

BRIEFING PAPER:
**A Critique of Inter-American Development Bank's
Independent Consultation and Investigation Mechanism (MICI)**

August 3, 2011

In its first year of operation, the Inter-American Development Bank (“IDB”) accountability mechanism has failed to implement its Policy¹ in a way that supports the accessibility and transparency of the mechanism, and in some cases has clearly violated its own Policy. With 14 cases filed to date (only 10 of which are on the public Registry), patterns are also emerging that show deficiencies in the Policy governing the Independent Consultation and Investigation Mechanism, known as “MICI” for its translation in Spanish. We note that the majority of problems identified relate to the Consultation phase of the MICI, which is sequenced such that complaints must be assessed for Consultation before proceeding to Compliance Review; this is the case even if the requester is only seeking a Compliance Review.

This Briefing Paper discusses problems with implementation of the MICI Policy to date in Section I, and problems with the MICI Policy itself in Section II. Requested action items to address concerns are underlined.

I. Problems To Date with Implementation of MICI's Policy

Transparency

One of the explicit goals of the MICI is to “increase the transparency ... of the Bank’s performance.”² MICI Ombudsman’s office handles cases with a maximum of secrecy, which undermines the transparency of the mechanism and the ability of complainants, civil society organizations, and others, to monitor the actions of the mechanism, and thus the Bank.

The Ombudsperson has gone beyond the scope of the MICI Policy to impose confidentiality on requesters who have not sought it. The MICI Policy provides that “[t]he Office will protect the confidentiality of a Requester *if so requested in the Request* and will consult with the Requester about the process for handling a confidential Request.”³ In an example of a violation of this provision, from our confidential communications about the Rodoanel (Ring Road) case in Brazil, we understand that the Ombudsperson has instructed Requesters to keep confidential recent communications between Requesters and the Ombudsman staff.⁴ Complainants, who are seeking only a Compliance Review, did not seek confidentiality. Confidentiality imposed by the MICI in this case can only have the effect of making MICI’s operations less transparent and

¹ IADB, Policy Establishing the Independent Consultation and Investigation Mechanism, February 17, 2010 (hereinafter “MICI Policy”), introduction and objective, *available at* <http://idbdocs.iadb.org/wsdocs/getdocument.aspx?docnum=35074768> (last visited June 28, 2011).

² MICI Policy, introduction and objective.

³ MICI Policy, para. 33 (emphasis added).

⁴ Correspondence with Requester, on file with Accountability Counsel (June 2011).

effective. Such imposed secrecy is particularly troubling where the MICI has violated its Policy by *failing to register* the case despite the fact that it was filed May 13, 2011. At the latest, the case should have been registered 20 business days after the complaint was filed with the MICI, or June 10, 2011. ***While the MICI has told us through individual correspondence that 14 complaints have been received, the public has no way of knowing what requests have been filed but not registered.***

In terms of MICI progress documents, the Policy requires that the following be made public on in the MICI Registry:

- Reasons for determinations of ineligibility for Consultation and Compliance Review phases (paras. 41, 57),
- Project Assessment Reports for Consultation (para. 45),
- Consultation Phase Reports (para. 51), and
- Panel Reports (para. 70).

Many of the required documents are made public on the Registry, but only after long delays and mostly after the proceedings are completed. Moreover, some documents listed on the website are password-protected. Examples include the Eligibility Determination for Consultation for AR MICI002 and the Eligibility for Determination for Compliance Review for BR MICI001. Why the MICI should list documents, but make them inaccessible is unclear. According the Policy, reasons for eligibility as opposed to ineligibility are not explicitly required to be made public, however, we cannot see what motivation the MICI staff would have for concealing these documents. This decision undermines the legitimacy of the MICI.

Eligible requests are to be published on the MICI registry on its website.⁵ In practice, however, requests are not posted to the Registry, but are briefly summarized.⁶ An example is the one paragraph summary of the Argentina - Multiphase Development Infrastructure: Support Production Entre Rios (AR- L1036) and Technical Cooperation AR-T1029,⁷ which was found eligible. Without posting the original request, there is no way to know whether the summary adequately captures the policy violations and harm alleged, or the context in which the requester and the complaint is situated. Although the Registry for this case states “[a]t this time, the Requester has asked that its identity not be revealed[,]” there is no provision in the MICI policy that requires that the complaint not be posted at all, rather than posing a version with redacted names where the issues and the confidentiality request could be verified.⁸

⁵ MICI Policy, para. 39 (“If a Request is deemed eligible, the Project Ombudsperson shall cause the Executive Secretary to promptly register it in the Registry”).

