

Chapter

“There is established an
independent Inspection Panel ...”

RIGHT
Bradford Morse, shown here in 1978,
was appointed by World Bank President
Barber Conable in 1991 to lead an
independent review of the Sardar
Sarovar projects in India.

File unit: 1892581
Credit: The World Bank

BELOW
SEPTEMBER 22, 1993
IBRD/IDA Resolutions—
The World Bank Inspection Panel



September 22, 1993

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT
INTERNATIONAL DEVELOPMENT ASSOCIATION

Resolution No. IBRD 93-10

Resolution No. IDA 93-6

"The World Bank Inspection Panel"

The Executive Directors
Hereby resolve:

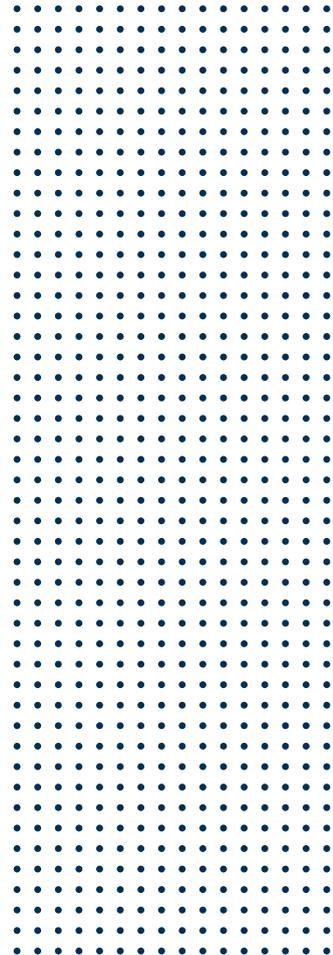
1. There is established an independent Inspection Panel (hereinafter called the Panel), which shall have the powers and shall function as stated in this resolution.

Composition of the Panel

2. The Panel shall consist of three members of different nationalities from Bank member countries. The President, after consultation with the Executive Directors, shall nominate the members of the Panel to be appointed by the Executive Directors.
3. The first members of the Panel shall be appointed as follows: one for three years, one for four years and one for five years. Each vacancy thereafter shall be filled for a period of five years, provided that no member may serve for more than one term. The term of appointment of each member of the Panel shall be subject to the continuity of the inspection function established by this Resolution.
4. Members of the Panel shall be selected on the basis of their ability to deal thoroughly and fairly with the requests brought to them, their integrity and their independence from the Bank's Management, and their exposure to developmental issues and to living conditions in developing countries. Knowledge and experience of the Bank's operations will also be desirable.
5. Executive Directors, Alternates, Advisors and staff members of the Bank Group may not serve on the Panel until two years have elapsed since the end of their service in the Bank Group. For purposes of this Resolution, the term "staff" shall mean all persons holding Bank Group appointments as defined in Staff Rule 4.01 including persons holding consultant and local consultant appointments.

“Nobody knew what the Inspection Panel was going to be. We were creating something from scratch.”

Richard Bissell, Inspection Panel Member, 1994–1997



No one knew what to expect when the World Bank became the first international financial institution to create an independent accountability mechanism.

There was no example to follow on September 22, 1993, when the Bank's Board of Executive Directors approved a resolution establishing the Inspection Panel.

Over the next 25 years, the Panel forged a legacy as the prototype for international financial organizations to hold themselves accountable. Today, 17 other similar bodies exist, all modeled in some way on the World Bank's pioneering effort.

The mere existence of the Panel, which investigates claims of harm caused by Bank-financed development projects, helped change the culture of the World Bank. Through the Panel's work, adversely affected people have been helped, and Bank projects have been restructured and improved.

At the start, though, the new Panel engendered uncertainty. Even the resolution creating it mandated a review after just two years.

"We were absolutely unprecedented," said Richard Bissell, one of the first Panel members. "Nobody knew what the Inspection Panel was going to be. We were creating something from scratch."

Its fundamental mission became its most enduring accomplishment — giving a voice to the voiceless. Through the Inspection Panel,

people unintentionally harmed by the Bank's work now could raise their issues at the institution's highest levels — the Board of Executive Directors and senior Management, right up to the president.

"Part of the legacy of the Panel is that it's brought impacted people's voices inside the Bank, and that helped improve the situation on the ground," said development consultant Lori Udall.

Before the Panel, no such forum existed within the community of international financial institutions that originated with the World Bank, which was created after World War II to aid the reconstruction of Europe and later shifted its focus to assisting developing countries.

