

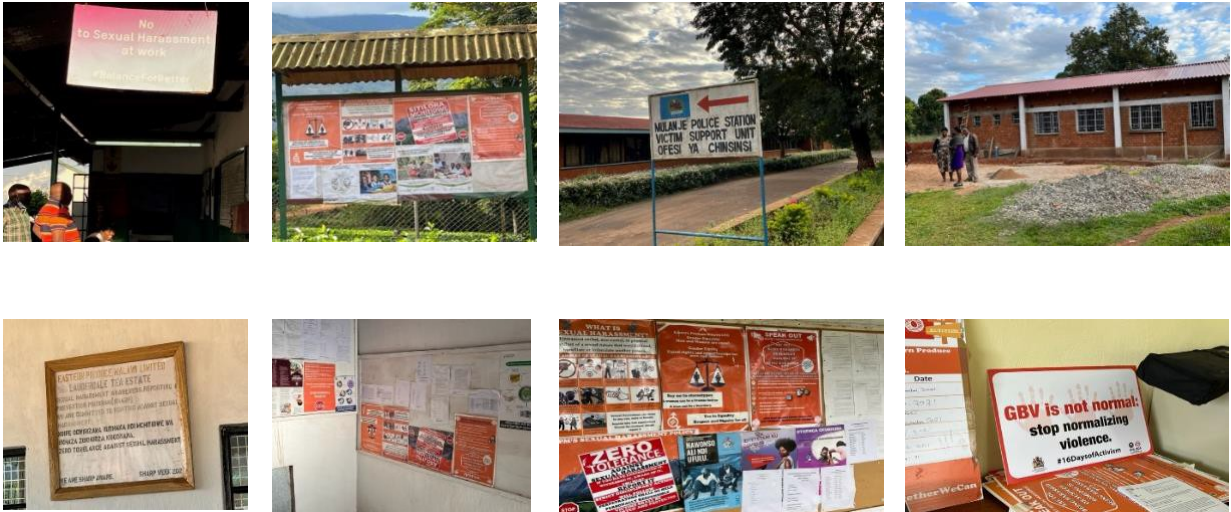
EPM AUGUST 2022 BASELINE OGM ASSESSMENT: PUBLIC SUMMARY

This is the first report from the Independent Monitor in relation to the Operational Level Grievance Mechanism (“OGM”) at Eastern Produce Malawi (“EPM”), following the settlement of legal claims involving Camellia Plc that were filed in the UK. Under the current Terms of Reference, the Independent Monitor is to provide a report by August 2022 on progress of the OGM, and a public summary of that report. The Independent Monitor has provided its report to EPM, and prepared this public summary. We note that the Independent Monitor has received excellent cooperation in conducting this assessment.

At the outset, we note that the assessment took place during a period of anticipated transition for the OGM. The OGM has continued to operate under a structure that has been in place since 2020, focusing primarily on claims involving sexual harassment and gender-based violence. Triple R Alliance (“TRA”) recommended that the existing OGM is expanded to include additional operational grievances in addition to sexual harassment and gender-based violence grievances. Due to a variety of reasons (including COVID travel restrictions) TRA's recommendations are only now being placed in the context of a more comprehensive mechanism. At this time, the OGM is recruiting several new personnel, including a grievance officer, investigators, and others. We expect that our next report will focus on the enhanced OGM, which appears to be on the cusp of being implemented. However, this report evaluates the OGM as it currently operates.

I. Summary of Assessment

The OGM was created as part of a suite of efforts undertaken by the company to mitigate and prevent sexual harassment and gender-based violence within the workforce, and increasingly within the community. By all measures, those efforts have been effective. There is a perception among all stakeholders that sexual harassment and gender-based violence is reduced, both topics are discussed openly, and women reportedly feel safer in the workplace. EPM more recently has begun education and socialization in the local community. As EPM is the first company in the region to undertake such efforts, the work is important, groundbreaking and commendable. While the OGM is limited in its focus, and can be enhanced in several important respects discussed below, there is substantial management knowledge and attention, and clear good faith efforts at implementation.



The OGM focuses on sexual harassment and gender-based violence, although claims regarding any workplace concern may be raised. The OGM contemplates both remediation of negative impacts, and in particular disciplinary measures to prevent reoccurrence where workers are found to have engaged in improper conduct.

The Independent Monitor team assessed the OGM through a comprehensive review of documents and extensive witness interviews, including interviews of claimants and community members. That information was considered against a template consisting of 36 indicators and 84 sub-indicators, which seek to translate UNGPs 22, 29 and 31 into an assessment framework. The template is reproduced at Appendix 1.

Applying that framework, at their core, OGMs should accomplish three things: claimants should be generally comfortable lodging and can readily lodge grievances, those grievances should be addressed by the OGM in a constructive and collaborative manner through engagement and dialogue with claimants, and negative impacts should be remediated through a human rights-compatible approach. The OGM satisfies those components and is functioning with a clear seriousness of purpose, subject to two observations. First, relevant to the first component, only 3 new cases have been submitted this year, none since February. Second, there have been substantial delays in concluding cases, some of which have been pending for more than one year. We recommend further examination of the causes of the first issue, and a concrete process to conclude open cases regarding the second issue.

On a more granular level, applying the UNGPs and the indicators in the template has led to several recommendations. Among the most substantial are: providing regular updates to claimants throughout the process, seeking feedback from claimants regarding their experiences with the OGM to enable future adjustments and improvements, retaining expert investigators for difficult or complex cases, performing a mapping exercise to identify gaps among groups of potentially affected stakeholders who have not been trained on how to lodge a grievance, and further considering steps to potentially reduce residual fears about potential repercussions from reporting.

A summary our analysis according to each UNGP is as follows:

- **UNGP 22:**
 - Observations: The OGM was designed to address cases of sexual harassment and gender-based violence connected to EPM. While it obviously is not a broad-based OGM as contemplated by the UNGPs, its focus is understandable and the definitions of sexual harassment and gender-based violence accord with international norms.
 - Recommendations: We recommend: consistent with the recommendations made by TRA (pursuant to the settlement agreement of February 2021 (discussed below) and presently being contemplated, expanding the OGM to include additional types of grievances and potential human rights concerns, as well as intentionally seeking to capture community-related grievances, which will assist with stakeholder engagement more generally and allow the company to review the nature and pattern of concerns; considering formalizing the company’s community-relations or stakeholder-engagement functions; developing guidance on the kinds of remediation that should be considered in different circumstances; and developing a clear definition of “cause and contribute” as they are contemplated under the UNGPs¹ in the context of remedy considerations, which will enhance the OGM’s consistency and predictability.

- **UNGP 29:**
 - Observations: Workers, suppliers and visitors can submit claims directly to the OGM, without first exhausting other avenues. The OGM’s procedures expressly contemplate addressing remediation for harms, and remediation has been applied in practice. The OGM does not preclude access to alternative state-based processes, and we have seen no evidence that claimants have been encouraged to seek remedy through other channels. There is a binding agreement if claimants and the company reach agreements that involve monetary compensation; that process contemplates offering independent counsel to the claimant, although it has not yet been used, and those operating the OGM are appropriately wary that providing compensation or strongly suggesting it is available may lead to an influx of potentially meritless claims and a wave of potentially frivolous lawsuits.
 - Recommendations: We suggest strengthening the processes associated with the binding agreement to ensure it is fair and that claimants fully understand the implications of entering the agreement. We also suggest additional guidance in evaluating the quantum of remedy or the merit of claims when compensation is being considered, which we understand is being developed.

