);
- every four years for the next sixteen largest countries; and
- every six years for other members, with provision for a longer interval for least-developed countries.

This set schedule allows members to prepare in advance by examining their trade policies. As well, members know that others will be subject to the same level of scrutiny.

Preliminary Assessment

The TPRM serves a critical role in monitoring and promoting compliance with WTO rules. Although limited in its ability to enforce free trade measures, it serves as an important filter for the WTO dispute settlement mechanism. The institutionalized format for transparency in trade that the TPRM provides has been limited, however, to an observational and non-judgmental ideal. Its transparency requirements create a quasi-judgmental atmosphere in the debate before the TPRB. The TPRM reports make an effective starting point for dispute settlement.

The TPRM is essential to the negotiation for new members to gain access to the WTO; current members are guaranteed that new members must open up their policies to review, even if they have been secretive in the past. However, fulfilling the requirements of the TPRM report process can strain analytical and financial resources. Thus, the TPRB assists developing states with financial aid and detailed analysis of trade practices.

The reports serve as useful benchmarks of progress in assessing a nation's compliance with its treaty obligations. The repetitive nature of the reviews allows for a comparison over time of changes in trade policy. However, some critics of the process maintain that the members plan measures around the reporting schedule and that the generic nature of the reports allows members to trivialize aspects of their trade policy.

References

WTO Trade Policy Review Website:

http://www.wto.org/english/thewto_e/whatis_e/tif_e/agrm10_e.htm

Contact

Questions regarding Trade Policy Reviews may be addressed to

E-mail: tprm@wto.org



Idea: Complaints Process

Tool: Citizen Initiation Procedure, North American Agreement on Environmental Cooperation (NAAEC)

Summary

The NAAEC is a side agreement to the North American Free Trade Agreement (NAFTA). Articles 14 and 15 of NAAEC provide for a citizen submission procedure, which allows any person or NGO in Mexico, Canada or the US to submit to the NAAEC an allegation that a signatory country is not effectively enforcing its environmental law.

Background

The NAAEC was signed by Canada, Mexico, and the United States in August 1993 and came into force on January 1, 1994. It was developed to support the environmental provisions of the NAFTA by establishing a level playing field, with a view to avoiding trade distortions and promoting environmental cooperation.

To oversee the implementation of the agreement and monitor the abilities of the parties to meet their obligations, the North American Commission for Environmental Cooperation (CEC) was established. It acts as a forum for the discussion of environmental issues of mutual concern and also plays a role in reviewing submissions from the public on enforcement matters. Through Articles 14 and 15, it supports a process to highlight alleged failures to effectively enforce environmental laws and regulations.

Method

Any person or NGO may make submissions asserting a party's failure to effectively enforce its environmental laws. Consideration of such submissions may result in a decision to develop a factual record. A factual record objectively outlines the history of the issue, the party's obligations under the law in question, the party's actions in fulfilling those obligations, and the facts relevant to the assertions made in the submission of the claimed failure to enforce environmental law effectively.

The North American Commission for Environmental Cooperation (NACEC)

The NACEC is composed of a Council, Secretariat, and Joint Public Advisory Committee (JPAC).

Council. This is the governing body of the NACEC and is composed of the environment ministers of each country. It currently includes the Canadian Environment Minister, the Mexican Secretary for Environment and Natural Resources, and the Administrator of the U.S. Environmental Protection Agency.

Secretariat. This is composed of professional staff to implement initiatives and conduct research in core programs areas on topics pertaining to the North American environment, environmental law and standards, and other trade/environment issues. It is located in Montreal, Canada, with a liaison office in Mexico City. The Secretariat also administers the Article 14 and 15 process.

JPAC. This committee has 15 members, 5 from each of the three countries, who are appointed by their respective governments. Members act independently, and are responsible for providing the Council with advice on all matters within the scope of the NACEC. The chair is elected for a one-year term, by rotation from among the JPAC members appointed for each

country.

To provide assistance for those wishing to submit complaints, the NACEC developed a website that includes a brochure on guidelines for submissions on enforcement matters and an up-to-date registry where the status of pending submissions may be checked. The site is located at: <http://www.cec.org/citizen/index.cfm?varlan=english>. Answers are provided to questions such as how to prepare a submission, what criteria a submission must address, and when a response from a party is merited.

Procedure

The Secretariat may consider a submission from any NGO or person asserting that a party is failing to effectively enforce its environmental law. If certain criteria are met, the Secretariat requests a response from the country concerned and forwards to that country a copy of the “citizen submission”.

The responding government has 30 days, or in exceptional circumstances and on notification to the Secretariat, 60 days from the delivery of the request whether to respond to the submission and to state the matter is the subject of a pending or administrative proceeding, in which case the Secretariat shall proceed no further. Following the government’s response, if the Secretariat considers that the submission, in the light of any response provided by the party, warrants developing a factual record, the Secretariat informs the Council and provides its reasons. The Council, by a two-thirds vote, may instruct the Secretariat to prepare a factual record.

In preparing a factual record, the Secretariat may consider any relevant technical, scientific, or other information that is publicly available, submitted by interested NGOs or persons, submitted by the JPAC, or developed by the Secretariat or by independent experts. The Secretariat submits a draft factual record to the Council, and any party may provide comments on the accuracy of the draft within 45 days thereafter. The Secretariat then incorporates any appropriate comments in the final factual record, and submits it to the Council, which by a two-thirds vote may make the final factual record publicly available, normally within 60 days following its submission.

Example

A submission made in April 1997 resulted in the preparation and public release of a factual record.

The B.C. Aboriginal Fisheries Commission, British Columbia Wildlife Federation, Trail Wildlife Association, Steelhead Society, Trout Unlimited (sección Spokane), Sierra Club (EU), Pacific Coast Federation of Fishermen’s Association, Institute for Fisheries Resources alleged that the Canadian Government is failing to “enforce s. 35(1) of the Fisheries Act, and to utilize its powers pursuant to s. 119.06 of the National Energy Board Act, to ensure the protection of fish and fish habitat in British Columbia’s rivers from ongoing and repeated environmental damage caused by hydro-electric dams.” According to the submitters, “the Department of Fisheries and Oceans (‘DFO’) has only laid two isolated charges pursuant to sections 35(1) and 40(1) against Hydro since 1990, despite clear and well documented evidence that Hydro’s operations have damaged fish habitat on numerous occasions.” According to the submitters, Hydro’s operations “are being exempted from the application of Canadian environmental laws by the Federal Government’s failure to enforce the Fisheries Act” and such “exemption gives Hydro an unfair competitive advantage over U.S. hydropower producers.” The submitters further allege that the National Energy Board “recently refused to examine the environmental impacts of the production of electricity for exportation, despite receiving evidence of those impacts from the B.C. Wildlife Federation” and thereby “invalidly refused to exercise its

mandatory statutory jurisdiction to examine the environmental impacts of the production of power for export.” Canada disagreed, asserting it is enforcing its environmental laws in full compliance with its obligations under the NAAEC, as well in its response to the submission Canada opposed development of a factual record. However, the Council, by a unanimous vote instructed the Secretariat to develop a factual record in accordance with Council resolution 98-07 on June 24, 1998. The full text of the electronically available documents, including the factual record, can be found at: http://www.cec.org/citizen/guides_registry/registryview.cfm?&varlan=english&submissionID=9.

Preliminary Assessment

The citizen’s submission section of the NAAEC provides an innovative tool for increased citizen participation regarding environmental issues. To date, there have been 30 submissions to the NACEC, contributing to a dialogue that extends well beyond the confines of government departments.

The process of citizen initiative can be strengthened. In the six years that the NACEC has been in existence, only two factual records have ever been completed, and often the process stretches for months, even years at a time. Once publicly available, however, these records provide useful information to governments and to the public at large.

Recently, the JPAC was asked by the NACEC to review and report on the lessons learned from the public history of citizen submissions under Articles 14 and 15 of the NAAEC. This has resulted in a draft report entitled “Lessons Learned: Citizen Submissions under Articles 14 and 15 of the North American Agreement on Environmental Cooperation.” The draft provides a brief overview of the Article 14 and 15 submissions process, describes the two factual records produced, summarizes public comments made throughout the course of the study, and sets forth a number of recommendations based on the lessons learned. A number of comments have been made on the draft.¹ The final report is to be completed for the Council session and the next JPAC meeting scheduled for June 27–29, 2001, in Guadalajara, Jalisco, Mexico.

Endnote

1. These comments can be found at: http://www.cec.org/who_we_are/jpac/comments/lessons/index.cfm?varlan=english

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- Minister’s Statement on Canada’s Objectives at the 7th Session of the Council of the North American Commission for Environmental Cooperation (CEC)*. Available at: http://www2.ec.gc.ca/press/000609_n_e.htm
- North American Agreement on Environmental Cooperation*. Available at: <http://www.naaec.gc.ca>
- North American Commission for Environmental Cooperation - Citizen Initiative Page*. Available at:

<http://www.cec.org/citizen/index.cfm?varlan=english>

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Idea: Informant Protection

Tool: Legislation or Policy to Protect Whistle-blowers

Summary

Enacting legislation or adopting a policy can protect employees who report inappropriate or illegal activities of their co-workers and superiors. Many junior employees cannot report misconduct or are forced to participate in illegal activity for fear of being fired. When employees do come forward, often they are fired, demoted, or the victim of threats and physical harm.

Background

A government or an organization can encourage fact finding and accountability by creating a law or policy to protect employees who call attention to inappropriate or illegal activities. A number of jurisdictions have introduced Whistle-blower Protection Acts. For example, New South Wales and Queensland, Australia, have had legislation in place to protect public-sector employees since the early 1990s. The State of Maine, in the United States, has enacted legislation to protect employees in all workplaces, public or private. Recently, Canada prepared a bill regarding whistle-blowing that died on the order paper; the government has opted instead for a yet undisclosed policy initiative. The common purpose of all of these laws and policies is to promote the public interest by revealing corruption, maladministration, and substantial waste made by officers of public authorities.

Method

A policy to protect informants should:

- enhance and augment established procedures for making disclosures;
- protect persons from reprisals due to disclosures; and
- provide that disclosures are properly investigated and dealt with.

A whistle-blowing policy has three elements, as follows.

1. What disclosures need to be protected?

The Queensland Act provides that an employee who has reason to believe that an official in the public service has committed, or has indicated an intention to commit, a wrongful act can make a disclosure. Wrongful acts are all illegal acts and could include a number of other acts, such as:

- maladministration that adversely affects someone's interests;
- negligent or improper management involving a substantial waste of public funds;
- a substantial danger to public health and safety or the environment;
- a breach of trust placed in the employee by virtue of the employee's position;
- misuse of official information; and
- anything that is serious enough to warrant dismissal.

The Maine Act is unique because it is not restricted to officials in the public service. Employees can disclose what they have reasonable cause to believe is a violation of a law by their employer or co-workers. The protection also extends to employees who disclose a risk to the health and safety of anyone and who have refused to do something that will endanger their life or someone else's life.

2. Disclosure Process

Disclosures should be made to a senior officer in the entity where the conduct of any of its employees is the subject of the disclosure. An employee must be able to report a wrongdoing directly to a supervisor at any time. That supervisor must exercise the protections in the law/policy and direct the information to the appropriate investigatory mechanism. Alternatively, a disclosure can be made to an entity with the power to investigate or remedy the situation, such as a designated ombudsman, liaison officer, or hotline. Confidentiality of the process is essential.

Adequate publicity is almost as important as the protections themselves in the promotion of whistle-blowing. The State of Maine requires all workplaces to hang posters outlining employees' rights and contact information for employees faced with a decision to blow the whistle.