Udall and others who fought Bank-financed projects that caused environmental and social harm acknowledged the revolutionary step taken by establishing the Inspection Panel.

"It was like a breath of fresh air, a fresh breeze," said environmental economist Korinna Horta in recalling the Bank's new commitment to accountability at that time.

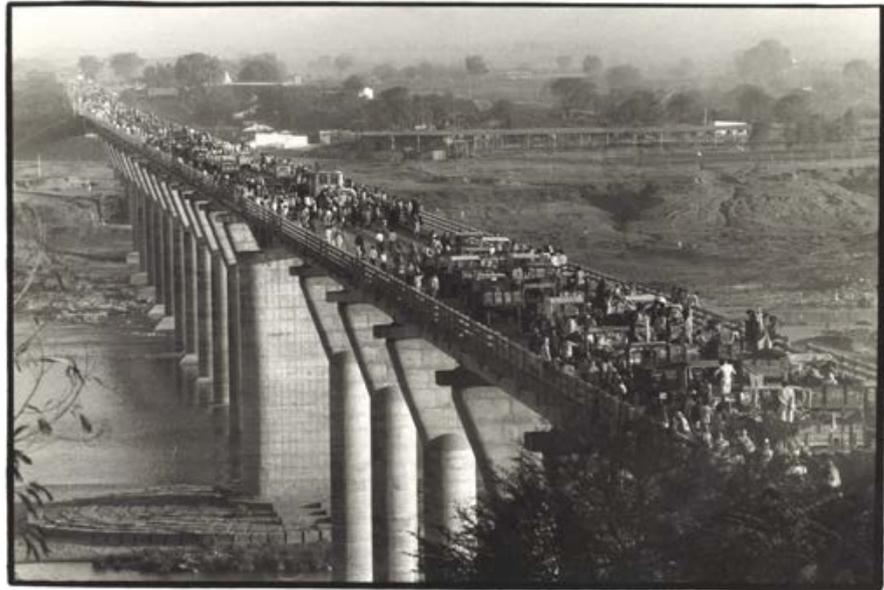
David Hunter, a professor of law at American University and leading voice for World Bank transparency and accountability, described the Panel's creation as a shift in



SEPTEMBER 1989

Indian activists burn an effigy of the Sardar Sarovar project agreement between the government of India and the World Bank.

Credit: Image provided by Lori Udall.



TOP, MIDDLE, BOTTOM

JULY 3 1990

Protests in Kalaghat, India

Credit: Photos by Eklof Johansson/Images
provided by Lori Udall

the legal perspective of individual rights in international law.

“The idea of a citizen-based accountability mechanism that would empower local people to bypass their governments and seek independent review of their rights was totally radical within international financial institutions, and more generally within international law,” Hunter said.

The Inspection Panel was a product of the times. It emerged amid a convergence of political and social changes in the 1980s and 1990s, including a growing environmental movement, with some non-governmental organizations (NGOs) harshly critical of the World Bank and calling for fundamental change at the institution.

Protesters labeled several Bank-financed projects “development disasters” that harmed poor and vulnerable people unable to assert or protect their rights and livelihoods. In addition, the perceived closed-door atmosphere of the Bank exacerbated the frustrations of the civil society movement.

Momentum for change increased at the 1992 Earth Summit, when the Rio Declaration called for all citizens to have access to information, access to public participation and access to justice on environmental issues. It was the first international document to enshrine such “access rights,” Hunter said.