¹ UNGP 22 provides that where businesses “have caused or contributed to adverse impacts,” they should provide for or cooperate in their remediation

UNGP 31: Effectiveness Criteria

Effectiveness Criteria	Description (developed by the Guiding Principles)
Legitimate	Enabling trust from the stakeholder groups for whose use they are intended, and being accountable for the fair conduct of grievance processes
Accessible	Being known to all stakeholder groups for whose use they are intended, and providing adequate assistance for those who may face particular barriers to access
Predictable	Providing a clear and known procedure with an indicative time frame for each stage, and clarity on the types of process and outcome available and means of monitoring implementation
Equitable	Seeking to ensure that aggrieved parties have reasonable access to sources of information, advice and expertise necessary to engage in a grievance process on fair, informed and respectful terms
Transparent	Keeping parties to a grievance informed about its progress, and providing sufficient information about the mechanism's performance to build confidence in its effectiveness and meet any public interest at stake
Rights-Compatible	Ensuring that outcomes and remedies accord with internationally recognized human rights
Source of Continuous Learning	Drawing on relevant measure to identify lessons for improving the mechanism and preventing future grievances and harm
Based on Engagement and Dialogue	Consulting the stakeholder groups for whose use they are intended on their design and performance, and focusing on dialogue as the means to address and resolve grievances

- **UNGP 31(a): Legitimate**

- Observations:

- There are elements of independence and accountability built into the OGM's procedures, and they are respected in practice. Most obviously, they prominently feature an independent process through the involvement of the Independent Senior Lawyer, a very well-respected professor and attorney. The governance structures also clearly define appropriate roles and responsibilities. Most affected stakeholders and others see the OGM process as independent and free from undue influence, and claimants cited the fact that grievances lead to disciplinary measures as evidence of independence. Although investigators have generally not been independent, that has not been perceived as a concern, and all claimants stated they would submit grievances again. Some claimants did advise us that the OGM lacked sufficient accountability or independence, noting that committee members who must decide disciplinary actions can be friends of respondents, and citing delays in a case involving a general manager.
 - To date there have been 35 OGM complaints since January 2020, and many more related to operational concerns. Of the 35 cases filed, 7 were filed in 2020, 24 were filed in 2021, and only 4 have been filed thus far in 2022. One of those 4 in 2022 was related to another 2022 case, and the other three were filed in January and February. It is unclear why so few have been filed this year. Of the overall cases filed, 9 have been considered minor, 5 have been



Posters and stickers promoting the OGM and addressing sexual harassment and gender based violence

o Observations:

- The OGM has undergone extensive promotional efforts, as some 15,000 members of the workforce have been trained, followed by a training uptake assessment. Stickers and posters also are seen throughout the operations. Most interviewees believed affected stakeholders in the workforce were aware of the OGM and how to report claims, however, according to our interviews, it appears worker relatives who live in estate housing may not have that same awareness.
- There are numerous channels to lodge grievances, including a hotline, email, complaints boxes, the Women’s Welfare Committee, the Gender Harassment and Discrimination Committee, the Workers’ Rights Advisor and human resources department, and union and non-union workers representatives. These channels are actively used. Of the 35 claims lodged, 13 came from reports to management, 7 came through the complaint box, 6 came from the Women’s Welfare Committee, 3 each came from a dedicated Hotline and dedicated email, and 1 each came from the GHDC, the WRA and the worker representative. All of the pathways but one had at least one OGM grievance. Claims have come from every estate but four.

- Barriers to claims, such as illiteracy, the lack of telephones, and stigma, have been considered and addressed through the presence of the multiple reporting channels and permitting anonymous claims. Many of the key staff who can receive claims are women, which also is helpful. The ability to appoint expert advisors likewise is helpful in this respect.



- The Sexual Harassment Policy strongly prohibits retaliation against individuals because they lodged grievances. While company management and OGM personnel believed that individuals were not refraining from accessing the mechanism because of concerns of repercussions from the company and others, most affected stakeholders disagreed. Concerns cited included respondent threats, work-related repercussions, concerns about using the complaint box to lodge concerns about the supervisors who open the boxes, and creating tensions in the local community from reports that can lead to a loss of a job. In a related vein, although OGM personnel and the company take confidentiality seriously, claimant confidentiality can be a concern, and claimants stated that it has been not been respected by those who are involved as complainants, respondents, witnesses, and sometimes committee members. Regarding government disclosures of potential criminal matters, the police are supportive of claims that include sexual violence. The OGM has sought to balance providing information to the police about criminal activity with claimant confidentiality in those instances where police reporting was deemed appropriate.
- Recommendations: We suggest: a mapping exercise to determine what pockets of affected stakeholders might not have received training, with appropriate follow-up; a strategy for continued training and awareness-raising given the seasonal and short-term nature of most workers' contracts; expanding reporting pathways for community grievances if the OGM expands; consider each category of potential retaliation concern and design corresponding strategies, including a greater emphasis on victim remediation to balance the focus on disciplinary actions; consider how confidentiality may be bolstered, despite some of the inherent limitations in small communities.
- **UNGP 31(c): Predictable**
 - Observations:
 - The OGM has SOPs, supported by forms to allow for consistency. Claimants are apprised about the OGM's processes at the outset of a case, and our

interviews indicate that claimants have a general sense of how their claims will progress. However, the four documents that comprise the OGM are lengthy and written in technical language, without “cheat sheets” or interpretive aids to assist OGM staff or affected stakeholders in their comprehension. There are also no indicative timelines in the procedure, other than reference to a 2 month investigative process. In practice, claims do not proceed according to any set timeline, and are often beset by substantial delays. Half of the cases from 2021 remain open, for instance. While there are reasons for some, it is less evident for others, and several have been open since early 2021. The delays appear to be largely attributable to the fact that all personnel associated with the process, including the ISL, have full-time jobs. The limited resources are further taxed by extremely broad interpretations of potential sexual harassment.

- The key personnel who staff the OGM are highly expert, although to date investigators largely have been company personnel without investigative expertise.
- The SOPs for the OGM are intentionally flexible, and allow for adjustments depending on the needs of claimants and the facts of each case.
- As a general matter, the OGM tracks cases, although it has not tracked each case against its material steps in the process. Nonetheless, a review of the files and interviews with affected stakeholders indicates that the OGM follows many of the processes in the OGM’s core documents. That includes the initial review of cases, and their consideration by the ISL; engagement with claimants at the time the case is filed; and the investigation process. We have seen less consistency with advising claimants about the outcome of investigations and engaging with claimants about remediation.
- Recommendations: We recommend: making the SOPs more clear, or developing “cheat sheets” or posters for claimants to help follow each material step in the process; develop indicative timelines, and a case tracking system against those timelines; and develop an approach to close out the open claims on a priority basis (which we understand is now taking place). We also note that if the OGM becomes community facing, there may be an onslaught of employment claims, and the OGM may wish to develop an alternative channel to consider those to avoid overwhelming the OGM.

- **UNGP 31(d): Equitable**

- Observations:
 - The SOPs do not clearly provide that the ISL or OGM must share the results of investigations, and such information is not regularly shared.
 - There are alternative pathways to file claims, and claimants are advised of them. TRA is proposing advising claimants of additional pathways. The OGM itself contemplates informal and formal processes, which involve the Malawian high court (e.g., mediation and potentially trial). Psychological counsellors and independent counsel have been made available for claimants where appropriate. Independent attorneys have been appointed twice, both

involving severe impacts where the police are pursuing cases against respondents.

- Recommendations: We recommend: that the OGM's SOPs are amended to mandate that claimants are apprised of the outcome of investigations as part of keeping claimants updated about their cases; to pursue TRA's proposal of referring claimants to alternative pathways, where appropriate; to continue the possibility of appointing counsel, clarify the factors to consider in appointing external counsel, and potentially enhance the nature of experts who may be available to assist (as TRA is proposing); be attentive to self-appointed advocates seeking to take advantage of community members by taking funds and falsely promising unrealistic outcomes, the risk of which may increase as the OGM is expanded.