⁶ See MICI Registry of cases, available at: <http://www.iadb.org/en/mici/registry-of-cases.1805.html> (last visited August 3, 2011).

⁷ See Argentina, Multiphase Development Infrastructure: Support Production Entre Rios (AR- L1036) and Technical Cooperation AR-T1029, available at: <http://idbdocs.iadb.org/wsdocs/getdocument.aspx?docnum=35393487> (last visited June 28, 2011).

⁸ *Id.*

Often, official documents that should be posted to the Registry are not posted. For example, the entire registry for the Compliance review portion of the Brazil - Serra do Mar case is password protected.⁹

However, the larger issue is that the receipt of any Request should be made public when received regardless of whether an eligibility determination has been reached. Since unlimited extensions for eligibility determination are permitted, Requests can be submitted and the response may take months without being recognized in the Registry. On this particular point, there are both violations of the Policy and problems with the Policy itself.

A troubling example is the San Francisco-Mocoa Alternate Road Construction Project in Colombia,¹⁰ which was deemed ineligible for the MICI, but was never posted on the Registry. We know of this case only through word of mouth from the Requesters who filed it. The public and the IDB Board have no information about the issues brought to the attention of the MICI, why the complaint was filed, and why it was deemed ineligible.

Transparency within the MICI itself is a problem, with the Ombudsperson refusing to share complaints it receives with even the MICI's own Compliance Review Panel.¹¹ There is no justification in the MICI policy for such secrecy and there is no precedent at the other IFI accountability mechanisms.

Without changing the MICI Policy, the following steps should be taken to immediately address these transparency issues: (1) post full complaints received on the MICI Registry within five business days of their receipt; (2) post all required status documents, or at a minimum a description of status, within five business days of their completion; and (3) remove all password protections from the MICI website.

Delays in Eligibility Assessment

The first year has shown significant delays in MICI processing of complaints. The MICI Policy requires that eligibility for the Consultation phase be determined within 15 business days of receiving the request from the Executive Secretary, and the "assessment" for the Consultation phase should be completed within 120 calendar days of the eligibility determination.¹² In the Entre Rios case, an eligibility determination was made more than three months after the

⁹ See Brazil - Program for Social-Environmental Recovery of the Serra do Mar and Sistema de Mosaicos of the Mata Atlântica (BR MICI001/2010), available at: <http://www.iadb.org/en/mici/complaint-detail,1804.html?id=BR%20MICI001/2010> (last visited June 28, 2011).

¹⁰ See CO-L1019 : San Francisco-Mocoa Alternate Road Construction Project - Phase I, available at: <http://www.iadb.org/en/projects/project,1303.html?id=CO-L1019> (last visited August 3, 2011).

¹¹ Meeting with Accountability Counsel and MICI staff on June 8, 2011. At this meeting, the Ombudsperson defended keeping the complaints from the CR panel staff.

¹² MICI Policy, paragraphs 39 and 45, respectively.

complaint was submitted (not 15 business days), and the assessment was completed five months after the eligibility determination (not within the required maximum of four).¹³

Without changing the MICI Policy, the following steps should be taken to immediately address issues regarding delays: adhere to timelines in the MICI Policy, and where impossible, communicate the reason to all parties and to the public on the MICI Registry with a timeline of next steps.

Problematic Application of Exclusion Criterion

Civil society organizations in the region and individual Requesters have observed that the MICI Policy's exclusion criteria in paragraph 37(i) are being interpreted in a way that is counterproductive to the functioning of the mechanism. The policy reads, "[n]either the Consultation Phase nor the Compliance Review Phase will be applied to ... Requests that raise issues under arbitral or judicial review by national, supranational or similar bodies." While the vagueness of the language should be addressed (see Section II, below), the language as it stands now should not be interpreted as a bar where the identical parties have not raised identical issues seeking an identical remedy in another forum. We have spoken with Requesters who have expressed concern about the interpretation of this provision.

For example, case BR MICI001: Program for Social-Environmental Recovery of the Serra do Mar was deemed ineligible for Consultation on the basis of this criterion. However, neither Requesters nor their representatives have been involved in any parallel proceedings related to this case. This is an example of a dangerous over application of the policy that deprives the IDB and the requesters the right to address these problems in a timely manner before they escalate.