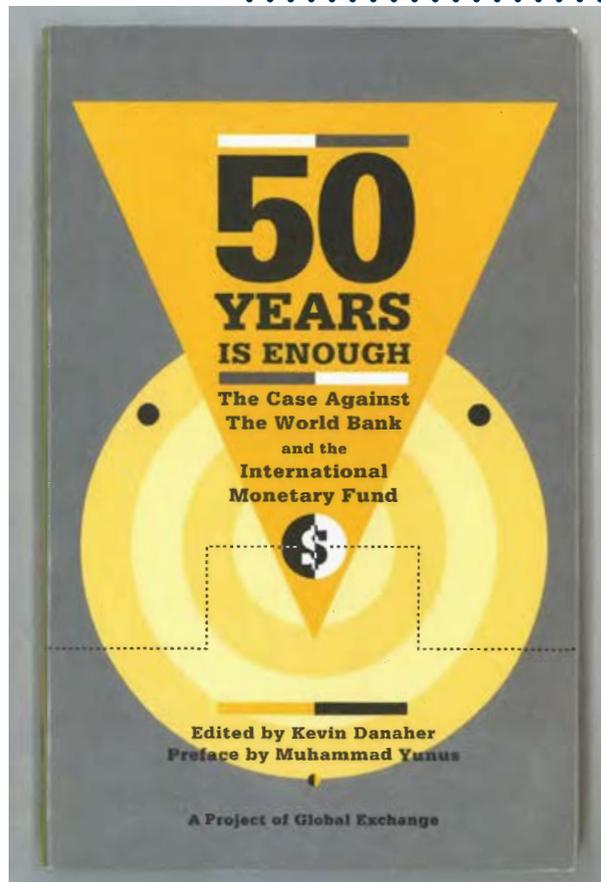
At the same time, the Bank faced fierce internal criticism over a power dam project on the Narmada River in India that was the source of significant protests by local and international organizations. The Sardar Sarovar Dam and Canal projects, which the Bank funded in the mid-1980s, involved the resettlement of more than 120,000 people and prompted environmental concerns.

In response to the growing protests, World Bank President Barber Conable ordered an independent review in 1991 led by retired U.N. Development Programme administrator Bradford Morse.

The “Morse Commission” report the following year identified serious compliance failures by the Bank, such as the lack of a required environmental assessment, as well as “devastating human and environmental consequences.” It set in motion reforms in World Bank practices, along with the

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David Hunter, Professor of Law,
American University



1994
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US CAMPAIGN

THE DEVELOPMENT GAP*
ENVIRONMENTAL DEFENSE FUND*
FRIENDS OF THE EARTH-US**
GLOBAL EXCHANGE*
INTERNATIONAL RIVERS NETWORK*
LATIN AMERICA*
CENTER FOR DEMOCRATIC EDUCATION*
CENTER FOR DEVELOPMENT OF INTERNATIONAL LAW
COLUMBIAN JUSTICE AND PEACE CENTER
DISCIPLES OF CHRISTUNITED CHURCH OF CHRIST (JOINT FRONTIER IN AFRICA)
ORIS-PEACE USA*
INSTITUTE FOR AGRICULTURE AND TRADE POLICY
INSTITUTE FOR FOOD AND DEVELOPMENT POLICY (FOOD FIRST)
INSTITUTE FOR POLICY STUDIES
HARMONIC FATHERS AND BROTHERS JUSTICE AND PEACE OFFICE
MISSIONARY SOCIETY OF ST. COLMBAH: CAMPAIGN ON JUST AND DEVELOPMENT ALTERNATIVES*
PARTNERS IN HEALTH
UNITED CHURCH OF CHRIST BOARD FOR WORLD MINISTRIES (GLOBAL EDUCATION AND ADVOCACY OFFICE)
UNITED METHODIST CHURCH GENERAL BOARD OF CHURCH AND SOCIETY
WASHINGTON OFFICE ON AFRICA
WITNESS FOR PEACE
WORLD HUNGER YEAR
WORLD SUSTAINABLE AGRICULTURE ASSOCIATION

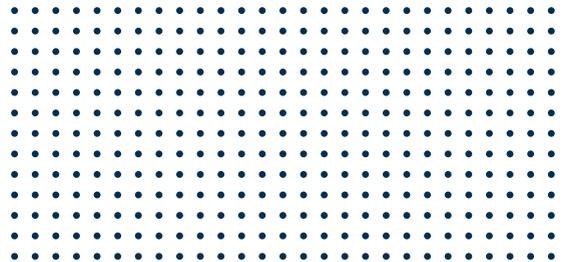
* Steering Committee Member

1994 marks the 50th anniversary of the founding of the World Bank and the International Monetary Fund (IMF), institutions that have come under increasing criticism for their role in financing and promoting development overseas that is inequitable, environmentally damaging and non-participatory. After a dozen years of effort by environment and development organizations lobbying the U.S. government and negotiating with the Bank and IMF for reforms on behalf of Southern NGO partners, a diverse group of U.S. organizations have established the "50 Years is Enough" coalition in order to raise awareness across the United States about the disastrous social, environmental and economic record of these institutions. Given the continued resistance of the World Bank and IMF to fundamental and meaningful change, the aim of the coalition is to limit the power of these institutions and to promote a public exploration of possibilities of creating new structures, or modifying existing ones, that could deliver more relevant and appropriate assistance.