- **UNGP 31(e): Transparent**

- Observations:
 - Although the SOPs provide that that claimants are to be informed about the progress of investigations, substantial engagement with claimants about their progress of claims is not contemplated nor actively provided. Claimants reported that they have not been kept apprised of the status of their claims, even in the face of lengthy delays. Coupled with the substantial delays, claimants perceive their claims ultimately go into a "black box."
 - While substantive information and data on cases is tracked, as are patterns and trends, there is very little public reporting regarding the performance of the OGM. Indeed, reference to the OGM is not even on the company's website. Those impacts are somewhat mitigated by the existence of an Independent Monitor. Nonetheless, best practice would involve publicly reporting relevant metrics. Internally, management has been intimately involved in the OGM's operations. The Directors Committee is notified when a complaint is filed, and is involved at various points throughout the process. However, while the ISL previously provided her insights to management on a quarterly basis, that has not continued on a consistent basis. Second, the OGM does not necessarily track information that would allow for a robust analysis under UNGP 31.
- Recommendations: We recommend: that the SOPs are adjusted to provide claimants with regular status updates as long as cases remain open; reinstating the quarterly meetings with the ISL; publicly reporting certain key metrics; and developing an internal reporting and tracking framework aligned with UNGP 31 for management to review on a periodic basis.

- **UNGP 31(f): Rights-compatible**

- Observations:
 - Remedies are considered and provided to try to restore individuals to their pre-harm states, consistent with principles of compensation, rehabilitation, satisfaction, restitution and/or guarantees of non-repetition. Remediation has included the payment of lost wages; access to counseling and other services; apologies from respondents; trainings, policy adjustments, disciplinary actions and terminations; and enhanced security measures for individuals and

relocations. Claimants generally felt supported in the process and that the OGM was responsive to their requests, and have been satisfied with the OGM's remediation efforts (delays aside). There were some complaints from claimants who requested remedy and did not receive what they asked for, which is not unusual. The OGM, as part of the company's larger effort to address sexual harassment, has been received very positively.

- The ISL is an independent expert to provide recommendations on remedies, and on a macro basis, the OGM has received input from TRA and outside counsel. Internal experts also have human rights experience, which inform remediation of negative impacts.
- Recommendations: Consider providing the ISL with standing access to international human rights experts to provide input on appropriate remedy in complex situations, such as TRA.
- **UNGP 31(g): Source of Continuous Learning**
 - Observations:
 - There have been meetings with the ISL, in which enhancements were discussed and implemented based on the cases submitted. These resulted in a variety of procedural and substantive enhancements to the OGM, some of which have been implemented and others that are still being developed. On a macro basis, the OGM tracks several key trends and patterns, including the nature and seriousness of the claim, when the claim was filed, the estates at issue for claims based on seriousness, the channels through which grievances are raised, whether counsel was appointed, and the kind of remediation provided. We have not seen evidence of how the OGM has changed as a result of these patterns and trends, however.
 - The OGM has not yet developed KPIs, which are being considered now.
 - Recommendations: We recommend that: the OGM more aggressively consider how the pattern of complaints and their resolution may inform changes to the mechanism; and engage in a systematic analysis to identify relevant KPIs.
- **UNGP 31(h): Based on Engagement and Dialogue**
 - Observations:
 - Victims of sexual harassment and gender-based violence were not consulted in the development of the OGM, which is understandable as their identities were not known; credible third-party experts were consulted as a proxy. Claimant feedback has not been solicited since, however. As a result, the OGM appears to be overlooking an important source of information about its performance and potential improvements.
 - The SOPs contemplate informal dispute resolution, involving dialogue and consensus. Remediation options generally are developed in consultation with claimants, and claimant perspectives are sought at the outset of cases and evaluated by the ISL. To the extent agreement cannot be reached informally, the formal resolution process involves mediation under the jurisdiction of the court and a potential judicial determination.

- Recommendations: We recommend that the OGM develop a clear procedure for a feedback loop, in which claimants are asked to provide their impressions at the conclusion of case, with periodic contact (e.g., 90 days) thereafter to ascertain additional suggestions they may have identified.²

² Consistent with the Terms of Reference for the Independent Monitor, we have verified TRA's February 2022 report regarding the Women's Empowerment Program (*see* Appendix 2), and agree with TRA's recommendations.

APPENDIX 1

Assessment Template: Indicators, Tests and Evidence

EVALUATION OF THE OPERATIONAL LEVEL GRIEVANCE MECHANISM: PRINCIPLES, INDICATORS AND ASSESSMENT TESTS

Introduction

To assist in evaluating the Operational Level Grievance Mechanism (OGM), we have prepared the following assessment template. The template consists of certain indicators, assessment tests, and the type of evidence to review for each test. The indicators themselves were designed to correlate to the UN Guiding Principles on Business and Human Rights (UNGPs), and in particular UNGP 31, relating to the effectiveness criteria for non-judicial grievance mechanisms. In developing the indicators, we considered the UN Guiding Principles Assurance Guidance,³ Shift's Doing Business with Respect for Human Rights Guide,⁴ CSR Europe's Management of Complaints Assessment Results,⁵ the International Commission of Jurist's Effective Operational-level Grievance Mechanisms,⁶ assessment resources associated with leading multi-stakeholder initiatives,⁷ and the indicators used for other grievance mechanism evaluation exercises. We also conferred with Triple R Alliance (TRA), and reviewed indicators that TRA and its expert personnel have developed and used.

We believe that in the context of our instruction as Independent Monitor, utilizing a template will allow for sustainable, repeatable and predictable outcomes, enhance transparency and predictability, and enable greater confidence by external stakeholders in the integrity and legitimacy of the independent assessment.

It is important to understand that the assessment template is not a "test" intended to specifically determine whether an OGM is effective or ineffective. The template will not yield passing or failing grades. Rather, it is a tool to help evaluate how an OGM may be designed or improved, the kind of documentation it might seek to generate and collect to allow for auditability and review, how it is perceived by a range of stakeholders, the way that it considers and reports information internally and externally, and other steps. Accordingly, evidence that is lacking for certain tests does not mean the OGM is weak or inadequate. It may mean that certain documents were simply not collected, or that responses from affected stakeholders are shaded by a desire for or disappointment with certain outcomes. Even a determination that certain indicators are not met is not necessarily indicative of a "problem." It may simply mean, for instance, that the indicators are not particularly relevant at that time or in that circumstance. In other words, the template is merely a device to translate the UNGPs into actionable steps "for designing, revising or assessing a non-judicial grievance mechanism" in an organized and coherent manner, and thus facilitate the kind of benchmarking that the Commentary to UNGP 31 expressly contemplates.

Assessment Template: Indicators, Tests and Evidence

³[https://www.ungpreporting.org/assurance/#:~:text=The%20UNGP%20Assurance%20Guidance%20is,among%20other%20non%2Dfinancial\)%20reporting.](https://www.ungpreporting.org/assurance/#:~:text=The%20UNGP%20Assurance%20Guidance%20is,among%20other%20non%2Dfinancial)%20reporting.)

⁴ <https://shiftproject.org/resource/doing-business-with-respect-for-human-rights/>

⁵ <https://static1.squarespace.com/static/5df776f6866c14507f2df68a/t/5e666810b7c6ef5fcd9bf296/1583769622168/MOC-A+Report.pdf>

⁶ <https://www.icj.org/wp-content/uploads/2019/11/Universal-Grievance-Mechanisms-Publications-Reports-Thematic-reports-2019-ENG.pdf>

⁷ See <https://www.voluntaryprinciples.org/resource/auditing-implementation-of-the-voluntary-principles-on-security-and-human-rights/>;
<https://globalnetworkinitiative.org/wp-content/uploads/2018/08/Implementation-Guidelines-for-the-GNI-Principles.pdf>;
<https://www.fairlabor.org/accountability/assessments/>.

