

# ACCOUNTABILITY RESOURCE GUIDE

Tools for Redressing Human Rights & Environmental Abuses in  
International Finance and Development



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counsel

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## Tools for Redressing Human Rights & Environmental Abuses in International Finance and Development

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## Glossary of Terms

ADB	Asian Development Bank
AfDB	African Development Bank
BPs	Bank Procedures (of the World Bank)
BIC	Bank Information Center
BCRC	Board Compliance Review Committee (of the ADB)
BNDES	Brazilian Development Bank
CAO	Compliance Advisor/ Ombudsman (for IFC & MIGA)
CEO	Chief Executive Officer
CRMU	Compliance Review and Mediation Unit (of the AfDB)
CRO	Complaints Receiving Officer (of the ADB)
CRP	Compliance Review Panel (of the ADB)
CSR	Corporate Social Responsibility
EBRD	European Bank for Reconstruction and Development
EDC	Export Development Canada
EFIC	Export Finance & Insurance Corporation (of Australia)
EIA	Environment Impact Assessment (of JBIC and JICA)
EIB	European Investment Bank
EPs	Equator Principles
EPFI	Equator Principles Financial Institution
ESPS	Environmental and Social Policy Statement (of OPIC)
ESRP	Environment & Social Review Procedure (of the IFC)
GCF	Green Climate Fund
IBRD	International Bank for Reconstruction & Development
IAP	Independent Appeals Panel (of the ADB)
IDA	International Development Association
IDB	Inter-American Development Bank
IFC	International Finance Corporation
IFI	International Financial Institution

IRM	Independent Review Mechanism (of the AfDB)
JICA	Japan International Cooperation Agency
JBIC	Japan Bank for International Cooperation
MICI	Independent Consultation and Investigation Mechanism (of the IDB)
MIGA	Multilateral Investment Guarantee Agency
MNE	Multinational Enterprises
NCP	National Contact Point (of the OECD Process)
NEXI	Nippon Export and Investment Insurance
NGO	Non-Governmental Organization
OAI	Office of Audit and Investigation (of the UNDP)
ODA	Official Development Assistance (of Japan)
OECD	Organization for Economic Cooperation and Development
OPs	Operational Policies (of the World Bank)
OPIC	Overseas Private Investment Corporation
PCM	Project Complaint Mechanism (of the EBRD)
PR	Performance Requirements (of the EBRD)
SPF	Special Project Facilitator (of the ADB)
UN	United Nations
UNDP	United Nations Development Programme



Accountability Counsel is a non-profit organization that amplifies the voices of communities around the world to protect their human rights and environment. As advocates for people harmed by internationally-financed projects, we employ community driven and policy level strategies to access justice.

We accomplish our mission through three programs:

1. **Work in Communities:** Our lawyers assist communities with all aspects of effectively using little-known complaint offices tied to projects that cause harm. Our client communities' needs drive the type of assistance we provide, ranging from in depth, multi-year involvement at every stage of a process, to discrete advising at key stages.
2. **Policy Advocacy:** Our policy advocates to ensure that complaint offices are accessible, independent, transparent, fair and effective tools for justice. We also advocate for new accountability offices where none exist.
3. **Resources:** We provide trainings and tools for communities and their advocates to understand how complaint offices work, we collaborate with a network of global accountability advocates, and track data and trends within the accountability field.

Our work pays particular attention to women, children and other marginalized groups, who are often the most deeply harmed by abuses. We work only upon requests for assistance from local communities and in close partnership with grassroots and regional organizations in each case. As part of our mission, the groups we train are able to continue long-term advocacy for accountability in development finance in their communities, regions and countries.

Accountability Counsel is independent from the influence of governments, corporations and other institutions. We are devoted to ensuring that the voices of communities are heard and respected.

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## Introduction: How to Use This Guide

The purpose of this Guide is to provide information for people who are, or who may be, harmed by projects sponsored by:

- **international financial institutions**  
(such as the World Bank's International Finance Corporation (IFC)),
- **export promotion agencies and national development banks**  
(such as the U.S. Government's Overseas Private Investment Corporation (OPIC) and the Japan Bank for International Cooperation (JBIC)), or
- **private multinational corporations**  
(such as Chevron, Rio Tinto and Shell).

Examples of the types of projects that can cause harm where this Guide may be useful are: mines; oil and gas extraction, production and pipeline facilities; water privatization projects; and agricultural projects.

This Guide is intended to assist community leaders, lawyers, and non-governmental organizations (NGOs) in determining what rights communities have and how they may access accountability mechanisms when those rights have been or may be violated. These tools may be used where a project has harmed communities or resources on which they depend or when there is fear of harm in the future.

Communities are encouraged to discuss the following questions before deciding on an advocacy strategy:

**Question 1: What is the Source of the Harm?** Often, there is more than one actor involved in a project that may be partly or indirectly responsible for the harm the project has caused. The agency or corporation implementing the project may have been the direct source of the harm, but it is also important to look to the financial institutions investing in the project. For example, the source of the harm in an oil project may be the oil company operating on the ground *and* project sponsors, such as the World Bank Group's International Finance Corporation (IFC) and other commercial banks that have financed the investment. Understanding the sources of harm is an essential first step toward determining a strategy to address the harm.

Information about which actors are involved in a project may be available through the company carrying out the project, through a local or national government agency, through the websites of financing institutions, or through media reports.

**Question 2: What Are Your Rights?** Which rights does the harmed community have under international law, domestic laws, or the rights created at the project level by the policies of project financiers (such as the World Bank)? For both of these initial questions, communities can seek research assistance from Accountability Counsel or from other regional, national or international NGOs or lawyers.



**Question 3: How Can You Enforce Your Rights?** If any of these rights are threatened or violated, complaints may be brought through mechanisms discussed in this Guide, as well as others that may apply in the local context.

**Accountability Mechanisms.**

This Guide discusses what accountability mechanisms are, how they function, and how to initiate a complaint. The term “accountability mechanism” in this Guide means an office in an institution that has been given the authority by that institution to try to resolve a dispute or determine compliance with the institution’s policy. Accountability mechanisms may resolve the dispute formally or informally, and may use a variety of tools to resolve the dispute, including investigations or formal dispute resolution proceedings.

**Project-Level Grievance**

**Mechanisms.** Some institutions, including the United Nations Development Programme and the Equator Principles, make use of project-level grievance mechanisms, which address grievances at the level of the company or the project. Such mechanisms should typically be established at the outset of a project. Because companies are in control of project-level grievance mechanisms, there may be problems of perceived or actual conflicts of interest and lack of fairness, independence, and transparency. Because project-level grievance mechanisms vary greatly from one project to another, this Guide does not include information on specific project-level mechanisms.

**ALLOWING YOUR VOICE TO BE HEARD DESPITE LIMITS**

- The mechanisms discussed in this Guide are a limited selection of the tools that may be used to assert your rights.
- While there are limitations to each mechanism, they can provide a way for project-affected people to raise concerns regarding human rights and environmental violations.
- These mechanisms are still relatively new and are developing. Some are more independent and effective than others. At a minimum, they provide a forum to raise disputes when there is often no alternative way for your voice to be heard.

## The Structure of the Guide

Part I of this Guide discusses strategic considerations that should be addressed before using any of the mechanisms described in this Guide.

Part II presents information about accountability mechanisms tied to multilateral institutions such as the World Bank, regional development banks and United Nations (UN) institutions. These mechanisms may be useful for those who have been, or are likely to be, negatively affected by a project financed by one or more of these institutions. Generally speaking, a person or organization may complain to an accountability mechanism if the institution has violated, or is likely to violate, one of its own policies and procedures in the planning, design or implementation of a project. Those harmed must usually be able to explain how the policy violation caused or may cause harm. If a project is financed by more than one of the institutions, complaints may be submitted simultaneously to more than one of these mechanisms.

Part III provides information about national accountability mechanisms. These include mechanisms tied to export promotion agencies, which are departments of national governments that support domestic corporations by giving them insurance or financing (such as loans) for exports or projects abroad. Export promotion agencies are only just beginning to create accountability mechanisms. This section also discusses the Organization for Economic Cooperation and Development (OECD) Guidelines for Multinational Enterprises (which include standards on the environment, labor rights, human rights, corruption and other issues) and the National Contact Point (NCP) system that exists to hear complaints about “specific instances of conduct” by multinational companies that have violated the Guidelines.

Part IV discusses two sets of international principles for corporate accountability: the Equator Principles, which is a set of norms adopted by private banks, and the UN Guiding Principles on Business and Human Rights, which establish standards for state and corporate actors to protect and respect human rights, and remedy business-related human rights violations where they do occur.

Part V briefly discusses additional trainings and consultations that Accountability Counsel may be able to provide.

The Appendix of Materials includes links to the relevant policies and procedures for the institutions discussed here, brochures from the mechanisms themselves, and other guides similar to this one. The Appendix should be read along with the Guide for each of the mechanisms discussed below. Please contact Accountability Counsel for a hard copy of the Appendix if needed.

## PART I STRATEGIC CONSIDERATIONS

Before using any of the mechanisms below, communities and NGOs assisting them may wish to discuss the following issues.

- **Who is affected by the project?** What is their definition of community? Some groups of people may be *directly* affected, while others may be *indirectly* affected. The group of people affected may be wider than those in the traditional “community.”
- **Community relations:** Are there community divisions that could become worse depending on the course of action chosen? Will community divisions undermine the effort to address the harm? Or can divisions be overcome so that the efforts are cooperative?
- **Who will speak for and lead the group?** Will there be a spokesperson? Will the group operate by consensus, by a majority vote, or by another method?
- **Consideration of rights of women, children and other marginalized groups?** The grave repercussions of projects often disproportionately marginalize already vulnerable members of communities. It is important to address and identify forms of marginalization and hierarchy that are specific to each community. Employing a respect-based method is key to ensure that women, children and other marginalized people are included as full participants in community strategies seeking accountability. Specifically, consider:
  - When working in communities, seek out **women leaders** to guide work and ensure that you are aware of issues uniquely facing women and girls, with frequent work in **small groups**.
  - Ensure that **communication** formats are appropriate so that language is not a barrier for those who do not speak the languages used by corporations, international institutions, and accountability offices.
  - Take particular care to ensure that **women’s stories** of abuse, concerns about livelihoods, mental and physical health and safety, and other gender-related impacts of projects are understood and **documented** in the formal complaints to accountability offices. Take great care to respect women’s **confidentiality, security, and decision-making** about how and when their stories are shared.
  - When conducting follow up work, ensure that women are **participants in decision-making** and that our process of seeking accountability has an **empowering impact** that does not further oppress vulnerable members of society.
- **What is the end goal?** What do you and others in the community hope to accomplish? While reaching a consensus in the community about goals is important, possible goals may conflict and could include conflicting ideas about the project itself. For example, the community’s goal could be to simply raise awareness locally, nationally or globally about a project affecting the community, or it could be to halt the project, or any goal in between. It may help to be aware of differing ideas and try to negotiate a common position before any action is taken.

- **What are realistic expectations for possible outcomes?** The results of a formal complaint to an accountability mechanism may or may not be effective. Each mechanism has its limitations, and some are more independent and effective than others. Depending on the situation, a realistic outcome may simply be to bring attention to the community’s issue and create a factual record of the harm; or it may be realistic to expect compensation for harm. In those cases where only a record of the harm is created, the community may be able to use this record to press for change through informal avenues – like use of the media, NGO or political campaigns. In some cases, despite all efforts, it is important to be aware that *there may be no positive outcome* as a result of engaging with one or more of the mechanisms described in this Guide.
- **How much time and what resources are available?** Some mechanisms require that a complaint be brought within a certain time period. In addition, the entire process of bringing a claim may be slow and could be expensive. It may be possible to receive financial or other assistance from local or international NGOs.
- **Awareness of the available tools:** Often, many tactics working together are needed to make change. Claims to the mechanisms discussed in this Guide will be only *part* of an effective campaign. Some additional tools and strategies to consider are:
  - **Mobilizing** a local grassroots coalition to support all aspects of the campaign – filing a claim to one of the mechanisms described below has often served as an organizing tool;
  - Making use of contacts within **government** to put pressure on the people or institutions causing the harm;
  - If appropriate, attempting to **negotiate** with the institution or corporation causing the harm;
  - Engaging with the **UN Working Group** on Business and Human Rights or other UN Special Rapporteurs to address specific cases of human rights abuse;
  - Engaging with the **media** to cover your issue; and
  - Filing a lawsuit in a local, foreign or international **court** against those involved in the project that caused harm.
- **Which tools will be used and in what order?** A community may first try to directly negotiate with the corporation or institution causing the harm. If that does not work, it may develop a media and grassroots campaign, and the campaign may culminate in a complaint filed to one of the mechanisms described in this Guide. Some of the mechanisms require contacting an implementing agency or financier directly before submitting an official complaint. The order of the tools used may vary case by case.
- **Information disclosure tools:** Many of the institutions discussed in this Guide have policies regarding information disclosure that give project-affected people the right to certain types of information about specific projects or policies. The information disclosure policies are based on the “presumption of disclosure” – that is, unless there is an important reason not to disclose information, the staff of the institutions below will

be directed to disclose the information. However, some institutions regularly refuse to provide requested information despite these policies.

- **Safety issues:** Confidentiality may not always be maintained and retaliation could be a real danger. It is important that you and other community members are aware of these risks when discussing strategies and plan for them. Even if you coordinate a campaign with international allies to act on your behalf, this may not guarantee safety from retaliatory abuse.

**Make A Record.** It is important to record all the information about the harm you and other community members are experiencing. If possible, take pictures, record events or places on video, take notes and tape or video record interviews with those harmed. In addition, take detailed notes of any meetings held with local officials or representatives of corporations or institutions, and keep records of all steps that have been taken to resolve your problem. This evidence may be crucial in demonstrating the harm you are experiencing or expect to experience.

**Contact Allies For Support.** If you need assistance formulating your strategy or would like more information about any of the issues discussed above, please contact Accountability Counsel at [info@accountabilitycounsel.org](mailto:info@accountabilitycounsel.org). We may be able to put you in touch with communities that have made accountability strategy decisions in the past or organizations that have helped them through the process.

