CORA Cork Open Research Archive
Cartlann Taighde Oscailte Chorcaí

Title	The critical contribution of Independent Accountability Mechanisms (IAMs) to the global governance paradigm
Authors	McIntyre, Owen
Publication date	2025-12-03
Original Citation	McIntyre, O. (2025) 'The critical contribution of Independent Accountability Mechanisms (IAMs) to the global governance paradigm', in Bradlow, D. D., Hunter, D. B., Paul, N. and Ramaswamy, V. I. (eds) Perspectives on Accountability at International Financial Institutions. Leiden: Brill Nijhoff, pp. 30-42. https://doi.org/10.1163/9789004729735_006
Type of publication	Book chapter
Link to publisher's version	https://brill.com/edcollchap-oa/book/9789004729735/BP000042.xml - 10.1163/9789004729735_006
Rights	© 2026, Owen McIntyre. This is an open access chapter distributed under the terms of the CC BY-NC-nd 4.0 license. - https://creativecommons.org/licenses/by-nc-nd/4.0/
Download date	2026-11-04 08:15:44
Item downloaded from	https://hdl.handle.net/10468/18345



University College Cork, Ireland
Coláiste na hOllscoile Corcaigh

CHAPTER 3

The Critical Contribution of Independent Accountability Mechanisms (IAMs) to the Global Governance Paradigm

*Owen McIntyre**

1 Introduction

For several decades now, the environmental and social safeguard policies adopted by International Financial Institutions (IFIs), along with the related accountability frameworks provided by the Independent Accountability Mechanisms (IAMs) each IFI has established, have been at the very forefront of a global movement to extend good environmental and social governance values to the practice of international development finance. The complex substantive and procedural standards of institutional conduct required under Multilateral Development Bank (MDB) safeguard policies in respect of the assessment and implementation of bank-funded development projects or activities exemplifies the phenomenon of so-called "transnational" or "global" law, the rich and extensive variety of traditional and novel forms of transnational environmental and social regulatory activity that have proliferated in recent years. Such regulation comprises an almost endless assortment of codes, standards, and assessment and certification processes, many of which are non-State-led and essentially voluntary in nature, though they tend generally to reflect the values enshrined in more formal national and international legal frameworks.

At the same time, the institutional and procedural rules governing the work of IAMs in ensuring the banks' accountability for compliance with such safeguard policies epitomize the phenomenon of "global administrative law," converging around a set of good governance principles, standards, and practices commonly employed in national administrative law systems with a view to protecting the rights of those impacted by administrative decision-making. Such principles and standards, which reflect the strict procedural character of

* Owen McIntyre is a Professor, Director of the Environmental & Natural Resource Law LL.M program, and Co-Director for the Centre for Law and the Environment at School of Law, University College Cork.

© OWEN MCINTYRE, 2026 | DOI:10.1163/9789004729735_006
This is an open access chapter distributed under the terms of the CC BY-NC-ND 4.0 license.

national administrative law systems, such as regulatory licensing or permitting regimes, serve to enhance the credibility and legitimacy of each accountability mechanism and include, *inter alia*, guarantees of transparency, participation, legality, rationality, proportionality, reviewability, and accountability. It has been noted that "the procedural rigor of administrative law is a critical tool for refining international governance and legitimizing the exercise of supranational authority."[1] Of course, the primary, overarching function of administrative law has always been to protect the rights of individuals by checking the unauthorized, excessive, arbitrary, or unfair exercise of public power and, by so doing, to give legitimacy and direction to the practices of administrative bodies, particularly in their responsiveness to broader public welfare interests.[2] As bodies such as MDBs and their associated IAMs take on what is essentially a regulatory role, their legitimacy and authority in doing so is supported and enhanced by rules guaranteeing their administrative integrity.

Following the example of MDBs, a wide range of other actors and agencies active in funding development–including export credit agencies,[3] United Nations agencies,[4] and major private-sector providers of development project finance[5]–have in recent years adopted similar standards of environmental and social protection applicable to the financing of developmental projects, along with supporting accountability mechanisms.

It is becoming increasingly apparent that informal regulatory rules and standards, including those set out under the safeguard policies of IFIs, enjoy a complex, symbiotic relationship with formal legal frameworks at the international, regional, and national levels.[6] The standards applied under informal normative frameworks are undoubtedly informed by those established in formal legal

1 Daniel C. Esty, *Good Governance at the Supranational Scale: Globalizing Administrative Law*, 114 YALE L. J. 1490, 1495 (2006).