3. Privilege, Protection, and Compensation

To be effective, the law/policy must have sufficient legal enforceability and credibility to protect whistle-blowers from reprisals. It must also recognize that reprisal can take many forms. Although discrimination regarding the employee's compensation, terms, conditions, location, or privileges of employment are the most common, there are other forms:

- the personal safety of the discloser may be prejudiced;
- the personal property of that person may be damaged; or
- disclosers may be faced with intimidation or harassment.

A blanket prohibition is the typical response to discrimination (i.e., demotions, pay cuts) in the workplace. The draft Canadian bill went so far as to deem any discrimination within one year of a disclosure as a reprisal in the absence of evidence to the contrary.

Further protections are needed to deal with other forms of reprisal, including:

- designating it an offence to make a reckless or intentional disclosure of the confidence of someone who has made a public interest disclosure;
- employees engaging in reprisals against someone who has made a public-interest disclosure may be subject to disciplinary action and/or dismissal; and
- relocation to avoid reprisal if it is the only way to remove the employee from the danger of reprisal action.

Preliminary Assessment

Integrity is essential to the operation of a whistle-blowing policy. Investigators and those who take complaints must respect the policy and respond to the complaint effectively. Whether or not the disclosure is accepted and investigated as a public-interest disclosure, the employee must be protected from any reprisal action provided he or she genuinely believes, on reasonable grounds, that what is disclosed is a serious workplace wrongdoing, and is a disclosure.

These dangers are compounded by a requirement that the protections be granted when the whistle-blowing procedure is followed. Frivolous complaints can be preempted by making the procedures very clear. The Queensland Act does not provide for protection of employees who make a disclosure to the media or in public.

References

Canada. Bill C-239, 2nd Session, 36th Parliament, 48 Elizabeth II, 1999.

Maine. The Whistleblowers Protection Act, Title 26 MRSA, Chapter 7, Subchapter V-B.

Queensland. Whistleblowers Protection Act, Act No. 68 of 1994.

Transparency International: <http://www.transparency.org/index.html>



Idea: Public Reporting of Misconduct

Tool: FraudNET System - U.S.General Accounting Office (GAO)

Summary

To be effective, whistle-blowing policies must have an easily accessible, confidential, and responsive mechanism to collect the complaints. FraudNET, operated by the General Accounting Office (GAO), is an automated system that anyone can use to report allegations of fraud, waste, abuse, or mismanagement.

Method

The GAO maintains FraudNET to facilitate reporting of allegations of fraud, waste, abuse, or mismanagement of federal funds. Individuals can report an allegation of mismanagement to FraudNET in a variety of different ways:

- send a letter;
- e-mail the allegation or fill out the on-line form; or
- fax or telephone in the allegation.

The GAO encourages the whistle-blower to include as much information as possible on the alleged misconduct, for example:

- type of federal funds or programs involved and any specific restrictions, rules, or regulations that relate to them;
- what the individual(s) did, including anything the individual may have done to avoid detection;
- names of individuals, their positions, and the organizations involved in the activity, including addresses and telephone numbers, if possible; and
- date(s) of the misconduct or wrongdoing.

Confidentiality is the cornerstone of a whistle-blowing policy. FraudNET does not require a name and address on the forms; it specifically allows for the use of a pseudonym. Its confidentiality policy allows individuals either to remain anonymous, to ask that their identities be held in confidence, or to provide their name, with no restrictions. However, there are limits to the extent of the privacy. For example, if a criminal trial results from an allegation, the GAO, if subpoenaed, will provide the identity of a witness. Although users of the FraudNET system become involved in the investigation, there is limited feedback to the general public on specific complaints.

Preliminary Assessment

A whistle-blowing policy will only be effective if informants are comfortable with the reporting mechanism. Ease of use, ease of accessibility, and confidentiality all contribute to the overall success. There is a danger that a well-publicized hotline will be abused with trivial complaints, which taxes the resources of the investigative arm of the organization and bogs down the response times. Providing the public with feedback provides a reference point to potential informants, who are able to see what types of complaints result in successful prosecutions.

References

FraudNET homepage
<http://www.gao.gov/>

Contact

GAO FraudNET Hotline
Phone: 1-800-424-5454
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GAO FraudNET
441 G Street, NW
Washington, DC 20548
E-Mail fraudnet@gao.gov

Idea: Legal Action

Tool: Creating a Cause of Action¹ for Non-Parties in Intergovernmental Agreements, Aarhus Convention

Summary

To obtain a remedy for a breach of a treaty obligation by any government, an “injured” person or organization must complain to their national government to start a party-to-party dispute settlement proceeding. The Aarhus Convention grants the right to individuals or organizations to apply to their own courts, or to courts in the offending country, to enforce treaty obligations entered into by governments.

Background

The Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters was created in response to concerns that governments were ignoring stakeholders’ voices when environmental decisions are made. It is intended to regulate the activities of the signatory states and oblige them to undertake initiatives to increase public participation in environmental decision making, through the reform of national laws. Adopted on June 25, 1998, by 40 European states but not yet in force, the Convention deals with the relationship between citizens and government, its objective being to create a legal framework governing accountability, transparency, and responsiveness. To date 10 countries have ratified the Convention, which will come into force 19 days after the 16th country ratifies it. It is open to signature for all 55 member states of the Economic Commission for Europe (UN/ECE), as well as any other member state of the United Nations.²

Upon ratification, the Aarhus Convention will require the parties to create access to justice through national courts, arbitration, or otherwise for those members of the public who have had Convention rights denied by that party. It will also provide for a more informal route, allowing non-parties to raise a complaint with the Internal Compliance Committee (ICC) if they think a party is not complying with the Convention. It enters new territory by allowing citizens to hold their own government accountable for the failure to comply with a treaty obligation.

Method

The Convention provides for two innovative methods: (1) domestic legal action; and (2) access to the internal dispute settlement mechanism at an intergovernmental organization.

1. Domestic Legal Action

The parties have bound themselves to reform their domestic legislation to include new causes of action that ensure they will be held accountable for any failure to honour a treaty obligation. The Convention requires parties to allow members of the public access to a review procedure before a court of law or another independent and impartial body established by law. Members of the public are broadly defined as including not only natural persons and legal entities but also groups and organizations, whether incorporated or not.

The Convention also states that an NGO promoting environmental protection shall be deemed to always have an interest in environmental decision making. This provision is significant because in order to have standing before a court typically an entity must be

directly affected by a measure. Since NGOs are deemed affected, they will be able to sue the government whenever a denial of treaty rights occurs, regardless of whether the denial was directed at a member of its organization or some other citizen.³ Also significant is the fact that the Convention provides that the country cannot discriminate in access to justice based on citizenship, nationality, domicile, or place of incorporation.⁴ Together with the deeming provision, this means a party effectively opens its justice system to all NGOs worldwide that choose to take an interest in the activities of the state.

The parties owe two key obligations to the public: access to information and participation in decision making. In such circumstances, the Convention recommends adequate, including injunctive, relief be administered. Although the objective of giving the concerned public wide access to justice within the scope of this Convention has been adequately addressed, the Convention has been criticized by some for not going far enough to advance accountability. Specifically, critics feel that the obligations are worded so broadly that a court challenge might be decided on a judge's interpretation of what a "reasonable time-frame" for public participation is.

2. Access to the Internal Dispute Settlement Mechanism at an Intergovernmental Organization

A non-party can be granted the same legal rights as a national government that is party to a Convention simply by drafting that right into the text. The Aarhus Convention allows non-parties to bring complaints to an Internal Compliance Committee (ICC), which will review a party's compliance with its treaty obligations, a right typically reserved for parties. The ICC will be created to satisfy the obligation in Article 15 of the Convention, that is, to create a non-confrontational, non-judicial, and consultative mechanism for reviewing compliance with the Convention's provisions and which allows for appropriate public involvement.

The Convention provides that the UN/ECE Executive Secretary and staff will operate as the secretariat for all meetings of the parties and subsidiary bodies. Thus, the UN/ECE effectively becomes the place to go with compliance complaints against a treaty member. The Executive Secretary's staff will prepare, translate, deliver, and preserve all documents for the Committee.

Structure and Function of the ICC

Options for a proposed compliance mechanism will be finalized in November 2001, after which it will be presented to a Meeting of the Parties for adoption. The ICC structure will take one of two forms:

- 8 (or 6) members, 6 (or 4) elected from the parties, 2 elected from NGOs;
- 8 members who will serve in a personal capacity, elected by the parties based on high moral character, competence in the field, and geographic distribution.

The ICC is obligated to meet at least once a year to perform its primary functions, which include:

- an obligation to consider any submission and make appropriate recommendations;
- preparation of, at the request of the Meeting of the Parties, a report on compliance with the provisions in the Convention;

- monitoring, assessment, and facilitation of the implementation of and compliance with reporting requirements;
- inviting international specialized institutions or other competent bodies to provide assistance, such as legal advice, technical contributions, or training; and
- examining compliance issues and making recommendations, if and as appropriate.

Submissions to the ICC

A submission may be brought before the ICC by one or more parties that have reservations about another party's compliance with its obligations under the Convention. Submissions are addressed in writing to the Secretariat, with supporting documentation. The Secretariat will deliver the submission to the party whose compliance is in issue, as well as provide for delivery of the reply. The unique feature of the ICC is that it will also hear issues raised by members of the public in written or electronic form. The procedure for filing a public complaint has not been finalized as clearly as the submissions for the parties; however, the draft does seem to suggest there will be a permanent mailing address and possibly even a website or e-mail tool for filing complaints. When the ICC receives a public communication about non-compliance, it will bring it to the attention of the offending state. The state must then reply to the ICC, within five months, with an explanation of the activity. The draft is unclear about the remedies available to the ICC in such a circumstance, providing only that it "consider" the communication and any written documentation and/or hold hearings.

Participation and Confidentiality

None of the information the ICC receives is to be kept confidential, except in certain extreme circumstances or to protect the identity of a member of the public who has made a submission. The ICC has very broad participation rules at its hearings, which are all open to observers. In addition to the state under examination, the state that made the submission or the member of the public who made the communication are entitled to participate in the ICC's discussions on the submission. However, they are not allowed input on the preparation of the findings or the recommendations. The draft seems to suggest that there will be participation in the deliberations of the ICC, in addition to the right to participate at the hearings.

Remedies

The ICC will not have the power to impose remedies or sanctions on the parties but can produce findings and recommendations that are considered at the next Meeting of the Parties. This Meeting has the authority to implement the recommendations; envisioned actions the parties could take range from providing assistance to the member, issuing cautions, or suspending treaty rights.

Preliminary Assessment

The draft provisions contain five options available to the states with regard to accepting public communications. These options provide that a state could opt out of the public communication feature of the ICC; this is a blanket exception that covers all public communications regarding that party's non-compliance. An opt-in provision is also available, where parties would have to specifically provide for the application of the public communication feature. This suggests that the application of the provision would become the exception rather than the norm. Options are commonplace in convention building, but the threat to the mechanism cannot be quantified until

there is some indication from the parties of how many countries will apply the exception. The existence of an opt-out clause does not necessarily mean anyone will use it.

The access to the internal mechanism afforded to the public in the Convention is unlike anything contemplated in other international treaties. The public has an opportunity to force countries into compliance through a tool to date reserved for states. However, there is a danger of overload when access is too easy, as hundreds or thousands of public communications could be filed daily on line. Processing the complaints, ensuring a lack of duplication, and preparing replies to each one could create an excessive burden on member nations.

As for the participation opportunities, the reality is that it is highly unlikely that a citizen in Turkmenistan will have the resources to file a complaint, let alone travel to Rome to participate in the work of the ICC. The danger is that well-funded Northern NGOs will dominate the participatory mechanisms.