## PART II MULTILATERAL INSTITUTIONS

Multilateral institutions, such as the World Bank and regional development banks, were created to promote and fund responsible development. Many multilateral institutions have internal rules designed to prevent them from funding projects that harm local communities and the environment. However, despite these social and environmental safeguards, these institutions often fund harmful projects.

### The World Bank Inspection Panel

#### What is the World Bank?

The mandate of the World Bank Group is poverty alleviation. The World Bank Group is made up of 184 member countries and consists of several different institutions, including the:

- International Bank for Reconstruction and Development (**IBRD**),
- International Development Association (**IDA**),
- International Finance Corporation (**IFC**), and
- Multilateral Investment Guarantee Agency (**MIGA**).

The **IBRD** and **IDA** give grants and loans to the public sector. When people talk about the ‘World Bank’, they are usually referring to the IBRD and IDA. These two institutions provide low-interest loans directly to governments for specific projects or initiatives.

The **IFC** supports private sector investment in developing countries through loans, advisory services and other financial tools. **MIGA** provides insurance to private corporations investing in developing countries. IFC and MIGA projects have their own accountability mechanism, the Compliance Advisor/ Ombudsman (CAO), discussed in the next chapter of this Guide.

#### What is the World Bank Inspection Panel?

The Inspection Panel began operations in 1994 and was the first accountability

#### INSPECTION PANEL QUICK SUMMARY

Submit a complaint to the World Bank Inspection Panel if:

- You are part of a group of two or more people (or their representative) who live in an area affected by a World Bank-financed project;
- You have been harmed or are likely to be harmed by a project financed by the Bank’s public-sector institutions, IBRD or IDA;
- The harm has been or will be caused by the Bank’s failure to fully comply with its own operational policies and procedures;
- You have already attempted to resolve the issue with Bank management; and
- The Bank loan is less than 95% disbursed.

If your complaint is eligible, the Panel will investigate the Bank’s compliance and issue a public report to the Bank’s Board. Bank Management will respond with an Action Plan to address any findings of non-compliance. Then the Bank’s Board will decide what to do.

mechanism of its kind. The Panel may only investigate projects financed by the public sector branches of the World Bank Group: the IBRD and IDA.

The Panel consists of three Panel members and a small staff. To ensure independence, Panel members cannot have worked for the Bank in any capacity for the two years before they work for the Panel, and can never work for the Bank again after their five-year term as a Panel member is complete.

### How to File a Complaint with the Inspection Panel<sup>1</sup>

Two or more people who have been harmed or fear harm from a World Bank project may file a complaint with the Inspection Panel. Representatives may file on behalf of the affected people if they include proof of authority to do so.

A complaint must meet several **eligibility criteria** to be eligible for an Inspection Panel investigation:

- The complaint must be made by two or more people who live in an area affected by a World Bank public sector (IBRD or IDA) project.<sup>2</sup>
- It must relate to harm caused by the Bank's failure to comply with its policies.
- It must not be related to project procurement.
- Project-affected people – or their representatives – must first make an effort to resolve the issues with World Bank staff. If Bank staff's response is not satisfactory, a complaint may immediately be submitted to the Inspection Panel.
- The amount of the loan or credit funding the project must be less than 95% disbursed.

For more details on the Inspection Panel and steps to filing a complaint, see [SOMO and Accountability Counsel's Inspection Panel Brochure](#) (see footnote 1).

Complaints to the Inspection Panel may be submitted in any language and are generally written in the form of a letter.<sup>3</sup> **Complaints should include the following information:**

- The names of two or more affected people, or the name of the representative bringing the complaint on their behalf along with proof of the representative's authority;
- A description of the project including the name and description of the World Bank (IBRD or IDA) project or program, if known;
- A description of the harm that the project has already caused or the harm that is expected to occur;
- A description of why the World Bank is responsible for the harm, including, if possible, which policies you believe have been or are being violated;

<sup>1</sup> Accountability Counsel and SOMO have produced a brochure that provides additional information about the Inspection Panel and steps to filing a complaint, available at: <http://www.accountabilitycounsel.org/wp->

<sup>2</sup> The private sector institutions have their own complaint mechanism – the Compliance Advisor/ Ombudsman – which is described below.

<sup>3</sup> A suggested complaint format can be found at <http://ewebapps.worldbank.org/apps/ip/Pages/FileaRequest.aspx>.

- A description of the steps you have taken to contact World Bank staff to address the problem, including a description of the Bank’s response (if any), and why the response did not resolve the problem. Supporting documents about this “good faith” attempt to resolve the problem should be submitted (such as copies of correspondence or meeting notes); and
- Any other relevant documents or other supporting evidence, such as photographs of the project site or statements from affected people.

### **Confidentiality**

When filing a complaint, project affected people may request in the complaint that the Inspection Panel keep their names confidential if they fear that they will be harmed as a result of speaking out.

### **How Does the Panel Operate?**

Once the Panel receives a complaint, it determines whether or not the subject matter of the complaint is within the Panel’s mandate. The Panel has 15 business days to decide whether or not the complaint meets the basic requirements for registration.

The Panel may postpone its decision on registration, even when the complaint meets the criteria for registration, to employ its new “Pilot Approach” to support early solutions.<sup>4</sup> On a case by case basis, the Panel will consider this option when: (1) The harm is clearly defined, focused, limited in scope and amenable to early resolution in the interests of complainants; (2) World Bank Management has already initiated and/or planned measures to address the alleged harms; and (3) Complainants support the early solutions approach. If Management indicates a preference for this optional alternative approach, the Panel first consults the complainants, and if they accept this approach, Management must promptly provide them with information on proposed steps and/or measures along with an anticipated timeframe to address the issues raised. Please note that communities do not have to agree to this optional approach and should not feel pressured to do so, unless this approach is in their best interests.

For the registered complaints, the Panel sends a copy of the complaint to World Bank Management. Management has 21 days to respond to the allegations in the complaint. The Panel then has another 21 days to determine whether the complaint is eligible and merits an investigation. The Panel’s eligibility determination may involve a visit to the project site and meeting with project-affected people. The Panel submits an eligibility report to the World Bank Board of Directors, which contains a recommendation about whether the complaint should be investigated.

The Panel may also postpone its process at this stage by deferring its recommendation on investigating to provide Management and Complainants additional time to seek a resolution

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<sup>4</sup> See Inspection Panel, *Piloting a new approach to support early solutions in the Inspection Panel Process* (Nov. 6, 2013), available at: <http://ewebapps.worldbank.org/apps/ip/PanelMandateDocuments/PilotingNewApproach.pdf>; see also Annex 1 to the Inspection Panel’s Operating Procedures (Apr. 2014), available at: <http://ewebapps.worldbank.org/apps/ip/PanelMandateDocuments/2014%20Updated%20Operating%20Procedures.pdf>.



of the issues in the complaint. The Panel's 2014 Operating Procedures codified this practice,<sup>5</sup> despite serious concerns raised by civil society. If your complaint is postponed in this manner despite your wishes, you should make sure to raise your concerns with the Panel and may also wish to reach out to Accountability Counsel or other NGOs for support.

If the Panel recommends an investigation and the Board approves, the Panel may visit the project site. In full investigations, the Panel gathers further information, talks with affected people, reviews all relevant documents, interviews people who participated in the project (including Bank staff) and may hire experts to conduct independent analyses of the issues raised in the complaint.

When a Panel investigation is complete, the Panel submits its final report to the Board of Directors and to Bank Management regarding whether the Bank is in compliance with its own policies and procedures. Bank Management then has six weeks to submit its own recommendations to the Board on what actions the Bank should take in response to the Panel's findings. Bank Management is required to consult with complainants in the process of developing its recommendations. Based on the Panel's report and Management's recommendations, the Board makes a final decision on what action to take, if any. This could include cancellation of the project, steps to change the project, new compensation programs, or no action at all. There is no right to appeal the Board's decision. The Panel and Management's final reports and the decision of the Board will then be made public and shared with the complainants.

### **World Bank Policies That May Apply to an Inspection Panel Complaint**

The Inspection Panel only has the power to analyze whether the Bank violated its own policies and procedures in financing a project. Understanding Bank policies can therefore be important to building a strong complaint. Two types of World Bank policies that may apply in submitting a Request for Inspection are Bank Procedures (BPs)<sup>6</sup> and Operational Policies (OPs).<sup>7</sup>

- **Bank Procedures (BPs)** – explain how Bank staff carries out the OPs. They describe the procedures and documentation required to ensure consistency and quality within the World Bank.
- **Operational Policies (OPs)** – establish the guidelines for Bank operations. They also describe the circumstances under which exceptions to policy can be made and by whom.

The OPs that are most relevant to reviewing projects for social and environmental issues include policies on: environmental assessment (OP 4.01); natural habitats (OP 4.04); indigenous peoples (OP 4.10); involuntary resettlement (OP 4.12); gender and development (OP 4.20); forests (OP 4.36); and project supervision (OP 13.05).

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<sup>5</sup> See Inspection Panel Operating Procedures, n.7 (Apr. 2014), available at: <http://ewebapps.worldbank.org/apps/ip/PanelMandateDocuments/2014%20Updated%20Operating%20Procedures.pdf>.

<sup>6</sup> See World Bank Bank Procedures, available at: <http://web.worldbank.org/WBSITE/EXTERNAL/PROJECTS/EXTPOLICIES/EXTOPMANUAL/0,,menuPK:4564187~pagePK:64719906~piPK:64710999~theSitePK:502184,00.html>.

<sup>7</sup> See World Bank Operational Policies, available at: <http://web.worldbank.org/WBSITE/EXTERNAL/PROJECTS/EXTPOLICIES/EXTOPMANUAL/0,,menuPK:4564185~pagePK:64719906~piPK:64710996~theSitePK:502184,00.html>.

Additionally, the World Bank's controversial **Country Systems** policy (OP/BP 4.00) substitutes use of the World Bank's Operational Policies for those of the borrowing country's standards when a country's standards are deemed "equivalent" to Bank standards and "acceptable" to the Bank.<sup>8</sup> This highly controversial approach<sup>9</sup> is still in test phase, but is expected to be used increasingly in coming years. Concerns include:

- Lack of capacity and/or political will on the part of borrowers to implement national standards;
- Bank staff conflict-of-interest and difficulty in assessing equivalence of national standards;
- That Country Systems may provide less protection for people and the environment than Bank policies and procedures, and;
- A weakening of the Inspection Panel because it will not be able to determine compliance with substantive safeguard policies when Country Systems are used. The Panel's mandate under Country Systems is only to determine whether the Bank's supervision policy was violated and whether Management's equivalence assessment is correct.

World Bank policies change periodically. Several key safeguard policies are currently under review, with new policies expected in 2016. The policies that apply to a project are those that were in effect when the loan agreement was signed between the World Bank and the country in which the project is taking place (the "borrower").

### **The World Bank's Information Disclosure Policy**

The World Bank Group's Information Disclosure Policy<sup>10</sup> requires that the public have access to a wide range of documents, including information about particular loans, investments, grants and guarantees, such as Environmental Assessments, Indigenous Peoples' Plans & Indigenous Peoples' Development Plans, Integrated Safeguard Data Sheets, Loan Agreements, Project Appraisal Documents, Project Information Documents and Resettlement Plans.

These and other documents should be available on the World Bank Group website [www.worldbank.org](http://www.worldbank.org) and at World Bank Public Information Centers around the world.<sup>11</sup> If you have trouble accessing a document that should be public, the World Bank has a Disclosure Help Desk that you may email for assistance at [disclosure@worldbank.org](mailto:disclosure@worldbank.org). For additional information, please see the Bank Information Center (BIC) Toolkit for Activists.<sup>12</sup>

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<sup>8</sup> See the World Bank's description of Country Systems and a link to OP/BP 4.00 (Mar. 2005) available at: <http://web.worldbank.org/WBSITE/EXTERNAL/PROJECTS/EXTPOLICIES/EXTSAFEPOL/0,contentMDK:20931764~menuPK:2575613~pagePK:64168445~piPK:64168309~theSitePK:584435,00.html>.

<sup>9</sup> For a critique of the Country Systems policy, see Bank Information Center (BIC) & the Center for International Environmental Law (CIEL), *Country Systems Approach to World Bank Social and Environmental Safeguards: Concerns and Challenges* (Dec. 1, 2004), available at: <http://www.bicusa.org/en/Article.1775.aspx>.

<sup>10</sup> World Bank Information Disclosure Policy 2002, available online at <http://www1.worldbank.org/operations/disclosure/documents/disclosurepolicy.pdf>.

<sup>11</sup> To locate the nearest Public Information Center, visit <http://web.worldbank.org/WBSITE/EXTERNAL/EXTABOUTUS/EXTPIC/0,menuPK:64156620~pagePK:64156679~piPK:64156642~theSitePK:439948,00.html> and <http://www.worldbank.org/disclosure>.

<sup>12</sup> See BIC's Toolkit for Activists, Section 3: Access to Information at the World Bank Group, available online at <http://www.bicusa.org/en/Page.Toolkits.aspx>.

## **Reasons to Use the Panel Process**

Submitting a complaint to the Panel could:

- Help raise awareness about problems from a World Bank project, both locally and internationally;
- Allow you to directly voice your concerns to the World Bank about a project;
- Lead to a formal investigation by the Panel;
- Lead to an official determination by the Panel about whether or not there have been violations of World Bank policy; and
- Lead to action by the World Bank's Board to correct the violation.

## **Limits to Use of the World Bank Inspection Panel**

The World Bank Inspection Panel is not a court – the Panel can submit findings to the Board of Directors, but the Board has the final say on what will be done in response to the findings. The Panel may only investigate complaints dealing with World Bank policy violations – not misconduct of a government or a private actor where there was no alleged wrongdoing on the part of the Bank. If an issue has already been addressed by the Panel, it may only be addressed again if new evidence or circumstances are presented.