Additionally, eligibility of the Rodoanel case in Brazil submitted May 13, 2011 has yet to be determined due to questions concerning parallel proceedings. Moreover, there is at least one Request to the MICI—regarding the San Francisco-Mocoa Highway IDB project—that has not been publicly acknowledged because it was deemed ineligible due to parallel proceedings.¹⁴ Thus far, continuous delays in determination of eligibility can be attributed to requests by the Ombudsperson for further documentation concerning potential parallel proceedings. Currently, only hearings within the legislature have taken place. If this can be construed as arbitral or judicial review process, the policy is discouraging communities from alerting domestic authorities to harm that could be avoided if they choose to access the MICI.

Remedies sought in judicial proceedings do not provide the same redress as the requesters seek from the MICI. Moreover, it is impossible for parallel proceedings to hamper the Consultation or Compliance Phases. At most, parallel proceedings would require extra sensitivity during mediation in the Consultation Phase. Parallel proceedings *cannot* interfere with the goals or process of a Compliance Review, since the goal of that process is an examination of the IDB's

¹³ See MICI Registry of cases, available at: <http://www.iadb.org/en/mici/registry-of-cases.1805.html> (last visited June 28, 2011).

¹⁴ Accountability Counsel correspondence with the Requester, on file with Accountability Counsel.

Compliance with its own obligations, which the IDB argues cannot be adjudicated in other fora (which is one of the justifications for creation of an IDB accountability mechanism).¹⁵

MICI staff should be prohibited from implementing the Policy in a manner that makes the MICI unusable or as a false alternative to domestic or other judicial remedy.

Blocking Access to the Compliance Review Phase

Delays have become particularly problematic when a requester has expressed no interest in proceeding with the Consultation phase, yet the Ombudsman has insisted on an exhaustive Consultation Phase eligibility determination. This blocks requester's access to the Compliance Review Phase in contravention of MICI Policy – once a requester has expressed that they do not want to go through Consultation, the complaint is *immediately ineligible* for Consultation and should be transferred to Compliance Review without delay.¹⁶

This delay has occurred in at least two cases of which we are aware. The Rodoanel complaint from Brazil was submitted May 13, 2011 with a demand for Compliance Review only. Now, at the end of June 2011, the Ombudsman is still determining eligibility for the Consultation Phase. In the latest putatively confidential call between requesters and the Ombudsman, requesters plainly stated that they did not want to participate in the Consultation Phase. The Ombudsman's eligibility determination should have ended there.¹⁷ However, the deadline has been extended – for a third time – to July 7, 2011.¹⁸

A second set of requesters with a complaint regarding an IDB project in Paraguay have experienced a similar barrier in trying to reach the Compliance Review phase. On November 10, 2010, requesters submitted a complaint to the MICI regarding a proposed highway corridor between Asunción and Salto del Guairá (along the Brazilian border) and across Paraguay. The requesters vehemently expressed their unwillingness to participate in the Consultation Phase. In accordance with Article 40 of the MICI Policy, the complaint was considered ineligible for the Consultation Phase on December 16, 2010 – the Ombudsman waited until the very end of the permitted eligibility period in this case, even though the complaint was ineligible for Consultation on its face. It was therefore not until January 11, 2011, that the complaint was declared eligible for Compliance Review, a full two months after the complaint was filed. Inexplicably, it was not until June 6, 2011 that the MICI distributed their recommendation for a Compliance Review to the IDB Board. On June 13, 2011, the Board approved the

¹⁵ Any concern about parallel proceedings is misplaced, as evidenced by the World Bank Group's Compliance Advisor/Ombudsman ("CAO"), which in its ten years has *never* excluded a request on the grounds of parallel proceedings despite cases in courts or other judicial bodies related to the topics discussed in CAO complaints.

¹⁶ Under MICI Policy, a complaint must undergo an eligibility determination for Consultation Phase (and if found eligible complete the Consultation Phase) before it may proceed to Compliance Review. See MICI Policy, paragraphs 35, 39.

¹⁷ The Consultation Phase is a voluntary exercise. MICI Policy sets as one of the eligibility criteria for the Consultation phase that "the parties are amenable to a Consultation Phase exercise, and, with respect to an issue raised in the Request, a Consultation Phase exercise, may assist in addressing a concern or resolving a dispute or is likely to have a positive result[.]" see MICI Policy, para. 40(g).

