



The Independent Review Mechanism of the African Development Bank

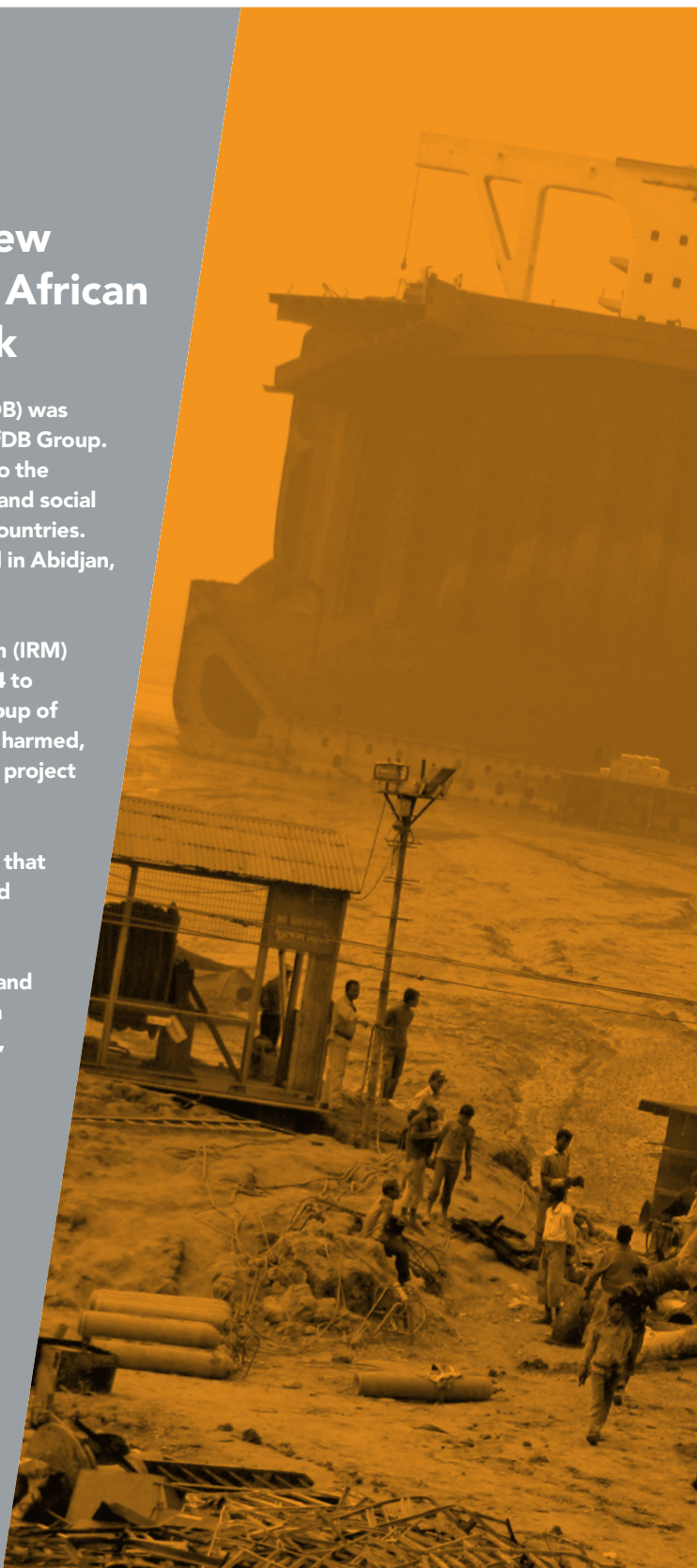
About the Independent Review Mechanism of the African Development Bank

The African Development Bank (AfDB) was established in 1964 as part of the AfDB Group. The bank's mission is to contribute to the sustainable economic development and social progress of its 54 African member countries. The Bank's headquarters are located in Abidjan, Ivory Coast.

The Independent Review Mechanism (IRM) was established by the AfDB in 2004 to address complaints made by any group of two or more people who have been harmed, or who are likely to be harmed, by a project funded by the AfDB Group.