Endnotes

1. Cause of Action – a factual situation, the existence of which entitles one person to obtain from the court a remedy against another person.
2. The Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, Article 19(3)
3. Ibid, Article 2.
4. Ibid, Article 1(9)

References

The Aarhus Convention

<http://www.unece.org/env/pp/>

The draft decision on compliance, Annex II of Report on the first meeting of the parties (CEP/WG.5/AC.1/2001/2)

Idea: Involving Parliamentaries

Tool: Inter-parliamentary Assembly, North Atlantic Treaty Organization (NATO)

Summary

NATO has a strong informal working relationship with the NATO Parliamentary Assembly (NATO-PA), an inter-parliamentary assembly composed of legislators from the member countries of the NATO Alliance.

Background

The NATO-PA (formerly known as the North Atlantic Assembly) is an inter-parliamentary organization of legislators from the 19 member countries of the NATO Alliance, as well as from 17 associate member countries. The Assembly provides a forum for international parliamentary dialogue on an array of security, political, and economic matters. Its principal objective is to foster mutual understanding among alliance parliamentarians who represent a broad spectrum of political parties. There are 214 member parliamentarians in the Assembly, plus 73 associate members.

Although the NATO-PA is an independent body with no formal relationship with NATO, there is a strong working relationship between the two organizations. Created in 1955 as an annual conference of parliamentarians, the NATO-PA laid the foundation for cooperation with NATO in November 1967 when the North Atlantic Council recommended that an informal relationship be established between the two bodies. As a result, the Secretary General of NATO, after consultation with the Council, responds to all Assembly recommendations and resolutions it adopts. Legislators also have the opportunity to meet with top-ranking NATO officials through their committee meetings, special working groups, and biannual plenary sessions held throughout Europe and North America.

Method

The NATO-PA meets twice a year in plenary sessions. Meetings are held in member and associate member countries on a rotational basis at the invitation of national parliaments. The Assembly functions through six committees: Political, Defense and Security, Economic, Science and Technology, the Civilian Dimension of Security, and the Mediterranean Special Group. As there are both study groups and major forums for discussion, the committees study and examine all major contemporary issues arising in their respective fields of interest. They meet regularly throughout the year and report to the plenary sessions of the Assembly. A Secretariat, with a staff of 30, is based in Brussels.

Delegates to the NATO-PA are nominated by their parliaments according to their own national procedures, on the basis of party representation in the parliaments. The Assembly therefore represents a broad spectrum of political opinion.

Membership. The number of legislators from each country varies according to the size of the member country, as does the country representation on each committee.

Plenary Sessions. The biannual plenary sessions consist of a spring meeting of three and one-half days and an autumn meeting of five days. Each of the six committees meets separately to consider reports and resolutions, and to meet with government officials and policy experts. On the last day of a session the Assembly meets to debate key issues and hear from leading national and international

leaders. At the fall session, reports are adopted by the committees and then considered for adoption by the entire Assembly. Recommendations are addressed to the North Atlantic Council urging particular action, and resolutions are addressed to member governments. There are six Assembly officers elected each year by delegates in plenary session: the president, four vice-presidents and the treasurer.

Committees. The committees produce reports on critical issues affecting the NATO Alliance and prepare policy recommendations for consideration by the Assembly in plenary session. If adopted by the full Assembly, the policy recommendations are forwarded, as appropriate, to member and associate member parliaments and governments, NATO authorities, and other international organizations. As well as dealing with reports, the committees receive briefings from senior government officials, leaders of international organizations, and other experts. The meetings also provide a forum for dialogue and debate among the parliamentary delegates.

All the committees meet during the spring and autumn Assembly sessions. The Defense and Security, Economic, and Political Committees also hold an annual joint meeting in Brussels for briefings by senior NATO and EU officials. In addition, each year the Economic Committee meets at OECD headquarters in Paris, and one of the five committees holds a meeting in North America. Other committee meetings take place on an ad hoc basis.

The committees create sub-committees to explore specific issues in more detail. Sub-committee topics currently include NATO enlargement and the new democracies, Baltic security, security problems in south-eastern Europe, East-West economic co-operation, weapons proliferation, and the future of the armed forces. A special working group on Mediterranean security also exists. Sub-committee and working group reports, like those produced directly for the committees, are amended and adopted by majority vote in the committees. The sub-committees meet several times a year on fact-finding missions designed to gather information for sub-committee and committee reports.

The NATO-PA, by virtue of its autonomous status, was able to develop relations with the political leaders of Central and Eastern Europe (CEE) at the end of the Cold War much faster than the more consensus-bound NATO. By introducing a series of seminars and conferences involving CEE countries in 1990 (known as the Rose-Roth Program), and then admitting CEE countries as associate members in 1991, the Assembly facilitated the dialogue between nations that NATO would rely upon for its future relationships with the newly democratic states.

Preliminary Assessment

The NATO-PA has been an informative link for NATO to its member governments and has served as a useful tool for consensus building. As documented in the *NATO Handbook*:

It allows Alliance legislators to convey national pre-occupations and concerns to their governments and to the decision-making bodies of the Alliance and to inform each other of the very different national and regional perspectives that exist on many key issues of mutual interest. Similarly, members of the Assembly are able to use the experience and information gained through participation in its activities when exercising their roles within national parliaments. This helps to ensure that Alliance interests and considerations are given maximum visibility in national discussions. The Assembly also constitutes an important

touchstone for assessing parliamentary and public opinion on Alliance issues and, through its deliberations, provides a clear indication of public and parliamentary concerns regarding Alliance policies.

An important intangible benefit is the increased empathy and ties between the United States and Europe, due to the understandings reached and the relationships built by meetings between legislators.

Increasing ties between the two organizations can strengthen the usefulness of their working relationship, as has been considered as recently as 1998 in its second plenary session in Edinburgh. With the further expansion of NATO, the allocation of seats will need to be reconfigured to encompass new members, providing a stronger, more diverse representation of countries.

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<http://www.naa.be/home.html>

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http://www3.seimas.lt/nato/vilnius2001/nato_pa_session_en.htm

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Idea: Involving Parliamentaries

Tool: Parliamentary Assembly, World Trade Organization (WTO)

Summary

Konrad Schwaiger's, general rapporteur of the European Parliament on WTO Millennium Round, proposal to create a Parliamentary Assembly of the WTO has received broad support. Schwaiger proposes closer association of the parliamentarians of the member countries of the WTO with the work of the WTO as a means to enhance transparency and accountability. He recommends a Standing Body of Parliamentaries where members of Parliaments can exchange views, be informed, and monitor WTO negotiations and activities.

Background

In recent years, civil society organizations, parliamentarians, and others have heavily criticized the workings of the WTO and have called for its reform. Initiatives have come mostly from Europe, Canada, and the USA. The European Parliament (EP) has very much taken the lead on this issue. In 1999, the EP called for the investigation of the possibility of creating a WTO body of parliamentarians. This proposal was almost unanimously adopted by approximately 150 Members of Parliament of WTO member states attending the 1999 Seattle Conference. More recently, the European Commission proposed that consideration be given to the establishment of a WTO Parliamentary Consultative Assembly. Such an assembly would provide a valuable forum for dialogue; any resolutions adopted by the Assembly would only be advisory in nature.

Pascal Lamy, EU Trade Commissioner, has supported the establishment of a WTO Parliamentary Consultative Assembly. It could provide a valuable forum for interparliamentary dialogue on the main subjects discussed in the WTO, provided this can be done in a way that does not detract from the intergovernmental nature of the WTO, or the principle of a separation of powers between WTO members' executive and legislative branches.

Bill Graham, Chairman of the House of Commons *Foreign Affairs and International Trade Standing Committee* (SCFAIT), Canada has argued that the PA would not only take ideas from civil society but the two way communication would also help to explain the WTO to people around the world.

Mike Moore, WTO Director-General, has publicly welcomed the initiative by parliamentarians in Seattle. More recently, he commented that "ultimately, parliaments remain the most effective route for those who correctly want to scrutinize, criticize and influence the decisions taken by Members in the WTO."

Fergus Watt, Executive Director of the World Federalists of Canada, noted that NGOs' support for a WTO PA is guarded, as they fear that parliamentarians might be co-opted in the 'selling' of WTO decisions and agreements without also fully taking up their responsibilities to undertake deliberative and oversight functions. NGOs will support a parliamentary body which is effective and independent, but can also be relied upon to criticize a weak parliamentary forum.

Examples

The NATO Parliamentary Assembly (NATO PA), the Inter-Parliamentary Forum of the Americas (FIPA), and the Organization for Security and Cooperation in Europe (OSCE) Parliamentary Assembly provide useful examples.

*NATO PARLIAMENTARY ASSEMBLY*ORIGIN

- Created in 1955
- Consultative, independent body with no formal relationship with NATO
- Permanent

COMPOSITION

- 19 member countries plus 17 Associate member countries
- 214 Parliamentarians plus 73 associate members (from the Associate countries)
- Delegates to the NATO-PA are nominated by their parliaments according to their own national procedures

ORGANIZATION

- The Assembly meets twice a year in plenary session - a spring meeting of 31/2 days and an autumn meeting of 5 days

STRUCTURE

- Assembly functions through 6 committees: Political, Defence and Security, Economic, Science and Technology, Civilian Dimension of Security, and Mediterranean Special Group
- Each of the six committees meets separately at sessions to consider reports and resolutions, and to meet with government officials and policy experts. The last day of the Session, the Assembly meets in plenary to conduct Assembly business, debate key issues and here from key national and international leaders. At the fall session reports are adopted by the committees and then considered for adoption by the entire Assembly
- Secretariat located in Brussels (staff of 30)

VOTING PROCEDURES

- Assembly and Committees vote by a show of hands, using voting cards.
- 1 vote per member
- Required majority for all votes is a simple majority of the votes cast. In the event of a tie the proposal submitted to the vote is rejected. Except: President, Vice Presidents and Treasurer are all elected by secret ballot; Representatives for committees are elected by secret ballot

FUNDING

- Most of the Assembly's funding is provided by contributions from the parliaments or governments of member nations. These contributions are based on the criteria used for the NATO civil budget. NATO also provides a small subsidy. The annual budget is about BF 115 million. This is used to cover the International Secretariat's operating costs. National delegations are responsible for funding the participation of their members.

RELATIONS WITH OTHER BODIES

- Recommendations are addressed to the North Atlantic Council urging particular action. Resolutions are addressed to member governments

OBSERVERS

- Just the Associate members
- Subject to the approval of the Assembly, the Standing Committee may decide, by a three-quarters majority of its members present and eligible to vote, to invite delegations from parliaments of countries which are not members of the Atlantic Alliance to participate in the work of the Assembly. The Standing Committee decide the size of associate delegations and the number of associate delegates nominated to each committee of the Assembly
- Associate members entitled to attend plenary sittings of the Assembly and meetings of the Assembly's committees and sub-committees. They may speak but not entitled to vote.