2 *See* Owen McIntyre, *Transnational Environmental Regulation and The Normativisation of Global Environmental Governance Standards: The Promise of Order From Chaos?*, 10(2) JOURNAL OF PROP., PLANNING & ENVTL. L. 92, 97 (2018).

3 *See, e.g.,* U.S. International Development Finance Corporation, *Independent Accountability Mechanism,* https://www.dfc.gov/our-impact/transparency/independent-accountability-mechanism (last visited Dec. 15, 2024).

4 *See, e.g.,* UNDP, *Social and Environmental Standards* (SES), https://www.undp.org/accountability/social-and-environmental-responsibility/social-and-environmental-standard (last visited Dec. 15, 2024) (adopted in 2014, along with the related Social and Environmental Compliance Unit (SECU) and Stakeholder Response Mechanism (SRM)).

5 *See The Equator Principles* (EP4) (July 2020), https://equator-principles.com/app/uploads/The-Equator-Principles_EP4_July2020.pdf (last visited Jan. 17, 2025).

6 *See generally* Daniel D. BRADLOW & DAVID HUNTER, EDS., INTERNATIONAL FINANCIAL INSTITUTIONS AND INTERNATIONAL LAW (2010).

systems, but such influence can run in both directions. In addition to filling lacunae and addressing deficiencies in formal legal frameworks, informal regulatory standards increasingly influence the evolution of formal law, especially in the developing world, improving its responsiveness, flexibility, and accessibility. One commentator notes, for example, that informal frameworks can function to improve the quality of formal legal rules, "[b]y generating competing policy perspectives, assumptions, analyses, options, and assessments, global governance institutions provide a supplemental set of policymaking laboratories."[7]

Most significantly, MDB standards might apply, even if only indirectly, to economic actors and activities where formal national and international law frameworks have consistently proven ineffective. Consider, for example, a 2016 compliance investigation by the Office of the Compliance Advisor Ombudsman (CAO), the IAM of the International Finance Corporation (IFC), into investments in a palm oil refinery in Ukraine that made a finding of non-compliance with respect to IFC's obligation to supervise the environmental and social risks associated with the refinery's palm oil supply chain.[8] The complaint that gave rise to this investigation was brought by local communities in Indonesia and related to unresolved land disputes with IFC's client.

2 Transnational / Global (Environmental and Social) Law

Commentators routinely include MDB safeguard standards amongst examples of environmental and social regulatory regimes that typify global law. Indeed, one leading expert observed more generally that "[s]ome entities are given roles in global regulatory governance which they may not wish for or be particularly designed or prepared for,"[9] bringing to mind the reluctant initial adoption of safeguard policies by MDBs in the wake of controversial lending decisions in the 1990s. Broadly similar safeguard standards for determining, assessing, and managing environmental and social risk are also applied now by a majority of private-sector project-finance providers that have signed on to the Equator Principles (EPs).[10] A previous iteration of the EPs recognized

7 Daniel Esty, *supra* note 1, at 1501–02.

8 Compliance Advisor/Ombudsman, *Delta Wilmar Ltd., Report* (Aug. 2016), https://documents1.worldbank.org/curated/ar/952231488275543553/pdf/112844-NEWS-CAO-News-Issue4-PUBLIC.pdf (last visited Jan. 17, 2024).

9 Benedict Kingsbury, *The Concept of 'Law' In Global Administrative Law*, 20(1) EUROPEAN J. OF INT'L L. 23, 25 (2009).

10 Equator Principles, *supra* note 5.

growing "convergence around common environmental and social standards" and acknowledged the seminal importance of IFC's Performance Standards in such convergence, noting that "[m]ultilateral development banks, including the European Bank for Reconstruction and Development, and export credit agencies, through the OECD Common Approaches, are increasingly drawing on the same standards as the EPs."[11] One reason for such convergence around a common set of environmental and social standards and principles, and broadly similar IAMs rules of procedure, is the established practice of MDBs in periodically reviewing and revising their policies on the basis of a thorough benchmarking exercise. Of course, the review exercise itself tends to be subjected to robust standards of administrative scrutiny and integrity, requiring transparency and broad stakeholder consultation and participation, thereby typifying the guarantees of global administrative law. In addition, MDB environmental and social safeguard policies inevitably tend to be based upon international best practice, which is often exemplified in international conventions and established national legal practice.