"50 Years is Enough" was chosen as a campaign slogan to express the strongly held belief by growing numbers of people around the globe that the type of development that the World Bank and IMF have been promoting, being minimal both to the interests of the poor and that of the natural environments of the Third World and Eastern Europe, cannot be allowed to continue. It is meant to imply neither a reformist nor an abolitionist approach, but rather to state that fundamental, structural changes in these institutions are necessary. Due to the overwhelming influence of the United States in financing and setting policy for the World Bank and IMF, U.S. groups feel a special responsibility to ensure that every effort is made to change these institutions and promote alternatives – both institutional and economic – developed in conjunction with citizens' organizations in affected countries. Towards this end, the coalition is establishing links with other 50th anniversary efforts in Africa, Asia, the Caribbean, Europe, and Latin America.

Because fundamental change in the operations and policies of these institutions will only come about through sustained and persistent pressure from the outside, the demands of the "50 Years is Enough" coalition are directed primarily at external actors, including the media, the public, the U.S. Congress and the Clinton Administration. Accordingly, participating organizations are working on three different fronts: encouraging the U.S. media to present the true record of the World Bank and IMF; raising public awareness about the impact of these institutions on people's lives and natural environments worldwide; and advocating with the U.S. Congress and Clinton Administration on the need for far-reaching changes in these institutions.

The focus of the collective NGO effort in 1994 will be on the media, and for that purpose a Media Coordinator will direct and coordinate a high-profile media campaign and link up with the media work of partner organizations in other countries, especially around the World Bank/IMF Annual Meetings in Madrid in September. A nine-member steering committee and three-member executive committee have been formed to oversee the work of the Coordinator and coordinate the work of the coalition. Four thematic action groups have also been created to develop specific coalition positions, determine strategies and



ABOVE

Medha Patkar, pictured above right, was a founding member of the Narmada Bachao Andolan movement, which opposed the Sardar Sarovar projects in India.

Credit: NBA Archives

process that resulted in the creation of the Inspection Panel.

“After what happened with Narmada, there was no way to avoid the Inspection Panel,” said Eveline Herfkens, the Dutch executive director at the Bank at the time.

In response to the Morse Commission findings, new Bank President Lewis Preston ordered a task force to examine Bank operations — and that body issued its own damning review. Headed by Bank Vice President Willi Wapenhans, the task force report described how an “approval culture” at the Bank rewarded staff for pushing through as many projects as possible without paying sufficient attention to the Bank’s ability to implement them, or to their potential environmental and social impacts.

