

Report No. 75199-ET

The Inspection Panel 

Report and Recommendation

**Ethiopia: Protection of Basic
Services Program Phase II Project
Additional Financing (P121727) and
Promoting Basic Services Phase III
Project (P128891)**

February 8, 2013

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Report and Recommendation On Request for Inspection

Ethiopia: Protection of Basic Services Program Phase II Additional Financing (P121727) and Promoting Basic Services Program Phase III project (P128891)

A. Introduction

1. In accordance with the Resolution (hereinafter “the Resolution”)¹ establishing the Inspection Panel (hereinafter “the Panel”), the purpose of this Report and Recommendation on Request for Inspection (hereinafter “the Report”) is to make a recommendation to the Board of Executive Directors as to whether the Panel should investigate the matters alleged in this Request. The Panel’s recommendation is based on its consideration of the technical eligibility of the Request and its assessment of other factors as stipulated in the Resolution.
2. The Panel’s determination of the technical eligibility of the Request, in accordance with the 1999 Clarification to the Resolution,² is set out in Section E (1) below, and Section E (2) summarizes the Panel’s observations on other factors considered before making a recommendation to the Board. The Panel’s recommendation is presented in Section F.
3. On September 24, 2012, the Panel received a Request for Inspection (the “Request”) related to the Ethiopia: Protection of Basic Services (PBS) Phase II Project Additional Financing and to the Promotion of Basic Services Phase III Project, which form part of the Protection of Basic Services Program. (“PBS Program” or “PBS”) The Request was submitted by two local representatives on behalf of 26 Anuak people from the Gambella region of Ethiopia (the “Requesters”). Two groups of Anuak living in different locations authorized the local representatives to submit the Request. The local representatives and the Requesters have asked the Panel to keep their identities confidential “*due to grave concerns about our personal security and that of our relatives in Ethiopia.*”

¹ International Bank for Reconstruction and Development (Resolution IBRD 93-10) and International Development Association (Resolution 93-6), “The World Bank Inspection Panel”, September 22, 1993 (hereinafter “the Resolution”), para 19. Available at:

<http://siteresources.worldbank.org/EXTINSPECTIONPANEL/Resources/ResolutionMarch2005.pdf>

² “1999 Clarification of the Board’s Second Review of the Inspection Panel”, April 1999 (hereinafter “the 1999 Clarification”). Available at:

<http://siteresources.worldbank.org/EXTINSPECTIONPANEL/Resources/1999ClarificationoftheBoard.pdf>

4. The Request is composed of a letter, to which an Annex is attached, in addition to affidavits with signatures of the affected people that authorize the local representatives to submit the Request on their behalf. The Annex, which elaborates on the Request's claims, was prepared by Inclusive Development International (IDI), a Non-Governmental Organization, and the Requesters ask the Panel to consider it an integral part of the Request. Due to security concerns, the Requesters also appoint IDI as their contact reference for all correspondence related to this Request.
5. The Panel registered the Request on October 9, 2012. On October 15, 2012, Management requested an extension for the submission of its Response³ to the Request for Inspection. This Panel's Report and Recommendation was originally due on December 18, 2012. The Panel requested the Board to approve an extension of the deadline to January 18, 2013 for reasons related to logistic and travel arrangements for the Panel's eligibility visit. However, following the field visit, the Panel judged that further consultations with Management on the issues raised in the Request were necessary prior to submitting a recommendation to the Board on whether an investigation is warranted. It thus requested of the Board a second postponement of the deadline for the submission of this Report.

B. The Project

6. The Request for Inspection raises concerns about the Bank support to the PBS Program. The World Bank involvement in the PBS Program started in May 2006 and is composed of four continuous operations, including 2 Additional Financing (AF): PBS I, PBS I-AF, PBS II, PBS II-AF, PBS-Social Accountability Program and PBS III.⁴ Donors and Government's overall total cost of these operations has exceeded USD 13 billion. The Bank's total commitments have amounted to almost USD 2 billion.
7. Only PBS II-AF and PBS III were still ongoing at the time of receipt of the Request for Inspection. PBS II was approved by the Bank on May 14, 2009 for USD 540 million and benefitted from PBS II-AF on February 22, 2011 for USD 420 million. PBS II-AF closes on January 7, 2013. The World Bank Board approved PBS III on September 25, 2012, for a total amount of USD 600 million. At the time of the receipt of the Request for Inspection PBS II-AF was around 97% disbursed.
8. According to the Project Appraisal Document (PAD) of PBS III, the Program Development Objective is to contribute to expanding access and improving the quality of basic services in education, health, agriculture, water supply and sanitation, and rural roads delivered by sub-national governments, while continuing to deepen transparency and local accountability in service delivery. The PAD of PBS III states that the Bank's support will contribute to the *“higher-level objective of expanding access and improving the quality of basic services by funding block grants that ensure adequate staffing and operations, and by strengthening the capacity, transparency, accountability and financial management of government at Regional and Local*

³ Management Response to Request for Inspection Panel Review of the Ethiopia: Protection of Basic Services program Phase II Additional Financing (P121727) and Promoting Basic Services Phase III Project (P128891), November 19, 2012, World Bank (hereinafter “Management Response”).

⁴ Different phases of the PBS program are interchangeably referred to in this Report as PBS I, PBS II and PBS III or PBS 1, PBS 2 and PBS 3

Authorities Level. The program defines basic services as education, health, agriculture, water supply and sanitation and rural roads.” PBS is a nationwide program.

9. According to the PAD, PBS III includes three Components:
 - Sub-program A: Basic Service Block Grants (USD 6.2 billion of which the Bank contribution is USD 555 million);
 - Sub-program B: Strengthening Local Accountability and Transparency Systems (Citizen's Engagement, Local Public Financial Management and Procurement, and Managing for Results) (USD 114.9 million of which the Bank contribution is USD 40 million);
 - Sub-program C: Results Enhancement Fund (USD 35 million of which the Bank contribution is USD 10 million).
10. Sub-program A, the provision of Basic Service Block Grants to *woredas*,⁵ provides for “*recurrent (salaries, operations and maintenance) expenditures in the five basic service sectors (education, health, agriculture, water and sanitation, and rural roads) at local levels.*” According to the PAD, the Basic Service Block Grants are disbursed from the federal level to the regions and from the regions to the *woredas*. Within Ethiopia’s federal administrative structure, the Government provides “*un-earmarked block-grant financing*” through regional governments, which in turn provide block grants to *woreda* administrations.
11. According to the PAD, the safeguard policies were not triggered. The environmental category for PBS III is determined to be C. The Integrated Safeguard Data Sheet, clearly states that as far as the Involuntary Resettlement Policy is concerned, “*this project does not involve land acquisition leading to involuntary resettlement or restrictions of access to resources or livelihoods.*” The PAD adds that in PBS I and PBS II the Environmental Assessment and Involuntary Resettlement Policies were triggered because of small infrastructure works provided through “*a pilot Local Investment Grant (LIG), which was a Specific Purpose Grant from the Federal Government to selected woredas for capital investments in the five basic services sectors.*” The LIG component is not included in PBS III.
12. PBS III’s Operational Risk Assessment Framework (Annex 6 of the PAD) notes that over the last year and a half the issue of “*villagization*” has emerged as an issue of concern. It states that a “*villagization*” program in the developing regions of Benishangul-Gumuz, Gambella, Somali and Afar “*has relocated more than 100,000 households to village clusters at the professed purpose of ensuring their access to basic services.*” According to the PAD, it has been alleged by human rights groups that the manner in which the relocation has taken place was coercive.
13. **Financing.** The Bank supports the PBS program through a specific investment loan of USD 600 million the majority of which are for Sub-Program A: Basic Services Block Grants. As for PBS I and II, PBS III will receive substantial contributions from other Development Partners including DFID, AfDB and EU.