Furthermore, the Panel may only investigate compliance with Bank policy; it does not have a dispute-resolution system, which many other accountability mechanisms have. Many people find this “compliance only” approach less helpful in addressing immediate community concerns. As explained above, in recent years, the Inspection Panel have given Bank staff the opportunity to “problem solve” by employing its Pilot Approach or by deferring its investigation recommendation. Accountability Counsel and many other NGOs have expressed concerns about these types of informal dispute resolution approaches because they lack procedural protections, such as the use of neutral facilitators, making them subject to possible abuse.

## **Following Up on Your Complaint**

Once the complaint has been submitted, if you do not hear from the Inspection Panel, check with the Panel to ensure that the process is moving along. It is also often helpful to speak to members of the World Bank Board, who will ultimately decide what to do with the Inspection Panel's report. Organizations like US-based Bank Information Center may be able to help you contact Board members. If the Panel concludes that the Bank has violated its rules, you should follow up to ensure the Board follows through with any commitments made to remedy the harm (or potential harm) of the project. The Board may ask the Panel to monitor any changes to the project as a result of the Panel's investigation.

## **Example of an Inspection Panel Complaint**

In 2005, the Inspection Panel received a complaint from forest-dependent communities in Cambodia regarding the Cambodia Forest Conservation and Control Project. The complainants wanted to maintain confidentiality and asked that the NGO Forum on Cambodia act on their behalf. The complainants claimed that the project benefited loggers with track records of illegal logging of the forest upon which the complainants depend for their livelihood. The complainants argued that the World Bank's failure to follow its policies, including failure to

consult with local people and conduct a proper environmental assessment, *would cause* harm to the forest and their livelihoods.

The Inspection Panel determined that the complaint was eligible and conducted a full investigation. The Panel's March 2006 Report found violations of World Bank policies, including that the project had failed to "take on the key objective of using the potential of forests to reduce poverty."<sup>13</sup> Bank Management responded to the Report, acknowledging policy violations and proposing corrective actions. The Bank has also issued "lessons learned" for future project design and implementation.

The Bank then claimed to be working with civil society groups in the region to address the forestry sector issues raised in the complaint. However, because the loan for the project had closed (and the Bank claimed to no longer have control over the project), the Bank stated that nothing could be done to change the problems raised in the complaint. Therefore, the people negatively affected by the Cambodia Forest Project may not themselves have seen the benefit of having brought the complaint. However, they may have had a positive impact on the way World Bank forestry sector projects are carried out in Cambodia in the future.

### **How to Contact the World Bank Inspection Panel**

Complaints may be sent to the nearest World Bank country office or filed in person with a World Bank resident representative, which will forward the complaint to the Panel. Complaints may also be sent via mail, email or fax directly to the Panel, at:

The World Bank Inspection Panel  
1818 H Street NW, MSN MC10-1007  
Washington, D.C. 20433, U.S.A.  
Phone: +1 202 458 5200  
Fax: +1 202 522 0916  
Email: [ipanel@worldbank.org](mailto:ipanel@worldbank.org)

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<sup>13</sup> Cambodia Forest Conservation and Control Project Investigation Report at xvi, available online at <http://siteresources.worldbank.org/EXTINSPECTIONPANEL/Resources/CAMBODIAFINAL.pdf>.

## The Compliance Advisor/Ombudsman (CAO)

### What is the Compliance Advisor/ Ombudsman (CAO)?

The CAO receives complaints about projects financed by the IFC or MIGA, the branches of the World Bank Group that provide loans and guarantees to the *private sector*. The CAO has three functions:

- **Dispute Resolution** – the CAO seeks to resolve disputes in a mutually agreeable and flexible way without finding fault. The goal of dispute resolution is to improve social and environmental outcomes on the ground.
- **Compliance** – the CAO may investigate whether the IFC and MIGA have complied with their social and environmental policies, procedures and guidelines.
- **Advisor** – the CAO gives advice to the President of the World Bank Group and staff of IFC and MIGA about particular projects or policies.

### How to File a Complaint with the CAO?<sup>14</sup>

Any individual or community directly impacted by an IFC or MIGA project, or likely to be directly affected, may bring a complaint to the CAO. Representatives may file a complaint on behalf of affected people, provided they clearly identify the people on whose behalf the complaint is made and submit proof of the representation (please note issues with the CAO and representation below).

A complaint must meet the following **eligibility criteria** to qualify for CAO assessment:

- The complaint must relate to a project the IFC or MIGA is participating in or

### CAO QUICK SUMMARY

Submit a complaint to the CAO if:

- You are a person, group or organization (or their representative); and
- You have been or are likely to be affected by the social or environmental aspects of an IFC or MIGA project.

If the CAO determines that your complaint is eligible, it will conduct an assessment of the complaint to determine which CAO role the parties are seeking. If Dispute Resolution is triggered, the CAO will facilitate a process designed to address the issues in the complaint with the goal of reaching a mutually agreeable solution.

If Compliance is triggered during the assessment, or if no agreement is reached or implemented through Dispute Resolution and complainants seek Compliance, the CAO conducts an appraisal and may conduct a full compliance investigation to determine adherence to IFC/MIGA social and environmental policies. Compliance investigation reports are made public, and the CAO monitors changes until the IFC/MIGA take steps to resolve noncompliance.

<sup>14</sup> Accountability Counsel and SOMO have produced a brochure that provides additional information about the CAO and steps to filing a complaint, available at: [http://www.accountabilitycounsel.org/wp-content/uploads/2013/05/HRGM\\_WWW\\_CAO.pdf](http://www.accountabilitycounsel.org/wp-content/uploads/2013/05/HRGM_WWW_CAO.pdf). The CAO website also contains information on how to bring a complaint, available at: <http://www.cao-ombudsman.org/howwework/filecomplaint/>. In addition, the Center for International Environmental Law (CIEL) has written *A Handbook on the Office of the Compliance Advisor Ombudsman of the International Finance Corporation and Multilateral Investment Guarantee Agency* (Discussion Draft September 2000), available online at <http://www.ciel.org/Publications/CAOhandbook.pdf>.

actively considering;

- It must relate to social or environmental harm associated with that project;
- It must demonstrate that they have been or are likely to be affected by actual or potential social or environmental impacts on the ground; and
- It must not relate to project procurement decisions.

Complaints are typically submitted in the form of a letter and may be submitted in any language.<sup>15</sup> **Complaints should include the following information:**

- The identity of the complaining individual or group;
- Whether the complainant wishes their identity or any information in the complaint to be kept confidential (stating reasons);
- Details about the project;
- The harms caused or expected;
- The IFC and/or MIGA policies believed to have been violated (if any – and this is not required for a CAO complaint);
- A description of steps already taken to resolve the problem; and
- Any evidence that supports the complaint.

For more details on the CAO and steps to filing a complaint, see [SOMO](#) and [Accountability Counsel's CAO Brochure](#) (see footnote 14).

A complaint may be filed with the CAO at any time, so long as the IFC or MIGA is still participating in the project. However, the IFC and MIGA will have less ability to correct a problem once the entire loan has been distributed, even if the CAO process results in recommended changes.

### **Confidentiality**

The CAO will not accept anonymous complaints, but you can request confidentiality regarding your identity or regarding other information submitted to the CAO. Materials submitted on a confidential basis will not be released without your consent, but the CAO will indicate publicly that it has restricted disclosure of information in response to a request from a party. Additionally, confidential information you share with the CAO during Dispute Resolution will not be shared with the Compliance team unless you give explicit permission to do so.

### **How Does the CAO Operate?**

The CAO should inform you within 15 days of receiving the complaint whether it is eligible for further assessment. If your complaint is found eligible, you will enter an assessment period of up to 120 days, in which the CAO will review the issues raised, reach out to all stakeholders, and determine which CAO role the parties seek to initiate. You will have the option of addressing the problems in the complaint through the Dispute Resolution process or requesting that the complaint go directly to Compliance.

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<sup>15</sup> A model complaint letter may be found at: <http://www.cao-ombudsman.org/howwework/filecomplaint/documents/Complaintlettertemplate.pdf>.

The **Dispute Resolution** process is a dialogue between the complainants, the project sponsor, and other local stakeholders to try to reach a solution to the issues raised in the complaint. The CAO contracts independent mediators who can facilitate a discussion and mediate disputes between the parties. The Dispute Resolution process is voluntary, so it can only move forward if all parties agree. Parties may decide at any point that they no longer wish to pursue the Dispute Resolution process, at which point the complaint will be transferred to Compliance. If an agreement is reached through Dispute Resolution, the CAO will monitor its implementation and publicly disclose outcomes on its website. Once an agreement has been implemented, or if the CAO transfers the complaint to Compliance, it will issue a Conclusion Report summarizing the process. Issues that have been resolved to your satisfaction through an implemented agreement may not be transferred to Compliance.

The **Compliance** process is an investigation into the IFC's or MIGA's compliance with their social and environmental policies. If either the project sponsor or the affected people do not wish to participate in the Dispute Resolution process, if the process does not lead to an agreement, or if an agreement is not implemented, the complaint is transferred to **Compliance**. In this phase, the CAO first conducts a 45-day appraisal of the complaint to determine whether a full investigation is warranted. The appraisal process focuses on whether the complaint raises substantial concerns regarding environmental or social outcomes or issues of systemic importance to the IFC. It is important to note that the CAO may decide to close a case at the appraisal phase even if the project has caused harm.

If the CAO decides to conduct a full investigation, the Appraisal Report and the Terms of Reference will define the scope of the investigation. If additional issues emerge later, they are subject to a separate appraisal at the discretion of the CAO Vice President. At the conclusion of the investigation, the CAO's Compliance team prepares a report, which includes findings with respect to noncompliance and any verifiable adverse environmental or social outcomes. The CAO circulates a draft Investigation Report to the IFC/MIGA for comment, after which the CAO finalizes the report and submits it again to the IFC/MIGA for an official response. The CAO then forwards the Report and the IFC's/MIGA's response to the World Bank President, who provides clearance for the Report. At that time, the Investigation Report and the IFC's/MIGA's response will be shared with the World Bank Board of Directors, posted on the CAO's website and shared with complainants. The CAO continues to monitor the case until the IFC/MIGA take actions that assure the CAO that they are addressing any findings of noncompliance.

### **IFC & MIGA Policies That May Apply in CAO Complaints<sup>16</sup>**

Although the CAO may investigate a complaint even if it does not specify which IFC or MIGA policies have been violated, when possible it is a good idea to include specific policy violations. The IFC revised its policies in January 2012, resulting in a new policy framework. You may need to refer to the previous set of policies (from 2006<sup>17</sup>) if the project causing harm was developed before the new policies came into effect. Provisions of the following policies may apply:

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<sup>16</sup> The policies are available at:

[http://www1.ifc.org/wps/wcm/connect/Topics\\_Ext\\_Content/IFC\\_External\\_Corporate\\_Site/IFC+Sustainability/Sustainability+Framework/](http://www1.ifc.org/wps/wcm/connect/Topics_Ext_Content/IFC_External_Corporate_Site/IFC+Sustainability/Sustainability+Framework/).

<sup>17</sup> The IFC's 2006 Policy Framework is available at:

[http://www1.ifc.org/wps/wcm/connect/Topics\\_Ext\\_Content/IFC\\_External\\_Corporate\\_Site/IFC+Sustainability/Sustainability+Framework/Sustainability+Framework+-+2006/](http://www1.ifc.org/wps/wcm/connect/Topics_Ext_Content/IFC_External_Corporate_Site/IFC+Sustainability/Sustainability+Framework/Sustainability+Framework+-+2006/).

- **IFC Performance Standards on Social & Environmental Sustainability (“Performance Standards” or “PS”):** The IFC’s eight Performance Standards cover the IFC’s rules on assessment and management of social and environmental risks and impacts (PS1); labor and working conditions (PS2); pollution prevention and resource efficiency (PS 3); community health, safety and security (PS4); land acquisition and involuntary resettlement (PS5); biodiversity conservation and the sustainable management of natural resources (PS6); indigenous peoples (PS7); and cultural heritage (PS8). Beyond these rules, projects must also comply with applicable national and international laws.<sup>18</sup>
- **IFC Policy on Environmental & Social Sustainability (the “Sustainability Policy”):** This policy applies to both the IFC and its clients (corporations or other groups who receive financial support from the IFC), and describes how they should implement the Performance Standards described above. For example, this policy describes how IFC projects should be categorized and the level of due diligence required based on different levels of categorization (“A” for significant impacts; “B” for limited impacts; and “C” for minimal or no impacts; and “FI” for financial intermediary lending, with subcategories of FI-1, FI-2 and FI-3).
- **IFC Environment & Social Review Procedure (the “ESRP”):** This policy provides instructions for IFC staff to ensure environmental and social sustainability of projects.
- **IFC General and Sectoral Environmental, Health, and Safety Guidelines:** The IFC has 28 sector-specific environmental health and safety Guidelines that cover such topics as electric power transmission, hazardous materials management, pesticide handling and roads & highways.<sup>19</sup>
- **MIGA’s Environmental Assessment Policy:** This policy describes how environmental assessments must be carried out for MIGA projects.

### **The IFC’s and MIGA’s Information Disclosure Policies**

The IFC’s Disclosure Policy entitles the public to information and documents including Environmental & Social Review Summaries, Summaries of Proposed Investments, Country Assistance Strategies (prepared jointly with the World Bank), Policy & Performance Standards on Social & Environmental Sustainability, Sustainability Reports and Annual Reports. The Disclosure Policy also entitles the public to information not normally disclosed if, in “exceptional circumstances,” there is a strong case that such information would serve the public interest.<sup>20</sup>

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<sup>18</sup> IFC Performance Standards on Environmental and Social Sustainability, Introduction, ¶ 5 (January 1, 2012).