The European Bank for Reconstruction and Development (EBRD), for example, adopted its first Environmental Policy in 1991, but it currently applies its 2019 Environmental and Social Policy (ESP), which sets out the ways in which the Bank is to implement in practice its commitment to promote environmentally sound and sustainable development in the full range of its investment and technical cooperation activities.[12] The scope and ambition of the ESP has grown considerably over time, largely owing to the regular periodic review of the Policy that, in later iterations, has resulted in greater emphasis on compliance with international human rights values and requirements. Such periodic review processes tend to include, *inter alia*, benchmarking against the policies of peer institutions and, more generally, against the international legal commitments of a bank's member states. Modelled on the format of the safeguard policies adopted by the IFC, the private-sector lending institution of the World Bank Group, the EBRD's 2019 ESP contains detailed procedural and substantive requirements for the avoidance or mitigation of project-related harm set out under ten detailed Performance Requirements (PRs), each relating to a

11 *See* Owen McIntyre, *Independent Accountability Mechanisms as Agents of 'Global Good Governance*, *in* OWEN MCINTYRE & SURESH NANWANI, EDS., THE PRACTICE OF INDEPENDENT ACCOUNTABILITY MECHANISMS (IAMS): TOWARDS GOOD GOVERNANCE IN DEVELOPMENT FINANCE 21, 23 (2020).

12 *See* European Bank for Reconstruction and Development, *Environmental and Social Policy* (April 25, 2019) [hereinafter 2019 EBRD Envtl. & Social Pol'y].

particular type of environmental or social impact, a type of lending, or good governance practice.

Illustrating the close interlinkage of global or transnational standards with formal legal frameworks, in stipulating applicable environmental governance standards, the EBRD's ESP relies heavily upon, and operates to ensure compliance with, formal environmental standards set out under applicable national, EU, or international law. For example, it expressly commits the EBRD to ensuring that projects meet "EU environmental principles, practices and substantive standards, where these can be applied at the project level, regardless of their geographic location," and to refraining from financing projects that would "contravene national laws or country obligations under relevant international treaties, conventions and agreements."[13]

As regards social protections, the ESP also reiterates that "[t]he EBRD is committed to the respect for human rights in projects financed by EBRD" and "will require clients, in their business activities, to respect human rights, avoid infringement on the human rights of others, and address adverse human rights risks and impacts caused by the business activities of clients."[14] It includes further general commitments in respect of, *inter alia*, gender equality, protection of vulnerable people and groups, and climate change,[15] each of which is likely to be informed by continuing legal developments. More specifically, in respect of the rights of workers, the ESP lists eight core International Labour Organisation (ILO) Conventions setting out the applicable standards of protection.[16] Similarly, Performance Requirement 6 (Biodiversity Conservation and Sustainable Management of Living Natural Resources), expressly refers to concepts and standards employed under the Convention on Biological Diversity and the IUCN Red List of Threatened Species,[17] though the more normatively imperative and directly applicable assessment and conservation requirements of the EU Habitats Directive are likely to prove more relevant pursuant to the general commitment in the ESP to "EU environmental principles, practices and substantive standards."[18] Somewhat controversially, the Habitats Directive requirements have proven decisive in a number of complaints.[19]

13 *Id.*, at paras. 2.2., 2.3.

14 *Id.*, at paras. 2.4.

15 *Id.*, at paras. 2.5, 2.6, 2.7.

16 *Id.*, at Performance Requirement 2, para. 2.

17 *Id.*, at Performance Requirement 6, paras. 1, 13.

18 *Id.*, at paras. 2.2., 2.3.