GUIDING PRINCIPLE 22	Where business enterprises identify that they have caused or contributed to adverse impacts, they should provide for or cooperate in their remediation through legitimate processes.	
INDICATOR	EVIDENCE RELATED TO INDICATOR	EVIDENCE REVIEWED
The OGM was established by the company as one pathway to remediate adverse human rights impacts which it has caused or to which it has contributed.	<ul style="list-style-type: none"> • The OGM's formation documents, or other information, identifies that the company established the OGM to remediate negative human rights impacts to which the company is connected. • Where individuals have been harmed at least in part due to actions, decisions or omissions of the company, there is evidence that the OGM has provided, contributed to or otherwise assisted in enabling remediation. 	<ul style="list-style-type: none"> • Review the OGM's formation documents or other materials consistent with its formation to identify the purposes for which it was created. • Review 5 or more grievance files to identify intake forms and investigative reports to determine (i) whether the company reasonably determined that it did or did not cause or contribute to negative impact,⁸ and (ii) if so, how remediation was determined. • Interview (a) OGM personnel and (b) 3 or more claimants in which remedy was provided to confirm: (i) that the OGM in fact evaluated grievances, (ii) that there was a negative impact and the company reasonably caused or contributed to it, (iii) the OGM discussed remediation approaches with claimants, and (iv) that remediation was provided.
GUIDING PRINCIPLE 29	To make it possible for grievances to be addressed early and remediated directly, business enterprises should establish or participate in effective operational-level grievance mechanisms for individuals and communities who may be adversely impacted.	
INDICATOR	EVIDENCE RELATED TO INDICATOR	EVIDENCE REVIEWED
Individuals who believe they have been adversely impacted by the company are able to access the OGM directly to raise their concerns, without first seeking other means of recourse.	<ul style="list-style-type: none"> • OGM procedures allow access to any individual or group potentially adversely impacted by the company's actions, decisions or omissions. • There is no evidence that the OGM requires that groups directly at risk of human rights impacts due to the company's actions, decisions or omissions ("affected individuals") file grievances through third parties or alternative processes. • There is no evidence that the OGM requires "exhaustion" of alternative pathways of remediation. • There is evidence of individuals or groups raising complaints to the OGM directly. 	<ul style="list-style-type: none"> • Confirm the total number of grievances filed, to validate usage of the OGM. • Review the OGM terms of reference to confirm that they allow any individual or group to file claims without first seeking other means of recourse. • Interview (a) OGM personnel and (b) 3 or more claimants to confirm that claims have been filed immediately and directly without first seeking other means of recourse.

⁸ Cause in this sense is whether the company's activities on their own without other stakeholders were sufficient to cause a negative human rights impact. OHCHR Letter to Banktrack (2017), pg. 5. Contribution generally occurs in one of two ways: (1) via a third party, or (2) when acting in conjunction with another entity. The first type of contribution occurs when business takes an action or decision that "creates strong incentives for the third party to abuse human rights" or "where a company facilitates or enables such abuse." OECD Guidance, at 70; The UN Guiding Principles on Business and Human Rights and conflict affected areas: obligations and business responsibilities, at 973. In the second type, contribution can take place when a business activity leads to negative collective or cumulative impacts, such as drawing water from a well with other businesses that leaves little left for local residents or farmers (collective) or a relatively minor impact that over time leads to a significant impact (cumulative). IBA Guidance (2016), at pg. 20-21.

<p>The OGM is designed to directly address remediation for any harms caused or contributed to by the company.</p>	<ul style="list-style-type: none"> • The OGM has clear procedures through which it systematically considers how it may provide, contribute to or otherwise enable remediation for individuals who have been harmed by the company's actions or decisions. • There is evidence that OGM remediation efforts have been or are being implemented. 	<ul style="list-style-type: none"> • Review OGM procedures for claim consideration to identify whether its processes clearly set forth how it will (i) receive, (ii) evaluate, and (iii) remediate claims. • Interview (a) OGM personnel and (b) 3 or more claimants whose grievances have been remediated to confirm that the OGM procedures for (i) receiving, (ii) evaluating, and (iii) providing remediation have been followed.
<p>The OGM does not impair access to other pathways to remediation (e.g., judicial or non-judicial accountability mechanisms).</p>	<ul style="list-style-type: none"> • OGM procedures specifically address non-hindrance of claimants seeking remediation through other pathways. • There is no evidence that in practice the OGM requires claimants to waive their right to access other pathways to remediation. • There is no evidence that individuals were pressured or coerced by the company or OGM personnel to seek remedy through other pathways. 	<ul style="list-style-type: none"> • Review the OGM procedures to confirm that it addresses non-hindrance of claimants seeking other remedy pathways. • Interview (a) OGM personnel and (b) 3 or more claimants to confirm that (i) the OGM does not require claimants to waive any rights to seek remediation through other pathways, and (ii) there has been no pressure on claimants or potential claimants to forego other remedy pathways.
<p>GUIDING PRINCIPLE 31(A)</p>	<p>Legitimate: enabling trust from the stakeholder groups for whose use they are intended, and being accountable for the fair conduct of grievance processes.</p>	
<p>INDICATOR</p>	<p>EVIDENCE RELATED TO INDICATOR</p>	<p>EVIDENCE REVIEWED</p>
<p>The OGM was designed to include elements of independence and accountability, including those that prevent parties to the grievance from interfering with its fair conduct.</p>	<ul style="list-style-type: none"> • OGM procedures specifically address accountability and independence. • The OGM's Tier 2 administrators, and any OGM oversight panel, are independent of the company in practice and perception. • There is evidence that senior management and individuals with responsibility for the company's human rights performance understand the company's responsibility to enable effective remediation where the company causes or contributes to negative human rights impacts. 	<ul style="list-style-type: none"> • Review the OGM procedures to confirm how they address (i) accountability, (ii) independence and (iii) non-interference. • Interview (a) OGM personnel, and (b) 3 or more claimants to establish their perspective on the independence of the OGM administrators and oversight panel. • Interview (a) the GM and senior leadership of the company, (b) company human rights personnel, (c) OGM personnel, and (d) personnel with oversight responsibilities for the OGM to: confirm their understanding of the company's responsibility to cooperate in or provide remediation.
<p>The OGM is perceived as fair and legitimate by affected individuals and the local community.</p>	<ul style="list-style-type: none"> • Mindful of concerns regarding individuals who may not have received the remedy they had hoped for, confirm that there is no evidence that affected individuals reasonably believe the OGM is unfair regarding (a) its independence, (b) its handling of claims, (c) the steps taken to resolve grievances, or (d) its outcomes. • There is no evidence that affected individuals believe the OGM will fail to engage with them respectfully while handling complaints. 	<ul style="list-style-type: none"> • To assess potential grievance patterns, identify total number of grievances and appeals filed by: (i) month, (ii) nature and date of claim, (iii) gender, and (iv) channel through which the claim was filed. • Interview OGM personnel and at least (a) 3 or more claimants, (b) 3 or more non-claimant community members, and (c) 3 or more members of local vulnerable populations to determine the views of affected individuals regarding the OGM's fairness, respect and effectiveness, including

	<ul style="list-style-type: none"> • Mindful of concerns regarding individuals who may not have received the remedy they had hoped for, confirm there is no evidence that affected individuals reasonably believe the OGM is unfair or illegitimate regarding (a) its independence, (b) its handling of claims, (c) the steps taken to resolve grievances, or (d) its outcomes. • There is no evidence that affected individuals believe the OGM will fail to engage with them respectfully while handling complaints. • There is evidence that affected individuals feel OGM is (a) free of bias, (b) free of discrimination, (c) culturally appropriate for the groups concerns, and (d) able to provide meaningful remediation in light of the perceived harms suffered. • There is evidence that feedback from potentially affected stakeholders was integrated into the OGM's framework. 	<p>specifically: its perceived (i) independence, (ii) treatment of claimants with fairness and respect, (iii) handling of claims, (iv) steps to resolve claims, (v) outcomes, (vi) bias, (vii) local cultural expertise, (viii) freedom from discrimination, and (ix) ability to deliver meaningful remediation.</p>
Reasonable efforts are taken to ensure the safety and security of individuals who access the mechanism.	<ul style="list-style-type: none"> • OGM procedures specifically address or consider the physical security of individuals who seek to access it. • There is no evidence that individuals who have accessed the OGM have been subjected to physical threats or violence. • There is no evidence that individuals have refrained from accessing the OGM out of fear of retribution. 	<ul style="list-style-type: none"> • Review the OGM procedures and other relevant documentation to confirm that the physical security concerns of claimants are addressed. • Interview OGM personnel, and at least (a) 3 or more claimants, (b) 3 or more non-claimant community members, and (c) 3 or more members of local vulnerable populations to confirm that they are not aware of (i) threats of retaliation from the company, employees or community members, or (ii) individuals declining to access the OGM out of fear for their safety.
GUIDING PRINCIPLE 31(B)	Accessible: being known to all stakeholder groups for whose use they are intended, and providing adequate assistance for those who may face particular barriers to access.	
INDICATOR	EVIDENCE RELATED TO INDICATOR	EVIDENCE REVIEWED
The OGM has been promoted to individuals and communities where affected individuals are likely to learn of it, in a manner that accounts for local culture, literacy, language and need, with information sufficiently widely disseminated to reach materially all potential adversely impacted stakeholders.	<ul style="list-style-type: none"> • There is a plan to promote the OGM to individuals or communities who may be negatively impacted by company decisions, actions or omissions. • There is evidence of OGM promotion and consultations in all local communities where affected individuals are believed to reside or work, or other locations designed to alert affected individuals to the OGM. • There is evidence that those promotional activities and consultations took place in a manner desired to maximize the likelihood that affected individuals would understand the information conveyed. 	<ul style="list-style-type: none"> • Review any promotion or consultation plans developed for the OGM. • Review promotional materials developed for the OGM, such as flyers, posters, advertisements, and similar materials, and where and how they have been placed and/or disseminated. • Review documentation reflecting any community consultations that have occurred, including (i) the number of consultations, (ii) their location, length and dates, (iii) the language in which they took place, (iv) the number of community participants who attended, and (v) any presentations or scripts.