<sup>19</sup> The IFC’s Sectoral Guidelines are available at:

[http://www.ifc.org/wps/wcm/connect/Topics\\_Ext\\_Content/IFC\\_External\\_Corporate\\_Site/IFC+Sustainability/Sustainability+Framework/Environmental%2C+Health%2C+and+Safety+Guidelines/](http://www.ifc.org/wps/wcm/connect/Topics_Ext_Content/IFC_External_Corporate_Site/IFC+Sustainability/Sustainability+Framework/Environmental%2C+Health%2C+and+Safety+Guidelines/).

<sup>20</sup> What IFC Discloses, available at:

[http://www.ifc.org/wps/wcm/connect/corp\\_ext\\_content/ifc\\_external\\_corporate\\_site/ifc+projects+database/projects/disclosed+projects](http://www.ifc.org/wps/wcm/connect/corp_ext_content/ifc_external_corporate_site/ifc+projects+database/projects/disclosed+projects). See also Bank Information Center’s Toolkit for Activists, available at: <http://www.bicusa.org/resources/capacity-building-and-tools/tools-for-activists/>.



The IFC has a Disclosure Policy Advisor who reviews requests for information within thirty days.<sup>21</sup> If you feel that you have been wrongly denied information, you can submit a “Request for Disclosure of Information” online (through a Microsoft Explorer Internet browser only) at <http://www.ifc.org/ifcext/corresmanage.nsf/frmInformationRequest?OpenForm>, or call or fax the IFC for information at phone: +1 202 473 3800, fax: +1 202 974 4384.

Many communities have found that the IFC does not strictly follow its disclosure policy and that it can be difficult to obtain information.

The MIGA Disclosure Policy entitles the public to information and documents including Summaries of Proposed Guarantees, Environmental and Social Review Summaries, and Institutional Information.<sup>22</sup> For information not available on MIGA’s website you can submit a disclosure request to Mallory Saleson at [msaleson@worldbank.org](mailto:msaleson@worldbank.org).

### **Limits to Use of the CAO**

Some communities have seen problems with the CAO process that may limit its usefulness. In particular, communities seeking help from their own representatives in a Dispute Resolution process have sometimes had the CAO limit the role of their representatives, lessening their capacity to address concerns. Additionally, the CAO has at times declined to conduct full compliance investigations even where communities harmed by IFC/MIGA projects have shown evidence of harm and have requested investigations.

### **Example of a CAO Complaint**

In 2007, the IFC invested in Maple Energy, an oil company that had been operating in the Peruvian Amazon for over a decade, causing serious environmental and social harm to two local indigenous communities. Although the IFC designated that project as Category B, or the middle category in environmental and social sensitivity, the communities suffered from seven oil spills between 2009 and 2012. In April 2010, the two communities filed a complaint with the CAO detailing violations of the IFC’s Performance Standards, including assertions that Maple Energy forced local men to clean up the spills without providing them protective equipment or training and that contamination from the spills had caused serious health problems, death and food security issues.

The complaint requested Dispute Resolution and Compliance. The CAO found the complaint eligible and, in April 2011 the communities and Maple Energy entered a dialogue process facilitated by a mediator hired by the CAO. In August 2011, the communities withdrew from the dialogue process because Maple Energy continued to knowingly expose villagers to crude oil; failed to remediate or provide health care after a spill that occur as the dialogue process was taking place; and refused to pay for studies regarding the extent of clean up and health care required. The complaint was then forwarded to CAO Compliance, which, in its May 2012 Appraisal Report, concluded that the case did not merit a full audit, closing the CAO’s involvement in the case. Although neither dispute resolution nor compliance review resulted in positive outcomes for the communities, the process did bring unprecedented attention to their situation, including from the Government of Peru, which formed a multi-sectoral commission

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<sup>21</sup> See

[http://www1.ifc.org/wps/wcm/connect/corp\\_ext\\_content/ifc\\_external\\_corporate\\_site/ifc+projects+database/projects/aips+added+value/projectdisclosurepolicyadvisor](http://www1.ifc.org/wps/wcm/connect/corp_ext_content/ifc_external_corporate_site/ifc+projects+database/projects/aips+added+value/projectdisclosurepolicyadvisor).

<sup>22</sup> MIGA Disclosure, available at: <http://www.miga.org/projects/index.cfm?stid=1823>.

that investigated the spills and confirmed the negative impacts of Maple Energy's operations on community health and the environment.

Recent cases in Uganda and Honduras show more successful results of CAO complaints. In Uganda, the IFC invested in an African agribusiness fund, which in turn invested in a forestry company operating in Uganda. In December 2011, community representatives and several national and international NGOs filed a complaint to the CAO regarding evictions and displacement caused by the forestry company in two different districts in which it operates. In one of those districts, the CAO reports that in July 2013, its dispute resolution process resulted in a joint sustainable development agreement aimed at benefiting the affected community. The CAO is now monitoring the implementation of the agreement.

In Honduras, the IFC made a \$30 million loan to Corporación Dinant, a palm oil and food company whose palm oil plantation expansions in Honduras had been associated with killings, kidnappings and forced evictions of local farmers. The CAO's January 2013 compliance report found serious deficiencies in the IFC's due diligence and supervision of the project. As a result, the World Bank Board required the IFC to take steps to address the situation on the ground and to ensure that it did not invest in similarly harmful projects in the future.

These examples show that complaints to the CAO can lead to mixed results for project-affected people. While neither Dispute Resolution nor Compliance brought results in the Peru case, the complaint did lead to additional attention to the plight of the local indigenous people. On the other hand, the recent cases in Uganda and Honduras demonstrate the both Dispute Resolution and Compliance can sometimes lead to positive results for local communities.

### **How to Contact the CAO**

Complaints to the CAO can be submitted in any language, although complaints in English are preferred. They can be submitted via mail, email, or fax to:

Office of the Compliance Advisor Ombudsman (CAO)  
2121 Pennsylvania Avenue, NW  
Washington, D.C. 20433, U.S.A.  
Tel +1 202 458 1973  
Fax +1 202 522 7400  
Email: [CAO@worldbankgroup.org](mailto:CAO@worldbankgroup.org)

## The African Development Bank (AfDB) Group's Independent Review Mechanism (IRM)

### What is the African Development Bank (AfDB) Group?

The AfDB is a regional development bank, established in 1964 with a mission to promote sustainable economic growth and reduce poverty in Africa. The AfDB Group consists of 54 African shareholder countries and 27 non-African shareholder countries. Three institutions make up the AfDB Group: the African Development Bank, the African Development Fund and the Nigeria Trust Fund.

### What is the Independent Review Mechanism (IRM)?

The AfDB Group's IRM became operational in 2006 and is administered by the Compliance Review and Mediation Unit (CRMU), headed by a Director. The IRM aims to provide project-affected people with an opportunity to request the AfDB to comply with its own policies and procedures, on both public and private sector projects. The IRM offers both compliance review and problem-solving functions.

### AFDB QUICK SUMMARY

You may submit a complaint to the AfDB's IRM if:

- You are a group of two or more people located in a country where an AfDB project is located; and
- Your rights or interests have been, or are threatened to be, directly, adversely and materially affected by an AfDB project.

If a complaint is found eligible, the Director of the CRMU decides whether a complaint will be dealt with as a problem-solving initiative or through compliance review, taking into account the complainant's preference. Project management must respond to a complaint within 21 days, after which a problem-solving exercise may take place or a recommendation for a compliance review will be submitted to the AfDB President or Board for approval.

At the end of a compliance review, the Board or President must approve any findings and recommendations for remedial action. The CRMU will monitor any measures implemented as the result of either process.

- **Problem-Solving** – the IRM encourages the parties involved to reach an agreeable solution without seeking to place blame. The process may include dialogue, independent fact-finding, mediation or conciliation, and it may be convened with or without the involvement of the company or government carrying out a project.
- **Compliance Review** – the IRM reviews complaints to determine compliance with AfDB policies and procedures during the design, implementation, and supervision of AfDB projects. For public sector projects, the IRM can review compliance with all operational policies and procedures, but for the private sector, review is limited to the AfDB's social and environmental policies.<sup>23</sup>
- **Advisory Function** – the IRM gives advice to the AfDB President and Boards about systemic issues and technical advice on particular projects or programs.

<sup>23</sup> See IRM Operating Rules and Procedures, January 2015, available at [http://www.afdb.org/fileadmin/uploads/afdb/Documents/Compliance-Review/Revised\\_IRM\\_Operating\\_Rules\\_and\\_Procedures\\_2015.pdf](http://www.afdb.org/fileadmin/uploads/afdb/Documents/Compliance-Review/Revised_IRM_Operating_Rules_and_Procedures_2015.pdf).

## How to File an IRM Complaint?<sup>24</sup>

Any two or more people, living in a project affected area, who have been harmed, or who are likely to be harmed, by a project funded by the AfDB Group may submit a complaint. Local representatives acting on behalf of harmed individuals may submit a complaint as long as they provide proof of representation. Foreign representation is allowed only when local representation cannot be found or can be proven inadequate or inappropriate. The Boards of Directors can also refer a project to the IRM to conduct a compliance review.

A complaint must also meet the following **eligibility criteria**:

- It must be submitted within 24 months of the final disbursement of the loan or physical completion of the project;
- It must not raise matters that are under judicial review or being considered by similar bodies; and
- It must not be related to procurement decisions.

No particular format is required for a complaint, however it should be in writing in English or French, or the local language of the affected people if they are unable to obtain a translation. Where a complaint is submitted orally, the CRMU will assist complainants to submit it in writing. The following information should be included in the complaint:

- **Personal Information:** your name, signature and contact information; whether you want your identity to remain confidential and if so why; and the name of any representatives assisting the affected person or group, with a signed letter providing proof of authority to provide the representation;
- **Information Regarding Your Rights or Interests:** a statement that as a result of the Bank-supported project, the your rights or interests have been or are likely to be directly, adversely and materially affected;
- **Information Regarding the Project:** a description of the project and the harm that has happened or is expected to happen as a result of the project; a description of any steps taken to raise or resolve the problem with Bank staff and why the Bank staff's response was inadequate; and supporting materials, such as correspondence with Bank staff, notes of meetings, maps or diagrams of the area, or a description of why those materials are not available.
- **Information Regarding the Bank's Failure:** If possible, explain how the AfDB policies were violated and how an act or failure to act by the Bank led or may lead to the policy violation.

For more details on the AfDB's IRM and steps to filing a complaint, see [SOMO and Accountability Counsel's Independent Review Mechanism Brochure](#) (see footnote 24).

The CRMU can meet with you to give advice regarding preparation of a request.

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<sup>24</sup> Accountability Counsel and SOMO have also produced a brochure that provides additional information about the IRM and steps to filing a complaint, available at: <http://www.accountabilitycounsel.org/resources/brochures/>.

## **Confidentiality**

You may request confidentiality when you submit a complaint and the CRMU Director will respect your request. If, after consulting with the complainants, the Director finds that the process cannot move forward while maintaining confidentiality, he or she will notify you and terminate the process.

## **How Does the IRM Operate?**

Within 14 business days<sup>25</sup> of receiving a complaint, the CRMU Director will review whether the complaint includes real allegations of harm resulting from a Bank-financed operation. He or she will register the complaint, reject it if it is outside the IRM's mandate, or request more information from the complainants.

After registering the complaint, the CRMU Director will request AfDB Management to submit a response within 21 days with evidence that they have complied or intend to comply with the relevant policies and procedures. At the end of the 21 days, you will be sent a copy of the Management Response Report, or a notice that Management failed to respond within the time frame.

If no additional information is required, after receiving Management's response the Director will instead decide whether to initiate problem-solving or compliance review or both within 5 days, respecting the stated preference of the complainants. If the complaint did not specify a preference, the CRMU Director will determine the best course of action in consultation with the complainants. If both functions are to move forward, problem-solving will be undertaken and completed before a compliance review will be initiated.<sup>26</sup>

Alternatively, after receiving Management's response, the CRMU may decide that it requires more information in order to proceed. In this case, it may request further clarification from Management, ask that you respond to Management's clarification, or provide relevant portions of Management's response (presumably to you) for comment. The CRMU will provide a time limit for receipt of the requested information. If you cannot provide the requested information in a timely manner, the CRMU may require you to submit an amended request and start the entire process from the beginning.

Once this process is completed, within 21 days the CRMU will decide whether to terminate the process or initiate problem-solving and/or make a recommendation for compliance review to the Board or the President.<sup>27</sup>

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<sup>25</sup> The IRM Operating Rules and Procedures includes timeframes for most phases of the process, but the CRMU Director may extend any timeframe for as long as necessary to fully and properly carry out its duties.

<sup>26</sup> Note that the IRM Operating Rules and Procedures are somewhat unclear on how much weight will be given to complainants' stated preference for initiating one function or the other. This explanation is our best guess as to the IRM's process.

<sup>27</sup> Note that the IRM Operating Rules and Procedures are unclear on what grounds the process may be terminated at this point, but the decision would likely be

## **The Problem-Solving Process**

In determining whether a complaint is eligible for problem-solving, the Director of the CRMU must consider whether problem-solving will help in addressing harm, whether the parties are amenable to the exercise, whether the Bank has sufficient leverage to affect change, whether the exercise might interfere with compliance review,<sup>28</sup> and whether it may duplicate, interfere with, or be impeded by any other court, tribunal, or review body procedure related to the same matter.

If a complaint is eligible for problem-solving, the Director will invite you, your representatives, AfDB Management and any other interested parties to participate in the process. The company or government carrying out the project need not participate in order for the process to move forward. The problem-solving may consist of different approaches including independent fact-finding, conciliation, mediation and/or dialogue facilitation.

The problem-solving process will terminate automatically if no agreement is reached after three months, or it may be terminated at any time before then with the common consent of the parties. An extension for time can be requested if necessary and conducive to reaching an agreement.

If the problem-solving is successful, the Director produces a Problem-Solving Report with the agreed solution and provides the report to the parties and the President and Boards. If the problem-solving is not successful, the Director's Problem-Solving Report will describe the underlying facts, the efforts made to resolve the issue, and recommendations for steps the AfDB should take to remedy any remaining issues. The Report, provided to all parties in the problem-solving exercise, is submitted to the Board and President, who will then decide whether to accept or reject the Director's recommendations for remedial measures and inform the parties. A summary of the result of the process is then posted on the IRM website. The CRMU is responsible for monitoring the implementation of any problem-solving agreement.