*INTERPARLIAMENTARY FORUM OF THE AMERICAS (FIPA)*ORIGIN

- Independent permanent parliamentary forum constituted in 2001
- Composed of delegations representing the national legislatures of the member states of the Organization of American States (OAS)
- Purpose is to promote parliamentary participation in the inter-American system and to contribute to inter-parliamentary dialogue in dealing with issues on the hemispheric agenda

COMPOSITION

- 26 member countries from the Americas
- The national legislatures in states with credited OAS observer status are considered permanent observers of the FIPA. The observer states may also be invited to attend plenary meetings of the FIPA

ORGANIZATION

- The FIPA meets at least once a year
- The Plenary Meeting determines which parliament hosts the next plenary meeting based on invitations offered

STRUCTURE

FIPA consists of 5 bodies: Plenary Meeting, Chair, an Executive Committee, Technical Secretariat, and Working Groups

- *The Plenary Meeting* is FIPA's highest body and meets every year. Delegations composed of representatives of national legislatures of the OAS member states; chosen by the accredited national parliament or congress; have up to 5 members of parliament/congress (this limit does not apply to the host parliament). It makes recommendations on the hemispheric agenda known to the OAS General Assembly, the presidential summits of the Americas, the national legislatures of the Organization's member states, and other such bodies
- *Chair of the Plenary Meeting* is a member of the host parliament and is elected by the Plenary Meeting
- *Executive Committee* is responsible for carrying out the activities entrusted to it by the FIPA Plenary Meeting. It meets at least once a year and provides support to the country hosting the plenary meeting

- *Technical Secretariat* provides technical assistance to the Chair, the Executive Committee, and other members of the FIPA in the implementation of the Plenary Meeting's decisions and on the follow-up of the recommendations
- *Working Groups* may be established by the Plenary Meeting on the recommendation of the Executive Committee or a member legislature to examine specific matters

VOTING PROCEDURES

- FIPA recommendations are approved by majority consensus in the plenary meeting or working groups
- Each national delegation has 2 votes in the event that a recommendation or other matter require delegations to vote

FUNDING

- The cost of organizing each plenary meeting is borne by the host parliament
- The participants are responsible for the expenses incurred to attend the event

OBSERVERS

- The plenary meeting may confer, upon request, special observer status on parliaments or congresses in other hemispheres, as well as international agencies whose objectives and principles are consistent with those of FIPA

OSCE PARLIAMENTARY ASSEMBLY

ORIGIN

- Created in 1991
- Treaty based
- Consultative
- Permanent

COMPOSITION

- 55 member countries which have signed the Helsinki Final Act (1975) and the Charter of Paris (1990) and are participating in the OSCE
- 317 Parliamentarians (each must be a member of their nation's parliament)

ORGANIZATION

- Each year at beginning of July (when most domestic parliaments are out) must meet for no more than 5 days in first 10 days of July
- Required to have 1 winter meeting for no more than 2 days in 1st 2 months of year

STRUCTURE

- Main bodies of the Assembly: Annual Assembly, the Standing Committee of Heads of Delegation, the Bureau, the Expanded Bureau, the 3 General Committees, the President, the Secretary General, and the International Secretariat (Copenhagen)

VOTING PROCEDURES

- 1 vote per member, no proxy voting
- Show of hands unless role call or secret ballot is required
- Voting for reps in each body by secret ballot
- Annual Assembly – (majority rule)
- Standing Committee of Heads of Delegations- prepares work of the assembly between sessions (consensus minus 1) can appoint “Democracy Teams” to address certain issues
- Bureau- prepares work of the assembly between sessions (majority rule) contains the president (1), VP’s (9), the Treasurer (1) and the President Emeritus (1 – last years president until new one is elected)
- The three General Committees - communicate with 3 main sections of the Helsinki Final Act i.e. Political Affairs and Security; Economic Affairs, Science, Technology and Environment; Democracy, Human rights an Humanitarian Questions (majority rule)
- President (elected at assembly) and Secretary General (elected to 5 year term)

FUNDING

- National Contributions to the budget based on formula (article 10 of Madrid declaration as amended by the Committee of Heads of Delegation on 13 Jan 1992)

RELATIONS WITH OTHER BODIES

- Regular and formalized interaction with the other OSCE institutions. Each annual Assembly adopts final declaration, resolutions, and recommendations – these are passed on to the OSCE Ministerial Council, the OSCE Chairperson-in-office and the national parliaments of members
- The Assembly is represented at every level of official OSCE meetings

OBSERVERS

Representatives from the following may be admitted as observers:

- Official observer status: Parliamentary Assembly of the Council of Europe, the Assembly of WEU, the NATO PA, the Inter-Parliamentary Union, the European Parliament, and the Interparliamentary Assembly of the CIS
- Other observers may be invited at the discretion of the President or Standing Committee
- Parliaments of the States which are Partners for Cooperation of the OSCE

Preliminary Assessment

WTO PA idea has not been formally discussed in the WTO and no member country has officially put forward the idea in a procedural WTO meeting. For the WTO PA to be successful it must be seen to be broadly representative and must have a mandate which allows for serious and sustained debate. The PA can act as a relay between government and civil society as well as play the role of a catalyst for further reforms, for nurturing important ideas for strengthening global governance, not least of which will be the strengthening of the role of the parliament itself. Such a consultative parliamentary body could help in recommending new treaties and laws and expedite technical support for national parliaments struggling to implement existing WTO agreements.⁷

Endnotes

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2. EUROPEAN COMMISSION Directorate-General for Trade. *Improving the functioning of the WTO: Suggestions for a way forward*. For discussion - EC Communication to the General Council Note for the Attention of the 133 Committee (Brussels, 25 January 2000). <http://attac.org/fra/libe/doc/uedg122en.htm> (30 May 2001).
3. Pascal Lamy, European Commissioner for Trade. Speech at the "Trade, Development and Democracy: the Need for Reform of the WTO" European Parliament Seminar. Brussels, 10 April 2001 (http://europa.eu.int/rapid/start/cgi/guesten.ksh?p_action.gettxt=gt&doc=SPEECH/01/164|0|RAPID&lg=EN) (30 May 2001).
4. Graham is also on the Preparatory Committee of the Parliamentary Assembly of WTO which met recently in Geneva on 23-24 February 2001.
5. Mike Moore, WTO Director-General. Speech at the "Trade, Development and Democracy: the Need for Reform of the WTO" European Parliament Seminar. Brussels, 10 April 2001 (http://www.wto.org/english/news_e/spmm_e/spmm57_e.htm) (30 May 2001).
6. Fergus Watt. WFC Statement to the Conference on "Trade, Development and Democracy: The Need for Reform of the WTO." April 10 to 11, 2001, European Parliament, Brussels, Belgium. <http://www.web.net/~wfcnat/confwto.html> (30 May 2001).
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Idea: Independent Inspection

Tool: Inspection Panel World Bank (WB)

Summary

The Inspection Panel, a three-member international body established by the WB in 1993, investigates complaints by private citizens who believe they have been or could be adversely affected by WB-funded projects within their country. Although appointed by the WB Board, the Panel is authorized to make independent investigations and recommendations. Its powers are limited to addressing the behaviour of WB management only, and do not extend to national governments or other parties involved in the delivery of projects.

Background

The Inspection Panel has its origins in reforms introduced during the early 1990s, the result of campaigns for greater transparency and accountability in WB operations that were mounted over several years by factions both inside and outside of the institution.¹ As part of the WB's commitment to promoting more sustainable development, new standards were established to ensure better performance on a range of social and environmental issues, including forestry, waterways, natural habitat, and matters affecting indigenous peoples. These standards have come to be known as the "safeguard policies." The Panel emerged at the same time as an additional measure to facilitate operational compliance with these new policy directives. The full set of operational policies and procedures that form the purview of the Inspection Panel can be viewed on the Inspection Panel link from the WB's website at www.worldbank.org.

The Panel exists and receives its authority by way of a joint resolution of the International Bank for Reconstruction and Development and the International Development Association, the central lending agencies of the WB Group. Its members are non-WB employees, who are selected on the basis of their knowledge of development issues, their integrity, and their ability to deal fairly and thoroughly with the issues brought before them. Complete details of the Panel's structure and approach are contained in the *Operating Procedures*, available on the Panel's website.

Since it began operating in 1994, the Inspection Panel has received 22 formal complaints. Most of these have involved large infrastructure projects, such as hydroelectric dams and power plants, and have focused mainly on the threats posed by these projects to the environment and to the livelihood of indigenous peoples. There have been dissenting views surrounding the legitimacy of the Panel at the WB Board and management levels. Directors from the borrowing states successfully mobilized to limit the scope of the Panel's investigations, or to block them altogether. The Board introduced changes that limit the Panel from commenting on the actions of host governments. Approval for investigations has been granted in only five cases so far. Copies of the complaints and the reports of the Panel are available on the Panel's website.

Method

Requests for inspections by the Panel are processed as follows.

1. Upon receiving a request in writing the Panel decides if the request is within its mandate. At a minimum, to be eligible for consideration by the Panel the complaint must demonstrate:
 - that the claimants live in the project area;
 - that the WB has violated its own policies in the design or implementation of the project and that this has caused an actual or threatened harm to the claimants; and
 - that the claimant has taken steps to resolve the problem with WB management without satisfactory results.
2. The Panel sends the request to WB management, which has 21 days to prepare a response to the allegations and submit it to the Panel.
3. The Panel makes a preliminary review of the request and the management response to it, and then recommends to the WB Board whether the claims should be investigated.
4. If the Board approves a recommendation to investigate, the Panel proceeds with an investigation. Methods of investigation may include requesting meetings or written submissions from affected people, independent experts, WB staff or NGOs; making visits to the site; and reviewing WB files and documents. The Panel must obtain the permission of the host government prior to making a physical inspection.
5. The Panel's findings are sent to the WB Board and management. Management then has six weeks to submit a report recommending what actions the WB should take in response to the Panel's findings.
6. Based on the Panel's findings and management's recommendations, the Board makes the final decision on what should be done.

Example

The Panel's involvement with the India Eco development Project exemplifies the scope and limitations of its activities to date. In April 1998 a request for inspection was received from a group representing local inhabitants of Rajiv Gandhi National Park in Nagarahole, Karnataka State, India. The group alleged that the area's tribal people were being threatened with eviction as a result of a WB-funded project to create and manage new "protected areas" for conservation and eco development. In particular, the group claimed that the WB was in violation of Operational Directive 4.30, which requires the preparation of an Indigenous People's Development Plan during the initial appraisal phase of a project.

During the six-month process that ensued, the Panel found that the complaint met all of the eligibility criteria and allowed it to proceed. A summary of the complaint was then sent to WB management, which argued that the required consultations with the local tribal groups had not been omitted, but were scheduled to be conducted at a later stage in the implementation of the project. The Panel then proceeded with an initial review of the evidence submitted from both sides; in October 1998, it submitted a 121-page report to the WB Board recommending approval for a full inspection. For reasons that are not fully disclosed in materials available from the website, the Panel's request was rejected, and no investigation took place.²

Preliminary Assessment

The Inspection Panel represents an innovative attempt by the WB to improve the

accountability of its own agenda of sustainable development. To its credit, the Panel has served to focus international attention on the plight of local communities affected by mega-project development. It has also enabled an unprecedented degree of citizen access to the international arena among multilateral organizations, which has had an empowering affect on vulnerable groups. An objective review of the Panel's impact during the first five years, however, also highlights its small sphere of influence, given the hundreds of projects approved every year by the WB. In addition, it appears that, with some minor exceptions, the Panel's interventions have not resulted in tangible changes to the operational practices of the projects involved. In his article "The World Bank Inspection Panel: Lessons from the First Five Years" Jonathan Fox identified a number of factors that contribute to the relative weakness of the Panel so far.

- Although independent, the Panel ultimately serves at the discretion of the Board, who retain the power to approve inspections and implement recommendations.
- In the balance of cases to date, the Board has tended to limit the scope of investigations, or prevent them altogether.
- Neither the Panel's premise nor its jurisdiction are well supported by borrowing-member states on the Board, who tend to regard it as the tool of powerful US-based NGOs and have voted against its recommendations.
- The mandate of the Panel covers the review of project-based loans, but does not extend to the much larger arena of sectoral and structural adjustment financing to states, which comprises over half of total Bank lending.

Partly as a result of the Panel's activities the WB is now engaged in a review of the safeguard policies, and of the Panel itself, that may help to ensure more effective interventions in the future.

Endnotes

1. Much of the information contained in this summary is drawn from the overview and analysis of the Inspection Panel found in Jonathan A. Fox, "The World Bank Inspection Panel: Lessons from the First Five Years," *Global Governance*, Vol. 6, No. 3, July-September 2000.
2. See the Press Release "Inspection Panel announces results of review of India Ecodevelopment Project," December 22, 1998. World Bank website: www.worldbank.org

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Idea: Ombudsperson

Tool: Office of the Ombudsman, Province of British Columbia, Canada

Summary

The British Columbia Ombudsman investigates complaints about the practices and services provided by public bodies. The Ombudsman is independent of government, with statutory powers defined in the Ombudsman Act. The Ombudsman may intervene to mediate a dispute, negotiate a settlement, or recommend changes in policies and practices, but cannot compel an authority to change its decisions or comply with recommendations that result from the investigation.