		<ul style="list-style-type: none"> • Interview 3 or more claimants about the consultations and promotional activities to validate their understanding of the information that was conveyed.
<p>The OGM has multiple channels for accessing it, is easy to use, and is adapted to account for local cultural norms and language at every material step.</p>	<ul style="list-style-type: none"> • OGM procedures specifically contemplate multiple means of lodging a grievance, and take into account local language concerns and the ways through which affected individuals may lodge claims. • There is evidence that affected individuals believe the OGM is easy to access, understand and use. 	<ul style="list-style-type: none"> • (a) Review the OGM procedures and (b) interview OGM personnel to confirm that: (i) there are multiple channels for reporting, (ii) reporting can occur in all relevant local languages, and (iii) the OGM procedures account for local cultural and contextual considerations.
<p>The OGM has been designed and implemented to account for direct and indirect costs, and physical and nonphysical hardships, that may prevent effective access or enhance harms experienced.</p>	<ul style="list-style-type: none"> • The design of the OGM specifically and consciously addresses potential barriers that may exist for affected individuals based on consultations, related past activities, the experiences of other OGMs, and similar factors. 	<ul style="list-style-type: none"> • Interview individuals involved in the design of the OGM to identify how they considered potential barriers to affected individuals, and how they were addressed. • Review the OGM procedures to confirm that it contemplates and addresses reasonably anticipated potential barriers for affected individuals.
<p>The design of the OGM has considered the potential (and perceived potential) for retaliation against affected individuals, and affected stakeholders do not believe there will be retaliation against them for accessing the OGM or receiving remedy under it.</p>	<ul style="list-style-type: none"> • The OGM includes a clear commitment against retaliation, supported by procedures designed to mitigate any risks of retaliation for accessing the OGM. • There is no evidence that affected individuals were intimidated out of using the OGM. • The OGM procedures include confidentiality to all claimants, and makes clear to claimants if, why and when confidentiality may not be provided. • There is no evidence of retaliation against claimants who have accessed the OGM. 	<ul style="list-style-type: none"> • Review the OGM procedures to confirm the commitment against retaliation and identify how it is implemented. • Review the OGM procedures to (i) confirm its commitment to confidentiality, (ii) identify how that commitment is implemented, and (iii) identify how explanations are to be provided to claimants where confidentiality may not be ensured. • Interview (a) OGM personnel, (b) 3 or more claimants, and (c) community representatives to confirm there have been no (i) reported/perceived claims of intimidation or retaliation, or (ii) known instances of individuals afraid to use the OGM.
<p>The physical location of the OGM and its operating hours are conducive to accessing it.</p>	<ul style="list-style-type: none"> • The OGM is located outside of the company's property. • There is evidence that the OGM is open during time periods when stakeholders with differing commitments can access it. • There is no evidence stakeholders cannot access the OGM because of its physical location or hours of operation. 	<ul style="list-style-type: none"> • Confirm the location of the OGM and its operating hours, and verify that its location and operating hours are reasonably conducive to accessing it in light of the local context and needs of affected individuals. • Interview OGM participants and at least (a) 3 or more claimants, (b) 3 or more non-claimant community members, and (c) 3 or more members of local vulnerable populations to confirm that they are unaware of affected individuals being unable or deterred from accessing the OGM because of its location or hours.
<p>The OGM has a process to provide reasonable assistance for affected individuals to effectively access the OGM, if needed.</p>	<ul style="list-style-type: none"> • OGM procedures contain identified steps to provide assistance to affected individuals who may face barriers, and a process through which affected individuals may request assistance. 	<ul style="list-style-type: none"> • Review the OGM procedures to identify how (i) barriers to access are anticipated and addressed, and (ii) affected individuals may request assistance.

		<ul style="list-style-type: none"> • Interview OGM participants to confirm how barriers to access have been addressed in practice, including any specific instances in which – despite the OGM’s design - barriers still had to be addressed.
GUIDING PRINCIPLE 31(C)	Predictable: providing a clear and known procedure with an indicative time frame for each stage, and clarity on the types of process and outcome available and means of monitoring implementation.	
INDICATOR	EVIDENCE RELATED TO INDICATOR	EVIDENCE REVIEWED
The OGM was designed with clear steps for each material stage in the process, as well as safeguards specific to serious or sensitive grievances, with relevant timeframes.	<ul style="list-style-type: none"> • OGM procedures are written in simple and plain language and: (a) address how complaints will be processed, (b) allocate responsibilities and accountabilities for handling complaints, (c) provide reasonable timeframes for addressing complaints, and (d) are designed to enable transparency for claimants about how their complaints are being handled. • OGM procedures provide for: (a) engagement with the claimant in a manner that enables a fair and respectful process, (b) support to the claimant whenever necessary to enable a fair and respectful process, and (c) steps to address issues that raise severe human rights impacts or represent significant disputes. • There is evidence that (a) these procedures have been implemented, (b) complaints typically are processed within prescribed time limits, (c) proposed solutions have been shared with claimants, and (d) solutions are compatible with human rights standards. 	<ul style="list-style-type: none"> • Review the OGM procedures to confirm they are written in simple and plain language, and identify (i) how complaints will be processed, (ii) how responsibilities and accountabilities for handling complaints are assigned, (iii) the contemplated timelines associated with each OGM step, and (iv) how claimants will be informed of the progress of their claims. • Review the OGM procedures to confirm that they address (i) fair and respectful treatment of claimants, (ii) support for claimants when appropriate to enable a fair process, and (iii) how severe human rights impacts or significant disputes will be treated in the OGM. • Interview (a) OGM personnel and (b) 3 or more claimants to establish their views on whether: (i) claimants have been treated with respect, (ii) support has been provided where necessary, (iii) severe human rights impacts or significant disputes are addressed as contemplated in the procedures, (iv) the indicative timelines are generally followed, (v) claimants are regularly informed of the progress of their claims, (vi) proposed remediation is developed through engagement and collaboration with claimants, and (vii) remediation is compatible with human rights standards.
The material steps in accessing and seeking remedy under the OGM, as well as potential outcomes and indicative time frames, have been communicated to affected individuals in a manner they could easily understand.	<ul style="list-style-type: none"> • There is a process to communicate to claimants the material steps in accessing and seeking remedy under the OGM, including potential outcomes and indicative time frames, which is followed in practice. • There is evidence that affected individuals (a) know how to submit a complaint should they wish to do so, (b) are able to access at least one channel to submit a grievance given their language, literacy, geographical and cultural needs, (c) do not perceive any barriers to raising complaints should they wish to do so, (d) understand how complaints will be addressed, and (e) understand any 	<ul style="list-style-type: none"> • (a) Review the OGM procedures addressing communication about (i) the OGM’s material steps, (ii) potential outcomes, and (iii) indicative time frames to stakeholders, and confirm those procedures are followed in interviews with (b) OGM personnel and (b) 3 or more claimants. • Interview 3 or more claimants to confirm they (i) understood how to submit a claim, (ii) could effectively access a complaint channel, (iii) did not perceive barriers to filing a claim, (iv) understood the process to submit claims, and (v) understood at the outset the potential outcomes (including limitations on the nature, form or quantum of remedy).