¹⁸ Correspondence from Requester to Accountability Counsel, on file with Accountability Counsel, June 28, 2011.

recommendation of the MICI to conduct a Compliance review on a “non-objection basis,” bringing the Panel to its current Investigation stage, a full seven months after the complaint was filed. While this case example shows a problem with the policy itself, discussed in detail below, it also shows that the policy is being interpreted in a manner inconsistent with the goals of the mechanism.

Without changing the MICI Policy, the following steps should be taken to immediately address issues regarding delays: where a complaint is unclear about whether Consultation may be sought, the MICI should immediately inform the Requester about both stages, how they work and their purposes, and should confirm whether Consultation is sought. For complaints that do not seek Consultation, they should be promptly declared ineligible for Consultation and should be moved immediately to Compliance review without waiting for the entire Consultation eligibility period to elapse.

The Need for Outreach

It has been clearly demonstrated that there is an urgent need for the MICI to conduct outreach. At the most basic level, most project-affected people and communities are unaware of the MICI’s existence. For those who are aware of the MICI, the policy is still vague and complex, limiting access to the mechanism. Consequently, there is a need for dissemination of information about the MICI throughout the region using a number of formats.

In particular, the MICI should distribute user-friendly guides in workshops for directly affected people and civil society organizations. Support and infrastructure to assist with MICI outreach is available: many local NGOs in IDB project areas would be happy to participate in MICI workshops and then circulate information to communities. Information could also be distributed through the already established CONSOCs.

II. Problems with MICI Policy that Require Amendment

The following problems have been identified that require amendment of the MICI Policy. Recommended MICI Policy changes are underlined.

Board Approval for Decision to Conduct a Compliance Review

- A. Issue: The Policy requires the Board or President to approve the decision to conduct a Compliance review, rather than allowing the Compliance Review Panel (“Panel”) to make the determination independently.¹⁹

¹⁹ See MICI Policy at para. 59 (“The Panel shall submit a recommendation to conduct a Compliance Review and the [Terms of Reference] to (a) the Board (and the Donors Committee, in the case of a MIF-funded operation), or (b) the President, with a copy to the Board (and the Donors Committee, in the case of a MIF-funded operation), if the Request relates to a Bank-Financed Operation that has not been approved by the Board or the Donors Committee, as the case may be. In considering the recommendation, the Board, the Donors Committee or the President, as the case may be, shall either (a) approve the recommendation and the TOR on a "non objection" basis, or (b) object, in which case the recommendation and the TOR shall be considered by the Board or the Donors Committee, as the case may be, in accordance with their respective regulations.”).

- B. Reasons this is Problematic: Requiring Board or President approval undermines the independence of the mechanism, risks filtering legitimate Compliance review claims, adds an additional barrier to accessibility for complainants, and could create a conflict of interest for the President (as the head of Management implementing the project).
- C. Recommended Fix: The MICI should have full and independent authority to determine whether to conduct a Compliance review.²⁰

Mandatory Board Request to Monitor Compliance Review Outcomes

- A. Issue: According to the Policy, the Panel cannot decide to monitor ongoing Compliance and implementation of any remedial actions agreed upon after a Compliance review; rather, any monitoring can only take place at the request of the Board.²¹
- B. Reasons this is Problematic: Requiring the Board to request monitoring reports undermines the independence and effectiveness of the Panel, creates a barrier to rectifying problems identified in the Compliance review, and diminishes the capacity of the requesters to ask the mechanism to follow-up on their complaints.
- C. Recommended Fix: The Policy should give the Panel the authority to independently decide whether to monitor ongoing Compliance and implementation of remedial actions agreed upon as a result of the Compliance review.²²

Sequencing of Consultation Phase and Compliance Review

²⁰ The European Investment Bank’s Complaints Mechanism, the European Bank for Reconstruction and Development’s Projects Complaint Mechanism, and the Compliance Advisor Ombudsman have independent authority to determine whether to conduct a Compliance review. See European Investment Bank, *The EIB Complaints Mechanism, Principles, Terms of Reference, and Rules of Procedure* at para. 7.6 (2010), available at http://www.eib.org/attachments/strategies/complaints_mechanism_policy_en.pdf (last visited June 28, 2011) [hereinafter “EIB”]; European Bank for Reconstruction and Development, *Project Complaints Mechanism Rules of Procedure* at paras. 28, 29, 35 (2010) available at <http://www.ebrd.com/downloads/integrity/pcmrules.pdf> (last visited June 28, 2011) [hereinafter “EBRD”]; Compliance Advisor Ombudsman, *CAO Operational Guidelines* at para. 3.3.4 (2007), available at <http://www.cao-ombudsman.org/howwework/filecomplaint/documents/EnglishCAOGuidelines06.08.07Web.pdf> (last visited June 28, 2011) [hereinafter “CAO”].