19 *See, e.g,* EBRD Project Complaint Mechanism (PCM), Request No. 2011/06 *Ombla Hydropower Project*, Compliance Review Report (Dec. 10, 2013), https://www.ebrd.com/downloads/integrity/Ombla_CRR.pdf (last visited Jan. 17, 2025). For the complete register of

Taking the specific example of projects implemented in international watercourses is illustrative of the dynamic interaction between MDB safeguard policies and relevant international law. The World Bank has a long history of involvement in the cooperative management and development of international water resources, issuing its first policy in 1956.[20] It has since adopted a special policy instrument, Operational Policy (OP) 7.50, most recently revised in 2012, that is specifically dedicated to "Projects on International Waterways" and is of particular and direct relevance to the development and operation of projects in international watercourses.[21] Likewise, hydropower projects have featured prominently among the complaints submitted to MDB IAMS alleging non-compliance with the relevant environmental and social policies.[22]

In this way, IAMS will sometimes assume, often inadvertently, the role of informal enforcement agents, as regards a bank's clients' projects, for international, regional, or national environmental and social norms that might not otherwise be directly applicable to their clients' operations or effectively enforced by the relevant state-established regulatory agencies. IAMS increasingly play a critical role in assessing compliance with formal legal requirements where complainants allege non-compliance with related MDB safeguard standards. There is obvious utility in such indirect enforcement of formal international environmental, social, and human rights norms, especially in the case of private-sector borrowers, against whom such norms might not otherwise apply, at least directly. Though this indirect enforcement function is undoubtedly of greater significance in the case of MDBS that lend exclusively or principally to the private-sector, such as the IFC or EBRD, it should be borne in mind that private-sector borrowings make up an ever-greater proportion of overall international development lending.

PCM Complaints see EBRD, *PCM Registry,* https://www.ebrd.com/work-with-us/project-finance/project-complaint-mechanism/pcm-register.html (last visited Dec. 15, 2024) [hereinafter PCM Registry].

20 Operational Memorandum No. 8: Projects on International Inland Waterways (Feb. 8, 1956); *see also* S.M.A. SALMAN, THE WORLD BANK POLICY FOR PROJECTS ON INTERNATIONAL WATERWAYS: AN HISTORICAL AND LEGAL ANALYSIS 31–36, App. 1 (2009).

21 The World Bank, *Operational Policy 7.50, Projects on International Waterways* (Oct. 1994, rev. Aug. 2004 & Mar. 2012).

22 For example, even though the restricted geographical scope of EBRD's lending mandate would suggest that it funds relatively few major water-related projects, hydropower projects have featured prominently among complaints submitted to EBRD's successive complaints mechanisms, including: Boskov Most – FYR Macedonia (2011); Ombla – Croatia (2011); Paravani – Georgia (2012); Dariali – Georgia (2014); Shuakhevi HPP – Georgia (2018 & 2019); Nenskra HPP – Georgia (2018). *See* PCM Registry, *supra* note 19.

3 IAMs and Global Administrative Law

The procedurally rigorous operating rules adopted by IAMs both reflect and contribute to the steady accretion of a broad range of universally accepted standards of administrative good governance that are increasingly put forward by a diverse community of global or transnational regulatory actors as representing formal or informal legal or quasi-legal requirements. Such standards are designed to promote the core good governance values prevalent in almost all national systems of administrative law and increasingly applied to global actors. These values generally include, in one form or another, transparency of decision-making processes, broad public or stakeholder participation in decision-making, delivery of reasoned decisions, accountability of decision-makers, respect for proportionality in decision-making, and general respect for human rights. This organic and decentralized movement towards recognition of a set of universally accepted good governance standards, applying to both public and private actors operating at the global, transnational, regional, national, and local levels of administrative regulation, is the very epitome of the "global administrative law" phenomenon. Thus, the trend in international development banking practice towards the adoption of accountability mechanisms and procedures that accord with the legally recognized practices of sound administration suggests that the international development banking sector might be regarded as a key driver of this gradual, cross-sectoral evolution of global standards of good administrative governance.

In this regard, the EBRD's 2019 Environmental and Social Policy places clear emphasis on general good governance values and practices, reaffirming that the EBRD "is committed to the principles of transparency, accountability and stakeholder engagement" and to "promoting adoption and implementation of these principles by its clients."[23] More specifically, the rules governing the operation of the Independent Project Accountability Mechanism (IPAM),[24] the latest iteration of EBRD's independent accountability mechanism, typify the practical application of such standards of administrative good governance in the investigation of complaints from project-affected persons and civil society concerning EBRD-funded projects. The 2019 Project Accountability Policy prominently declares that one of its key purposes is "to enhance transparency and accountability, improve discourse with affected stakeholders, and

23 2019 EBRD Envtl. & Social Pol'y, *supra* note 12, para. 2.9.