Background

The province's first Ombudsman was appointed in 1979 to serve as an independent and impartial investigator of public complaints about administrative unfairness. Initially, its jurisdiction was limited to provincial ministries and Crown corporations, but it has since been expanded to include schools, hospitals, colleges, universities, local governments, and the self-regulating professions, such as doctors and lawyers. The Ombudsman acts on behalf of complaints from individuals, societies, or corporations, but is not their advocate. Its jurisdiction is also limited to cases in which all existing avenues for remedy or appeal have been exhausted. In the introduction to its 1999 Annual Report, Ombudsman Howard Kushner describes his role as an "office of last resort," emphasizing that public bodies should have the first opportunity to resolve complaints of unfairness, provided they have adequate procedures in place to achieve this. To this end, the Ombudsman is presently developing a set of guidelines to help public agencies create fair complaint resolution procedures.

There are 28 investigators operating out of two Ombudsman offices, in Vancouver and Victoria. In 1999, files were opened in about 3,000 cases. Since 1979, the Ombudsman has prepared public reports on 60 of its more high profile investigations, all of which may be viewed from the Office's website (www.ombud.gov.ca) or obtained in hard copy from its library in Victoria. Annual Reports of the Ombudsman's activities from 1979–99 are also available on line.

Method

Those wishing to make a complaint may access a form on the website; the completed form can then be submitted on line or by mail. The office has a toll-free telephone number to call for more information. Multilingual information brochures are also available on line. Complainants are contacted by the Ombudsman's office by telephone or mail within five days of their complaint being received.

To be eligible for investigation, complainants must demonstrate they have made use of all other available remedies. Public bodies in British Columbia that have their own appeal mechanisms include the Worker's Compensation Board, the Insurance Corporation of BC (ICBC), and Income Assistance. The Ombudsman will investigate credible complaints that a decision made by a public agency was unjust or discriminatory, or that the agency acted in a negligent or improper manner.

Inquiries and complaints receive an initial screening by Intake Call Coordinators, and about 25% of calls are resolved at this level. Requests requiring further attention are referred to a Complaints Analyst, who will determine jurisdiction, provide further assessment, and, if necessary, assign an investigator to the case. A further 50% of complaints are resolved at this stage. Most cases are resolved through the use of negotiated resolutions or recommendations that greater fairness in practices, policies, or regulations be provided.

Detailed information on the rules and procedures used in the investigation of complaints, for example, with regard to time lines or the collection, recording, and disclosure of information and evidence, is not provided on line. However, it is available in a three-volume set of manuals that can be purchased at a cost of \$50–75 per manual.

Example

Mr. A complained to the Ombudsman that BC Hydro's policy of not accepting cash payments at local offices was unfair. In his complaint, he stated that when he contacted BC Hydro to discuss his concerns, he was told that the policy was a safety measure developed after a number of robberies at BC Hydro offices in the lower mainland, and was advised of various other payment options. Mr. A was not satisfied with this explanation; he maintained that cash is legal tender and he should not be forced to incur the cost of bank transaction fees or a postage stamp to pay his hydro bill. He noted that banks and other institutions allow cash transactions and that other forms of security could be used at BC Hydro offices. The Ombudsman intervened to facilitate further dialogue between the two parties, and it resulted in BC Hydro reviewing its payment options. Customers may now make cash payments on their hydro bills through government agent offices and designated businesses, without additional fees. BC Hydro is also piloting ATM-type machines for bill payments at its offices at no extra cost.

Preliminary Assessment

The Annual Report of the Ombudsman contains summaries of dozens of cases similar to the one described above. These summaries effectively illustrate the large number and variety of contexts where the Ombudsman has helped to improve fairness and accountability.

References

B.C. Office of the Ombudsman, *British Columbia Office of the Ombudsman 1999 Annual Report*.

Ombudsman of British Columbia Website: www.ombud.gov.bc.ca

Idea: Ombudsperson

Tool: Compliance Advisor Office, International Finance Corporation (IFC) and Multilateral Investment Guarantee Agency (MIGA)

Summary

The Compliance Advisor/Ombudsman (CAO), a new appointment of the IFC and MIGA, has the role of addressing complaints by external parties affected by IFC or MIGA projects. The CAO is also mandated to monitor the institutions' compliance with World Bank (WB) environmental and social safeguard policies, and to advise the president and management on sensitive or controversial issues arising from projects. Although independent of IFC and MIGA management operations, the CAO has no powers of enforcement, relying instead on conflict resolution and mediation approaches to the resolution of issues.

Background

The IFC and MIGA are part of the WB Group, with the responsibility of promoting private-sector investment in developing countries through the mobilization of international financial capital and the provision of political risk insurance to investors. The decision to create the CAO in June 1999 emerged from consultations with shareholders, NGOs, and members of the business community. It was a response to recurring and broadly based demands for greater accountability in the operations of international financial institutions. In the terms of reference for the CAO, the corporations state: "IFC and MIGA realize that ... the internal organization, however strong and independent, should be subject to outside scrutiny, regular audits and expert guidance. Furthermore, the concerns and complaints of people affected by projects financed or insured by IFC and MIGA have to be addressed in a manner that is fair, constructive and objective."

The CAO thus demonstrates a new commitment by IFC and MIGA to recognize and respond to the concerns of local communities and vulnerable groups who are impacted by their operations.

Method

In creating the CAO, the IFC and MIGA have taken steps to establish a dispute resolution mechanism that is accessible, transparent, and empowered with sufficient authority to achieve effective results.

Accessibility

Although based in Washington, DC, the CAO office can be accessed on line by links from the IFC and MIGA websites, and from those of their regional project sponsors. The CAO website has information in seven languages on its function and mandate, including an operations document that details the rules and procedures applied in the settlement of disputes. Complaints may be submitted in any language by fax, mail, or e-mail, and the site provides an on-line form and sample form letter for this purpose.

Transparency

The Operational Guidelines document resulted from an extensive consultative process involving a large multi-stakeholder group of representatives from business, industry, and

NGOs, including representatives of those affected in the past by IFC/MIGA projects. Following the first phase of consultation in 1999, the draft guidelines were posted on the CAO website for a 90-day public consultation period prior to preparation of the final document. The CAO has committed to a periodic review of the guidelines to take into account lessons learned from experiences in its first years of operation.

Legitimacy

The CAO is appointed by the president of the WB, and has the status of VP, which reflects the relative weight and importance of its role in the organization. The CAO is a full-time employee of the IFC and MIGA, but maintains independence and impartiality from their operations through the following structural mechanisms.

- The CAO reports directly to the president of the WB Group and is not part of IFC or MIGA line management.
- Involvement with IFC or MIGA internal processes are limited by conflict of interest guidelines.
- Staff are recruited independently by the CAO.
- The CAO can recruit outside experts for audits or independent reviews of controversial projects.

The powers of the CAO include the ability to scrutinize, monitor, conduct outside audits, and make recommendations. This reflects a conscious intent by the stakeholders involved in developing the mandate to apply informal methods of consensus building and conflict resolution to the settlement of complaints, as opposed to the binding but more rigid and adversarial legal model of the court.

To further enhance the legitimacy of the position, an external search committee, chaired by the Geneva-based World Business Council for Sustainable Development and comprised of representatives from the NGO and business sectors, was handed the task of selecting the first CAO. This departure from the search methods normally used in the selection of WB executives has, by all appearances, contributed to a high standard of buy-in and good faith on the part of locally impacted communities to date.

Example

An example of CAO activities is available on its website. It involves an incident in northern Peru in June 2000 in which 151 kilograms of mercury were spilled while being transported by truck from the Yanacocha gold mine. The mercury leaked out from the truck along a 40-kilometer section of highway that passed through three villages, and some 300 local residents were poisoned as a result.

The Minera Yanacocha is owned by the Newmont Mining Corporation of Denver, Colorado, Minera Buenaventura of Peru, and the IFC. In the days and weeks following the spill, the company's shareholders became sufficiently alarmed by the severity of the disaster that a

decision was made to apply to the CAO Office for remedial action. After an initial review, the CAO opted to convene an independent commission of experts on health, the environment, and mining practices. This commission would investigate the causes of the accident, and report back to the CAO with recommendations.

The findings of the independent commission were released within three months (the full report is available on the website). Not surprisingly, the report identified several areas in which the mine failed to apply the proper standards of training, equipment, and supervision necessary for the safe handling and transport of hazardous materials. Several recommendations were proposed that, if implemented, could have a far-reaching impact on corporate practices not only in Peru but also across all of the shareholders' global operations.

Preliminary Assessment

The establishment of the CAO is an attempt by two powerful international financial institutions to come to terms with the current reality. That is, in the current climate of public scrutiny, new mechanisms of social and environmental accountability are essential to the continued viability of their operations in developing countries. Still in its formative phase, there is not enough data available to comment on the CAO's performance to date.

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Idea: All-inclusive Assessment Program

Tool: Social Assessment, World Bank (WB)

Summary

Social Assessments (SAs) are undertaken by “borrowers” and “task teams” (including WB specialists) after WB project approval, but before project implementation. It follows a structured method, or four pillar approach: identification of key social development issues; institutional and social organizational issues; stakeholder identification and participation framework; and monitoring and evaluation.

Background

SAs are undertaken if it appears there may be potentially harmful social impacts, if there are contesting key stakeholders, if project success is in doubt, if recipient participation is required, if success depends on changes in individual conduct, and if the target group is poor or vulnerable.

In 1997, the WB carried out SAs on 25% of its projects, and this had increased to 43% by 1999. A total of 131 SAs were carried out in 2000.

Depending on the country and method used, SAs take between 4–6 months to prepare and 10 weeks to complete.¹ Costs vary, but the average is about \$70,000 USD (ranging from \$20,000–200,000).

Method

Task Teams

To ensure that projects comply with WB policies and procedures, task teams² are required to first complete the Project Concept Document (PCD) and the Project Appraisal Document (PAD). These establish the relevant WB safeguard policies and provisions, which include indigenous peoples, cultural property, environmental assessment, gender dimension of development, involuntary resettlement, and NGO involvement.

Four Pillars of Social Assessment

1. Identification of Key Social Development Issues
Before initiating the SA process, task teams consider qualitative and quantitative methodologies from a variety of social science disciplines. Issues of poverty, social exclusions, and social capital must be included in the procedure. SAs begin by identifying broad social development issues through secondary resources, e.g., development literature/studies, social impact monitoring studies, existing social development profiles, and country-specific studies. SAs deduce the key social development issues within the project context by presenting analysis of prospective profits and harmful effects while considering how specific stakeholder groups may assist or obstruct the participation of the poor in the design of the initiative.
2. Institutional and Social Organizational Issues
Frequently asked questions include: Who are the actors? What incentives do actors have? What is the information communications structure?

An analysis is undertaken of local institutions and the collaboration of informal institutions and the political and administrative body. Key institutional issues must be identified,

including political parties, village councils, regulatory agencies, firms, cooperatives, trade unions, as well as social bodies like churches, clubs, and educational facilities. The SA process tries to identify any blockages to equitable access, such as exclusionary practices that deny minority groups access to goods and services.

3. Stakeholder Identification and Participation Framework

A stakeholders list is reviewed through consultations with policy makers, representatives of central and local government, knowledgeable local and international social scientists, and local NGOs.

Stakeholder and institutional categories include: people, communities, formal public sector institutions, and NGOs. For more detailed analyses, “people” are divided into various ownership, gender, and ethnic categories; “communities” are defined as villages or neighbourhoods; official institutions are listed, and a few advocacy groups are added.