²¹ See MICI Policy, *supra* note 1, at para. 72 (“At the request of the Board (or the Donors Committee, in the case of a MIF-funded operation), the Panel will monitor implementation of any remedial or corrective actions agreed upon as a result of a Compliance Review.”).

²² The EIB, EBRD, CAO, the African Development Bank’s Independent Review Mechanism, the Asian Development Bank’s proposed Accountability Mechanism, and the Overseas Private Investment Corporation’s Office of Accountability all allow the mechanism to independently decide to monitor ongoing Compliance without requiring a request from the Board. See EIB, *supra* note 20, at para. 7.11; EBRD, *supra* note 20, at para. 44; CAO, *supra* note 20, at para. 3.4.3; African Development Bank, *The Independent Review Mechanism* at para. 52(c)(iii) (2010), available at <http://www.afdb.org/en/about-us/structure/independent-review-mechanism/> (last visited June 28, 2011) [hereinafter “AfDB”]; Asian Development Bank, *Review of the Accountability Mechanism Policy* at para. 194 (2011), available at <http://www.adb.org/AM-Review/> (last visited June 28, 2011) [hereinafter “ADB”]; Overseas Private Investment Corporation, *Stages of the Compliance Review Process* flowchart on website, available at <http://www.opic.gov/sites/default/files/docs/ComplianceReviewChart.pdf> (last visited June 28, 2011) [hereinafter “OPIC Compliance Review Chart”].

- A. Issue: The current Policy requires all requesters to undergo eligibility for the Consultation phase prior to entering Compliance review, even if requesters do not want Consultation.²³
- B. Reasons this is Problematic: This additional step creates an unnecessary barrier to accessing Compliance review, which both prolongs the process for requesters and deprives the IDB Board of timely information about Compliance with its policies. This time delay may increase adverse project impacts on requesters who face imminent harm.
- C. Recommended Fix: If requesters exclusively request Compliance review, the complaint should immediately be given to the Panel for a Compliance review eligibility determination, and should not be funneled through the Project Ombudsperson.²⁴

Parallel Proceedings Outside of the Mechanism May Bar the Request from Being Considered

- A. Issue: The policy is unclear, but it appears that if an issue raised in a complaint is under review by an outside entity, such as a court or other accountability mechanism, the request for either Consultation or Compliance review will be automatically denied.²⁵
- B. Reasons this is problematic: Creating a bar to accessing the IDB’s mechanism based on the fact that the issue is currently being tried in a separate venue makes the mechanism less accessible to communities that often do not have the resources to succeed in the alternate venue. The remedies offered in the alternate venue may not provide the type of redress that the requesters seek from the MICI. Further, the alternate proceedings may not address the IDB’s involvement in the project at all and may only be focused on the project sponsor.
- C. Provisions to fix the issue: The occurrence of parallel proceedings should not bar the MICI from considering Consultation or Compliance review. The MICI Policy should be amended to exclude consideration of parallel proceedings for Compliance Review and should consider parallel proceedings in the Consultation Phase only when the same issues are raised by the same parties who are seeking identical remedies in the other forum.²⁶

Transparency

²³ See MICI Policy, *supra* note 1, at para. 35 (“A Request may request that both a Consultation Phase exercise and Compliance Review be undertaken, but the Consultation Phase Request will be processed first.”).

²⁴ AfDB, EBRD, EIB, and OPIC represent the best practice of allowing problem-solving and Compliance review to occur simultaneously. See AfDB, *supra* note 22; EBRD, *supra* note 20; EIB, *supra* note 20; Overseas Private Investment Corporation, Compliance Review webpage, at <http://www.opic.gov/doing-business/accountability/Compliance-review> (last visited June 28, 2011) [hereinafter “OPIC CR webpage”]. None of the above listed accountability mechanisms have a provision requiring one process to occur prior to the other.

²⁵ See MICI Policy, *supra* note 1, at para. 37 (“Neither the Consultation Phase nor the Compliance Review Phase will be applied to . . . [r]equests that raise issues under arbitral or judicial review by national, supranational or similar bodies.”).