24 Independent Project Accountability Mechanism, Project Accountability Policy (2019) [hereinafter IPAM Policy]; *see also* Independent Project Accountability Mechanism, Guidance on Case Handling (2019); PCM Registry, *supra* note 19.

foster good governance,"[25] and lists the following among its guiding principles: independence and impartiality, transparency, predictability, equitability, and accessibility.[26] This commitment to administrative good governance is evident throughout the detailed procedural rules contained in the Project Accountability Policy. In the conduct of the IPAM's compliance review function, for example, the Mechanism is required to keep Requesters informed about the status of requests in a timely manner,[27] and to engage actively "with the Requesters, Bank management, the Client and other relevant stakeholders."[28] More generally, the IPAM is required to maintain an online public Case Registry to provide internal and external stakeholders with up-to-date information on the nature and status of each registered Request[29] and to cooperate with other IAMS in respect of a project at issue in a registered Request that is co-financed by other institutions.[30]

4 The New Landscape of Global Governance

One could hardly dispute that the environmental and social safeguards imposed by MDBS provide a clear illustration of transnational or global law, as they constitute transnational regulatory activity in a "global administrative space" that "marks a departure from those orthodox understandings of international law in which the international is largely inter-governmental and there is a reasonably sharp separation of the domestic and the international," and that reflects the practice of modern global governance, whereby "transnational networks of rule-generators, interpreters and appliers cause such strict barriers to break down."[31] Such frameworks have an important role to play, especially where "[w]eak regulation or exclusion from relevant governance institutions of non-state actors needs to be superseded by an inclusive system of participation and responsibility."[32] In addition, such "[m]ulti-tier governance may also promote welfare-enhancing regulatory competition … By generating competing policy perspectives, assumptions, analyses, options, and

25 IPAM Policy, *supra* note 24, at Part 1.
26 *Id*., at Part 3, para. 1.3.
27 *Id*., at Part 3, para. 3.1(a).
28 *Id*., at Part 3, para. 2.7(c)(i).
29 *Id*., at Part 3, para. 3.1(b).
30 *Id*., at Part 3, para. 3.1(e).
31 Benedict Kingsbury, *supra* note 9, at 25.
32 Elena Blanco & Jona Razzaque, Globalisation and Natural Resources Law: Challenges, Key Issues and Perspectives 3–4 (2011).

assessments, global governance institutions provide a supplemental set of policymaking laboratories."[33] Thus, MDB safeguard policies and IAMs practice can significantly supplement the effective functioning of formal legal frameworks for environmental and social protection, especially in the light of the immense challenges posed for traditional, state-led regulatory frameworks by transnational patterns of developmental lending and investment.[34]

Not only do IAMs contribute to global environmental and social governance by interpreting, applying, and elaborating upon such transnational rules. At the same time, the institutional and procedural rules that have evolved to govern the operation of IAMs are firmly based upon certain "[g]eneral principles of public law [which] combine formal qualities with normative commitments in the enterprise of channeling, managing, shaping and constraining political power."[35] Taken together, these constitute a set of administrative principles and values that provide "a refined system of procedures [which] can promote decision-making based upon the rule of law, participation, rationality, clarity, stability, neutrality, fairness, efficacy, deliberation, efficiency, and accountability."[36] Esty argues convincingly that "[i]f properly developed and implemented, administrative procedures promote careful rulemaking, efficient delivery of public goods, and fair treatment of both individuals and economic entities."[37] These are precisely the values and aims that IAMs ought to pursue.

5 Conclusion

Commentators increasingly recognize that new globalized financial and trade flows represent a critical challenge for traditional legal frameworks to effectively regulate the environmental and social impacts of a range of significant economic sectors.[38] While traditional, state-centered mechanisms for elaborating and enforcing such legal protections are ever more frequently proving inadequate due to the transnational character of much economic activity, as well as to their own inherent lack of responsiveness, flexibility, and accessibility, a wide range of novel forms of rules and standards, often informal, that function to normativize a broad and progressive understanding of environmental, and

33 Daniel Esty, *supra* note 1, at 1501–02.
34 *See* Owen McIntyre, *supra* note 11, at 40.
35 Benedict Kingsbury, *supra* note 9, at 32.
36 Daniel Esty, *supra* note 1, at 1496.
37 *Id*.
38 *See* Neil Walker, Intimations of Global Law (2014); Elena Blanco & Jona Razzaque, *supra* note 32.