The SA process calls for an information/communication (I/C) strategy with different mechanisms to share the information, to ensure continuous provision of information, to gather feedback to ascertain stakeholder responses, and to provide for involvement of stakeholders in monitoring and evaluation.

4. Monitoring and Evaluation (M&E)

M&E procedures are mandatory for WB-financed projects. SAs identify and monitor for signs of participation by the poor and vulnerable, and other social objectives. It defines transparent evaluation procedures, including participatory approaches, ensuring that monitoring and evaluation procedures are established for the mitigation plan, and that all M&E proposals are carefully scheduled, fully budgeted, and properly supervised.

Example (1 of 12 available)

The following example, or case study, is 1 of 12 that are available on the website listed below.

India: Using Social Assessment to Foster Participation in Protected Areas

Source: Jessica Mott

<http://wbln0018.worldbank.org/essd/essd.nsf/40bbf1807237827e852567eb0062fac5/78b05ed26a7cff50852567ed004c8b73?OpenDocument>

The India Ecodevelopment Project (funded by the WB, the Global Environment Facility, and the Ministry of Environment and Forestry) used SAs to implement stakeholder participation, to gather socioeconomic and biophysical information to assist in a process of monitoring, and to develop a project based on people’s involvement in forestry, conservation, and rural development projects.

The Ministry undertook a series of consultations on participatory methods in ecodevelopment with NGOs, including the Indian Institute for Public Administration (IIPA), which became a partner in the formation of the Ecodevelopment Project. The design of SAs included workshops, consultations, and Participatory Rural Appraisal; these elements were incorporated in a joint effort with the Ministry, NGO representatives, and project officials. Thirty-eight meetings were held between March 1992 and May 1995 to discuss design components and proposed activities and to prepare a detailed work plan.

SAs identified a multitude of concerned parties of protected area resources and long-term habitants, including:

- tribal groups and grazers whose livelihoods are highly dependent on access to fodder and forest resources;
- cultivators who have been legally excluded from national park and sanctuary boundaries and have long histories of forest habitation;
- people responsible for cultural sites, which attract large numbers of pilgrims;
- people in recently settled forest villages that were created to provide labour for commercial forest management;
- government agencies with interests in mining, hydropower generation, irrigation, fisheries, roads, and tourism; and
- periphery villagers who acquire substantial supplemental income from collecting and selling non-timber forest products and working for commercial forestry operations and small-scale industries.

The project was then designed and implemented based on these findings.

Preliminary Assessment

When gathering secondary data, researchers seek a balance of information from a broad spectrum of stakeholders – government, corporate and civil society sources. Conclusions about project impact are not be made in the initial stage of development when few impacts can be identified and the sustainability of participation may be deceiving.

A critical area is how certain ethnic groups respond to adjustment in various countries implementing development initiatives. Inadequate social and institutional analyses can result in a lack of recognition of the range of cultural relationships, customs, and ideals. SA case studies and surveys undertaken recently by the WB provide an overview, but they do not detail how different social groups within a country adapt to change.

Although participation concerns are often acknowledged during the early stages of project planning, adequate instruments to ensure inclusion practices throughout project development are needed to ensure stakeholder participation in implementation and monitoring is not abandoned. It is relatively more difficult to sustain this participation beyond the initial stage of the project. Another important element of participation is the issue of cost sharing that the WB requires of major stakeholders undertaking an SA. These obligations perform an important function in the design and implementation of development initiatives.

Endnotes

1. Preparation time is dependent upon the chosen method of SA and country in which it is being performed. See World Bank – Social Assessment – Methods at: <http://wbin0018.worldbank.org/essd/essd.nsf/40bbf1807237827e852567eb0062fac5/7c08e98222130014852567ed004c8a28?OpenDocument>
2. Task teams are composed of concerned parties to the project, with sufficient knowledge of the task at hand. In most cases, an SA specialist is part of the team and often is supplied by the WB. The teams provide terms of reference, advice, guidance, technical support to the

borrower counterpart team in design, implementation, and integration of the SA findings into the project, policy, or program design.

References

(Extensive resources are listed on World Bank web page.)

World Bank Social Assessment

<http://wbln0018.worldbank.org/essd/essd.nsf/40bbf1807237827e852567eb0062fac5/48d3bca13fbc13de852567ed004c8a3e?OpenDocument>

World Bank Social Development Family

<http://wbln0018.worldbank.org/essd/essd.nsf/e0a6beef25793a39852567f200651c5c/b01d3e9c4c0bc7eb8525682d00609d59?OpenDocument>

India Ecodevelopment Project

<http://envfor.nic.in/pt/ecoprj/ecoprj.html>

Indian Institute for Public Administration (IIPA)

<http://www.iipaindia.org/>

Contact

Anis Dani

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Idea: Evaluation Department

Tool: Operations Evaluation Department, World Bank (WB)

Summary

The Operations Evaluation Department (OED) is an independent unit that rates the development impact and performance of all WB completed lending operations. Each year, the OED conducts hundreds of studies on WB projects throughout the world. Its findings are reported directly to Executive Directors, and published in an extensive collection of reports, studies, précis, and working papers. The OED also produces training materials and delivers on-line courses on development evaluation topics.

Background

In 1970, the WB created the OED for the purpose of measuring the impact and effectiveness of its activities. Since then, the OED has conducted over 5,000 evaluations.

Changes in the development environment since the 1970s have challenged the WB to refocus its mission towards an expanded concept of economic development that promotes higher standards of social, environmental, and institutional sustainability. In its annual review for the 2000 fiscal year, the OED summarized the effect of the WB's evolving mandates on its own work. It noted that, although the enhancements have increased the overall rewards of WB assistance, "they have also increased the complexity of Bank operations, raised the cost of doing business, and generated stress on structures, processes, and people."¹ The resulting tensions have in turn generated new challenges for the OED as it seeks to guide management of diverse and conflicting WB objectives.

Method

Evaluation strategies are applied to WB's three major areas of development assistance: projects (269 evaluated in 2000); country assistance programs (38 evaluated); and sector and thematic activities (12 evaluated). In the past four years, allocation of OED resources towards the latter two categories has increased dramatically, while the emphasis on project audits has declined. This reflects the shift in development policy towards a more holistic and participatory framework.

A self-evaluation report is prepared for each project by operational staff, within six months of project completion. These reports are then reviewed by the OED. Audits for 25% of these will be conducted within one to seven years of completion.

Overall effectiveness is defined by the OED as assistance that makes "a demonstrable and efficient contribution to economically sound, socially responsible, and environmentally sustainable growth."² The goal of each evaluation is to assess development effectiveness, identify best practices, and distil lessons to management, staff, and partners for improving project and policy design and effectiveness.

To measure effectiveness, the OED has an enormous and sophisticated inventory of indicators, instruments, and methodologies, a detailed description that is beyond the scope of this summary. However, an example of evaluation methods applied to the country assistance strategies, for instance,

may involve measuring changes in a range of social, economic, and environmental criteria, including child mortality, school enrolment, export growth, private-sector development, and enforcement of environmental regulations.

Evaluation results are grouped into six categories, which correspond to six types of publications. Most of the reports contained in these series are available on line in their full-text versions.

- *Annual Reviews* – provide a broad overview of work completed over the year, with analysis and general recommendations for improving overall development effectiveness.
- *Evaluation Studies* – examine policy issues based on evaluations of individual lending operations, including sector and thematic activities.
- *Impact Evaluation Reports* – examine projects 5 to 10 years after the close of the loan disbursement.
- *Lessons and Practices* – provide recommendations and “good practice” guidelines for development practitioners drawn from WB experiences.
- *Précis* – short publications offering quick access to key findings and recommendations from the OED’s evaluation programs.
- *Working Papers* – informal documents circulated to encourage discussion and comments.

Preliminary Assessment

An examination of issues raised in the OED’s Annual Reviews over the past three years suggests that the OED is fulfilling its roles of identifying areas of relative strength and weakness in WB performance and of providing the critical analysis and recommendations necessary for improving effectiveness. In 1998, the OED criticized the WB’s favouring of a macro-economic over a social capacity-building approach to poverty alleviation, an imbalance it believes exacerbated the 1997 financial crisis. In 1999, the OED articulated several areas of concern regarding the WB’s intended implementation of a new corporate strategy, the Comprehensive Development Framework; in 2000, the OED highlighted what it saw as continuing gaps and contradictions that prevent the effective implementation of the country assistance strategies. It is not evident, however, how issues raised by the OED are regarded or responded to by WB management and executive.

Endnotes

1. Operations Evaluation Department Report No. 21550, *Annual Review of Development Effectiveness: From Strategy to Results*. World Bank, January 2001.
2. Robert Picciotto, OED Director-General, “Evaluation at the World Bank,” presentation on October 14, 1999, in Oslo, Norway.

Reference

World Bank Operations Evaluation Department Website: www.worldbank.org/oed

Contact

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Idea: Institutional Policy

Tool: Strategy to Improve the Effectiveness of Monitoring and Evaluation Methods, International Fund for Agricultural Development (IFAD)

Summary

Since 1999, the IFAD has engaged in a large-scale restructuring of its evaluative functions. Two distinctive features of the new approach are an increased level of collaboration with community-based organizations (CBOs) in the design and implementation of evaluation activities, and an emphasis on ensuring that the knowledge and lessons learned from evaluation are more effectively applied to future project design. The initiative is part of a broader organizational reform through which the IFAD seeks to revitalize its role as an innovative leader in the alleviation of rural poverty.

Background

Established as a specialized agency of the United Nations in 1977, the IFAD has a mandate to provide direct funding to programs that promote the economic advancement of the rural poor, mainly by improving the productivity of agricultural activities. Since its inception, the IFAD has financed 548 projects in 114 countries for a total commitment of approximately \$6.8 billion in loans and grants. It currently has 161 member states.

New strategic directions have emerged from planning discussions within the IFAD over the past few years. The institution is now committed to establishing more inclusive relationships with its community-based borrowers and sponsoring agencies. To accomplish this, it has embarked on a coordinated strategy involving the development of new loan instruments, new methods of knowledge management and project cycle management, and more collaborative approaches to evaluation. Through the appropriate deployment of new information technologies, the IFAD seeks to transform the knowledge it generates into powerful learning exercises that will result in more effective and sustainable solutions to rural development. Accountability – measured by “an expanded concept of *success* from the mere accomplishment of activities to that of actually delivering desired outcomes to IFAD’s ultimate clients, the rural poor” – is a cornerstone of its new corporate strategy.

Method

Review

During 1999, IFAD’s Office of Evaluation Studies (OE) undertook a review of its work by means of an internal assessment and a survey of the users of its products and services. (The results are published in a report available from IFAD.) The review identified some key areas in need of improvement. For example, in general, the evaluations could not generate practical solutions that would lead to better project performance and better IFAD policies. Furthermore, to date, no attempt had been made within the OE to assess the rate of adoption of lessons learned and recommendations produced. The OE has identified that a better understanding of what prompts its partners to adopt and use its products and services would lead to improved design and quality of interventions.

Key Elements

A vision statement, strategic objectives, and a framework for an annual work programming cycle were developed subsequent to the review. They incorporate the following principles and methods.

Learning – Evaluation is conceptualized as a fundamental exercise in learning, and as such must offer opportunities to learn and generate knowledge, together with partners, as a team.

Participation – The 1999 review identified community participation in the evaluation process as a distinguishing feature of its most successful projects. This led to the observation that “people adopt evaluation recommendations when they identify with them, that is, when the recommendations reflect and confirm their own experiences and understanding of the issues. ... It is important, therefore to make users an integral part of that process.” Inclusion of the borrower and implementing agencies in evaluation now take centre stage in IFAD’s new strategy.