## **The Compliance Review Process**

In determining whether to initiate compliance review, the Director and IRM Experts consider whether there appears to be some evidence that harm has resulted from violations of Bank policy. This determination happens either after the CRMU receives Management's response to the complaint, or at the conclusion of problem-solving. Within 30 days of determining eligibility, the Director must submit a report with a compliance review recommendation and terms of reference to either the Boards (if the project has already been approved by the Board) or the President (if it has not). The Boards or President may approve the recommendation or send back the recommendation and Terms of Reference to be adjusted and re-submitted.

The IRM Panel of Experts conducts all compliance reviews, with administrative and technical support from the CRMU. Decisions are made by simple majority vote. The compliance review process follows the terms of reference and may include visits to project sites, meetings or interviews with you and any other interested parties, review of documents and consulting with experts. The Experts then produce a Compliance Review Report that includes a

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<sup>28</sup> It is unclear how the mechanism will analyze this, given that problem-solving may only take place before any compliance review has begun.

summary of the facts, a description of the positions of the parties, the findings of compliance or non-compliance and recommendations, if any, for changes to Bank systems or the project, and steps needed to monitor the implementation of changes.

The Experts will send the Compliance Review Report first to Bank Management for review and comments on factual matters only. The Experts may then revise the Report before they send it to the other parties and to the President or Boards for consideration. After the President and the Boards receive the Compliance Review Report, Bank Management has 90 days to prepare a response and an Action Plan based on the Report's findings, which will be submitted to the President, the Boards of Directors, the CRMU and you.

Management is also required to consult with the CRMU to agree on a date for a joint presentation of the Compliance Review Report and the Management Response and Action Plan to the Boards of Directors. This meeting will normally take place within 30 days of the date on which the Action Plan is distributed to the Boards. The President or Boards then decide whether or not to accept the findings and recommendations in the Report. The decision is promptly communicated to you and published on the website.

### **AfDB Policies That May Apply to an IRM Complaint<sup>29</sup>**

AfDB's new safeguard policies are based on an Integrated Safeguards System (ISS) that consolidates their existing environmental and social safeguards.<sup>30</sup> The Bank requires the borrowers/clients to comply with these safeguards when preparing and implementing projects. The Integrated Safeguards System comprises of four interrelated components: The Integrated Safeguards Policy Statements, Operational Safeguards (OSs), Environmental and Social Assessment Procedures (ESAPs), Integrated Environmental and Social Impact Assessment (IESIA) Guidance Notes. The OSs are a set of five safeguard requirements that bank clients are required to meet and establish operational parameters covering: OS1 Environmental and social assessment; OS2 Involuntary resettlement: Land acquisition, population displacement and compensation; OS3 Biodiversity and ecosystem services; OS4 Pollution prevention and control, hazardous materials and resource efficiency; and OS5 Labour conditions, health and safety.

### **Information Disclosure Policy**

The AfDB's new Disclosure and Access to Information (DAI) Policy<sup>31</sup> requires the AfDB to share all information with the public unless it falls under one of the exceptions in the policy. If your request for information is denied by the Information Disclosure Committee of the AfDB, you have the right to appeal the decision to an Appeal Panel.

### **Example of an IRM Complaint**

In July 2006, the Bank approved financing of the Marrakech-Agadir motorway construction project in Morocco that was under the management of Société Nationale des

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<sup>29</sup> The policy documents are available at <http://www.afdb.org/en/documents/policy-documents/>.

<sup>30</sup> The new safeguard policies, restructured and renamed the Integrated Safeguards System (ISS) was released in January 2014. See Integrated Safeguards System: Policy Statement and Operational Safeguards, available at: [http://www.afdb.org/fileadmin/uploads/afdb/Documents/Policy-Documents/December\\_2013\\_-\\_AfDB'S\\_Integrated\\_Safeguards\\_System\\_-\\_Policy\\_Statement\\_and\\_Operational\\_Safeguards.pdf](http://www.afdb.org/fileadmin/uploads/afdb/Documents/Policy-Documents/December_2013_-_AfDB'S_Integrated_Safeguards_System_-_Policy_Statement_and_Operational_Safeguards.pdf).

<sup>31</sup> DAI, available at <http://www.afdb.org/fileadmin/uploads/afdb/Documents/Policy-Documents/Bank%20Group%20Policy%20on%20Disclosure%20and%20Access%20to%20Information.pdf>

Autoroutes du Maroc (ADM). The bank loaned out a total of 118.60 million Euros to finance the civil works and consultancy services in Chichaoua-Imintanout section. In July 2010, the motorway became operational and an NGO, le Centre de Développement de la Région de Tensift, filed a complaint on behalf of the affected people in the Chichaoua-Imintanout section, citing direct and material harm they suffered due to the construction of the motorway. The harms cited included constrained crossing to lands and social amenities, difficult access to water due to diversion of watercourses and degradation of the agricultural lands due to flooding from graveling. The Requestors demanded both a compliance review and a problem-solving exercise.

The complaint was approved a problem-solving exercise in July 2010, but was not granted a compliance review. The problem-solving exercise included a fact-finding mission in October 2010 and resulted in a time-bound action plan by the Requestors, ADM and the Bank. Under this plan, ADM was to remedy the inflicted harm by delivering all necessary civil works by the end of January, 2011. After three consecutive supervision missions, Bank Country Office in Morocco (MAFO) reported to CRMU that ADM implemented the civil works in three out of the five affected villages to the satisfaction of the principal Requestor. However, some issues remained unresolved as ADM refused to restore and clean stones from the affected lands in El Bour based on the grounds that the landowners were not present when ADM was on the site to carry out the remedial works. Despite recognizing the problem-solving exercise efforts in resolving the issue in El Bour as unsuccessful, CRMU did not allow a compliance review citing several reasons including that argument that the costs of conducting a compliance review outweigh the costs to be incurred for restoring the affected lands at El Bour.

### **How to Contact the IRM**

Complaints may be sent to your country's field office,<sup>32</sup> or they may be sent directly to the IRM by mail, fax or email to:

Independent Review Mechanism (IRM) Contacts  
Compliance Review and Mediation Unit (CRMU)  
P.O. Box 323-1002 12th Floor, EPI-B  
African Development Bank Group  
Tunis-Belvedere, Tunisia  
Tel: +216 71 10 20 56, +216 71 10 29 56  
Fax: +216 71 83 56 9  
Email: [crmuinfo@afdb.org](mailto:crmuinfo@afdb.org)

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<sup>32</sup> Information on the location of the field offices can be found here: <http://www.afdb.org/en/countries/>



## The Asian Development Bank (ADB) Accountability Mechanism

### What is the Asian Development Bank (ADB)?

The ADB is a regional, multilateral development bank that is owned by 67 member countries, 48 from Asia and 19 from outside of Asia. The ADB's mission is to alleviate poverty in Asia and the Pacific through loans, technical assistance, grants, guarantees (insurance) and investments intended to create economic growth in its developing member countries.

### What is the ADB Accountability Mechanism?

The ADB's current Accountability Mechanism went into effect on May 24, 2012.<sup>33</sup> The Mechanism consists of two functions:

- **Problem Solving:** in which the Special Project Facilitator (SPF) attempts to facilitate an agreement between the parties, and
- **Compliance Review:** in which the Compliance Review Panel (CRP) conducts an investigation into the ADB's compliance with its policies and procedures.

All complaints go to the Complaints Receiving Officer (CRO). The CRO then forwards them to either the SPF or the CRP, depending on which function you request.

### ADB QUICK SUMMARY

Submit a complaint to the ADB Accountability Mechanism if:

- You are part of a group of two or more people; and
- You have been directly harmed or are likely to be harmed by an ADB-supported project.

The Complaints Receiving Officer responds to your complaint and forwards it to either the Problem Solving or Compliance Review functions, depending on which function you request.

In Problem Solving, the SPF determines eligibility, attempts to facilitate an agreement between the parties involved, and monitors the implementation of this agreement. You can walk away from this process at any time and request Compliance Review.

In Compliance Review, the CRP determines eligibility and conducts an investigation into whether the ADB has complied with its policies and procedures. The CRP presents its findings to the ADB Board, which decides whether to take action. Once you begin Compliance Review, you cannot use the Problem Solving function for the same issues, unless the CRP finds your complaint ineligible.

<sup>33</sup> The current Accountability Mechanism Policy replaces the previous 2003 Accountability Mechanism Policy, which expired on May 23, 2012. The 2012 Policy is available at: <http://www.adb.org/sites/default/files/accountability-mechanism-policy-2012.pdf>.

## How to File a Complaint with the ADB Accountability Mechanism<sup>34</sup>

Two or more people who are “directly, materially, and adversely affected by an ADB-assisted project” may file a complaint to the ADB Accountability Mechanism. A local representative may file on behalf of an affected group if the affected people are clearly identified and the representative provides proof of authorization to represent the affected people. A nonlocal representative may file on behalf of an affected group only in special cases where local representation is unavailable and the Accountability Mechanism, which has broad discretion, agrees to the arrangement.

A complaint must meet the following **eligibility criteria**:

- The complaint must relate to harm caused by an ADB-funded project. For a complaint that requests Compliance Review, the harm must be caused by the ADB’s violation of its own policies.
- It must be filed within two years of the grant or loan closing date.
- It must not be related to project procurement decisions.
- You must have made a good faith effort to resolve the issues with the ADB’s Operations Department prior to filing the complaint. This means you should contact the Operations Department and communicate your concerns and the remedy you are seeking before filing a complaint.

For more details on the ADB’s Accountability Mechanism and steps to filing a complaint, see [SOMO and Accountability Counsel’s Accountability Mechanism Brochure](#) (see footnote 34).

A complaint that requests Problem Solving will not be accepted if the matter has already been considered by the SPF (unless the complaint includes new information that was not previously available). A complaint that requests Problem Solving after a Compliance Review process has already occurred will not be accepted unless the CRP found the complaint ineligible.

Complaints are typically submitted in the form of a letter.<sup>35</sup> The ADB prefers complaints to be submitted in English, but will accept complaints in any official or national language of an ADB developing member country. **Complaints should contain the following information:**

- Your identity and contact information, and that of any representatives;
- Whether you wish to keep your identity confidential;
- Whether you wish to pursue Problem Solving or Compliance Review;
- Details about the project, including name, location, and a brief description;
- A description of the direct and material harm that you have experienced or are likely

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<sup>34</sup> Accountability Counsel and SOMO have produced a brochure that provides additional information about the ADB Accountability Mechanisms and steps to filing a complaint, available at: <http://www.accountabilitycounsel.org/wp-content/uploads/2012/04/The-Asian-Development-Banks-Accountability-Mechanism.pdf>. The Accountability Mechanism has also produced a brochure, translated into five languages, on how to use the mechanism, available at: <http://www.adb.org/publications/accountability-mechanism-brochure>.

<sup>35</sup> A sample complaint letter and sample complaint form are available at: <http://www.adb.org/site/accountability-mechanism/complaints-receiving-officer/how-file-complaint>.

to experience;

- A description of the good faith efforts to first address the problems with the ADB's Operations Department (you should also include a record of your communications and the Operations Department's response as supporting documents);
- For complaints requesting compliance review, an explanation, if possible, linking the harm to specific policy violations by the ADB;
- The desired outcome or remedies; and
- Any other relevant information or supporting documents.

A complaint that requests Compliance Review after a Problem Solving process has already occurred should also include a description of the Problem Solving process and any results achieved.

### **Confidentiality**

You can request that your identity or other information be kept confidential. However, anonymous complaints are not accepted. Where confidentiality is requested, the SPF and/or the CRP will ensure confidentiality by not disclosing the names of those requesting confidentiality, nor any material or information supplied on a confidential basis, without the consent of the requesting parties.

### **How Does the Accountability Mechanism Operate?**

After you file, the CRO acknowledges receipt of your complaint and provides you with an information packet about the Accountability Mechanism. You have 21 days to make a final decision about which function to use (Problem Solving or Compliance Review). The CRO then forwards your complaint to the SPF for Problem Solving or the CRP for Compliance Review.

The **Problem Solving** function is designed to assist project-affected people to solve specific problems using informal, consensus-based methods, with the participation of the project sponsor and all other interested parties. Eligibility is determined based on the eligibility criteria discussed above, as well as the SPF's analysis of whether its involvement may be useful to resolving the dispute.

If the SPF finds the complaint eligible, it will conduct a review and assessment by interviewing and holding meetings with the complainants, reviewing project documents, and meeting with ADB staff. The SPF will issue a report setting out the positions and goals of the parties and suggesting methods and a timeframe for resolving the dispute. The SPF can conclude the process at this point if it concludes that problem solving will not be useful.

If the process moves forward, the parties decide together on a course of action to attempt to resolve the dispute, which can include joint fact-finding, dialogue and/or mediation. Either party can end the process at any time.

If the parties reach an agreement, the SPF will monitor its implementation. After the parties reach an agreement, or after the Problem Solving process has ended for any reason, complainants may request that the complaint be sent to Compliance Review.

The **Compliance Review** function involves an investigation of whether the ADB has violated its own policies or procedures in a particular project.<sup>36</sup> When the CRP receives a complaint, it forwards the complaint to Bank Management and requests a response within 21 days. The CRP then determines the eligibility of the complaint based on information in the complaint, in Management's response and from other documents. If the CRP finds the complaint eligible, it asks the Board to authorize a compliance review.

If the Board gives its authorization, the CRP conducts an investigation to determine if the ADB complied with its policies, and if not, whether the non-compliance harmed you or your community.<sup>37</sup> The CRP investigation may include a site visit, meetings with relevant parties, and desk reviews. The length of the investigation depends on the complexity and scope of the alleged policy violations.

After the CRP completes its investigation, it produces a report with its findings. If the CRP finds that the ADB violated its policies, Bank Management will propose ways to bring the project into compliance. The CRP comments on Management's proposed actions, and the Board makes the final decision about what actions the ADB will take to correct the violations. The CRP will monitor the implementation of any remedial actions.