⁵ “*Woredas*” constitute the third level in Ethiopia’s decentralized administrative structure, which includes the following tiers: regions, zones and *woredas*.

14. **Implementation arrangements.** The Ministry of Finance and Economic Development (MOFED) is the overall responsible government agency for project implementation. A Coordinating Unit has been created within MOFED to coordinate daily activities of PBS across the basic service ministries and sub national government entities. At the regional level, the responsible agencies are the Bureaus of Finance and Economic Development (BoFEDs). At the local level, woredas and urban administrations implement PBS. Additionally, to facilitate and coordinate dialogue on the implementation of the PBS program, donors created a PBS Secretariat, which is funded through contributions to a Multi Donor Trust Fund.

C. The Request

15. What follows is a summary of the Request for Inspection. The Request is attached to this Report as Annex I.

16. The Request states that the Requesters, Anuak indigenous peoples, have been harmed by the Bank-supported PBS Program as a result of World Bank's non-compliance with its policies and procedures because the PBS Program is "*contributing directly to the Ethiopian Government's Villagization Program in the Gambella Region*".

17. In 2010, Government of Ethiopia (GoE) launched the Commune Centre Development Plan and Livelihood Strategy, which is commonly referred to as the commune program or villagization program (hereinafter "the VP"). The Request states that under the VP, Anuak people are being forced to leave their ancestral lands, which is then leased to investors. The letter states that "*these mass evictions have been carried out under the pretext of providing better services and improving the livelihoods of communities*" but in reality, in the new sites where they were forcibly moved, the Requesters found infertile land, and no schools, clinics or other basic services. The Request adds that Government workers whose salaries are paid under the PBS Program have implemented the VP. The Request also states that some of these workers opposed the implementation of the VP and, as a result, they have been the targets of arrests, beating, torture and killing.

18. The Request states that the concerns of the Requesters have been brought to the attention of the Bank Management who, according to the Request, stated that the Bank has nothing to do with the harm suffered by the Requesters. In addition, the Request reports that Bank staff clarified to them that PBS III would be presented to the Board without applying the Bank's Indigenous Peoples and the Involuntary Resettlement policies. The Requesters are unsatisfied with the Bank's response and request the Panel to carry out an investigation of the matters raised in the Request for Inspection.

19. The Request's claims are further elaborated in the Annex, which forms part of the Request. The Annex is entitled "*Policy and Legal Analysis of the Ethiopia PBS Request for Inspection*", a summary of which follows.

20. The Annex to the Request describes the Requesters as Anuak indigenous peoples with a "*unique language and culture*" who are "*intimately tied to the land and rivers of Gambella*". There are two Anuak clans: the *Lul*, upland forest dwellers who practice shifting cultivation (they work a parcel of land for a number of years before moving to a different area), and the *Openo* who are riverside Anuak practicing more sedentary agriculture and fishing.

21. **Linkage between the PBS Program and the VP.** According to the Annex, the PBS Program “*aims to increase decentralized delivery of basic services [and is] designed to provide discretionary funds to sub-national governments.*” The Annex adds that in Gambella the regional government’s program for improving access to basic services is the so-called “Villagization Program Action Plan,” which started during phase II of the PBS Program. Under a three-year plan the VP was to be implemented in all *woredas* of Gambella and 45,000 households were to be resettled in new villages where basic services, such as schools, clinics, water schemes, infrastructures, would be provided.
22. The Annex states that the “*services and facilities supported through PBS are precisely the services and facilities that are supposed to be provided at new settlement sites under the Villagization program*”. It is argued that it is “*therefore apparent that villagization is the regional governments’ principle strategy for achieving the PBS objectives in Gambella*”, because the PBS Program is the major source of funding for *woredas*. The Requesters, according to the Annex, object to statements by Bank representatives that the Bank does not contribute directly to the villagization. The Requesters maintain that some of the public servants paid through the PBS Program are charged with implementing the VP and have testified to a number of organizations that they were ordered to implement villagization in Gambella. The Annex presents some testimonies of these public servants who state that they were threatened in various ways, such as with beatings and detentions, to coerce them into carrying out villagization. The Annex thus states that “*it does not appear [...] that Bank financial tracking and accountability systems for PBS would detect the diversion of funds towards the implementation of villagization in the manner described by the Requesters.*”
23. **Harm suffered.** According to the Annex, the Requesters perceive that the VP, which in their view is supported by the PBS Program, “*has been carried out by force and accompanied by gross violations of human rights.*” The Requesters speak of arbitrary arrests, beatings and assaults leading to deaths, torture, rape and violence, forced displacement, destruction of properties and inhuman conditions at the new villages. The Requesters assert that basic services at the new villages were not provided, and there was little access to food or land suitable for cultivation. Some Requesters have told stories of people dying from starvation. In such conditions, many Anuaks fled Ethiopia and sought asylum in Kenya or South Sudan.
24. **Alleged policy violations.** The Annex goes on to elaborate on the Bank’s non-compliance with various policies and alleges that the Bank violated the policies related to Project Appraisal, Indigenous Peoples, Involuntary Resettlement, Project Supervision and Economic Evaluation of Investment Operations.
25. **Economic evaluation of investment operations.** According to the Annex, the PBS Program is a “*sector investment lending instrument*” which was “*designed to replace budget support*” to ensure a steady flow of resources for basic services, and “*which through block grants, leaves almost complete discretion*” to the national and sub-national government on implementation of the project. It is argued that the choice of lending instrument in the environment in which it was designed and implemented is inappropriate and not in compliance with the Policy on Economic Evaluation of Investment Operations (OP 10.04).