Knowledge Management – The review pointed to the need for higher-quality data and better criteria for measuring validity of IFAD’s evaluation work. Lessons learned from evaluation must be more effectively stored, conceptualized, and disseminated to facilitate their replication by stakeholders in the development community.

Alternative Methods of Evaluation – In the future, the OE intends to shift away from the use of conventional project-based evaluation methods in favour of country program evaluations and thematic studies. The OE states: “Although project evaluations are indeed important, they are not the most cost-effective instrument at OE’s disposal. Through thematic evaluations/studies and country programme evaluations, it is possible to have a multiplier effect and impact on several projects, programmes and policies and to contribute in a systematic way to the generation of the knowledge that IFAD and its operational divisions require. It is for this reason that, in future, OE intends to reduce its involvement in project evaluations and move on to a higher plane.”

Example

The IFAD website and 1999 Annual Report provide numerous examples of evaluation initiatives that illustrate the use of the new strategies identified by the OE. Two of these are briefly summarized below.

Community Involvement in Evaluation – PREVAL

The Program for Strengthening the Regional Capacity for Monitoring and Evaluation of Rural Poverty-Alleviation Projects in Latin America and the Caribbean (PREVAL) involved the delivery of three participatory workshops over a two-year period to partner organizations and community representatives from the Latin American and Caribbean region. The workshops used an integrated framework of training and technical assistance aimed at increasing the capacity for project monitoring and the capacity of rural development projects at the regional level. They also provided opportunities for discussion, information exchange, and problem-solving activities; the information generated was subsequently applied during the periods between workshops. The PREVAL project is one of IFAD’s most successful training initiatives in terms of its overall impact on increasing the ability of community-based borrowers to manage and influence the direction of projects.

Country Program Evaluation – Nepal

A portfolio evaluation of IFAD-funded projects in Nepal during 1998–99 resulted in a number of useful lessons, enabled by the approach’s comparative methodology. To cite just one example, a global review of the highly successful Production Credit for Rural Women Program (PCRW) identified common key indicators of success among PCRW-delivery sites relative to those sites offering

different programs or no programs at all. The evaluation found that the PCRW projects achieved a much higher rate of credit recovery compared to similar enterprises that relied on the use of commercial bank loans. It also found that the incidence of stunted growth in children was lower in PCRW project sites compared to sites not covered by the project. These findings have shifted IFAD's approach to addressing poverty and gender inequality in Nepal towards the more community-driven approaches characterized by the PCRW.

Preliminary Assessment

IFAD's strategy appears to rely on a sound reading of current best practices, supplemented by extensive empirical findings from fieldwork conducted over 20 years. The new strategic objectives of the OE are linked to a broad strategy of corporate restructuring. Although this strategy will help to ensure the institutional support necessary for successful implementation, it may suffer from the challenges that the IFAD will inevitably face over the next several years in maintaining the required high level of resourcing and coordination.

References

IFAD, *International Fund for Agricultural Development 1999 Annual Report*.

IFAD Website: www.ifad.org

Strengthening IFAD's Support to the Development of Effective and Efficient Monitoring and Evaluation Systems: A Synthesis of Lessons Learned and Recommendations for Future Action. Paper presented to the IFAD Evaluation Committee, September 2000, Rome.



Idea: Independent Review

Tool: Autonomous, Independent Agency to Ensure Fiscal Accountability,
U.S. General Accounting Office (GAO)

Summary

An autonomous, independent agency reports directly to the stakeholders to examine fiscal responsibility in the government. The agency works to answer such basic questions as whether government programs are meeting their objectives or providing good service to the public for the money spent.

Background

The GAO, an independent non-partisan agency that is the investigative arm of the Congress, is charged with examining all matters relating to the receipt and disbursement of public funds. It is often called the “congressional watchdog” because it investigates how the federal government spends taxpayer dollars. The GAO was created after World War I in response to the increased national debt and the need to control expenditures. Over the years, the Congress has expanded its audit authority, added new responsibilities and duties, and strengthened its ability to perform independently. It issues a steady stream of products – more than 1,000 reports and hundreds of testimonies by GAO officials each year.

Method

The GAO is headquartered in Washington, DC, with offices in 11 major cities across the country. A Comptroller General, appointed by the President, controls the agency. The Comptroller General is appointed to a 15-year term, ensuring that the agency operates at the same standard, regardless of changes in government, and ensuring that there is a continuity of leadership to protect it from frequent patronage appointments that will undermine its integrity. The current Comptroller General is David M. Walker, whose term of office expires in 2013. This continuity of leadership also protects the employees from frequent directive changes. The GAO workforce is typically composed of career employees who are hired based on skill and experience as opposed to political affiliation.

The GAO has approximately 3,300 employees, including experts in program evaluation, accounting, law, and economics, and clerical workers. The agency is a major investment on behalf of the American taxpayers: its 2002 budget request is in excess of \$430 million.

The objective of the GAO is to provide Senators and Representatives with the best information available – accurate, timely, and balanced – to help them arrive at informed policy decisions. The GAO supports congressional oversight by:

- evaluating how well government policies and programs are working;
- auditing agency operations to determine whether federal funds are being spent efficiently, effectively, and appropriately;
- investigating allegations of illegal and improper activities; and
- issuing legal decisions and opinions.

Audits and evaluations are the most prominent of the GAO activities, the majority of which are made in response to specific congressional requests. Other assignments are initiated pursuant to standing

commitments to congressional committees, and law specifically requires some reviews. Finally, some assignments are independently undertaken in accordance with GAO's basic legislative responsibilities. The agency operates the FraudNet hotline and will act when a misappropriation is reported from a citizen. It will also audit any government organization in search of misappropriated funds, inefficiencies, and errors and omissions in reporting.

The ability to review practically any government function requires a multidisciplinary staff able to conduct assignments wherever needed. The GAO is organized to allow staff members to concentrate on specific subject areas, enabling them to develop a detailed level of knowledge. When an assignment requires specialized experience not available within GAO, outside experts assist the permanent staff. GAO's staff go wherever necessary on assignments, working onsite to gather data, test transactions, and observe firsthand how government programs and activities are carried out.

The GAO also plays an important role in budgeting by ensuring that the Congress has current, accurate, and complete financial management data. To this end, GAO:

- prescribes accounting principles and standards for the executive branch;
- advises other federal agencies on fiscal and related policies and procedures; and
- prescribes standards for auditing and evaluating government programs.

In addition, the Comptroller General, the Secretary of the Treasury, and the Director of the Office of Management and Budget develop standardized information and data-processing systems. This includes standard terminology, definitions, classifications, and codes for fiscal, budgetary, and program-related data and information. The GAO also has the ability to estimate the costs of future government actions.

The agency provides various legal services to Congress. In response to inquiries from committees and members, it provides advice on legal issues involving government programs and activities. It is also available to assist in drafting legislation and reviewing legislative proposals before the Congress. Other legal services include resolving bid protests that challenge government contract awards, assisting government agencies in interpreting the laws governing the expenditure of public funds, and adjudicating claims for and against the government. In addition, GAO's staff of trained investigators conduct special investigations and assist auditors and evaluators when they encounter possible criminal and civil misconduct. When warranted, the GAO refers the results of its investigations to the Department of Justice and other law enforcement authorities.

The agency offers a range of products to communicate the results of its work; the type of product depends on the assignment's objectives and the needs of the intended user. Product types include testimony, oral briefings, and written reports. Although all of GAO's unclassified reports are available to the public, it will honour a requester's desire to postpone release of a report for up to 30 days. The report will be made public automatically following the requester's release or public disclosure of the report's contents.

Preliminary Assessment

The GAO is a successful attempt by a government to institute a formal, independent review mechanism over a long period of time. The true test for the GAO is to maintain the perception that it is autonomous and non-partisan.

References

The General Accounting Office – Main Page
<http://www.gao.gov>

Contact

The GAO has a telephone book of all employees, available on the main page.



Idea: Armslength Evaluation

Tool: Independent Evaluation Office, International Monetary Fund (IMF)

Summary

The IMF has established an independent Evaluation Office (EVO) to undertake objective assessments of its operations, policies, and programs.

Background

The Executive Board of the IMF established the EVO for three purposes: to enhance the IMF's internal learning culture, to foster a more broadly based understanding of its mandate, and to bolster the credibility of its work outside the institution. It was designed to complement the review and evaluation work done within the IMF, as well as to improve the IMF's ability to learn from its experience and more quickly integrate improvements into its future work.

The EVO emerged from recommendations made by the Evaluation Group of Executive Directors in a report titled "Review of Experience with Evaluation in the Fund," released on March 14, 2000. The report included a proposal for an EVO. A background paper released by the Executive Board on August 7, 2000, presented an initial clarification of the issues to be dealt with by the EVO, and on September 14, the Board agreed on the terms of reference, structure, staffing, and operating procedures for it. On April 27, 2001, the Board appointed Mr. Montek Singh Ahluwalia as Director of the EVO, commencing August 2001.

A more detailed background of the emergence of the EVO can be found at <http://www.imf.org/external/np/eval/2000/091200.htm>

Method

The terms of reference for the EVO, agreed to by the Executive Board on September 14, 2000, details its structure, staffing, and operating procedures. These, in conjunction with recommendations made in the Board's background paper, are summarized below.

Structure and Accountabilities

The EVO will be independent of IMF management and staff and will operate at arm's-length from its Executive Board. The EVO's structure and modalities of operation must protect its independence – both actual and perceived.

A Director, appointed by the Executive Board, heads the EVO. The Director's term of appointment is for a period of four years, renewable for a second term of up to three years. The Director's appointment may be terminated at any time with the approval of the Board. At the end of the term of service, the Director will not be eligible for appointment or reappointment to the regular staff of the IMF. The Director is responsible for selecting EVO personnel (including external consultants); this selection will be based on terms and conditions determined by the Board with a view to ensuring that the office is staffed with independent and highly qualified personnel. The majority of full-time EVO personnel will come from outside the IMF.

Responsibilities

The EVO Work Program will take into account current institutional priorities, and be prepared in consultation with the Executive Directors and management, as well as with outside informed and interested parties. The Director will present the Work Program to the Executive Board for its review.

The EVO, through its Director, will report regularly to the Executive Board. In addition to an Annual Report, the Board will expect regular reports on EVO's activities and findings.

With respect to individual evaluations, staff, management, and (when appropriate) the relevant country authorities will be given an opportunity to comment on the assessments being presented to the Executive Board.

The Director, in consultation with the Executive Directors, will prepare a budget proposal for the EVO for consideration and approval by the Board. Its preparation will be independent of the budgetary process over which IMF management and the Office of Budget and Planning have authority, but its implementation will be subject to IMF budgeting and expenditure control procedures. The EVO budget will be appended to that of the Executive Board within the IMF's Administrative Budget. The Director's other responsibilities will include:

- managing a credible program of independent evaluations of IMF policies and activities;
- assessing whether IMF strategies, policies, and programs are producing the expected results and making recommendations to improve the efficiency and effectiveness of these operations;
- assisting the Executive Board to monitor the extent to which lessons from evaluation are being integrated into the IMF's work and assisting operational departments to maintain the IMF's institutional memory on lessons learned from evaluation studies;
- seeking internal and external input into the formation of the Work Program and into particular evaluations, where appropriate;
- working with the External Relations Department to disseminate evaluation findings outside the IMF;
- providing secretarial and logistical support for external evaluations directly initiated by the Executive Board; and
- reporting regularly to the Executive Board, including the preparation of an Annual Report on EVO's activities during the year and the findings of its various evaluations and assessments. This report should also provide information on evaluation topics proposed by EVO but rejected for inclusion into the Work Program.

If requested by the Executive Board, the EVO will provide technical and administrative support for any external evaluations launched directly by the Board.