### **ADB Policies That May Apply to an Accountability Mechanism Complaint**

Applicable ADB policies include the Safeguard Policy Statement, which has sections on Environment, Involuntary Resettlement and Indigenous Peoples, as well as Sector Policy Papers on topics such as Energy, Forestry and Water.<sup>38</sup> The ADB's Operations Manual contains more detailed instructions for bank staff on how to implement these various policies.<sup>39</sup>

For projects that have been proposed but have not yet been implemented, the applicable policies are those that were in effect when the complaint was filed. For existing projects, the policies that apply are those that were in effect when the ADB's Board of Directors approved the project.

For more information on ADB policies, please see NGO Forum and Bank Information Center's "Unpacking the ADB: A Guide to Understanding the Asian Development Bank."<sup>40</sup>

### **Information Disclosure Policy**

The ADB's Public Communications Policy of 2011 entitles the public to receive information about ADB-assisted activities, as well as provide feedback to the ADB about project design and implementation.<sup>41</sup> Under this policy, the public has the right to a wide variety of

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<sup>36</sup> See The ADB Compliance Review Panel Homepage at <http://compliance.adb.org/>.

<sup>37</sup> See The ADB Accountability Mechanism Policy 2012, ¶ 145, available at: <http://www.adb.org/sites/default/files/accountability-mechanism-policy-2012.pdf>.

<sup>38</sup> See ADB Policies, available at <http://www.adb.org/Development/policies.asp>.

<sup>39</sup> See ADB Operations Manual, available at: <http://www.adb.org/documents/operations-manual>.

<sup>40</sup> The BIC ADB Toolkits for Activists, including the Guide in five languages, is available at: <http://www.bicusa.org/resources/capacity-building-and-tools/unpacking-ADB/>.

<sup>41</sup> See ADB Public Communications Policy (2011), available at: <http://www.adb.org/sites/default/files/pcp-2011.pdf>. See also BIC's ADB Toolkits for Activists, available at: <http://www.bicusa.org/resources/capacity-building-and-tools/unpacking-ADB/>.

documents. The ADB provides public access to these documents through its Public Information and Disclosure Unit, known as the “InfoUnit.” You can contact the InfoUnit at:

Public Information and Disclosure Unit (InfoUnit)  
Department of External Relations  
Asian Development Bank  
6 ADB Avenue, Mandaluyong City  
1550 Metro Manila, Philippines  
Email: [disclosure@adb.org](mailto:disclosure@adb.org)  
Fax: +63-2-636-2649

You can also use InfoUnit’s online request form, available at:  
<http://www.adb.org/forms/request-information-form>.

If you do not get information that you believe you deserve, you may make a written request for review to the Public Disclosure Advisory Committee online at the same address (<http://www.adb.org/forms/request-information-form>), or by fax (+63 2 636 2649), or by writing to the Committee at the InfoUnit address listed above. If the Committee upholds the denial of your request, you have 90 days to appeal to the Independent Appeals Panel. Written appeals may be filed to the Independent Appeals Panel by fax (+63 2 636 2481), email,<sup>42</sup> or mail to the InfoUnit address above.

### **Limits to Use of the ADB Accountability Mechanism**

Some communities have encountered problems with the ADB Accountability Mechanism, in particular with the Problem Solving function, where communities seeking confidentiality have been intimidated by the mechanism and have feared reprisals. Please contact Accountability Counsel if you are concerned about retribution or intimidation as a result of filing a complaint. We may be able to assist with finding support.

### **Example of a Complaint to the ADB Accountability Mechanism**

In 2002, the ADB approved a loan to Sri Lanka for the construction of a highway that would impact four river basins and numerous wetlands, paddy fields and villages, as well as requiring the destruction of 1,300 houses. Altogether, it was estimated that the project would affect more than 5,600 households.<sup>43</sup> In June 2004, a group of project-affected people filed a complaint to the ADB Accountability Mechanism requesting both problem solving and compliance review. The complaint described ADB policy violations regarding, among other things, the environment, land acquisition practices, consultation, and involuntary resettlement. Complainants sought changes to the project planning and design, including that the ADB pay full compensation for resettlement, consider alternative routes, and fully consult with affected people. Additionally, the complainants asked for the suspension of loan disbursements and the establishment of an independent committee to investigate alternative routes.

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<sup>42</sup> The Independent Appeals Panel can be contacted by email through this online form:  
[http://www.adb.org/contact?target=4Yo1FczdeWurX2FGyPIYHpiN/5Uk3TcTH4Dt5PMibwI=&name=Independent%20Appeals%20Panel%20\(TAP\)&referrer=node/42641](http://www.adb.org/contact?target=4Yo1FczdeWurX2FGyPIYHpiN/5Uk3TcTH4Dt5PMibwI=&name=Independent%20Appeals%20Panel%20(TAP)&referrer=node/42641).

<sup>43</sup> ADB-JBIC Funded Southern Transport Development Project, Sri Lanka: A Fact-finding Report on Status of Resettlement Implementation Plan, Prepared by Bank Information Center, NGO Forum on ADB and Center for Environmental Justice (June 2006).

The SPF found the request for problem solving eligible, conducted consultations with parties and initiated a mediation process. However, the process ultimately ended without the parties agreeing to any sort of mediated settlement. The SPF concluded the problem solving process with final report, issued in March 2005, which made a series of recommendations regarding participation of project-affected people and assessments of adverse impacts. However, NGOs have stated that many of these recommendations have not been fully implemented.

The complaint then went to the CRP, which determined that it was eligible for compliance review. The Board authorized the CRP's investigation. In its final report, sent to complainants in July 2005, the CRP found violations regarding environmental impact assessments, gender and involuntary resettlement. The CRP issued a series of recommendations, which were approved by the Board. Although Bank Management was supposed to implement these recommendations, monitoring by the CRP has concluded only some of the CRP's recommendations have been fully implemented.

This example again demonstrates the mixed results that communities sometimes get when using accountability mechanisms. Because of the complaint, the ADB has made some efforts to correct problems with the project, however several problems are outstanding and the results have not fully met the expectations of the complainants.

#### **How to Contact the ADB Accountability Mechanism**

Complaints may be sent to any ADB office, which will forward them unopened to the CRO, or they may be sent directly to the CRO by mail, fax, email, or by hand delivery to:

Complaints Receiving Officer  
Asian Development Bank  
6 ADB Avenue, Mandaluyong City  
1550 Metro Manila, Philippines  
Tel: + 63 2 632 4444, ext. 70309  
Fax: + 63 2 636 2086  
Email: [amcro@adb.org](mailto:amcro@adb.org)

## The European Investment Bank's (EIB) Complaints Mechanism

### What is the European Investment Bank (EIB)?

The EIB, established in 1958, is the bank owned by and representing the interests of the European Union member states. It provides finance and expertise for investment projects that promote EU policy objectives, specifically growth and employment in Europe and integration of the EU. While 90% of EIB lending activity is in Europe, its mandate also includes financing economic (especially private sector-led), social, environmental, and/or energy-related development projects in countries outside of the EU, including in Africa, Asia and Latin America.

### What is the EIB Complaints Mechanism?

The EIB established a Complaints Mechanism in 2008 and released the current version of the mechanism's policy in 2013.<sup>44</sup> The Complaints Mechanism has two functions:

#### **Compliance review and Problem-solving.**

It takes a flexible approach to these functions, which apply to both private- and public-sector EIB operations.

### How to File a Complaint with the EIB Complaints Mechanism?

The EIB Complaints Mechanism may accept complaints from *any person or group* alleging operational "maladministration" by the EIB due to an EIB decision, action or omission.<sup>45</sup> Complainants need not be directly affected by EIB Group actions. The Complaints Mechanism may accept complaints raising negative impacts, including social and environmental impacts, of a project that the EIB has financed, approved or is actively considering financing. Complaints

### EIB QUICK SUMMARY

Any person or group may submit a complaint to the EIB Complaints Mechanism regarding an approved project if they believe the EIB has failed to act according to:

- Applicable law;
- Internationally recognized human rights;
- EIB policy; or
- Principles of good administration.

The Office will respond within 10 days acknowledging receipt of the complaint. This may include, or be followed by, a decision as to whether the complaint will be processed. If so, the Office will conduct an investigation using a flexible approach, which may include compliance review and/or problem-solving. Complainants may expressly request problem-solving in their complaint.

The Office concludes its work by issuing recommended corrective actions in its Conclusions Report. If you are not satisfied with the result, you have two years to appeal to the European Ombudsman. This is the only multilateral institution's accountability mechanism that has an appeal process.

<sup>44</sup> See Complaints Mechanism Operating Procedures (Aug. 2013) at:

[http://www.eib.org/attachments/strategies/complaints\\_mechanism\\_operating\\_procedures\\_en.pdf](http://www.eib.org/attachments/strategies/complaints_mechanism_operating_procedures_en.pdf)

<sup>45</sup> The EIB Complaints Mechanism Policy defines "maladministration" as occurring "when a member of the EIB Group fails to act in accordance with the applicable legislation and/or established policies, standards and procedures, fails to respect the principles of good administration or violates human rights." Instances of maladministration may also concern "environmental or social impacts" of the EIB Group's activities. The EIB gives examples of such failures, as determined by the European Ombudsman, as: "administrative irregularities, unfairness, discrimination, abuse of power, failure to reply, refusal of information, unnecessary delay." § 1.2 of CM Principles. See Complaints Mechanism Operating Procedures (Aug. 2013), "Definition of maladministration."

may raise concerns about any aspect of the planning, implementation, or impact of an EIB project, including issues regarding arrangements for involvement of affected communities in the project. However, complainants are not required to know and identify the specific rules, regulations, or policies that may have been breached. Complaints are considered eligible once the EIB's Management Committee has formally approved and decided to consider financing a project through the Preliminary Information Note (PIN).

Complaints can be filed in any of the official EU languages. If a complaint is filed in another language, you will be asked to have the complaint translated into an EU language. **The complaint must include the following information:**

- Contact information, including mailing address, of the complainant;
- Description of the maladministration complained of;
- Desired outcome of the process; and
- All relevant documentation.

A complaint submission form is available online at:  
<http://www.eib.org/infocentre/complaints-form.htm>.

### **Confidentiality**

Unlike the other accountability mechanisms where requesters must affirmatively request confidentiality, the EIB Complaints Mechanism treats all information confidentially unless the complainant has waived that right. If you do not wish your complaint to be treated confidentially, you may request that the case be handled publicly with related information made available in the EIB website.

### **How Does the EIB Complaints Mechanism Operate?**

Once the complaint is received, the Complaints Mechanism has ten days in which to acknowledge receipt of the complaint. The acknowledgement may include the Complaints Mechanism's decision as to whether the complaint is admissible. If the admissibility decision is not made at the same time as the acknowledgment of receipt, the Complaints Mechanism will inform you when to expect the decision.

If the complaint is admissible, the Complaints Mechanism follows either a Standard Procedure or an Extended Procedure to address the complaints. The Standard Procedure applies to all complaints, except for complaints regarding environmental and social impacts, or governance aspects of EIB lending operations, that are handled through the Extended Procedure.

In the Standard Procedure, an initial assessment of the concerns will be made through an initial meeting with EIB services concerned and a review of the relevant documentations. If the concerns seem well grounded, there will be an investigation including a compliance review and where appropriate, problem solving and dispute resolution techniques such as facilitation of information sharing, mediation, dialogue and negotiation facilitation will be used. The Complaints Mechanism may conduct site visits, request oral or written submissions from the parties, meet with local and international organizations, and rely on expert research. The assessment/investigation of this Standard Procedure process will determine whether or not there



was maladministration by the EIB, suggest further corrective, mitigation actions and recommendations or determine that the problem was solved during the complaints handling process and that no further action is required.

The Extended Procedure follows the same basic steps and procedures as the Standard Procedure except that a more extensive and formal process replaces the complaint assessment/investigation. The initial assessment will be completed within 40 working days after admissibility of complaint, and will determine whether or not to proceed with an investigation/compliance review, as decided by the head of EIB-CM in agreement with the EIB Inspector General. Moreover, if there is opportunity for a collaborative resolution process before the issuance of the Initial Assessment Report, and the relevant project stakeholders agree to it, a mediation process will take place. If such a process has not brought the parties to mutually accepted and sustainable solutions within the specified timetable, a recommendation for an investigation/compliance review may follow. At the end of an inquiry, the Complaints Mechanism prepares a Conclusions Report and formulates corrective actions and recommendations. Corrective actions will include an implementation plan that must be carried in any case no later than 12 and 24 months after the date of the Conclusions Report.

### **Appeal to the European Ombudsman**

Unlike any of the other accountability mechanisms discussed in this Guide, if you are not satisfied with the outcome of a complaint to the EIB Complaints Mechanism, you can file an appeal to the European Ombudsman.<sup>46</sup> Appeals may be brought if you are concerned that the EIB Complaints Mechanism failed to deal with the complaint in a timely and/or correct manner.

An appeal must be lodged within two years from the date of acknowledgement of the facts on which the complaint is based.

The goal of the European Ombudsman's procedure is to find a satisfactory resolution of the issue. The European Ombudsman may make a finding that the EIB has committed maladministration and make recommendations if appropriate. If the EIB fails to accept the European Ombudsman's recommendations, the European Ombudsman may make a special report to the European Parliament.

### **EIB Policies That May Apply to a Complaint to the Complaints Mechanism**

The EIB has a set of environmental policies and strategies, including the EIB Statement of Environmental and Social Principles and Standards<sup>47</sup> and the EIB Environmental and Social Handbook.<sup>48</sup> The Statement outlines the standards that the Bank requires of the projects that it finances and the Handbook translates those standards into due diligence processes and practices.

### **Information Disclosure Policy**

The EIB Transparency Policy<sup>49</sup> is based on the underlying assumption that information concerning the EIB's operational and institutional activities will be made available to the public

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<sup>46</sup> See Section V of the Revised Policy EIB Complaints Mechanism for the full procedures for an appeal, *available at* <http://www.eib.org/infocentre/publications/all/complaints-mechanism-policy.htm>.