	<p>limitations on the remedy that the process can provide.</p>	
<p>The OGM is sufficiently resourced to address the volume of concerns consistent with the indicative timeframes, and with sufficient internal expertise to address the range of grievances anticipated.</p>	<ul style="list-style-type: none"> • The company has provided sufficient resources to enable the effective operation of the OGM, given its nature and volume of its cases. • There is no evidence that the OGM has (a) materially failed to meet its indicative time-frames, (b) altered its published processes because of resource constraints, or (c) altered the remedy it has provided because of budgetary concerns. • The funding of the OGM has sufficient indicators of independence to avoid the (a) risk and (b) perception that the grievance process and outcomes are influenced by its funders. • The OGM is managed by individuals with appropriate training in (a) engaging with victims and vulnerable individuals, (b) handling sensitive complaints, (c) the specific types of complaints likely to arise, and (d) data protection. 	<ul style="list-style-type: none"> • Review OGM procedures to identify indicative timeframes. • Review the OGM operating budget to determine its reasonableness in light of the scope of its contemplated operations. • Review (a) any terms of reference associated with OGM funding to identify steps to promote OGM independence, and (b) any indicators or steps supporting that independence. • Review (a) any information made public to try to generate confidence about the OGM's independence, and (b) documents reflecting how that information has been disclosed to claimants and affected individuals. • Interview 3 or more claimants to evaluate the extent to which they believe the OGM is independent of its funder. • (a) Review any changes to OGM procedures, and (b) interview OGM personnel to understand the rationale for the changes and confirm they were not made because of budgetary reasons. • (a) Review the OGM procedures related to how the nature and quantum of remedy is determined, and then (b) review 5 or more case files and (c) interview OGM personnel to: confirm that remedy was (i) provided consistent with the contemplated processes and (ii) not limited or adjusted because of budgetary concerns. • Review (i) the total caseload of the OGM, (ii) the number of dedicated personnel, (iii) the average length of time a case takes to progress as measured against the indicative timelines, (iv) the number of cases that fell within and outside the indicative timelines, (v) the cases that have taken the longest and shortest to resolve and the reasons, (vi) and the thoroughness of fact-finding and review. • Interview OGM personnel to confirm that they have experience and training regarding: (i) human rights, (ii) engaging with victims and vulnerable individuals, (iii) handling issues of personal sensitivity, (iv) the types of claims the OGM has received, and (v) data protection.
<p>The OGM maintained sufficient flexibility to adapt its processes to situations as needed to respect rights, including those of vulnerable</p>	<ul style="list-style-type: none"> • The procedures of the OGM are sufficiently flexible to allow for adjustment based on the specific facts of each case and the circumstances of each claimant. 	<ul style="list-style-type: none"> • (a) Review the OGM procedures to verify they allow for adaptation in light of specific case concerns, and (b) interview OGM personnel to understand how those

populations or groups requiring assistance to access the OGM.		procedures are implemented in practice, with specific examples where it has occurred.
The OGM was designed to allow for monitoring and review of effectiveness of each key step, to identify gaps between the process as designed and as implemented.	<ul style="list-style-type: none"> • There is a process to (a) evaluate the consistency between the OGM's design and practice at each key step, (b) evaluate the effectiveness of each key step, including through feedback from those who have brought complaints, and (c) modify any step depending on the evaluation, including in relation to: (i) submitting and reviewing cases, (ii) engaging with claimants about the case once filed, (iii) investigating claims, (iv) providing claimants with the results of the investigation, (v) engaging with claimants about remediation, and (vi) providing or enabling remediation. • There is evidence that complaints involving severe human rights impacts or significant disputes over outcomes have been escalated, consistent with the design of the mechanism. 	<ul style="list-style-type: none"> • (a) Review the process to evaluate the consistency between the OGM's design and implementation at each key step, (b) review the process to evaluate the effectiveness of each key OGM step, which should include feedback from claimants who have submitted grievances, and (c) interview OGM personnel to confirm that adjustments to the OGM have been made based on (a) and (b). • (a) Review the OGM procedures to confirm they contemplate escalation of cases involving severe harm, and (b) review 3 or more case files involving allegations of severe human rights impacts to confirm their escalation consistent with the OGM's design.
GUIDING PRINCIPLE 31(D)	Equitable: seeking to ensure that aggrieved parties have reasonable access to sources of information, advice and expertise necessary to engage in a grievance process on fair, informed and respectful terms.	
INDICATOR	EVIDENCE RELATED TO INDICATOR	EVIDENCE REVIEWED
The OGM was designed to provide affected individuals with equal access to information collected during any fact-finding process, and implemented consistent with that design.	<ul style="list-style-type: none"> • The OGM has specific processes that enable affected individuals to receive the same results of fact-finding efforts that the OGM may receive, and there is evidence that they receive that information in practice. 	<ul style="list-style-type: none"> • Review the OGM procedures to confirm that stakeholders are to receive the results of any fact-finding efforts. • (a) Interview OGM personnel, (b) review 5 or more case files, and (c) interview 3 or more claimants to confirm that claimants receive the results of any OGM fact-finding efforts.
The OGM provides information to affected individuals about alternative pathways to remedy.	<ul style="list-style-type: none"> • There is evidence that all claimants and affected individuals have access to at least one alternative judicial or non-judicial pathway to remedy besides the OGM, which is perceived as credible and fair. • There is evidence that the OGM provides potential claimants with information about other pathways inside or outside the company. 	<ul style="list-style-type: none"> • (a) Interview OGM personnel, and (b) engage with local experts, to confirm that alternative pathways exist for remedy that (i) are reasonably trusted and (ii) do not impose undue barriers on claimants. • Review OGM procedures and documentation to confirm that claimants receive information about alternative remedy pathways.
The OGM (Tier 2) will provide claimants access to independent expert advice as required (including in relation to severe impacts and in connection with settlement agreements).	<ul style="list-style-type: none"> • There is evidence that any advisors the OGM provides (a) act independently of the OGM or the company and in the best interests of the claimant, and (b) can be chosen by and are acceptable to the individuals they are supporting. • There is evidence that affected individuals (a) are aware of the availability of any resources that the OGM, the company or 	<ul style="list-style-type: none"> • Review the OGM procedures for providing independent assistance, including (i) when it may be required, (ii) how individuals are selected to provide the assistance, (iii) the role of the claimant in selecting an advisor, and (iv) how the independence of any external advisor is maintained. • Review (a) 5 or more case files, (b) any agreements with independent advisors, and