26. **Project appraisal.** According to the Annex, the PAD of PBS II identifies the project risks as substantial with respect to governance and commitment to social accountability, however, the mitigation measures identified in the PAD are inadequate to address the corresponding risks, which have eventually materialized. It is argued that the lack of reference in the PAD to the VP is “striking” because “coercive” villagization “has been used historically in Ethiopia as a means of ‘development’ of certain populations and in particular to deliver basic services”, and the Bank’s diligence in carrying out social and environmental risks analysis has to be called into question.
27. The Annex adds that the Bank did not fully consider the PBS Program’s effects on well-being of people, including marginalized peoples like the Anuak, and that the Bank did not ensure consistency with applicable international agreements, including human rights treaties, to which Ethiopia is a party. Furthermore, the Bank in its risk assessment did not consider institutional issues at regional and *woreda* levels as well as the decision-making processes that could affect the achievement of project objectives, and did not consider the sociological aspects of PBS Program activities.
28. **Application of safeguards policies.** According to the Annex, Bank representatives justified the non-application of the policies on Indigenous Peoples and Involuntary Resettlement by stating that the main component of the PBS Program supports only recurrent expenditures and thus social and environmental policies are not triggered. It is argued that this does not “negate the Bank’s obligations to trigger and comply with relevant safeguards policies”, and that the high level of discretion that the type of instrument used for the PBS Program allows, requires strong measures and oversight by the Bank to ensure that funds are not used in violation of Bank policies and human rights.
29. **Indigenous Peoples.** The Annex states that the policy on Indigenous Peoples (OP 4.10) should have been applied to the PBS Program, and that the Anuak are indigenous peoples meeting the definition of Indigenous Peoples of OP 4.10. It is argued that “it was impossible for PBS not to affect Indigenous Peoples. Yet not a single reference is made to Indigenous Peoples in project appraisal documentation.” As a result, no safeguards guaranteed by the policy, including prior informed consultation leading to broad community support, were applied to protect the interests of the Requesters. The Annex states that if OP 4.10 had been applied, “PBS funds could not have been used to implement any aspects of villagization as a means to improve access to basic services that required Indigenous Peoples, including the Anuak, to move away from their ancestral lands.”
30. **Involuntary resettlement.** The Annex states that the Policy on Involuntary Resettlement (OP 4.12) should have also been applied to the PBS Program. Had OP 4.12 been triggered, the PBS Program would have required adequate safeguards for the resettlement of people under the VP and would have ensured processes in respect of human rights. It is argued that the policy should have been triggered after identifying the risk that regional governments could use PBS Program funds to achieve VP objectives.
31. **Project supervision.** The Annex states that when the Bank became aware of the VP it should have engaged in communication with the federal and regional governments about the program and its implementation and should have assessed its risks with

respect to affected people, including indigenous peoples. Also it is questioned why the “*Good Practice Guidelines and Principles Regarding Resettlement*” issued by the Development Assistance Group were not made a binding requirement of donor support to the PBS Program. In addition, the Annex refers to a World Bank assessment of villagization in the Benishangul-Gumuz region was carried out in early 2011, and states that the Bank team “*found it unnecessary to trigger OP 4.12 determining that there was no evidence that relocation under villagization was involuntary and that Bank funds did not directly contribute to villagization.*” The Annex adds that Anuak representatives “*repeatedly called on the Bank to interview Anuak refugees*” who were affected by villagization but the Bank did not react to this, nor did the Bank make an effort to correct the situation in spite of evidence of Bank funds being used for the VP. This, it is believed, is evidence of non-compliance with the policy on Supervision.

32. **Prior contact with Bank Management.** The Annex presents details of the efforts made by the Requesters and their representatives to bring their issues related to the PBS Program to the attention of Bank Management. It also notes that it is difficult for Anuaks in Gambella or those in refugee camps outside Ethiopia to communicate with the Bank, and that Anuaks fear serious reprisals for speaking up and expressing criticism of the Government. A number of letters were sent in August and September 2012 to the Bank, including by Anuak refugees, but no written response was received. Bank representatives met on September 14, 2012, with some of the Requesters and reiterated the Bank’s position: that Bank funds do not contribute to the VP, that no remedies can be offered by the Bank to address the Requesters’ issues other than continuing dialogue with the Government, and that the Bank will not apply its policies on Indigenous Peoples and Involuntary Resettlement to the PBS III.

D. The Management Response

33. A summary of Management Response follows, and a complete copy is attached to this Report as Annex II.
34. Management indicates that the Response focuses on PBS III, although the Request centers on PBS I and II, because the latter projects are over 95% disbursed and thus, Management states, they are not eligible for investigation.
35. **Choice of lending instrument for PBS III.** In response to the Requesters’ questions about the choice of financing instrument for PBS III, Management states that PBS III was designed as an investment loan because this approach has proven successful and results-focused since 2006 when the first phase of the PBS Program commenced. Other alternatives, such as a development policy operation or a program for result approach, were not considered superior to an investment loan, which allows supporting recurrent expenditures based on a careful monitoring of core principles and results, and reviewing the progress on capacity strengthening of government systems. Moreover, not only does the loan structure enable the definition of a set of eligible expenditures for specific basic services at the *woreda* level, it also tracks these expenditures.
36. **Implementation arrangements.** Extensive implementation support is also part of the investment lending approach. Implementation support under PBS III takes several forms: joint review and implementation support missions with Development Partners (DPs) and Government officials, which review the performance with Core PBS Principles (Effectiveness, Sustainability, Additionality, Equity, Transparency,

Fiduciary Probity and Predictability); extensive financial management review of program resources; constant close coordination with MOFED, regional and subnational governments, ministries supporting basic services, and with development partners; and monthly donor meetings to review progress on implementation. In addition, extensive field based presence is guaranteed with the Task Team Leader in country and a donor-financed Secretariat that was created to coordinate activities between DPs and Government agencies.

37. **General response to the Request.** Management states that the harm described in the Request for Inspection does not arise from PBS III or from a failure of the Bank to apply its policies. In response to the Requesters' main claim that PBS is inextricably linked to the Ethiopian Government's villagization program, Management's position is that PBS III *"is not linked to villagization....does not build upon villagization, it is not synchronized with villagization, and does not require villagization to achieve its objectives."* Furthermore, the Bank does not finance the VP.⁶
38. Management argues that the fact that some government officials at *woreda* level, whose salaries are paid in part by PBS III, may have responsibilities related to the VP is not a basis to claim that PBS III is directly linked to villagization. Management states that government officials at local level often have multiple roles, and that the VP implementation arrangements provides for steering and technical committees at regional, zone, *woreda* and *kebele* level. The Response further explains that since PBS III *"contributes to the costs of all staff working on the five basic sectors at woreda level, it also contributes to the salary of those staff"* who may be in villagization committees.⁷ Management adds that it would not be *"feasible nor desirable"* to pursue arrangements where officials work exclusively on functions supported by Bank funds because it would be dysfunctional, highly inefficient and would represent a higher administration cost for the borrower. It also notes that *"the key concern must be whether each official has discharged the PBS-related duties which are the basis for paying her/his salary"*.
39. Management emphasizes nevertheless that it is *"deeply troubled by the reports of harm"* the Requesters have raised and *"takes these allegations very seriously and has undertaken an extensive review of the allegations raised in the Request."*⁸ In addition, Senior Management has raised these concerns with the new Prime Minister and the Ministries of Finance and Federal Affairs and in the Bank's regular dialogue with the Government of Ethiopia.
40. **The VP and Bank's Response.** The Response describes the VP, which began in mid-2010 in four developing regions of Ethiopia including Gambella, as a program aimed at voluntarily congregating sparsely populated communities within *kebeles* (communities; 'neighborhoods' in Amharic) around village centers in the same *kebele*. According to the Response, the VP does not provide forced or long distance resettlement, does not mix people of different backgrounds, does not replace other development programs in the four regions, nor does it provide all services and facilities for the communities involved.