<sup>47</sup> See <http://www.eib.org/infocentre/publications/all/environmental-and-social-principles-and-standards.htm>.

<sup>48</sup> See <http://www.eib.org/infocentre/publications/all/environmental-and-social-practices-handbook.htm>.

<sup>49</sup> See [http://www.eib.org/attachments/strategies/transparency\\_policy\\_en.pdf](http://www.eib.org/attachments/strategies/transparency_policy_en.pdf)

in the absence of a compelling reason for confidentiality. Requests for information are handled by the EIB InfoDesk:

Information Desk  
Communications Department  
Phone: (+352) 43 79 - 62000

You can access the online forum to request general information and project related information at <http://www.eib.org/infocentre/contact-form.htm>.

### **Example of a Complaints Mechanism Complaint**

The Complaints Mechanism received a complaint in September 2009 concerning the involuntary resettlement of around 175 Roma families in connection with the Gazela Bridge Rehabilitation Project in Serbia. The complainants were NGO representatives of the families, and the complaint included allegations that: 1) the EIB had failed to adhere to its transparency and social standards in the appraisal and monitoring of the project; 2) the EIB's appraisal of the direct social impact of the project lacked essential information including a Resettlement Action Plan; 3) and the EIB monitoring procedures for the resettlement process were not properly implemented.

On the basis of the complaint, the Complaints Mechanism began an inquiry in Spring 2010. The Complaints Mechanism released its final report in July 2010, finding a number of shortcomings in the EIB process. The report also recommended that an Action Plan addressing the improvement of housing and livelihood restoration be discussed with the project affected people and approved by the EIB. As a result of the report, the EIB's Board decided to condition subsequent disbursements on implementation of the resettlement framework Action Plan.<sup>50</sup>

The Complaints Mechanism conducted a follow-up mission in January 2011 and concluded that although the Action Plan had not been fully implemented, Serbian authorities had made relatively important achievements. Despite these steps, there have been continuing concerns about illegal resettlement of Roma in connection with the on-going project, as well as the failure to adequately consult with the interested Roma families, NGOs, and host communities.<sup>51</sup>

### **How to Contact the Complaints Mechanism**

Written complaints to the EIB may be emailed, hand delivered, mailed or faxed in the form of a letter addressed to the EIB's Secretary General:

Secretary General  
100 boulevard Konrad Adenauer  
L-2950 Luxembourg  
Phone: (+352) 43 79-1

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<sup>50</sup> See Case Description, available at <http://www.eib.org/about/accountability/complaints/cases/gazella-bridge-rehabilitaion.htm>.

<sup>51</sup> See CEE Bankwatch "Gazela reloaded: another illegal Roma resettlement in Serbia on account of an EIB funded project, available at <http://bankwatch.org/news-media/for-journalists/press-releases/gazela-reloaded-another-illegal-roma-resettlement-serbia-a>.

Fax: (+352) 43 77 04

Email: [complaints@eib.org](mailto:complaints@eib.org)

Complaint may also be filed using the Complaints Mechanism's online complaint form:  
<http://www.eib.org/infocentre/complaints-form.htm>.

## The European Bank for Reconstruction and Development's (EBRD) Project Complaint Mechanism (PCM)

### What is the European Bank for Reconstruction and Development (EBRD)?

The EBRD, formed in 1991, finances development projects in central Europe, central Asia and the southern and eastern Mediterranean. Investing primarily in private sector banks, industries and businesses, often with public partnerships, EBRD aims to foster transition towards open and democratic market economies.

### What is the EBRD's Project Complaint Mechanism (PCM)?

The Project Complaint Mechanism (PCM) is the EBRD's accountability mechanism that came into force in March 2010. The EBRD revised the PCM's Rules of Procedure in 2014.<sup>52</sup> The PCM provides affected people and civil society organizations<sup>53</sup> a means to raise complaints about harmful EBRD projects. The PCM offers the following functions:

- **Problem-solving** – this function is designed to create dialogue between the parties using methods of fact-finding, mediation, conciliation, dialogue facilitation, investigation or reporting.
- **Compliance Review**- this function determines whether the EBRD has complied with its own environmental, social, and information disclosure policies.

### How to File a Complaint with the PCM:<sup>54</sup>

One or more individuals located in a project-impacted area, or having an economic, social or cultural interest in that area, may submit a complaint seeking Problem-solving. Any

### EBRD QUICK SUMMARY

The PCM accepts complaints about EBRD projects that have caused, or are likely to cause, harm.

For problem-solving, you may submit a complaint if you are one or more individuals who are:

- located in an EBRD project area, or
- your livelihood or other economic, social or cultural interests may be impacted by an EBRD project.

For compliance review, any person or organization may submit a complaint.

The PCM determines eligibility and proceeds with problem-solving, compliance review, or both. In problem-solving the PCM will facilitate dialogue. If an agreement is reached, the PCM will conduct any necessary monitoring.

In compliance review, the PCM issues a public report of findings of non-compliance with EBRD policy and Bank Management responds. The PCM monitors and publicly reports on any approved actions to bring the project into compliance.

<sup>52</sup> The PCM's Rules of Procedure have been translated into fourteen languages and are available at: <http://www.ebrd.com/work-with-us/project-finance/project-complaint-mechanism/about.html>.

<sup>53</sup> Civil society organizations are able to request only compliance review under the PCM, unless they are representing affected people.

<sup>54</sup> The PCM has produced a brochure, translated into six languages, on how to use the mechanism, available at: <http://www.ebrd.com/work-with-us/project-finance/project-complaint-mechanism/about.html>.

person or organization can submit a complaint seeking Compliance Review. You can also use a representative to file a complaint on your behalf, along with written proof of authority to do so. If you choose to use a representative, that person will be the point of contact for all formal communications between you and the PCM Officer,<sup>55</sup> although the PCM Officer will communicate directly with you when necessary and appropriate.

A complaint to the PCM must meet the following **eligibility criteria**:

- The complaint relates to harm caused or likely to be caused by an EBRD project;
- The complaint raises issues covered by an applicable EBRD policy;
- For a complaint seeking Problem-solving, you should have already tried to resolve the issues in your complaint with the EBRD<sup>56</sup> and/or the corporations or agencies implementing the project. If you believe that making such efforts would cause you harm or would be pointless, your complaint may still be eligible. It must, however, state the reasons why you have not made such efforts.

The timing of your complaint may also affect its eligibility. A complaint will be **eligible for Problem-solving** only if it is filed:

- After the EBRD has approved or clearly indicated an interest in financing the project; and
- No more than 12 months after the last disbursement of funds (for financing in the form of a loan or loans) or while the EBRD still maintains its investment (for financing in the form of equity investments).

A complaint to the PCM will be **eligible for Compliance Review** only if it is filed:

- After the EBRD has approved the financing of the project; and
- No more than 24 months after the date on which the EBRD ceased to participate in the project.

Complaints are typically submitted in the form of a letter.<sup>57</sup> Complaints may be submitted in English, Russian, German, French or any of the official languages of a country in which the EBRD operates. **Complaints should contain the following information:**

- Your identity, contact information and signature (or that of your authorized representative);
- The EBRD project name, country in which the project is located, and a description of the project;
- A description of the harm caused or likely to be caused by the project. You should also submit all evidence of such harm, including any drawings, photos, plans, letters, taped interviews or other materials;
- For complaints seeking Problem-solving, a description of the steps you have taken to resolve the problem with EBRD and/or the corporations or agencies involved in the project, as well as copies of correspondence, or notes from meetings, with EBRD

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<sup>55</sup> The PCM Officer is the person responsible for the day to day running of the PCM.

<sup>56</sup> You may contact the local EBRD office or the EBRD department in charge of the project.

<sup>57</sup> A sample complaint form in English and Russian is available at: <http://www.ebrd.com/work-with-us/project-finance/project-complaint-mechanism/submit-a-complaint.html>.

staff and other relevant parties and any other supporting information;

- For complaints seeking Compliance Review, a description, if possible, of the EBRD's violations of its environmental and/or public information policies regarding the project; and
- If possible, a description of how you would like the problem to be resolved, including whether you want Problem-solving, Compliance Review or both.

The PCM's correspondence with you will be in both English and your chosen language. When choosing the language of communication with the PCM, keep in mind that languages other than English will require additional response time due to translation.

### **Confidentiality**

The PCM makes all reasonable efforts to maintain confidentiality if requested, but does not guarantee confidentiality. If you would like your identity to be kept confidential, you can submit a request for confidentiality to the PCM, along with reasons and information supporting your request. The PCM Officer is required to consider your request before making a decision on whether to register your complaint. If the PCM Officer agrees with your request, he or she will make all reasonable efforts to maintain confidentiality. If the PCM Officer reasonably believes that maintaining confidentiality will prevent a review of your complaint, he or she will immediately notify you and will agree with you on how to proceed. If agreement on how to proceed is not possible, the PCM Officer will terminate the process.

### **How does the PCM Operate?**

Once a complaint has been received, the PCM's Eligibility Assessors determine whether the complaint is eligible for Problem-solving, Compliance Review, both at the same time, or neither.

If the Eligibility Assessors recommend a **Problem-solving Initiative**, the EBRD President must approve the recommendation within 10 days. If approved, a Problem-solving Expert will conduct the process based on a Terms of Reference that include which methods to use, identification of expertise required and a time frame for the process. The Problem-solving Initiative will conclude when the relevant parties reach an agreement or when the Problem-solving Expert decides that no further progress towards dispute resolution is possible. Once the process has concluded, the PCM issues a Problem-solving Completion Report, which identifies the need for any follow-up monitoring and reporting by the PCM Officer. The PCM Officer will monitor the implementation of any agreements reached during the Problem-solving Initiative, publicly release and post the Problem-solving Initiative Monitoring Reports on the PCM website at least biannually, until the PCM Officer considers that monitoring is no longer needed.

If your complaint is eligible for **Compliance Review**, a Compliance Review Expert conducts an investigation, during which he or she will examine key documents, consult with the relevant parties, and may carry out a site visit to investigate the issues in person. Upon completion of the investigation, the Compliance Review Expert will issue a Compliance Review Report containing his or her findings on the EBRD's compliance. A Report finding non-compliance will include recommendations for how to achieve compliance and monitor implementation. Bank Management has a chance to respond to findings of non-compliance by

creating an Action Plan. Both the Management Action Plan and the draft Compliance Review Report will be sent to you for comments, and the Compliance Review Expert may adjust his or her recommendations based on your comments.

The final Compliance Review Report, Action Plan and your comments on the Action Plan will be sent to the President (if the project was not yet approved by the Board) or the Board. After the Action Plan is approved, it will be sent to you and the other parties involved, together with the final Compliance Review Report. The PCM Officer will monitor implementation of the Compliance Review Report's final recommendations and issue Compliance Review Monitoring Reports at least biannually until he or she determines that monitoring is no longer needed.<sup>58</sup>

### **EBRD Policies That May Apply to a PCM Complaint**

The primary policy applicable to a PCM complaint is the EBRD's Environmental and Social Policy.<sup>59</sup> The 2014 Environmental and Social Policy, which went into effect in November 2014, lays out the EBRD's policies and commitments to promoting environmentally sound and sustainable development.

As part of this policy, the Bank has adopted a comprehensive set of Performance Requirements ("PRs") that projects and companies receiving EBRD financing must meet.<sup>60</sup> The PRs cover the following areas:

- PR 1: Assessment and Management of Environmental and Social Impacts and Issues
- PR 2: Labour and Working Conditions
- PR 3: Resource Efficiency and Pollution Prevention and Control
- PR 4: Health and Safety
- PR 5: Land Acquisition, Involuntary Resettlement and Economic Displacement
- PR 6: Biodiversity Conservation and Sustainable Management of Living Natural Resources
- PR 7: Indigenous Peoples
- PR 8: Cultural Heritage
- PR 9: Financial Intermediaries
- PR 10: Information Disclosure and Stakeholder Engagement

The EBRD's Board has the power to exempt particular projects or activities from the application of these policies.

### **Information Disclosure Policy**

The EBRD's Public Information Policy sets out how the EBRD discloses information and consults with its stakeholders so as to promote better awareness and understanding of its

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<sup>58</sup> The PCM Officer is required to consult with you and the other parties involved in the complaint as appropriate in preparing the monitoring reports.

<sup>59</sup> See EBRD, Environmental and Social Policy, current and old versions, available in several languages at: <http://www.ebrd.com/news/publications/policies/environmental-and-social-policy-esp.html>.

<sup>60</sup> See EBRD, Performance Requirements and Guidance, available at: <http://www.ebrd.com/who-we-are/our-values/environmental-and-social-policy/performance-requirements.html%20>.

strategies, policies and operations.<sup>61</sup> The PCM will accept complaints regarding violations of the project-specific provisions of the Public Information Policy.

To access information not available on the EBRD website, use the EBRD's online information request form: <http://www.ebrd.com/pages/about/contacts/form.shtml> or contact:

Head of Civil Society Engagement Unit  
Tel: +44 20 7338 7912  
Fax: +44 20 7338 6102  
Email: [csso@ebrd.com](mailto:csso@ebrd.com)

Additionally, you can send a request for information to:

EBRD Communications Department  
One Exchange Square  
London, EC2A 2JN, United Kingdom  
Fax: +44 207 338 6102

If a request for information is rejected, you can appeal by submitting a letter within 30 working days of the receipt of the decision to:

Secretary General  
One Exchange Square  
London, EC2A 2JN, United Kingdom  
Fax: +44 207 338 6488  
Email: [SecretaryGeneral@ebrd.com](mailto:SecretaryGeneral@ebrd.com)

### **Example of a PCM Complaint**

In April 2010, the EBRD approved a loan of up to \$250 million for the design, build, finance and operation of portions of the “D1 Motorway Phase 1” roadway project in the Slovak Republic. In June 2010, two NGOs jointly filed a complaint with the PCM seeking Compliance Review concerning inadequate assessment of the project's environmental impacts and consequential harm to protected areas and habitats of community importance.