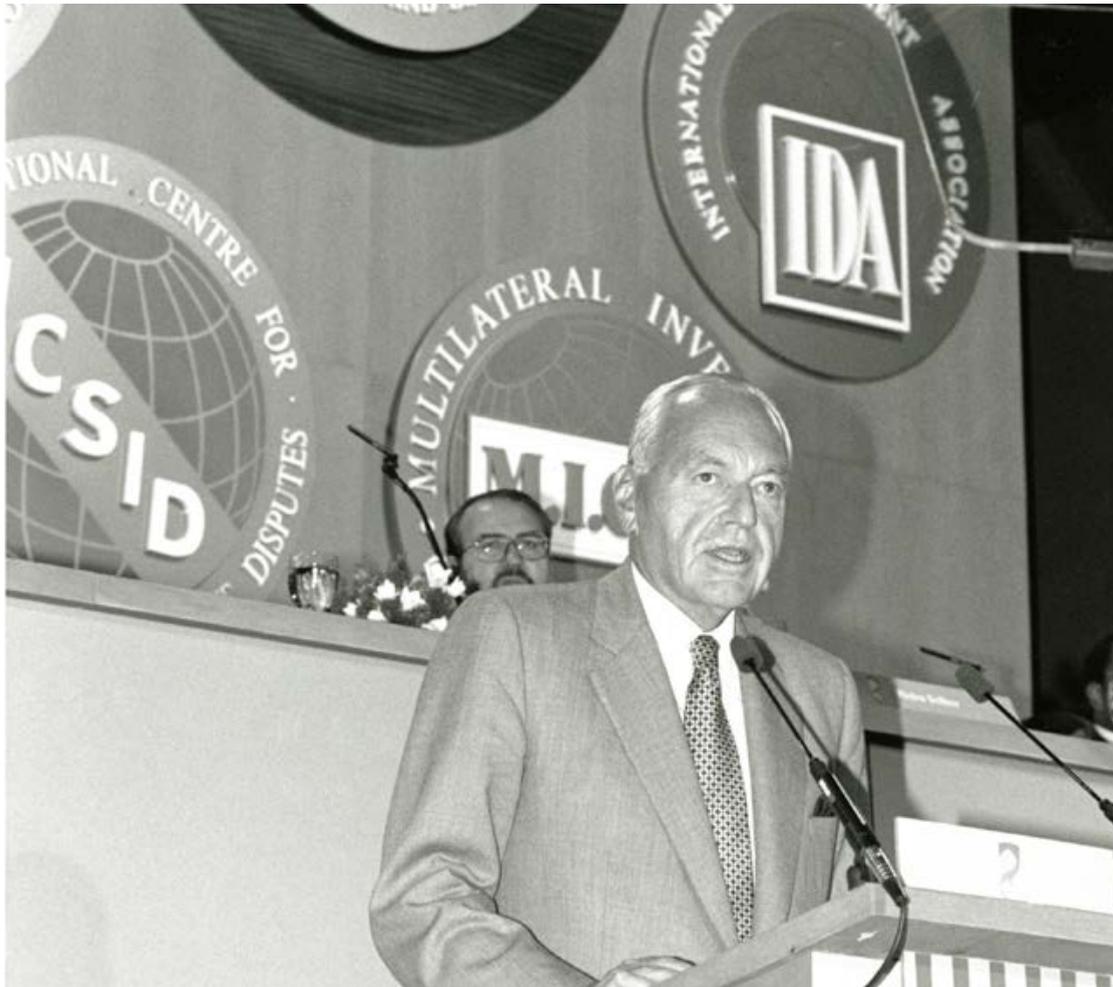
Across town in Washington, the U.S. Congress also exerted pressure on the World Bank to change its ways. With input from civil society groups, a key congressional subcommittee chaired by Representative Barney Frank of Massachusetts held hearings with people harmed by Bank-financed projects as it considered the U.S. contribution to replenish the Bank’s International Development Association (IDA), the fund for the poorest countries.

Hunter called the testimony from victims of development-related harm a “power shift” in relations between multilateral institutions like the World Bank and the industrialized governments that funded them, especially the United States, the Bank’s largest shareholder and donor.

“Suddenly you had voices from the affected communities here before Congress, saying, ‘This is what this project is doing to us, the tanks are rolling and the bulldozers are rolling into our villages, and your tax dollars are financing it,’” Hunter said. “It was very important. They were in Washington, and the Bank couldn’t stop it and the government couldn’t stop it.”

Frank’s subcommittee threatened to cut off U.S. funding for the IDA replenishment unless the World Bank instituted reforms that included establishing an accountability mechanism. The end-game for creating the Inspection Panel had started.

In the ensuing months, the Bank’s Board of Executive Directors considered various proposals for a new information policy as well as some kind of independent accountability body. An initial proposal by four executive directors in February 1993 called for an in-house



Lewis Preston, World Bank President, 1991–1995

Credit: The World Bank

inspection unit, which Bank staff argued should be ad hoc rather than permanent.

At the same time, Professor Daniel Bradlow of the American University Washington College of Law proposed a Bank ombudsman to review the compliance of ongoing projects with the Bank's policies and procedures, and make non-binding recommendations. Environmental groups, meanwhile, sought an independent appeals commission at the Bank.

A staff paper in June 1993 offered two options, including the three-member format eventually adopted. At the Board of Executive Directors' first informal discussion of the matter on July 9, 1993, it agreed on the need for a mechanism, but not on specifics.

Concerns expressed included the potential for an inspection panel to interfere with the role of the Board or Bank Management, and the possibility it could unleash a torrent of complaints that would impose considerable costs on the Bank.

Ibrahim Shihata, the Bank's general counsel at the time and an influential force behind the establishment of the Panel, proposed "precise procedural requirements" for how the accountability mechanism would receive and consider complaints to reduce the risks cited by executive directors. His concern touched on what would be one of the most important aspects of the Panel's existence — whose voices would be heard.

'Ombudsman' panel in view

WORLD BANK directors are expected to agree tomorrow to set up a new inspection panel to serve both as a form of ombudsman for outside complaints and as an internal check on management, writes George Graham in Washington.

The panel would set a precedent for international organisations to allow outside complaints, although it falls short of some of the demands of US environmental groups, which have been among the World Bank's most vocal critics.