⁶ Management Response, p. viii.

⁷ Management Response, ¶ 58.

⁸ Management Response, p. viii.

41. Management states that neither the Bank nor other Development Partners were consulted by the GoE about the villagization or advised in advance, and that Management learned of it in October 2010 during an unrelated field visit. Management notes that because the Bank does not finance villagization, there is no scope for the application of the safeguard policies; rather the Bank and the DPs have tried to “*achieve influence*” with the GoE with respect to the impacts of villagization through policy dialogue.⁹ In addition, missions of the Development Assistance Group (DAG), which included Bank staff and other DPs representatives, have not found evidence of forced relocations or systematic human rights abuses in the implementation of the VP. The DAG-sponsored missions found, however, poor planning, too rapid relocations, inadequate sequencing of resettlement, poor service provisions and weak implementation capacity. In this context, therefore, the Bank has engaged with the GoE, since first learning of the VP, to provide feedback to the Government through meetings with Government ministries, advice on good practice guidelines and principles of resettlement, field visit to observe implementation and raising concerns about issues related to planning, sequencing and capacity in carrying out villagization.
42. Management states, nonetheless, that it is aware of reports of abuses in Gambella that predate the villagization, and of other most recent concerns, such as the issuing of a Civil Society Organizations law, which was criticized as repressive of freedom of opinion. As a result, the Bank “*did associate itself with discussions on some topics*”, especially regarding the CSO law, but did not take leadership in these discussions in recognition of the leadership of the Ethiopian Partners Group and with regard to the provisions of the Bank’s Articles of Agreement. In addition, allegations of misuse of funds with regard to DP supported programs including PBS have surfaced since 2005 but they did not provide a basis for revising the implementation arrangements for PBS. Management also notes that there are mechanisms in place to provide evidence of such allegations if substantive.
43. With respect to the concerns raised about villagization, Management maintains that neither the Bank nor the DPs have been able to substantiate those concerns. Management notes that the resettlement appears to be voluntary, and Bank supported projects in the Gambella do not provide direct support to villagization. It adds that the situation “*would be periodically monitored as part of the supervision of the portfolio of Bank-financed projects and would address any new developments with the Ethiopian authorities as appropriate.*”¹⁰
44. Management Response also addresses the claim that ethnic tension and conflicts in Gambella are a result of villagization. The Response notes that Gambella has a long-standing history of ethnic tensions and conflicts including the Anuak , the Nuer, and people from the highland who have settled in the area.
45. **Application of Bank safeguard policies.** Management states that there is “*no scope*” for application of safeguard policies to the VP, as the Bank does not finance it, thus arguing that the decision not to trigger the policies on involuntary resettlement (OP 4.12) and indigenous peoples (OP 4.10) was correct. Nevertheless, the Bank has a

⁹ Management Response, ¶ 38.

¹⁰ Management Response, ¶ 47.

“close regard for environmental and social issues as they relate to the achievement of the project’s development objectives” and PBS III supports strengthening environmental and social assessment at local level by assessing capacity, targeting capacity building and encouraging best practices in environmental and social management in planning and implementation of activities.

46. The Bank also has an ongoing program of analytic work on social and environmental issues and in relation specifically to PBS III, Management indicates that it *“intends to build further on the existing stock of analysis by undertaking a Poverty and Social Impact Analysis to verify further the observed experience under PBS that increasing funds for the delivery of services across Ethiopia provides proportionately greater returns to marginal areas and vulnerable groups.”*
47. Management further notes that OP 4.12 is not applicable to PBS III because the project supports only recurrent expenditures and does not involve taking of land or restriction of access. In addition, PBS III does not depend on villagization to achieve its objectives, and therefore, even if the resettlement under the program was involuntary, such Government activities would fall outside of the scope of the policies applicable to the Bank supported project. Management adds that its position with respect to the applicability of OP 4.12 has been consistent through the three PBS phases and other Bank operations involving recurrent costs.
48. Management Response notes that the policy on Indigenous Peoples has not been applied in Ethiopia because of Government’s concerns and *“uncertainty as to its compatibility with the country context.”*¹¹ The Government argues that all people in Ethiopia are indigenous according to the country’s constitution. In this context, discussions with the Government on how to apply the policy have been ongoing since 2009.
49. With respect to the policies on project appraisal (OMS 2.20) and supervision (OP 13.05), Management states that the implementation support arrangements for PBS III enable a close monitoring by the Bank and the funding partners of PBS implementation so that the PBS Program is consistent with its design and its resources reach the target groups and achieve the program’s results at the local level.
50. **Conclusion.** The Response notes that when the Bank became aware of the VP it recognized that such a program was important in the GoE development strategy but that it could face implementation challenges. Relevant Ministries in the government were engaged in dialogue through the DAG, Bank safeguard specialists visited Ethiopia and feedback was provided to the Government on problems encountered in the implementation of villagization. However, Management reiterates that neither the Bank nor other DAG members found evidence of the abusive behavior described in the Request in connection with villagization. The Bank and DPs also agreed that the best approach to a dialogue with the Government on villagization was to be separate from partners-funded programs, and direct to the topic. Nevertheless, because individuals may not feel free to report cases of abuse, PBS III’s design includes a Sub-Program B, which is aimed at strengthening local accountability and transparency to make sure

¹¹ Management Response, ¶ 65.

people understand their entitlements and may complain through different mechanisms about wrong doings of any kind by officials involved in delivering basic services.

51. Management reiterates that it takes very seriously the reports of harm by the Requesters and has made sure that the GoE is made aware of these alleged abuses, while at the same time “*promoting systemic approaches to address the possibility of abuses at local level as well as investigating specific reports.*” Management states that it will ensure that Bank staff in Ethiopia work closely with DAG members to follow up on reports of abuses whether or not related to a Bank-funded program. Management proposes to undertake a Poverty and Social Impact Analysis that would, among other things, verify further that PBS “*provides proportionately greater returns to marginal areas and vulnerable groups.*”¹²
52. Management concludes that in its view the Request’s claims are “*outside the question of compliance with Bank policy*” and that there is no basis to the claim that the harm alleged by the Requesters is a result of Bank’s non-compliance with its policies and procedures.