social governance, play an increasingly important role. Thus, a new conception of legal order is emerging, based on "the processes, practices, institutions, doctrines, values and aspirations through which law becomes less centered upon the jurisdiction and less dependent on the organs of the modern state, and instead gradually comes to assume a 'global' significance."[39] It becomes necessary, therefore, "to re-situate the state on a multipolar densely connected legal map in a complex relationship with other economic, political and cultural globalising forces."[40] This vision of a rapidly evolving, de-territorialized global legal order neatly captures and explains the normative governance structures established by MBD environmental and social safeguard policies and accountability mechanisms, situating them among the myriad emerging requirements to apply governance standards, often informal, to a wide range of potentially harmful economic activities, including to the provision of development project finance. It is immediately apparent that, as intergovernmental institutions involved in transnational regulatory activity, MDBS and their respective IAMS belong among the "global administrative bodies" operating in the "global administrative space" that generate global governance norms and to which such norms might apply.[41] In the case of certain multilateral lenders that focus on lending to private sector clients, such as the EBRD or IFC, MDB standards of environmental and social governance, often reflecting the most progressive standards in international and/or national law, are imposed, albeit indirectly, upon private corporate entities, against which many formal legal requirements could never be applied effectively. The 2016 IFC-CAO compliance investigation into IFC's investments in Delta Wilmar Ltd. provides a case in point.[42] The investigation focused on the improper use of customary lands in Indonesia, activity that might not otherwise have been effectively regulated, and clearly illustrates the potential impact of MDB safeguard policies and related IAM enforcement in curtailing the worst excesses of multinational actors in certain sectors, such as the palm oil industry, with a traditionally poor record of environmental and social governance.

Thus, MDB environmental and social safeguard standards can fill lacunae where formal law-making institutions, at either the national, regional,

---

39 WALKER, *supra* note 38, at 2.

40 *Id.,* at 8.

41 Benedict Kingsbury et al., *Foreword: Global Governance as Administration – National and Transnational Approaches to Global Administrative Law*, 68(1) LAW AND CONTEMPORARY PROBLEMS 3, 5 (2005).

42 *See* CAO, *Indonesia / Wilmar Group-03/Jambi,* https://www.cao-ombudsman.org/cases/indonesia-wilmar-group-03jambi (last visited Dec. 15, 2024); *see also* Charles Di Leva, *infra* Chapter 7.

or international levels, have failed to elaborate, adopt, or enforce appropriate binding rules. Alternatively, the non-legal rules and standards imposed by MDBs can function to enhance the effectiveness, formation, and scope of application of formal rules that can take a considerable time to emerge, especially in less developed jurisdictions and at the transnational level.[43] Of course, concerns have inevitably arisen in respect of such novel forms of regulatory activity regarding, *inter alia*, their lack of democratic foundations and reduced policy control at the national and local levels, the distance of transnational decision-makers from the public or regulated community, and their lack of effective accountability.[44] In order to address such concerns regarding the legitimacy of their norm-creating regulatory activities, transnational agencies have almost universally adopted the principles inherent to national systems of administrative law as central tenets of their operation.[45] Such a proceduralized approach, based on robust standards of transparency and stakeholder participation, is now everywhere evident in processes for legal and non-legal regulatory decision-making, as exemplified by the ubiquitous corresponding requirements found in MDB safeguard policies[46] and in IAM rules of procedure.[47]

Bibliography

Blanco, Elena, and Jona Razzaque, *Globalisation and Natural Resource Law: Challenges, Key Issues and Perspectives*, 3–4. Cheltenham: Edward Elgar Publishing, 2011.

Bradlow, Daniel, and David Hunter, *International Financial Institutions and International Law*. Netherlands: Kluwer Law International, 2010.

International Finance Corporation [IFC] Compliance Advisor/Ombudsman [CAO]. *CAO Update*, 4. Washington DC: CAO, 2016.

43 *See* Joost Pauwelyn, *Is It International Law or Not and Does It Even Matter*, in JOOST PAUWELYN, ET AL., EDS., INFORMAL INTERNATIONAL LAWMAKING 125 (2012).

44 *See* Armin Steinbach, *The Trend Towards Non-Consensualism in Public International Law: A (Behavioural) Law and Economics Perspective*, 27(3) EUROPEAN J. OF INT'L L. 643, 645 (2016); Nico Krisch, *The Decay of Consent: International Law in an Age of Global Public Goods*, 108(1) AMERICAN J. OF INT'L L., (2014).