Consultation, Publication, and External Relations

In carrying out its mandate, including the preparation of its Work Program, the EVO will be free to consult with whomever and whichever groups it deems necessary, both within and outside the IMF.

The EVO will have sole responsibility for drafting EVO evaluations, Annual Reports, press releases, and other documents or public statements.

The Work Program will be made public. Furthermore, there will be a strong presumption that EVO reports will be published promptly (within the constraints imposed by the need to respect the confidentiality of information provided to the IMF by its members), unless, in exceptional circumstances, the Executive Board were to decide otherwise.

Publication of evaluations will be accompanied by comments from management, staff, and others, including relevant country authorities, where appropriate, along with the conclusions reached by the Board in considering the evaluation report.

Relations with Fund Staff and Management

In conducting its work, the EVO should avoid interfering with operational activities, including programs, or attempting to micro-manage the institution.

Review of Experience with EVO

Within three years of the launch of operations, the Executive Board should initiate an external evaluation of EVO to assess its effectiveness and to consider possible improvements to its structure, mandate, operational modalities, or terms of reference. Without prejudging how that review would be conducted, it is understood that it would include the solicitation of broad-based input from outside the official community.

In addition to recommending that the EVO be operationally independent from IMF management and staff, the Executive Directors made a number of other suggestions, including:

- the EVO budget be determined annually by the Executive Board without IMF management or staff intervention;
- the size of the EVO be limited to no more than 11 individuals, and external recruits and consultants should constitute a significant, if not the major, part of its staffing; and
- the EVO be accountable to the Executive Board, with the Director of the EVO to report regularly to the Board.

EVO findings should be published, with appropriate safeguards for confidential material. Comments on the evaluation from management and staff, and others where appropriate, should accompany the conclusions reached by the Board in considering the evaluation report.

Preliminary Assessment

Several suggestions have been made from outside the IMF proper regarding the structure of the EVO. Many of these were put forward by the Bretton Woods Project, an initiative headed by a group of British NGOs pressing for increased transparency and civil society participation in World Bank and IMF policies and interventions. The Project has been monitoring the evolution of the EVO, and using its website to lobby for certain additions to the EVO mandate, such as:

- publication of all reports;
- full transparency for setting the terms of reference for evaluations and appointing consultants;
- mechanisms for stakeholders outside the IMF to suggest areas for evaluation and to offer input into terms of reference and comment on draft reports;
- mechanisms to ensure that staff, particularly those seconded from the IMF, are free to act as independently as possible; and
- clear monitoring and follow-up mechanisms to ensure that the accepted recommendations are implemented.

Another organization, the Center of Concern, has circulated a letter over the Internet with a detailed list of proposals for the EVO; the Center's website also provides an extensive summary of the effect of EVO actions to date. (Sites are listed in the References section below.)

In addition, the Bretton Woods Project and the Center of Concern have released reports that provide input on the structure of the EVO, which the Executive Board acknowledged in its September 14 report on the EVO's terms of reference. The Board stated: "In the context of this review, Directors sought to identify lessons with the intention of recommending ways in which the Fund's capacity to undertake independent evaluations could be enhanced and its ability to more effectively integrate the lessons drawn from those evaluations into the work of the Fund improved."

References

International Monetary Fund-Evaluation in the Fund-Update Page
<http://www.imf.org/external/np/eval/index.htm>

Bretton Woods Project-Update
<http://www.brettonwoodsproject.org/update/20/20b.html>

Center of Concern-IMF Independent Evaluation Office Sign-on Letter <http://www.escribe.com/politics/cocbe/m495.html>

Polak, Jacques J. *IMF Study Group Report: Transparency and Evaluation*, Report and Recommendations by a Special Study Group convened by the Center of Concern, April 1998.

Wood, Angela, and Welch, Carol. (1998, April). *Policing the Policemen - The Case for an Independent Evaluation Mechanism for the IMF*. Bretton Woods Project and Friends of the Earth US.

Contact

As of May 23, 2001, the IMF had yet to set up a contact for the newly created EVO.

General inquiries can be made at:

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Idea: Civil Society Committee

Tool: Structural Adjustment Participatory Review International Network, World Bank (WB)

Summary

SAPRIN took its name from the Structural Adjustment Participatory Review Initiative (SAPRI), launched by the WB in 1997. SAPRI brings together civil society organizations, their governments, and the WB in a joint review of structural adjustment programs (SAPs). The review evaluates the impact of SAPs on a range of population groups and economic and social sectors, and explores new policy options.¹

Background

The WB's *World Development Report* (1990) recognized that poverty, inequality, and human suffering increased in countries that had implemented SAPs. The analysis of the problems by international financial institutions (IFIs) differed from that of the citizens of these countries. IFIs interpreted the problems as transitory, limited to the social sector, caused primarily by factors other than the policies themselves, and resolvable through adherence to the same policies. The analysis, priorities, knowledge, and opinion of the people on the ground were not considered.

In June 1995, a group of NGOs approached James Wolfensohn with a proposal to engage civil society through a joint assessment of the impact of SAPs. Their goal was twofold: to provide the WB with different perspectives on economic policy and to afford a legitimate role to organized civil society in economic policy making. In 1996, negotiations between 23 NGOs from around the world and the WB's Economics Vice-Presidency expanded the original proposal to include public fora in representative countries, as well as participatory, gender-sensitive research that would take a political-economy approach to determine the impact of SAPs and to develop alternatives.

Method

National networks in each SAPRI and CASA (Citizens' Assessment of Structural Adjustment) country form the backbone of SAPRIN. Operating under the guidelines set by the SAPRIN Global Steering Committee that represents them (<http://www.saprin.org/STRUCTURE.htm>) these networks coordinate activities with the three Regional Centres (Accra, San Salvador, and Bangkok). A Secretariat in Washington, DC, is responsible for Eastern Europe and handles ongoing relations with the WB and the CASA initiatives.

The main components of the national SAPRI exercise are as follows.

1. There is a preparatory phase in which civil society organizes itself and then jointly plans the national review with the WB and government representatives. It is complemented by broad, effective, and ongoing outreach activities that mobilize citizens' groups from different economic, social, political, ethnic, and cultural segments of society, and give them access to relevant WB documents.
2. The next stage is an opening national public forum. This forum represents the heart of the SAPRI exercise as it provides the opportunity for citizens to present their testimony, evidence, and analysis about the local effects of SAPs. The opening forum immediately

- precedes the field research and thus helps define its direction and findings.
3. A participatory field investigation follows the opening forum. In each country, this investigation has the following features: two highly public and transparent national fora are held; it is highly participatory, with the “subjects” helping to define its questions and parameters with a gender-sensitive approach; both qualitative and quantitative information are valued; the research uses a political-economy approach, focusing on those factors in the economic and political system (national and global) that determine the selection and design of adjustment policies and their impacts. A detailed Methodological Framework (see <http://www.saprin.org/methodology.htm>) was established to guide the field investigation.
 4. A second national forum is then held in each country, where the final research report is presented along with recommendations for alternative policies. In addition, where tripartite processes exist, there are attempts to reach agreement on findings and on recommendations for changes in economic programming.
 5. Standard Operating Procedures (SOPs) were developed jointly by SAPRIN’s Global Steering Committee and the WB to ensure consistency in the national exercises and in the comparability of outcomes (see <http://www.saprin.org/saprisop.html>). The Steering Committee is responsible for ensuring that the exercises work within the parameters of those agreements. SOPs relate to several areas, including the role of SAPRIN regional centres, civil-society steering committee and issues identification, participation in the public launch, establishment of a national steering committee, recommended format of opening national forum, field investigations, second global forum, final SAPRI report and recommendations, and financing.
 6. Another important step was the approval by the WB Board of a new Information-Disclosure Policy Agreement for SAPRI.² This policy recognizes that a comprehensive and open information policy is essential if all parties are to be provided with equal access to information. To fulfil this requirement, a depository of WB documents was established at the Resident Mission in each participating country. Accessible information includes documents that address the design, intent, and content of SAPs, such as the Policy Framework Paper, Letters of Development Policy, Country Assistance Strategies, the President’s Reports, Appraisal Mission Reports, and equivalent reports on sectoral operations.

After the final country reports are produced, national and synthesized global findings are to be presented, with recommendations to WB senior management and other policy makers, at the final Global Forum in Washington, DC. Initially scheduled for mid-2001, this forum has been postponed to a later date to allow all participating countries to hold their Second National SAPRI Forum. The Global Forum is an opportunity to draw lessons for the future of policy-based lending and sets the stage for improving WB operations and, ultimately, for democratizing economic policy making.

Example

SAPRIN-Ghana is a broad-based network encompassing virtually all of the major NGOs, churches, and trade union umbrella organizations in the country, a total of more than 300 organizations. Ghana held its First National SAPRI Forum in 1998³; over 250 people participated, including representatives of civil-society organizations from across the country, the government, and the WB. Building upon an extensive process of citizen outreach, the forum included workshops in 10 administrative regions of the country and involved a broad cross-section of civil-society actors. Economic literacy has been considered a vital part of the overall process to strengthen civil-society

participation in Ghana's SAPRI exercise.

Overall, it was emphasized that SAPs have worsened the condition of the large majority of Ghanaians and that domestic productive capacity has been weakened.⁴ Implemented changes, such as user fees and retrenchment on education and health care, have not benefited the poor, and this was seen to be the result of the policies themselves and a lack of public input. The closing remarks from civil-society participants highlighted that economic policy should put the interests of Ghana first and ensure the integration of different sectors. SAPRI, in its support for democratic processes, is serving to strengthen the capacity of civil society and help ensure economic policy benefits Ghana as a whole.

Preliminary Assessment

Through its main initiatives (SAPRI and CASA), SAPRIN is contributing to enhancing participation and transparency. It is legitimizing an active role for civil society in economic decision making, as it indicates areas in which changes in economic policies, and in the economic policy-making process, are required. It is also attempting to help governments and international institutions understand how adjustment measures make their way through local economies and into peoples' lives. SAPRIN initiatives are facilitating, at the national and global levels, high-profile public discourses on the controversial policies of economic reform, while supporting the search for more democratically shaped economic-policy options. In short, it legitimizes local knowledge in the analysis of SAPs, makes space for and institutionalizes grassroots involvement in macroeconomic decision making, and shows how the participation of local, broad-based civil society groups can enhance economic policy making and contribute to changes that can lead to significant improvements in the lives of those most affected by SAPs.

SAPRI is predicated on a recognition of the imbalance of resources and power between these organizations and the government/WB. In this context, effective engagement between these entities is strengthened when the following are in place:

- political legitimacy for the whole SAPRI exercise;
- a willingness to participate in open consultations and a commitment to show mutual responsiveness when results on either side are presented;
- a mutually agreed framework, as embodied in the Standard Operating Procedures and the Methodological Principles;
- transparent access to relevant information;
- effective cooperation and organization by civil-society organizations;
- building of the intellectual/technical capacity of civil-society representatives; and
- financial resources to carry out the various activities.

Endnotes

1. The countries participating in SAPRI are Bangladesh, Ecuador, El Salvador, Ghana, Hungary, Mali, Uganda, and Zimbabwe. In addition, in countries such as Mexico and the Philippines, where the governments and the WB decided against participating in SAPRI, SAPRIN has extended its reach to include similar exercises in a parallel initiative known as the Citizens' Assessment of Structural Adjustment (CASA).
2. World Bank Board & SAPRIN Steering Committee, *SAPRI Information Disclosure Agreement*.

(Approved by the World Bank Board & SAPRIN Steering Committee in 1998.)

Website: http://www.saprin.org/info_disclosure.htm (April 23, 2001)

3. *Ghana Opening National SAPRI Forum 10-12 November 1998. Civil Society Perspectives on Structural Adjustment Policies.* Website: http://www.saprin.org/ghana/ghana_forum1.htm

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4. Ibid.

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