E. Panel Review of the Request and Management Response

53. The Panel Chairperson Alf Jerve, Panel Member Zeinab ElBakri, together with Deputy Executive Secretary Dilek Barlas and Senior Operations Officer Tatiana Tassoni, visited Ethiopia from January 8-11, 2013; South Sudan from January 11-12, 2013 and Kenya from January 12-14, 2013. During its visit, the Panel team met with the Requesters who currently reside in South Sudan and Kenya. It also met in Ethiopia with Government officials of the Ministry of Finance and Development and the Ministry of Federal Affairs, with regional government officials from Gambella and with *woreda* officials and community representatives from Gambella. The Panel moreover met with DPs, including representatives from the African Development Bank, UK’s Department for International Development (DFID), the European Union and the German Embassy in Ethiopia. The Panel team finally met with Bank staff in the country offices of Ethiopia, South Sudan and Kenya and had the chance to discuss with staff involved in the PBS program residing outside of Ethiopia.
54. The Panel wishes to express its appreciation to all those mentioned above for sharing their views and exchanging information and insights with the Panel. The Panel also wishes to thank the Government of Ethiopia for meeting with the Panel team and facilitating meetings with regional officials and community members from Gambella. The Panel also extends its thanks to the DPs’ representatives who met with the Panel team and to the Country Director and the World Bank Country Offices in Ethiopia, South Sudan and Kenya for meeting with the Panel team, discussing the issues and providing relevant information, and assisting with logistical arrangements.
55. The Panel’s review is based on information presented in the Request, on the Management Response, on other documentary evidence, and on information gathered during the site visit, and meetings with Requesters and Bank Management.

¹² Management Response, ¶ 83.

56. This review covers the Panel's determination of the technical eligibility of the Request, according to the criteria set forth in the 1999 Clarification, including an analysis relating to Management's discussion on the eligibility of the Request (section A), and observations on other factors supporting the Panel's recommendation (section B).

1) Determination of technical eligibility

57. The Panel is satisfied that the Request meets all six technical eligibility criteria provided for in paragraph 9 of the 1999 Clarifications.

58. The Panel notes that its confirmation of technical eligibility, which is a set of verifiable facts focusing to a large extent on the content of the Request as articulated by the Requesters, does not involve the Panel's assessment of the substance of the claims made in the Request. It follows from this interpretation that technical eligibility in and of itself would not be a sufficient basis for recommending an investigation.

59. Criterion (a): *"The affected party consists of any two or more persons with common interests or concerns and who are in the borrower's territory."* The Panel confirms that the Requesters lived in local government areas benefitting from PBS financing at the time most of the alleged harm occurred, and continue to have common interests and concerns in that they, their families in Gambella and their land may potentially be affected under PBS III. They share common concerns with respect to the PBS Program as designed and implemented and believe that they are suffering, or may suffer, harm as a result of the Bank non-compliance with its policies and procedures in the design and implementation of the Program. The requirement of paragraph 9(a) is met.

60. Criterion (b): *"The request does assert in substance that a serious violation by the Bank of its operational policies and procedures has or is likely to have a material adverse effect on the requester."* The Requesters assert that PBS has harmed them since it is contributing directly to the VP in Gambella region, and that this has happened as a result of Management's non-compliance with Bank policies and procedures. In meetings with the Panel during its visit, they asserted their concern that these harms are likely to continue under PBS III due in part to inadequate application of Bank policies. In general, they assert that proper assessments and supervision under the Bank policies on project appraisal and supervision would have led to the determination that PBS and VP are inextricably linked thus requiring the application of the Bank's safeguard policies. The Requesters claim that they were forcibly resettled to villages where PBS is supporting provision of basic public services; that the services promised were not delivered, and peoples' livelihood was severely affected. They also state that public officials whose salaries are paid under the PBS Program were involved in the implementation of VP. The Panel is thus satisfied that the requirement of paragraph 9(b) is met.

61. Criterion (c): *"The request does assert that its subject matter has been brought to Management's attention and that, in the Requester's view, Management has failed to respond adequately demonstrating that it has followed or is taking steps to follow the Bank's policies and procedures."* The Requesters state that they have raised their concerns with Bank staff on several occasions through meetings and via e-mail. They are not satisfied with the responses they have received from the Bank and how the Bank has addressed their concerns. The Panel is satisfied that this criterion has been met.

62. Criterion (d): *“The matter is not related to procurement”*. The Panel is satisfied that the claims with respect to harm and non-compliance included in the Request for Inspection do not raise issues of procurement under the Project and hence this criterion is met.
63. Criterion (e): *“The related loan has not been closed or substantially disbursed”*. The Request for Inspection raises issues related to two phases of the PBS Program: PBS II Additional Financing and PBS III. At the time the Panel received the Request for Inspection – September 24, 2012 – PBS II Additional Financing was 97% disbursed, while PBS III had not yet been approved by the Board of Directors. The Board approved financing for PBS III on September 25, 2012. As provided for in the 1996 Clarifications to the Resolution, the Panel may hear Requests for projects or programs under consideration by Bank Management as well as projects approved by the Board. Therefore, the Panel is satisfied that this criterion has been met.
64. Criterion (f): *“The Panel has not previously made a recommendation on the subject matter or, if it has, that the request does assert that there is new evidence or circumstances not known at the time of the prior request”*. The Panel confirms that it has not previously made a recommendation on the subject matter of the Request.

2) Observations on other factors supporting the Panel’s recommendation

65. In making its recommendation to the Board, the Panel also takes into account whether there is a plausible causal link between the harm alleged in the Request and the activities supported by the Bank, whether the alleged harm potentially may be of a serious character, and whether the possible non-compliance by the Bank with its operational policies and procedures may be of a serious character. In sections (i), (ii) and (iii) below, the Panel records its preliminary observations on these elements, noting that the Panel can only make a definitive assessment of the Bank’s compliance with its policies and procedures, and any adverse material effect this may have caused, through an investigation. The Panel also takes into account statements of any remedial actions to address the matters raised in the Request provided by Management.

(i) The issues of link between the PBS and alleged harm

66. The Requesters claim that the Bank-financed PBS is contributing directly to the VP in the Gambella Regional State causing significant harms to the local population. This alleged causal link is a main area of contention. The Panel notes that, in 2010, GoE launched the Commune Centre Development Plan and Livelihood Strategy, which is commonly referred to as the commune program or villagization program. This program covers the four regions of Ethiopia; Gambella, Benishangul-Gumuz, Afar and Somali. The VP in Gambella region started in the second half of 2010 based on a “Villagization Programme Action Plan” (issued in August 2010).
67. The Panel notes that Management focuses its response with reference only to PBS III, as Bank’s support to PBS I was closed and PBS II was more than 95% disbursed when the Request was submitted. With respect to PBS III, Management maintains that it *“does not finance villagization and does not depend in any way on villagization in*

order to achieve its objectives”¹³, and concludes that “the harm described by the Requesters is unrelated to the Bank-supported PBS 3”¹⁴. In short, Management states that the Bank does not finance the VP and notes that there is no basis to claim that PBS III is directly or inextricably linked to villagization.