The IRM was designed to make sure that the AfDB follows its own policies and procedures during the design and implementation of its projects. Complaints may relate to the social and environmental impacts of projects in sectors ranging from transportation, hydropower, agriculture or infrastructure.

This brochure covers IRM policy, as revised in 2015.



The background of the page is a large, orange-tinted photograph. It depicts a massive industrial structure, likely a ship's hull or a large-scale construction project, with several workers visible at the base. The scene is set on a construction site with various materials and equipment scattered around. The overall tone is professional and industrial.

Key AfDB rules

In 2013, the AfDB released a new Integrated Safeguards System (ISS), which sets out rules for the protection of local populations, vulnerable groups and the environment against harm from AfDB projects. The ISS includes a set of Operational Safeguards (OS), and new Environmental and Social Assessment Procedures (ESAP) and Integrated Environmental and Social Impact Assessment (IESIA) Guidelines are expected to be released soon.

The OS set out the Bank's expectations from its clients regarding social and environmental assessments and minimising adverse community impacts. Guidelines cover the following:

OS1 Environmental and Social Assessment:

Establishes the importance of determining and minimising a project's environmental and social impacts.

OS2 Involuntary Resettlement: Aims to ensure that, when physical or economic resettlement cannot be avoided, people should be treated fairly, receive compensation or resettlement assistance to improve their standard of living, and share in the benefits of the project.

OS3 Biodiversity and Ecosystem Services: Establishes that clients should avoid impacts on biodiversity and ecosystem services.

When direct and indirect impacts are unavoidable, they should implement measures to minimise impacts and restore biodiversity and ecosystem services.

OS4 Pollution Prevention and Control, Hazardous Materials and Resource Efficiency: Aims to manage and reduce project-related pollutants that could have adverse effects on human health and the environment; and sets a framework for efficiently using natural resources, especially energy and water.

OS5 Labour Conditions, Health and Safety: Maintains that workers' rights should be protected and remain consistent with national legal requirements. This includes protection from abuse and exploitation and avoidance of child labour.



How to file a complaint

The following step-by-step guide explains the process that affected groups and their representatives can follow to submit a complaint. There are various tools available for assistance. The IRM of the AfDB, as well as SOMO and Accountability Counsel, can provide advice and additional information about submitting a complaint.

Overall strategic considerations

- Consider the benefits of a complaint, as well as limitations of the IRM, and set appropriate expectations.
- Consider whether another strategy might be more effective or efficient. Using the IRM is most effective when combined with other strategies, including: engaging with the media; seeking campaign support from other organisations; government advocacy; or other tactics.
- Understand the time and resources required to complete the IRM process, which might take several years.
- Consider whether beginning an IRM complaint process could place the affected group at risk of retribution or intimidation. Consider the need for confidentiality and develop a strategy in advance about how to address risks.

General information about the IRM

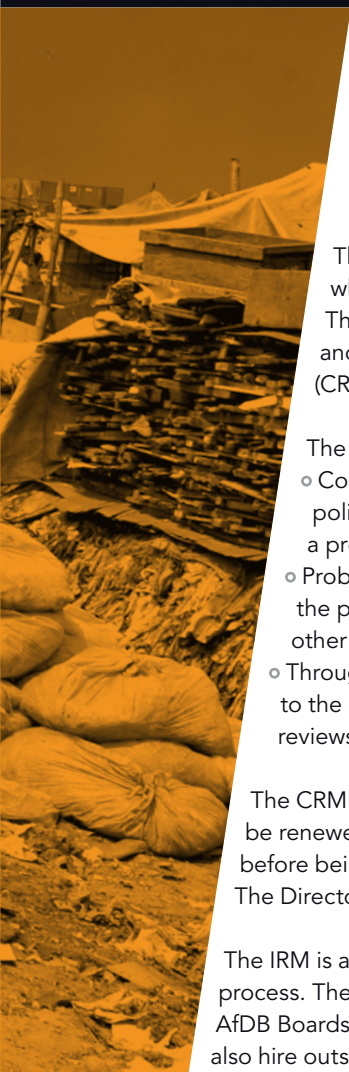
The IRM was created to provide communities with an effective tool through which they can request that the AfDB comply with its policies and procedures. The IRM handles complaints about both public and private sector operations, and is administered by the AfDB's Compliance Review and Mediation Unit (CRMU), which reports directly to the AfDB's Boards of Directors.