The panel can only hear complaints about the Bank's failure to follow its own procedures or policies, not about the content of those policies. Among other changes, the new draft increases the panel's proposed budget to \$1.5m from \$600,000, with three panel members, two of whom may initially serve only part-time.

FT

FINANCIAL
TIMES

LEFT

SEP 20 1993

Financial Times

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BELOW

SEP 23 1993

Financial Times

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IDA contribution withheld

By George Graham
in Washington

A KEY congressional committee has withheld full authorisation for the \$3.75bn (£2.43bn) US contribution to the International Development Association, the World Bank unit that provides loans at low interest rates to the poorest developing countries.

The House of Representatives banking committee voted

yesterday to allow the US to sign the IDA replenishment agreement reached last year, but to authorise only the first two \$1.25bn tranches of the US contribution. This limited authorisation follows protracted talks with the US Treasury and the World Bank over improvements in transparency of bank operations.

Both Treasury and World Bank officials had hoped recent changes in portfolio

management and disclosure policy, as well as the decision to set up an independent inspection panel, would be enough to win a full three-year authorisation. But Mr Barney Frank, chairman of the subcommittee overseeing the World Bank, said there was still uncertainty over how the reforms would work out.

The bill would also authorise the US to write off developing country debts.

On August 6, 1993, a draft resolution before a committee of the Board called for an independent three-member inspection panel with powers to hear complaints about "a failure of the Bank to follow its operating policies, rules and procedures." One executive director warned that allowing individuals to file complaints could lead to excessive and frivolous requests, so the text eventually was changed to require that complaints come from at least two people from an affected community.

Three weeks later, a majority of the committee supported establishing the Inspection Panel after a discussion of its mandate, the need for a review of its operation after two years, the definition of who had standing to

submit complaints, the role of the Board of Executive Directors in approving inspections, potential follow-up actions to Panel findings, and other issues.

Revised text from the Bank president's office on September 10, 1993, fine-tuned the draft resolution, and the Board of Executive Directors met on September 21, 1993, to consider the matter. At the suggestion of a director, the word "independent" was dropped from the Panel's formal title to avoid the perception of a purely autonomous mechanism that in fact operated within the Bank's administration.

Another change in the text required that complaints come from "the territory of the borrower" to prevent outside individuals or

organizations from filing them without the participation of affected communities.

The following day, the Board approved two parallel resolutions: Resolution No. IBRD 93-10 and Resolution No. IDA 93-6, titled The World Bank Inspection Panel, which began:

“The Executive Directors: Hereby resolve: 1. There is established an independent Inspection Panel”

Under the Resolution, the new Panel was empowered to carry out independent investigations of Bank-financed projects to determine whether the Bank is in compliance with its operational policies and procedures, and to make related findings of harm.

The Panel reports its findings to the Board of Executive Directors, and Bank Management is required to prepare a response with recommendations and actions to address the Panel’s findings of non-compliance and harm. The Board considers both the Panel’s findings and Management’s response in deciding subsequent actions.

Civil society activists complained that the Panel’s narrow mandate focused solely on compliance with Bank policies and procedures, as well as the new body’s placement within the Bank hierarchy, limited the fundamental independence it required.

In his authoritative text on the Panel published the following year, Shihata warned how “the temptation to expand the role of the Panel beyond the limits stated in the Resolution could be fed by the high expectations of those

who will see in it an instrument to drastically change the World Bank to their liking, as well as by the disappointments of those who will fail to see it moving in that direction.”

Inside the Bank, staff members had questions about the new accountability mechanism.

“There was definitely a lot of interest because none had ever been set up at an international financial institution before, so it was big unknown for staff,” said Charles Di Leva, a long-time environmental law expert at the Bank who was working in the legal department at the time. “There were definitely questions that staff had about what the creation of the Panel would mean for the relations that the Bank had with borrowers and how it might affect the ability for projects to achieve their objectives.”

One person who understood the wariness was Ernst-Günther Bröder, a former European Investment Bank president chosen to be the first chairman of the Inspection Panel.

At a 1994 reception introducing the initial three Panel members and the first executive secretary, longtime World Bank lawyer Eduardo Abbott, Bröder sought out Hunter — among the best-known civil society activists.

More than two decades later, Hunter recalled how Bröder put an arm around him and said: “This is an institution that’s going to make the Board of Directors operate better.”

“They have no idea what they’ve created,” Bröder added. “It’s all going to be a great big experiment.”

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Charles Di Leva, World Bank Chief Environmental and Social Standards Officer