68. The harm experienced by the Requesters and described in the Request took place prior to the start of disbursement under PBS III. The Requesters do maintain, however, that there is a constant risk of Anuaks being coerced to relocate to new cluster villages in the coming years as long as the VP is in force. They argue, furthermore, that PBS I and II, and the recently approved PBS III, constitute a single continuous program with only minor modifications at each phase, and that the manner in which PBS III is designed provides critical resources to *woredas* for their implementation of designated local level development activities, villagization being among them, thus adding to the harm they have already suffered.
69. The Panel notes that PBS II and PBS II-AF cannot directly be subject to the Panel’s review for reasons of technical eligibility, while PBS III falls within the Panel’s purview. The way in which planning and appraisal of PBS III relied on analysis and experiences from PBS II and PBS II-AF may form part of a Panel review of PBS III.
70. The important question for the Panel at this stage in the Panel process is to establish whether a plausible link exists between PBS III and VP. The assessment below takes into account that PBS III is a continuation of the earlier phases of PBS, and the Panel considered the following issues:
- Commonality of objectives
 - Contribution to the implementation of VP
 - Mutual impacts on results.
71. In addressing the *first* issue, the Panel considered the following factors:

Commonality of objectives. The Panel notes that both PBS and VP have the objective of providing improved basic services to the population, which is a main element of the GoE’s overall development strategy. The Bank defines the objective of the PBS program as a “*nationwide program which contributes to expanding access to and improving the quality of basic services.*”¹⁵ Management outlines its understanding of the objective of the VP as “*to cluster dispersed populations in sparsely populated regions into ‘commune centers’ over a period of three years on a voluntary basis to enable more efficient provision of basic services (emphasis added).*”¹⁶

72. **Concurrent implementation.** Another factor considered by the Panel is the geographic overlap of the implementation of these programs. The stated aim of VP in Gambella region is the relocation of 45,000 households over a period of 3 years, and the establishment of social and economic infrastructure in new settlement areas, including schools, health services, water and sanitation facilities and improved

¹³ Management Response, ¶ 63.

¹⁴ Management Response, ¶54.

¹⁵ Management Response, p.vii.

¹⁶ Management Response, Annex 1, p.24.

marketing facilities. Hence, from end of 2010, PBS and the VP have been implemented concurrently in the Gambella region covering the same *woredas*.

73. **Considerable scope of both programs.** In Gambella region, according to a recent report, 20,243 households relocated to new sites during the first phase (2010/11) and 6-12,000 have moved in the second phase (2011/12). The Panel was informed in meetings with the Ministry of Finance that over 70 villages have been expanded or created under the VP in Gambella region. Relocation of some 30,000 households is equivalent to approximately 40% of the regional population.¹⁷ It follows that the VP has been a priority development effort in most, if not all, *woredas* since its inception in 2010. PBS provides a major part of the recurrent budget of all *woredas* in Gambella region.
74. With respect to the *second* issue above, the Panel considered the following factors.
75. **Recurrent and capital costs and the role of PBS.** The Panel notes that, according to official reports, VP in Gambella region provided 30 primary schools, 40 health posts, 29 animal health posts and 212 water points during the first two phases. Not all of these facilities may yet be operational given that both Government and other sources report considerable delays in social service provision due to lack of competent contractors, problems of supply of materials and slack in recruitment and posting of required personnel. Nonetheless, the achievement of these development results required mobilization of considerable budgetary and human resources.
76. In meetings with Government, the Panel was informed that costs of physical infrastructure in support of the VP were covered from the Regional capital budget and “the MDG Fund”, whereas operational costs are covered from the Regional recurrent budget. Management Response does not provide any details on the financing of VP beyond stating that it has “*a separate budget authority, and separate implementation arrangements*”.¹⁸ The Panel understands that individual *woreda* administrations are responsible for implementation of the VP, supported through grants from the Region. Under the Ethiopian federal government, system *woredas* receive block grants for both capital and recurrent expenditures from their respective regional government determined by set formulas, and have considerable autonomy with respect to management of their budgets. This notwithstanding, Management is of the view that the financial management systems established for PBS ensure that disbursements from PBS are used only for recurrent expenditures.

¹⁷ In comparison, to further illustrate the intended scale of the VP, the following has been reported from the Benishangul-Gumuz Region (BG): “*The Head of the Food Security Office in Assosa ... explained that during 2011, 15 out of the 20 woredas in the three zones in BG region were included in the programme. 93 centres (sometimes more than one centre in one kebele) were established and 18 047 households moved to these. For 2012, further 87 centres have been identified and 19 776 households have been requested to move. For 2013, some 14 000 households are expected to move (without specifying the centre). This gives a total of 52 000 households moved during the three years to at least 180 villagisation centres. Assuming that at least some 20 new centres will be identified for the 14 000 remaining households for the year 2013, the total number of villagisation centres will be around 200 centres.*” (Ministry for Foreign Affairs of Finland, “Socio-economic baseline study and assessment of the impact of the villagisation”, Final Report, May 2, 2012, p.19) This means that a total population of about 260,000, or about 40% of the rural population are involved in villagization in BG region.

¹⁸ Management Response, Annex 1, p. 22.

77. The Panel understands that PBS, and other special purpose grants, that enhance the capability and capacity at *woreda* level constitute part of the resource base available to *woreda* administrations. Hence, in new settlements/villages created under VP, PBS represents a critical source of financing for the *woredas* to ensure adequate staffing and operation of new services. Given its ambitious targets and reported achievements, it is most likely that PBS, through block grants for recurrent expenditures, has been instrumental in establishing and operating services in new villages created under the VP.
78. **The role of civil servants paid under PBS.** The Panel understands that civil servants, such as school teachers, health professionals and agricultural extension workers, whose salaries are being paid under the PBS, have been involved in the implementation of VP in Gambella. During its eligibility visit, the Panel team heard testimonies from several former teachers and agricultural extension workers who claimed they had been instructed to mobilize the farmers to move and clear the land for the new village.
79. Management argues that the fact that some government officials, whose salaries are paid in part by PBS, may have responsibilities related to VP is not a sufficient basis to claim that PBS is linked to villagization. Management notes that government officials at local level often have multiple roles. Management states that PBS “contributes to the costs of all staff working on the five basic sectors at *woreda* level, it also contributes to the salary of those staff” who may be in villagization committees. Management adds that it would not be “feasible nor desirable” to pursue arrangements where officials work exclusively on functions supported by Bank funds because it would be dysfunctional, highly inefficient and would represent a higher administration cost for the borrower. Management notes that “[f]or PBS 3 the key concern must be whether each official has discharged the PBS-related duties which are the basis for paying her/his salary”.¹⁹ This leaves open the question of the extent to which staff funded through PBS were undertaking work in connection with VP, and the type of work involved.
80. **Diversion of funds from PBS to VP.** Requesters also testified how PBS funds were diverted, including deductions from their salaries or non-payment of their salaries for a couple of months, to finance the implementation of the villagization program. Management states that “the regular support arrangements for PBS have never found any evidence of funds diversions of the kind alleged” and adds that “Management considers this finding credible in view of the careful arrangements in place within the program to track the use of funds”.²⁰
81. With respect to the *third* question above, the Panel notes the following:
82. **PBS results indicators.** The results indicators linked to the higher-level objectives of PBS are the following: primary education enrolment rate, primary education completion rate, gender parity in primary schools, proportion of children vaccinated, pregnant women received antenatal care, and access to potable water. The Panel notes that these indicators also reflect the stated objectives of VP.