The IRM has three functions:

- Compliance review focuses on non-compliance with the Bank's operational policies and procedures (the ISS) in the design, implementation or supervision of a project.
- Problem-solving is used to resolve the issues raised in a complaint by encouraging the parties involved (complainants, AfDB Management, project company or any other parties) to reach agreement on a solution.
- Through its advisory functions, the IRM provides opinions on systemic issues related to the social and environmental impacts of Bank projects and performs spot check reviews to assess the compliance of specific high-risk projects with AfDB policies.

The CRMU is headed by a Director, who is chosen for a five-year term that can only be renewed once. The Director cannot have worked for the AfDB Group for five years before being appointed, and cannot work for the AfDB again after his or her term ends. The Director is also assisted by support staff within the CRMU.

The IRM is also supported by a Roster of Experts who conduct the compliance review process. The Roster of Experts includes three independent members, appointed by the AfDB Boards of Directors, who serve for a five year, non-renewable term. The CRMU may also hire outside consultants to assist with investigations and fact-finding missions.



Community considerations prior to submitting a complaint

- o Determine the scope of the community experiencing harm and assess whether those people fully understand and support a complaint process. If they do not, consider whether it would be useful to conduct training for the affected group.
- o If possible, any community divisions should be resolved early on so that they do not undermine the process. Problem-solving is most effective when the affected community speaks with one voice.
- o Decide who will speak on behalf of the affected community during the complaint process; how decisions during the process will be made; what the desired outcomes are; whether the dialogue could produce those outcomes and how; and which issues will take priority in the dialogue process.



The Independent Review Mechanism **process**

Once the CRMU receives a complaint, the Director conducts a review within 14 days to assess whether the complaint raises legitimate claims of harm stemming from a Bank-funded project. If this criterion is met, the Director then registers the complaint and asks AfDB Management to submit a response within 21 days. The Director then initiates either problem-solving or compliance review, based on the complainants' stated preference. If complainants request both functions, the problem-solving will be undertaken first. The Director then informs the President and the Boards of Directors of the decision.

Problem-solving

In the problem-solving phase, the Director will first conduct an eligibility assessment, including determining whether the parties agree to participate in a problem-solving process. If eligible, the Director will then initiate a process that could include mediation, fact-finding or dialogue facilitation, between the complainants and AfDB Management, the company and any other interested party. At the end of the process, the Director reports to the President and the AfDB Boards on the results of the problem solving, noting whether there are any issues that should be referred for compliance review. The President or Boards may either accept or reject the recommendations and a summary is made public.

Compliance review

If the complaint presents evidence of a violation of Bank policy, the CRMU Director and the IRM Roster of Experts may recommend a compliance review, which must be approved by the President or Boards. The Experts then conduct an investigation to determine whether any AfDB policies were violated during the design, implementation or supervision of the project. The investigation may include a site visit and meetings with the affected community. The Experts will submit a compliance review report and any recommendations for remedial action to the President or Boards and send a copy to complainants.

Bank Management then has 90 days to prepare a response and action plan to address the recommendations. Thereafter, Bank Management and the CRMU jointly present the report, response and action plan to the Boards or the President, who may either accept or reject the findings and recommendations. The decision is shared with the parties and published on the AfDB's website. The IRM will monitor the implementation of the approved action plan.

Write the complaint

The complaint should include:

- The date, name and signatures of the affected people; whether they wish their identities to remain confidential and if so why; and the name of any representatives assisting the affected people, with a signed letter confirming their authority to represent them.
- A brief description of the project and, if possible, the policies and/or procedures that have been violated.
- An explanation of the harm, or expected harm, resulting from the AfDB project.
- An outline of the change you would like to see as a result of the CRMU process.
- A description of any communication with Bank staff regarding the issue(s) raised in the complaint.
- Supporting materials, such as correspondence with Bank staff and a description of the location of the affected area.