45 Daniel Esty, *supra* note 1, at 1494–95, 1503.

46 *See, e.g.,* EBRD Envtl. & Soc. Pol'y, Performance Requirement 10, Information Disclosure and Stakeholder Engagement (2019).

47 *See, e.g.,* text accompanying notes 24–30 (describing the IPAM's 2019 Project Accountability Policy).

CAO. *Indonesia / Wilmar Group-03/Jambi*. Accessed December 15, 2024. https://www.cao-ombudsman.org/cases/indonesia-wilmar-group-03jambi.

European Bank for Reconstruction and Development [EBRD]. *Environmental and Social Policy*. London: European Bank for Reconstruction and Development, April 25, 2019. https://www.ebrd.com/environmental-and-social-policy.pdf.

EBRD. "PCM Registry." Accessed December 15, 2024. https://www.ebrd.com/project-finance/independent-project-accountability-mechanism/ipam-policies.html.

EBRD Project Complaint Mechanism (PCM). Request No. 2011/06 *Ombla Hydropower Project*, Compliance Review Report (Dec. 10, 2013) https://www.ebrd.com/downloads/integrity/Ombla_CRR.pdf.

EBRD Independent Project Accountability Mechanism. *Project Accountability Policy*. London: Independent Project Accountability Mechanism, 2019. https://www.ebrd.com/documents/occo/ipam-policy.pdf.

EBRD Independent Project Accountability Mechanism. *Guidance on Case Handling*. London: Independent Project Accountability Mechanism, 2019. https://www.ebrd.com/documents/ipam/guidance-on-case-handling.pdf.

EBRD. *PCM Registry*. Accessed December 15, 2024. https://www.ebrd.com/work-with-us/project-finance/project-complaint-mechanism/pcm-register.html.

Etsy, Daniel C. "Good Governance at the Supranational Scale: Globalizing Administrative Law." *Yale Law Journal*, 114 (2006): 1490, 1495.

Kingsbury, Benedict, et al. *Forward:* "Global Governance as Administration-National and Transnational Approaches to Global Administrative Law." *Law and Contemporary Problems* 68, no. 1 (2005): 3, 5.

Kingsbury, Benedict. "The Concept of 'Law' in Global Administrative Law." *European Journal of International Law*, 20, no. 1 (2009): 23, 25.

Krish, Nico. "The Decay of Consent: International Law in an Age of Global Public Goods." *American Journal of International Law*. (2014).

McIntyre, Owen. "Transnational Environmental Regulations and the Normativisation of Global Environmental Governance Standards: The Promise of Order From Chaos?" *Journal of Property, Planning & Environmental Law*. (2018): 92, 97.

McIntyre, Owen. "Independent Accountability Mechanism as Agents of 'Global Good Governance," in *The Practice of Independent Accountability Mechanisms (IAMs): Toward Good Governance in Development Finance*, edited by Owen McIntyre and Suresh Nanwani, 21, 23. Netherlands: Brill Nijoff, 2020.

Pauwelyn, Joost. "Is It International Law or Not and Does it Even Matter," in *Informal International Lawmaking*, edited by Joost Pauwelyn, et al. 125. Oxford: Oxford University Press, 2012.

Salman, Salman M.A. *The World Bank Policy for Projects on International Waterways: An Historical and Legal Analysis*. Washington DC: World Bank Publishing, 2009.

Steinbach, Armin. "The Trend Towards Non-Consensualism in Public International Law: A (Behavioural) Law and Economics Perspective." *Environmental Journal of International Law*, 27, no. 3 (2016): 643, 645.

The Equator Principles (*EP4*). July 2020.

Walker, Neil. *Intimations of Global Law*. Cambridge: Cambridge University Press, 2014.

World Bank. *Operational Policy 7.50, Projects on International Waterways*. Washington DC: The World Bank, October 1994, revised August 2004 and March 2012.

United Nations Development Programme. "Social and Environmental Standards (SES)." Accessed December 15, 2024. https://www.undp.org/accountability/social-and-environmental-responsibility/social-and-environmental-standard

United States International Development Finance Corporation. "Independent Accountability Mechanism." Accessed December 15, 2024.