¹⁹ Management Response, ¶ 60.

²⁰ Management Response, Annex 1, p. 23.

83. **Synergies with other programs.** The Panel notes, that development partners generally have underscored that PBS cannot be viewed in isolation, and that its development objectives can only be reached in synergy with other efforts. DFID in its review of PBS II emphasizes that “*PBS was intended to help GoE to finance and roll out the sector programmes supported by DFID at a federal level in education (GEQIP), health (MDG Fund), roads (ETTRP), water (WASH), AGP Agriculture and public sector and PFM reform (PSCAP).*” DFID further observes that “[D]espite recent efforts to strengthen the PBS linkages with the sectors, the hoped-for stronger alignment and working relationship with the sectors has not materialised to the extent planned at the outset of PBSII”.²¹
84. The Panel notes that Management is of the view that “*villagization is not directly or significantly related to PBS 3, nor does PBS 3 depend on villagization in order to achieve the objectives described in the project document*”.²² This statement seems to presuppose that the success or failure of either program, PBS and VP, will not influence the other. In other words, that the results indicators above are not dependent on the effects of VP. The Panel is of the view that this is not a tenable position. VP is a program that aims at fundamentally restructuring settlement patterns, service infrastructure and livelihoods, including farming systems, in the Gambella region, and as such constitutes a significant context in which PBS operates. In this sense, from a development perspective, the two programs depend on each other, and may mutually influence the results of the other.
85. **Panel’s review.** Based on the above, it is the Panel’s assessment that there is a plausible link between PBS and VP. However, at this stage in the Panel process, and without further fact-finding, it is not possible for the Panel to make definitive findings with respect to this link.

(ii) Allegations of harm

86. The harms described in the Request cover four aspects: (1) taking of people's customary land without their free and informed consent, (2) use of force and intimidation to get people to move, (3) lack of public services and assistance at relocation site, and (4) deterioration of livelihood due to less fertile land and lack of other income generating opportunities at relocation site.
87. **Involuntary taking of land.** The Requesters allege that under VP they did not have the right to refuse leaving their traditional lands. It is claimed by Requesters that a prime political driving force behind VP is to free land for long-term lease to private investors, domestic as well as foreign, and accordingly people do not have the option to object to relocation. The Panel notes that the issue of land transfers to investors is central in most of the media reports on VP.
88. The Government is of the view that the country has abundant unused land that can be operated by agri-businesses without posing a threat to the livelihood of small holders. There are plans to allocate 3.3 million hectares by 2015 to investors, in addition to the

²¹ DFID. Project Completion Review. Protecting Basic Services 2 (PBS2). 16-27 April 2012.

<http://projects.dfid.gov.uk/project.aspx?Project=200225>.

²² Management Response, p. xi.

3.5 million already allotted by 2010.²³ Government, in meetings with the Panel, categorically stated that there is no relationship between these plans and villagization. It was explained to the Panel that villagers who had opted to relocate would retain user rights to their original land for two years, when they would have to decide whether to move back or relinquish claims to the original land. In this two-year period, people could use both the land allocated in the new resettlement site and their customary held land.

89. Some donor representatives told the Panel that Government had provided “compelling evidence” that there is no such link. A field mission endorsed by the DAG Group stated that “[A]lthough a concurrent plan for agriculture investment in Gambella is under way, this June 2012 mission again concluded that there were no reports of any former settled land being used for commercial farming. All villages but one reported having continued access to their original land and that it was reported as unchanged since they moved.”²⁴ This mission visited nine locations where villagization was going on. The names of the locations are not mentioned in the report.
90. These statements contrast with the testimonies of Requesters whom the Panel met, who are refugees living in South Sudan and Kenya. Several testified that their original land had been given to investors after people had moved to the relocation site. These testimonies referred to land in Abobo and Gor *woredas*. Other reports confirm that local people strongly believe there is a connection between the agriculture investment program and villagization, and that this link explains why in many instances they were forced to relocate.²⁵
91. **Use of force and intimidation.** Government representatives informed the Panel that coerced resettlement does not take place. They underscored that the Ethiopian Constitution protects people from being coerced, that “abuse will be investigated”, and that Regional governments have to get the consent of people – “voluntarism is without any caveat”. Development partner representatives, whom the Panel met, reiterated what seems to be the prevailing view that they do not have evidence of systemic human rights abuses related to VP. The last DAG mission report states: “As in the previous mission, there were no reports of forced relocation or systematic human rights abuses, but half of the people interviewed said they didn’t want to move and there were reports of some pressure and unmet promises linked to movement”.²⁶
92. The Requesters on the other hand, interviewed by the Panel, described concrete incidences of people who had been beaten, detained and even in some cases killed by soldiers or police engaged in overseeing the relocation process when they were showing some resistance. Several of the Requesters stated that they fled because they feared for their lives. They were very concerned about the situation of relatives back home and of the prospects of being able to return to their ancestral lands. Some former civil servants stated that they were targeted as “trouble makers” when the villagers

²³ Rahmato, Dessalegn (2011). “Land to Investors: Large-Scale Land Transfer in Ethiopia”. Forum for Social Studies. Addis Ababa, p.11.

²⁴ DFID, USAID, UN and Irish Aid. “Multi-agency “Villagisation” mission to Gambella Regional State, Ethiopia”. Report. 3-8 June 2012 (hereinafter “DAG (2012)”).

²⁵ See Rahmato (2011) pp. 20-21 reporting from Abobo woreda, and Finnmap (2012) p. 57 reporting from Benishangul-Gumuz region.

²⁶ DAG (2012), p.2.

refused to move, and had to leave the country due to safety concerns after being beaten or put to jail.