	<p>third parties may offer them in connection with their grievance, (b) have confidence that any advisors will act (and have acted, where relevant) independently of the company and in their interests, and (c) have felt that advisors (where used) helped them in the process.</p>	<p>(c) interview OGM personnel, 3 or more claimants and one or more independent advisor to: (i) identify the extent to which independent assistance has been provided to claimants in connection with their claims, (ii) confirm that any contracts or agreements with providers include clauses reflecting their independence and duty to the claimant, (iii) confirm advisors consider themselves to owe a duty to the claimants, (iv) verify that any advisors were acceptable to the claimants, (v) verify that the claimants considered any advisors to be independent, and (vi) verify the claimants believed the advisors were helpful in understanding or advancing their claims.</p>
<p>The OGM includes independent processes to mitigate perceived power imbalances, and has the flexibility to implement additional measures if a perceived power imbalance exists.</p>	<ul style="list-style-type: none"> • There is evidence that the design of the OGM considered how local power imbalances might take place, and that processes specifically address those potential imbalances. • The OGM has sufficiently flexibility in its design to address “real time” perceived power imbalances that were not originally contemplated. 	<ul style="list-style-type: none"> • Interview individuals associated with the design of the OGM to understand the potential local power imbalances identified, and how they were addressed. • Review the OGM procedures to confirm that (i) steps to address local power imbalances have been integrated, (ii) the OGM has flexibility to adapt to address those imbalances, and (iii) OGM personnel are aware of the potential imbalances and authorized to react as needed.
<p>GUIDING PRINCIPLE 31(E) Transparent: keeping parties to a grievance informed about its progress, and providing sufficient information about the mechanism’s performance to build confidence in its effectiveness and meet any public interest at stake</p>		
<p>INDICATOR</p>	<p>EVIDENCE RELATED TO INDICATOR</p>	<p>EVIDENCE REVIEWED</p>
<p>The OGM was designed to provide, and provides in practice, regular updates to claimants about the status and progress of their claims.</p>	<ul style="list-style-type: none"> • A process exists to provide claimants with periodic updates regarding their claims from the time of their submission until resolution. • There is evidence that the process is followed in practice. • There is no evidence that claimants feel uninformed about the status and progress of their claims. 	<ul style="list-style-type: none"> • Review the OGM procedures to identify how they contemplate providing claimants with updates about their claims, throughout the process. • Interview (a) OGM personnel and (b) 3 or more claimants to confirm that the OGM’s stated process regarding claimant notification is followed in practice. • Interview 3 or more claimants to confirm they have felt reasonably informed about the status of their claims throughout the process.
<p>The OGM was designed to provide, and regularly provides, public reports of its performance (whether through KPIs and metrics, case studies, and/or handling certain cases), while respecting claimant confidentiality.</p>	<ul style="list-style-type: none"> • A process exists to support the collection and publication of meaningful data, metrics or performance against KPIs regarding the OGM’s performance. • (a) Evidence exists that the process to provide public information about the OGM is being followed, (b) reported examples of actions taken by the company to provide or enable remedy for actual human rights impacts are accurately represented, including with regard to any 	<ul style="list-style-type: none"> • Identify a process used to collect information to evaluate and publicize the OGM’s performance, which may include data, metrics, or performance against KPIs. • (a) Interview OGM personnel to confirm that the process to collect and publicize information about the OGM is being implemented, (b) review the data, metrics or information collected under this process and confirm (i) it is meaningful to evaluate the

	<p>context that is relevant to understand the actions taken, (c) examples of remedy for any particularly severe impacts with which the company has been involved are included (subject to legitimate legal or other constraints as recognized under Reporting Principle G of the UN Guiding Principles Reporting Framework), and (d) the examples provided are balanced and broadly representative of the company's performance.</p> <ul style="list-style-type: none"> • (a) Assessments of the OGM, including by the Independent Monitor, are made public in a form that fairly represents the findings, and (b) any lessons or recommendations from the review have been or are being implemented, or the decision not to implement them has been clearly explained. 	<p>OGM's implementation and (ii) it is used as part of public reporting.</p> <ul style="list-style-type: none"> • (a) Review any publicly reported cases or anecdotes about the OGM, (b) review data and (c) conduct interviews of OGM personnel (and relevant claimants if needed) to confirm: (i) the accuracy of OGM disclosures, and (ii) that they are representative of the cases or issues before the OGM and/or the OGM's performance. • Cases of severe negative impacts are disclosed consistent with Reporting Principle G of the UN Guiding Principles reporting Framework and are accurate, subject to reasonable constraints. • The OGM makes public (i) its metrics and KPIs, along with (ii) relevant substantive information, (iii) as well as lessons learned and how they have been integrated, in order to allow stakeholders to evaluate the performance of the OGM.
The OGM provides internal reporting consistent with relevant international reporting standards under the UNGPs.	<ul style="list-style-type: none"> • There is (a) regular internal reporting to key internal individuals, including OGM administrators, the company and others connected to or overseeing the OGM, (b) that includes relevant metrics, as well as substantive information (such as case studies, survey results, and stakeholder reports), sufficient to evaluate the OGM against UNGP 31 in its implementation. 	<ul style="list-style-type: none"> • Review documentation confirming the regular internal reporting of information about the OGM's operations to individuals overseeing the OGM, which includes relevant metrics and data relevant to OGM KPIs, as well as substantive issues, concerns, or patterns, which permits effective oversight of the OGM.
GUIDING PRINCIPLE 31(F)	Rights-compatible: ensuring that outcomes and remedies accord with internationally recognized human rights	
INDICATOR	EVIDENCE RELATED TO INDICATOR	EVIDENCE REVIEWED
The OGM was designed to provide, and does provide, outcomes and remedies consistent with international norms, as appropriately applied in the local context.	<ul style="list-style-type: none"> • There is evidence that the OGM was designed to provide (and does provide) remedies aimed at restoring affected individuals to the status preceding the harm that was done, through restitution, compensation, rehabilitation, satisfaction, and/or guarantees of non-repetition.⁹ 	<ul style="list-style-type: none"> • Review the design of the OGM to identify contemplated remedies, and validate that the design is consistent with restoration, through restitution, compensation, rehabilitation, satisfaction, and/or guarantees of non-repetition. • Review 5 or more case files to identify the nature of remedy provided, and evaluate that remedy against international human rights standards.

⁹ **Restitution** is intended to restore, to the extent possible, whatever has been lost (position in the community, property, liberty, etc.), and restore the victim to the state preceding the harm that took place. **Compensation** is appropriate in those cases where damage can be economically assessed. These cases include: "(a) Physical or mental harm; (b) Lost opportunities, including employment, education, and social benefits; (c) Material damages and loss of earnings, including loss of earning potential; (d) Moral damage; and (e) Costs required for legal or expert assistance, medicine and medical services, and psychological and social services." Compensation can take the form of money or other fungible trade-offs. **Rehabilitation** covers medical or psychological care and social or legal services needed to restore the victim. **Satisfaction** includes such measures as a cessation of the violations; an acknowledgment of the harm done, including verification of the facts and public disclosure of the truth; public apologies from those responsible, including acceptance of responsibility; and sanctions against those responsible for the harm. **Guarantees of non-repetition** include a number of measures to prevent further abuses. These include investigation into crimes that result in human rights violations, and prosecution for those responsible for causing harm, while respecting the right to a fair trial. Changes in policies, procedures, laws, and oversight may also be necessary to ensure non-repetition.

<p>The OGM has access to experts in international human rights and local culture in considering appropriate outcomes and remedies.</p>	<ul style="list-style-type: none"> • Experts have been identified and engaged to provide advice, if requested, on appropriate outcomes. 	<ul style="list-style-type: none"> • Review the experts who have been or may be consulted to provide advice on appropriate outcomes, and understand why they have or have not been contacted in the context of evaluating outcomes and remedies.
<p>Claimants believe that the outcomes and remedies they received are equitable and proportionate in light of the specific harms as reflected in their claims.</p>	<ul style="list-style-type: none"> • There is evidence that recipients of remedy consider that the remedy provided was equitable. • There is evidence in instances where claimants/recipients do not consider the remedy acceptable or effective, that they found the process itself to be fair and respectful. • There are no legal disputes, campaigns, credible media or other reports indicating that recipients consider remedy to have been substantially inadequate. 	<ul style="list-style-type: none"> • Review 5 or more case files to (a) confirm that where remedy was provided it was reasonably proportionate to the harm and the evidence, and (b) identify documentation verifying that claimants at the time of remedy were content with it. • Interview 3 or more claimants to confirm that they believed the remedy they received was (i) fair, and/or (ii) that the process was fair regardless of the remedy provided. • Review media reports, legal claims, NGO reports and other public source material to identify whether recipients have expressed concerns regarding the remedy provided.
<p>The OGM does not impair the rights of claimants to seek accountability through other mechanisms.</p>	<ul style="list-style-type: none"> • The OGM contains processes that specifically do not inhibit individuals from pursuing claims through other channels, should they so choose • Claimants are made aware, through written documentation and oral explanations, of their right to pursue claims through other channels. 	<ul style="list-style-type: none"> • Review the OGM procedures to confirm that individuals may, at any time, pursue claims through other channels and the OGM places no restrictions on seeking remedy through other pathways. • Review OGM-related documentation regarding information provided to claimants, and interview (a) OGM personnel and (b) 3 or more claimants, to confirm that claimants are advised of their right to pursue claims through other channels.
<p>GUIDING PRINCIPLE 31(G)</p>	<p>A source of continuous learning: drawing on relevant measures to identify lessons for improving the mechanism and preventing future grievances and harms.</p>	
<p>INDICATOR</p>	<p>EVIDENCE RELATED TO INDICATOR</p>	<p>EVIDENCE REVIEWED</p>
<p>Feedback on experience with the OGM is solicited from users on an ongoing basis, including in regard to predictability, accessibility, transparency, equitability, and remedy, with responses considered for potential adjustments.</p>	<ul style="list-style-type: none"> • There is evidence that the OGM engages with claimants, including those with finalized claims, to gain insights into their experiences in light of the UNGP 31 criteria. • There is evidence that the results of those consultations are continuously considered in evaluating the OGM procedures. 	<ul style="list-style-type: none"> • Interview (a) OGM personnel and (b) 3 or more claimants to discuss claimant engagement with the OGM in relation to the their experiences, including specifically regarding their (i) trust, (ii) the ease of access and barriers, (iii) local awareness of OGM, and (iv) remedy • Interview OGM personnel to (i) identify specific examples of claimant feedback integrated into the OGM procedures or operations, and (ii) confirm that there is continuous engagement with claimants around the OGM's operational effectiveness.