The who, what, when, where, and why of filing a complaint

Who: Any two or more people who have been harmed by an AfDB-funded project may submit a complaint. Local representatives acting on behalf of the affected people may submit a complaint as long as they provide the names of those they represent. Foreign representation is allowed only when local representation cannot be found. The Boards of Directors can also refer a project to IRM to conduct a compliance review or spot check exercise.

What: A complaint must relate to current or future serious harm caused by a project that is a result of the AfDB's failure to follow its own policies and procedures in the design and/or implementation of a project. The IRM cannot accept complaints alleging human rights violations except those involving social and economic rights in relation to an action or omission on the part of the Bank.

When: Affected persons or groups may submit a complaint up to 24 months after the final disbursement of the loan or physical completion of the project.

Where: The individuals submitting a complaint must live in the area affected by an AfDB-funded project. The complaint may be submitted to the CRMU, located at the AfDB's headquarters in the Ivory Coast, or to any AfDB field office.

Why: Submitting a complaint may bring the problem you are facing to the attention of the Board of Directors and the President of the AfDB. They have the power to instruct Management to redesign projects to prevent harm, order compensation or remedy the harm inflicted, or cancel the project. Bringing a complaint may also create a record of the Bank's violations, which may help the AfDB to prevent future policy violations and may be a useful tool in advocacy campaigns to address problems.

File the complaint

You may submit the complaint in your local language, if you are not able to submit your complaint in English or French. Submit the complaint via email or mail to:

Compliance Review and Mediation Unit (CRMU)
African Development Bank
01 P.O. Box 1387 -Abidjan 01, Cote d'Ivoire
2nd Floor, CCIA Building, Abidjan Plateau
Avenue Jean-Paul II
T +225 20 26 29 56
Email: complaints@afdb.org

If you are unable to submit a written complaint, contact the CRMU and they will assist you to submit the complaint in writing. The complaint may also be submitted to your country's field office. Information on the location of the field offices can be found here: <http://www.afdb.org/en/countries/>.

Follow up on your complaint

- Once the complaint has been submitted, if you do not hear from the CRMU within 14 days, check with them to ensure that the process is moving along.
- It is often helpful to speak to members of the Board, as they will ultimately decide what to do with the CRMU's report. The Board may ask the CRMU to monitor any changes to the project as a result of the compliance review.
- If the compliance review concludes that the Bank has violated its rules, ensure the Board follows through with any commitments made to remedy the harm (or potential harm) of the project.

Benefits and limitations of the mechanism

Submitting a complaint to the CRMU could:

- help raise awareness about what is happening in projects financed by the AfDB, both locally and internationally;
- allow you to directly voice your concerns to the AfDB about a project;
- allow a direct dialogue with the project company through a problem-solving process, if the company agrees to participate in the process;
- lead to a formal investigation through a compliance review to determine whether or not there have been violations of AfDB policies; and
- lead to action by AfDB leadership to bring the project into compliance with its policies.

Submitting a complaint to the CRMU cannot:

- guarantee that harm being caused by an AfDB-supported project will be stopped or prevented;
- force a company to participate in a voluntary problem-solving process;
- attribute blame or lead to findings that a company or the AfDB is 'guilty'; or
- guarantee that the CRMU will conduct an investigation.



About this brochure

This brochure provides a brief overview of the work of the AfDB's Independent Review Mechanism and how to file a complaint. Civil society organisations, workers, communities and groups of individuals who are harmed by an AfDB-supported project can use the IRM process to address their grievance. This brochure briefly explains how.

About SOMO

SOMO is an independent, non-profit research and network organisation that promotes sustainable and fair global economic development and the elimination of the structural causes of poverty, environmental problems, exploitation and inequality. SOMO's Rights, Remedy and Accountability Programme aims to improve the accessibility and effectiveness of non-judicial grievance mechanisms for stakeholders who experience adverse impacts on their human rights as a result of business activities. For more information, go to www.grievancemechanisms.org.

SOMO

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About Accountability Counsel

Accountability Counsel is a non-profit legal organisation that supports communities to defend their environmental and human rights when they have been harmed by internationally financed development projects. Accountability Counsel helps communities to voice their complaints about projects that affect them – and to demand remedies where rights are violated – through the use of non-judicial accountability offices.

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