93. **Lack of services at relocation sites.** Management reports that “[T]he GoE has consistently recognized that the implementation of the program [i.e. VP] has yet to achieve the quality it would like to see, and had welcomed Development Partners’ views and insights.”²⁷ According to the most recent DAG mission “[S]cale, speed, sequencing and implementation capacity remain an issue, although new Government MDG Fund resources appear to be providing the opportunity to catch up on service provision.”²⁸ There seems to be a broad recognition that the speed of villagization has not been met with commensurate resources and capacity. Government representatives referred to three challenges: lack of human resources in Gambella – i.e. people with required skills; very few contractors with the required capacity (“it may take a year to build a health post”); and not enough services to meet demands.
94. The Requesters’ testimonies, including from those who fled Gambella region during the last twelve months, include descriptions of non-existent or non-functioning services. “Women are now suffering in the villages because the men are not there, there is no farming, there is no food, no health facility”. “There was no school in the new village so I moved back to the old village but life was not the same and I packed and left.”
95. **Deterioration of livelihood.** There are several reports and testimonies from people confirming that settlers have struggled to make a living at the new sites. This has led to some moving back to their original lands, while others have tried to cultivate land at both sites. Some Requesters complained that the new land was dry and the soil not suited for their traditional staple crops.
96. Government representatives, whom the Panel met, are of the view that the 4 hectares of land allocated per household is adequate. It is acknowledged that the relocation will imply changes in farming practices, and hence the Government’s emphasis on strengthening agricultural extension services, including with support from PBS. The recent DAG mission confirms that “*the scale and speed of relocation is causing major disruptions to livelihoods*”, and the team advises “[I]n order for the government stated goal of the programme, ‘sustainable improvement livelihoods’ to be realized, and to prevent the worsening of the level of food security, the concern over land and agricultural inputs would appear to be an urgent priority to advance”.²⁹
97. **Panel’s review.** The Panel notes that all four issues above constitute potential serious harm to the Requesters. It further notes that Management, as well as GoE, acknowledge deficiencies in the villagization process with respect to two of the issues, i.e. timely provision of services and livelihood assistance to people during a transitional period. Collectively, the Development Partners have engaged in dialogue with GoE on these issues, and have shared advice based on international best practice guidelines for resettlement programs. With respect to the other two issues, namely the involuntary nature of resettlement and abusive behavior in forcing people to move, Management is of the view that there is lack of “*evidence to substantiate possible links between*

²⁷ Management Response, Annex 1, p. 23.

²⁸ DAG (2012), p. 2.

²⁹ DAG (2012), pp. 10-11.

abusive behavior and villagization of the kind described in the Request".³⁰ At this stage in the Panel process, the Panel cannot make a definitive assessment of whether these issues of harm go beyond the Project in terms of its compliance with Bank policies and procedures.

98. The Panel wishes to acknowledge Management's statement that it *"takes very seriously the reports of harm by the Requesters and will continue to ensure that as part of its country dialogue issues pertaining to the Request are brought to the GoE's attention."* The Panel notes Management's proposal to undertake a Poverty and Social Impact Analysis that would, among other things, verify whether PBS *"provides proportionately greater returns to marginal areas and vulnerable groups."*³¹ Furthermore, the Panel was informed by GoE and Management of the intention to fast track the implementation of the Social Accountability and the Grievance Redress Mechanism components of PBS III in Gambella region. The Panel also notes Management's commitment, in its Response, to work with the DAG *"to continue to closely monitor the progress of the villagization program, and explore with the GoE ways to improve program implementation."*³² The Panel is also aware of the high-level dialogue between Government of Ethiopia and Development Partners on aspects of the ongoing villagization, and acknowledges the importance of this dialogue going forward.

(iii) Issues of compliance

99. The Requesters assert that neither the lending instrument utilized for PBS nor the decision to finance recurrent expenditures *"negate the Bank's obligation to trigger and comply with relevant safeguard policies."* The Requesters state that the Anuak are indigenous peoples meeting the definition of Indigenous Peoples in the Bank Policy on Indigenous Peoples (OP 4.10), and that this should have been applied to PBS. Similarly, the Requesters claim that the Bank's Policy on Involuntary Resettlement (OP 4.12) should also have been applied. In addition, the Requesters claim that many aspects of Bank's Policy on Project Appraisal (OMS 2.20) and Policy on Economic Evaluation of Investment Operations (OP 10.04) were not complied with.
100. On the other hand, Management states that there is *"no scope"* for application of safeguard policies to VP as the Bank does not finance this program. Management also notes that the decision not to trigger the policies on involuntary resettlement and indigenous peoples to PBS III was a correct one. Since PBS III includes only financing of recurrent costs, Management determined that the potential environmental and social impacts of PBS III justified a Category C rating leading to non-application of safeguard policies. In addition, Management states that it complied with the requirements of policies on project appraisal and economic evaluation of investment operations. It adds that the implementation support arrangements for PBS III will ensure that the program is being implemented consistent with its design.
101. **Panel's review.** The Panel notes that the Bank became aware of the villagization program much earlier than the preparation and appraisal of PBS III.

³⁰ Management Response, ¶ 69, 83.

³¹ Management Response, Annex 1, p. 21.

³² Management Response, p. xi.

Management Response notes that the Bank has engaged in a policy dialog with GoE on villagization since late 2010, and refers to the two multi-agency missions to Gambella region to understand the implementation of VP on the ground. The Panel notes that ‘villagization’ is mentioned in the Bank’s risk assessment of PBS 3 among project stakeholder risks with an overall “high” rating. The proposed risk management in this regard refers to the High Level Forum that “*has already provided a venue to discuss villagization*”.

102. The Panel notes that under its Articles of Agreement, the Bank is required to ensure that the proceeds of any loan are used for the purposes for which the loan was granted with due regard to economy and efficiency.³³ Bank’s Policy on Supervision (OP 13.05) repeats this principle and states the Bank’s supervision responsibility to ensure that the Bank funds are used for its intended purposes. The Panel further notes that the Policy on Project Appraisal (OMS 2.20) envisages that the Bank should ensure that projects contribute to broader sectoral policies. Bank policy also provides that Management must identify project risks during preparation and appraisal of projects, and report to the Board on actions to address these risks. The Panel is of the view that Management’s assessment of possible links and risks associated with the contemporaneous implementation of PBS and VP, and identification of actions to address these risks, raises issues of potential serious non-compliance with Bank policy.

F. Recommendation

103. The Requesters and the Request meet the technical eligibility criteria set forth in the Resolution that established the Inspection Panel and the 1999 Clarifications.
104. The Panel notes that there are conflicting assertions and differing views on the issue of linkage between the PBS and VP, the evidence on harm claimed by the Requesters, as well as the issue of the Bank’s compliance with policies and procedures of relevance to the claims of harm raised in the Request for Inspection. In order to ascertain the linkage between PBS III and the allegation of harm, and the compliance or lack thereof with Bank policies and procedures in the design and implementation of the PBS III, the Panel must conduct an appropriate review of all relevant facts and applicable policies and procedures. This can be done only in the course of an investigation.
105. In light of the observations noted above, the Panel recommends that an investigation be carried out on issues raised by the Request as far as they pertain to the Bank’s application of its policies and procedures.
106. The recommended investigation will have a specific focus. It will examine in greater depth risks stemming from the concurrent implementation of VP and PBS in Gambella region, and Management’s analysis and subsequent management of these risks under PBS III. The investigation will not seek to verify allegations of specific human rights abuses linked to VP, nor will it examine the underlying purposes of VP. The Panel’s investigation will report on steps and actions taken by Management during the course of the investigation to address issues of compliance and the concerns raised

³³ IDA Articles of Agreement, Article V, Section 1(g).

by the Requesters, including, if feasible, the outcomes of the proposed Poverty and Social Impact Analysis.