<p>The OGM was designed to, and in fact does, identify patterns, trends, and key learnings for (a) its own potential improvement, and (b) the prevention of future harms at the company.</p>	<ul style="list-style-type: none"> • The OGM has a process for identifying trends and patterns in complaints and their outcomes, which is capable of identifying relevant information regarding improvement of the OGM and preventing future company-related harms. • Information or data used to identify trends is relevant and reliable. • Trends or patterns identified are (a) fairly assessed, (b) fairly articulated, and (c) placed in the context necessary to understand their implications. 	<ul style="list-style-type: none"> • Interview OGM personnel to (i) confirm that they are seeking to collect data to identify trends related to OGM steps, claims and outcomes, as well as company operations, (ii) understand how that data is being collected and those trends are being tracked and considered, (iii) confirm that the trends are relevant to the OGM's and company's operations. • (a) Review metrics or KPIs retained by the OGM regarding the nature and demographics of claims and claimants, (b) validate the sources of that information to confirm the reliability and reasonable completeness of the data tracked, and (c) interview OGM personnel to understand the rationale behind tracking those specific areas.
<p>Patterns, trends and lessons from the OGM were (a) considered and/or acted upon to improve the mechanism, and (b) shared with the company to prevent future harms.</p>	<ul style="list-style-type: none"> • If facts, trends or patterns from complaints or claimant feedback clearly indicate a need to introduce or change OGM policies, processes or practices, there is evidence that the OGM (a) has acted upon those lessons, and (b) has shared the lessons with any relevant third parties. • If facts, trends or patterns in complaints received or claimant feedback may be relevant to the company's operations, activities or decisions, the OGM has shared that information with the company. • Any lessons the OGM has drawn from analyzing the pattern of complaints or feedback received are based on (a) a robust analysis of the trends and patterns identified, and (b) any additional information necessary to draw informed conclusions. 	<ul style="list-style-type: none"> • Interview OGM personnel to identify specific instances in which facts, trends or patterns have been integrated into the OGM procedures and/or provided to the company to improve its processes. • Interview OGM personnel to confirm (a) that perceived lessons from evaluating the pattern of complaints and feedback received are (i) valid, (ii) reasonable, and (iii) meaningful in light of the OGM's operations, and (b) that the OGM has sought additional information where needed to help reach such conclusions.
<p>The OGM established context-appropriate KPIs that were tracked and fairly measured.</p>	<ul style="list-style-type: none"> • The OGM has established and tracks performance against KPIs to demonstrate its robustness and effectiveness. • The KPIs established by the OGM are meaningful in light of its goals and ambitions, its operating context, and international human rights norms. 	<ul style="list-style-type: none"> • (a) Interview OGM personnel to identify how the OGM's KPIs were developed, and (b) review the OGM's KPIs, to: confirm that they explicitly or implicitly encompass (i) a good faith commitment to implementing the OGM as designed, (ii) OGM performance against the goals it has set and UNGP 31, (iii) the local environment, and (iv) human rights norms.
<p>GUIDING PRINCIPLE 31(H)</p>	<p>Based on engagement and dialogue: consulting the stakeholder groups for whose use they are intended on their design and performance, and focusing on dialogue as the means to address and resolve grievances.</p>	
<p>INDICATOR</p>	<p>EVIDENCE RELATED TO INDICATOR</p>	<p>EVIDENCE REVIEWED</p>
<p>The mechanism was designed following meaningful engagement with affected</p>	<ul style="list-style-type: none"> • There is evidence that engagement with a range of stakeholders occurred before the OGM was launched, and there is 	<ul style="list-style-type: none"> • Review (i) any consultation plans for the design of the OGM, and (ii) documentation

<p>individuals, their representatives, and community groups about the grievance process and outcomes, with their perspectives integrated.</p>	<p>evidence that the feedback was integrated into the design.</p>	<p>reflecting stakeholder consultation in the design of the mechanism.</p> <ul style="list-style-type: none"> • Interview individuals involved in the design of the OGM to identify the nature of feedback provided by stakeholders and how it was implemented, including specific examples.
<p>The OGM solicits and receives regular feedback from affected individuals, their representatives and community members on its performance.</p>	<ul style="list-style-type: none"> • The OGM has procedures for ongoing engagement with stakeholders, and there is evidence that such engagement occurs. 	<ul style="list-style-type: none"> • Interview (a) OGM personnel, (b) 3 or more claimants, (c) 1-2 claimant representatives, and (d) non-claimant community members to confirm engagement between stakeholders and the OGM, including in relation to (i) the OGM's performance, and/or (ii) how feedback is integrated into the OGM's operations. • Review OGM procedures to identify how feedback from affected individuals is integrated into the OGM's operations.
<p>The mechanism was designed to, and in fact does, focus resolution of grievances on dialogue and joint problem solving.</p>	<ul style="list-style-type: none"> • The OGM procedures focus on grievance resolution through dialogue and engagement, and there is evidence that grievances in fact are resolved consensually and through collaboration as opposed to unilateral OGM determinations. 	<ul style="list-style-type: none"> • Review the OGM procedures to confirm that the process through which grievances are resolved is through engagement and dialogue. • Identify the percentage of grievances resolved and appealed. • Interview (a) OGM personnel and (b) 3 or more claimants whose grievances were resolved to: (i) identify the process through which the grievances were resolved, and (ii) confirm that it was through collaboration and consensus.

Appendix 2

Women's Empowerment Initiative: Verification of TRA's Report

Although the Terms of Reference for the Independent Monitor do not specifically require a report on the Women's Empowerment Initiative ("WEI") in the August 2022 reporting cycle, we do provide our observations here. WEI consists of a number of social investments to support women's empowerment in the local communities near the EPM estates over a three-year period. It includes Civic Education Programs on Gender-Based Violence and Gender Equality, a Female Leadership Development Program, Gender Equality Scholarships, constructing 3 victim support units, relocating a primary school, and drilling water bore holes.

These programs continue to progress. For example, EPM is conducting active trainings and programs in the communities around gender equality and gender-based violence, and more are planned. They are constructing one Victim Support Unit and planning additional ones. They are including the Women's Welfare Committee in hiring decisions, and supporting educational efforts of women. EPM is awarding gender equality scholarships. Water boreholes have been drilled in multiple locations, and is already in excess of the minimum 2-3 that had been contemplated.

The details of the WEI and its progress are reflected in a report from TRA from February 2022, along with recommendations, and will not be reported here. However, we can confirm the accuracy of TRA's verification report from February, and support its recommendations. Additional recommendations regarding addressing human rights risks generally, and in regards to gender specifically, are contained in the body of the report.