²⁶ See EBRD, *supra* note 20, at para. 24(f) (allowing the mechanism to determine if a parallel proceeding has adequately addressed a problem solving request and prohibiting a parallel proceeding from barring a Compliance review request); CAO, *supra* note 20, at para. 2.3.1 (no bar on requests based on parallel proceedings).

- A. Issue: The Policy is unclear as to whether the request itself should be disclosed in the IDB’s public registry of complaints or if a summary or some other document should be disclosed.²⁷ And although the Policy requires the public registry to have the “number and nature of eligible and ineligible Requests,” as well as disclosure of other documents related to the request process, it frequently does not specify a timeframe for how quickly disclosure must occur.²⁸
- B. Reasons this is Problematic: The Policy’s lack of clarity on what should be disclosed and the absence of a timeframe for disclosure provides insufficient guidance to the mechanism as to the procedures for disclosure of project-specific information. This leaves the interpretation of the Policy up to the staff of the mechanism and leaves open the possibility of non-disclosure of information that should be transparent to the public.
- C. Recommended Fix: While this is currently not prohibited by the Policy, the MICI Policy should be amended to explicitly require the disclosure of the full text of all requests. For every provision of the Policy that requires disclosure of a document or of any project information, the Policy should require prompt or immediate disclosure with a concrete timeline.²⁹

No Site Visits for Eligibility Determinations

- A. Issue: The Policy does not permit site visits as part of the eligibility determination process for either Consultation or Compliance review.³⁰
- B. Reasons this is Problematic: Without site visits, the MICI may not see the importance of its involvement in the process and makes the MICI less accessible. This creates an extra challenge to under-resourced and ill-equipped communities who may struggle with articulating the issues in their community in writing and force them to have to put together a complaint that demonstrates all of the issues, many of which may not be able to be conveyed in writing.

²⁷ See MICI Policy, *supra* note 1, at para. 39 (“If a Request is deemed eligible, the Project Ombudsperson shall cause the Executive Secretary to promptly register it in the Registry”); *see also id.* at para. 55 (“If a Request is deemed eligible, the Panel Chairperson shall cause the Executive Secretary to promptly register it in the Registry”). The word “it” has been interpreted by the MICI to mean a summary of the request and not the request itself. *See* above.

²⁸ See MICI Policy, *supra* note 1, at para. 36 (“The Executive Secretary shall keep track of the number and nature of eligible and ineligible Requests and report on the same in the ICIM’s annual report and via the Registry”); *see also id.* at paras. 45, 51, 52, 57, 59, 71 (requiring disclosure of several different items in the request process but lacking a timeframe for disclosure). The lack of clarity on the disclosure provisions for what must be disclosed and the timeframe for disclosure has led to a non-transparent disclosure process. *See* above.

²⁹ See EBRD, *supra* note 20, at para. 13 (requiring a copy of the complaint to be publicly disclosed); *see also id.* at paras. 29, 33, 34, 39, 44 (provisions requiring disclosure of project information to be done within a specified short time limit).

³⁰ See MICI Policy, *supra* note 1, at para. 40 (“Requests shall be deemed eligible for the Consultation Phase if the Project Ombudsperson determines [that the eligibility criteria are met] . . . either via the Request or via IDB records.”); *see also id.* at para. 56 (“Requests shall be deemed eligible for the Compliance Review Phase if the Panel Chairperson determines [that the eligibility criteria are met] . . . either via the Request or via IDB records.”). Note that the policy does not permit site visits for eligibility determination.

- C. Recommended Fix: The MICI staff should be permitted to conduct site visits as part of the eligibility determination phase for both Consultation and Compliance review.³¹

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³¹ The EIB, EBRD, CAO, AfDB, ADB, OPIC, and the World Bank's Inspection Panel either explicitly permit site visits to determine eligibility or do not have enumerated means to determine eligibility and thus do not prohibit site visits. See EIB, *supra* note 20; EBRD, *supra* note 20; CAO, *supra* note 20; AfDB, *supra* note 22; ADB, *supra* note 22; OPIC CR webpage, *supra* note 24; World Bank, Bank Policies § 17.55 – Inspection Panel (1999), available at <http://web.worldbank.org/WBSITE/EXTERNAL/PROJECTS/EXTPOLICIES/EXTOPMANUAL/0,contentMDK:20064576~menuPK:64701637~pagePK:64709096~piPK:64709108~theSitePK:502184,00.html> (last visited June 28, 2011).