The PCM determined the complaint was eligible for Compliance Review.<sup>62</sup> In September 2010, the newly elected Government of the Slovak Republic chose not to proceed with the project following delays in financing deadlines and negotiations with the European Commission over environmental concerns raised by civil society. The PCM nonetheless opted to move forward with compliance review in order to address outstanding questions regarding EBRD compliance with its own safeguard policies.

The PCM conducted an investigation and issued its findings in its March 2011 Compliance Review Report, which was also submitted to the EBRD Board. Despite finding significant deficiencies in the initial study assessing expected project impacts, the PCM

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<sup>61</sup> See EBRD, Public Information Policy (May 2014), available at: <http://www.ebrd.com/what-we-do/strategies-and-policies/public-information-policy.html>.

<sup>62</sup> Project Complaint Mechanism Eligibility Assessment Report, Complaint: D1 Motorway Phase 1, Slovak Republic 7 (Aug. 2010), available at: [http://www.ebrd.com/downloads/integrity/Eligibility\\_Assessment\\_Report.pdf](http://www.ebrd.com/downloads/integrity/Eligibility_Assessment_Report.pdf).



independent expert concluded that no non-compliance had occurred given the EBRD's subsequent due diligence, which identified and stipulated appropriate mitigation measures.<sup>63</sup>

This case demonstrates the limits of Compliance Review, which is aimed solely at determining whether a bank is in compliance with its own policies. As demonstrated by this case, even a deficient initial study may not lead to a finding of non-compliance.

### **How to Contact the PCM**

File your complaint with supporting information to your local EBRD office,<sup>64</sup> or via the PCM's online form: [http://www.ebrd.com/eform/pcm/complaint\\_form?language=en](http://www.ebrd.com/eform/pcm/complaint_form?language=en).

You can also submit a complaint via mail, e-mail or fax to:

Project Complaint Mechanism  
Attn: PCM Officer  
European Bank for Reconstruction and Development  
One Exchange Square  
London EC2A 2JN  
United Kingdom  
Phone +44 20 7338 7813  
Fax +44 207 338 7633  
Email [pcm@ebrd.com](mailto:pcm@ebrd.com)

Complaints sent by email should contain your scanned signature or that of your authorized representative. If emailed without a scanned signature, a signed version of the Complaint must be sent by fax, post or hand delivery to the PCM Officer or one of the Bank's Resident Offices as soon as possible after the email submission.

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<sup>63</sup> Project Complaint Mechanism Compliance Review Report, D1 Motorway Phase 1, Slovak Republic 7 (May 2011), available at: [http://www.ebrd.com/downloads/integrity/Compliance\\_Review\\_Report\\_D1\\_Slovakia\\_FINAL.pdf](http://www.ebrd.com/downloads/integrity/Compliance_Review_Report_D1_Slovakia_FINAL.pdf).

<sup>64</sup> A list of the EBRD's country offices and their contact information is available at: <http://www.ebrd.com/pages/about/contacts/regional.shtml>.

## The Inter-American Development Bank's (IDB) Independent Consultation and Investigation Mechanism (MICI)

### What is the Inter-American Development Bank (IDB)?

The IDB is a regional development bank, established in 1959, that provides loans, grants and guarantees to both the public and private sector in 26 Latin American and Caribbean countries. Its mission is to reduce poverty and inequality, and promote sustainable development in those regions. Three institutions make up the IDB Group: the Inter-American Development Bank, the Inter-American Investment Corporation, and the Multilateral Investment Fund.

### What is the Independent Consultation and Investigation Mechanism (MICI)?<sup>65</sup>

The IDB's Independent Consultation and Investigation Mechanism (MICI) became operational in 2010, but its governing policy and the structure of the office significant changed in December 2014.<sup>66</sup> MICI has two functions:

- **Consultation Phase:** in which parties have an opportunity to address concerns in a voluntary, flexible and collaborative manner; and
- **Compliance Review Phase:** in which independent experts investigate the IDB's compliance with its social and environmental policies and whether such non-compliance has caused harm to complainants.

### MICI QUICK SUMMARY

MICI accepts complaints about all IDB projects, from the date of their approval to up to 24 months after the last disbursement by the bank. Submit a complaint to MICI if you:

- are a group of two or more people or their representative;
- live in a country where an IDB project is being implemented;
- have been or may in the future be harmed by the IDB project; and
- have taken steps to bring the issue to the attention of Bank Management.

The MICI Director determines eligibility and transfers the case to the Phase complainants selected when they filed their complaint. In the Consultation Phase, MICI conducts an assessment and then facilitates dialogue between the parties. If an agreement is reached, MICI will monitor its implementation.

In the Compliance Review Phase, MICI investigates whether the IDB failed to comply with its policies and thereby harmed complainants. MICI presents its report to the Board, which determines what action to take, including whether Management should develop an Action Plan to address any non-compliance. The report is released to the public along with the Board's decision. MICI will monitor implementation of the Action Plan or other agreed remedial actions.

<sup>65</sup> The mechanism is commonly referred to as MICI for its Spanish name "Mecanismo Independiente de Consulta e Investigación."

<sup>66</sup> See Policy of the Independent Consultation and Investigation Mechanism (Dec. 17, 2014), available at <http://idbdocs.iadb.org/wsdocs/getdocument.aspx?docnum=39629936>. MICI's Policy is also available in Spanish and Portuguese.

## How to File a Complaint with MICI?

A group of two or more people residing in the country where an IDB project is implemented may submit a complaint to MICI if they have been or anticipate being harmed by the project. You can also use a representative to file a complaint on your behalf, along with written evidence of authority to do so signed by the complainants.

A complaint to MICI must meet the following **eligibility criteria**:

- The complaint relate to harm caused or likely to be caused by an approved IDB project;
- The complaint must allege that the harm relates to the IDB's failure to correctly apply one or more of its Relevant Operational Policies;
- The complaint must be filed within 24 months of the last disbursement by the IDB;
- The issues raised in the complaint must be new – if MICI has already reviewed the issues, the complaint must be justified by new evidence or circumstances that were not available at the time of the initial complaint;
- The issued raised in the complaint must not be under arbitral or judicial review in an IDB member country; and
- You must first attempt to resolve your concerns with IDB Management. Keep copies of all communications, and notes from all meetings, with Management to submit with your complaint.

Complaints are typically submitted in the form of a letter and should be addressed to the MICI Director.<sup>67</sup> The official languages of the IDB are Spanish, French, English and Portuguese. Complaints may be filed in other languages, but doing so will lengthen processing times. **Complaints should include the following information:**

- Your name and contact information and the names and contact information of any other complainants (or the contact information of your authorized representative);
- If you so desire, a statement requesting confidentiality and explaining your reasons for requesting it, along with any other information you believe is useful for keeping your information confidential;
- A description of the IDB project and its location. If known, the name or number of the IDB operation;
- A detailed description of the harm caused or likely to be caused by the project. You should also submit all evidence of such harm, including any drawings, photos, plans, letters, taped interviews or other materials;
- An explanation of why you believe the IDB is responsible for the harm. If possible, you should also describe the particular IDB policies you believe the IDB is violating;
- A detailed description of the steps you have taken to resolve the issue with IDB Management and what response, if any, was received (you should also include a record of your communications and any responses as supporting documents); and

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<sup>67</sup> A model complaint is available at: <http://www.iadb.org/document.cfm?id=39437682> and is also available in Spanish and Portuguese.

- A statement expressing whether you want to use MICI's Consultation Phase, its Compliance Review Phase or both. You may also request additional information about these Phases to assist in making your decision.

Additionally, if there are any court cases or similar complaints related to the complaint you are filing with MICI, your complaint should explain why it is separate from those other cases and should still be considered.

### **Confidentiality**

MICI does not accept anonymous complaints, but will keep your identity confidential if you need confidentiality due to fears of retaliation. If you would like your identity kept confidential, you should submit a request for confidentiality to MICI, along with reasons and any additional information you believe will be helpful.

### **How Does MICI Operate?**

Once a complaint has been received, the MICI Director reviews the complaint and determines whether it should be registered. Clearly ineligible complaints will not be registered. If your complaint is missing required information, the MICI Director give you 10 business days to provide the missing information. If you do not do so, the complaint will not be registered, but you can refile once you have the missing information.

After registration, the MICI Director forwards the complaint to IDB Management, which has an opportunity to submit written comments. Management has an opportunity to request a temporary suspension of the eligibility determination at this time to try to resolve the issues raised in the complaint. The MICI Director may grant a suspension of up to 45 business days, but only if Management has submitted a specific plan for correcting problems and proposed a timeline. MICI will notify you of its decision if it grants such a suspension.

After receiving Management's response and if no suspension is granted, the MICI Director will determine whether the complaint is eligible. The Coordinators of the Consultation and Compliance Review Phases will provide support in making the eligibility determination, and the MICI staff may decide to conduct a site-visit prior to determining eligibility.

If the complaint is found eligible, the MICI Director will transfer the case to the Phase Coordinator of the Phase you selected when you filed your complaint. If you asked for both Consultation and Compliance Review, your complaint will go to Consultation first and will only go to Compliance Review if no agreement is reached as a result of the Consultation process.

If your complaint goes to the **Consultation Phase**, MICI will first conduct an assessment in order to determine whether the parties want to seek resolution through a voluntary, consultation process. The assessment may include: document review; meetings with complainants, Management and other stakeholders; and site visits. If the assessment concludes that a collaborative resolution is possible, MICI will work with parties to reach an explicit agreement regarding how to move forward with the Consultation Phase, all of which will be summarized in an Assessment Report. The agreed, collaborative dialogue process will then begin. If an agreement is reached, it will be published in MICI's Public Registry unless all of the signing parties agree on confidentiality, in which case MICI will record the result and provide a summary. MICI will also develop a monitoring plan and timeframe (not to exceed five years) in

consultation with the parties, which will be considered by the Board. If monitoring is approved, MICI will submit monitoring reports to the Board at least annually and publish them in its Public Registry. If an agreement is reached, your complaint will not proceed to Compliance Review even if you originally requested both Consultation and Compliance Review.

If MICI's Assessment Report determines that a collaborative resolution is not possible, or if after 12 months of dialogue the MICI Director does not believe that an extension will help bring about a resolution, the Consultation Phase will end. The complaint will only be forwarded to Compliance Review if you have requested both Consultation and Compliance Review in your complaint. If you did not request Compliance Review, the MICI process will conclude at this point.

If your complaint goes to the **Compliance Review Phase**, the Compliance Review Phase Coordinator will prepare a recommendation and terms of reference for a compliance investigation. Management and complainants both have an opportunity to comment on the draft terms of reference. After the comment period, MICI will submit its recommendation on whether to conduct an investigation to the Board, along with Management's comments. The Board's decision will be communicated to complainants and Management and recorded in MICI Public Registry, at which point the recommendation and terms of reference will be published.

If the Board approves the investigation, the MICI Director will hire two independent experts from MICI's Roster of Experts to conduct the Compliance Review along with the Phase Coordinator, who will act as Panel Chair. Additional consultants may also be hired as necessary. MICI must consult with the Executive Director for the country where the project is being implemented regarding any site visits during the investigation and all site visits must comply with IDB procedures for official missions. The MICI Director may extend the timeframe for the investigation beyond what was established in the terms of reference on a case-by-case basis, subject to the Board's non objection. Once MICI completes its investigation, it will give Management and complainants an opportunity to comment on the draft report, although the contents of the final report are the exclusive decision of MICI. After the comment period has closed, MICI will finalize the Compliance Review Report and submit it to the Board.

The Board will make the final decision regarding any necessary actions in response to MICI's findings and recommendation. If the Board deems it appropriate, it will instruct Management to develop and present an Action Plan, in consultation with MICI. After the Board has made its decision, the Compliance Review Report, comments from Management and/or complainants and the Board's final decision will be published in MICI's Public Registry. When applicable, MICI will monitor implementation of any Action Plan or other remedial actions agreed to as a result of the Compliance Review process. The duration of monitoring, which will not exceed five years, will be determined by the Board. MICI will distribute monitoring reports to the Board at least annually and will publish these reports in its Public Registry.

### **IDB Policies That May Apply to a MICI Complaint**

MICI receives complaints related to all "Relevant Operational Policies," including environmental safeguards, gender policies and information disclosure policies. The "Relevant Operational Policies" in force as of the date of approval of the current MICI Policy are:<sup>68</sup>

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<sup>68</sup> Links to these Relevant Operational Policies are available at: <http://www.iadb.org/en/mici/relevant-operational-policies,8166.html>. The Relevant Operational Policies are also available in Spanish and Portuguese.

- OP-102 Access to Information Policy<sup>69</sup>
- OP-703 Environment and Safeguards Compliance Policy
- OP-704 Disaster Risk Management Policy
- OP-707 Operating Policy for Maintenance and Conservation of Physical Works and Equipment
- OP-708 Public Utilities Policy
- OP-710 Operational Policy on Involuntary Resettlement
- OP-761 Operational Policy on Gender Equality in Development<sup>70</sup>
- OP-765 Operational Policy on Indigenous Peoples
- OP-733 Energy Policy
- OP-733-1 Sectoral Policy in the Electric Power Field

Policies approved after the MICI Policy went into effect are also considered “Relevant Operational Policies.” The version of a given policy applicable to an IDB project is the version in effect at the time of Board approval of the project, unless the relevant policy or legal documentation provides otherwise. If the Board grants an explicit waiver of the obligation to apply a specific policy for a particular project, that policy may not be used as grounds for submitting a complaint to MICI. Additionally, the strategies, guidelines, procedures or other standards approved solely by IDB Management are not within the scope of MICI’s mandate.

#### **Information Disclosure Policy<sup>71</sup>**

The IDB’s Information Disclosure Policy requires the public to have access to a wide range of documents, including information about project documents and environmental impact assessments. The Policy also creates a right to independent review of denial of access to information.

You may order hard copies or electronic versions of the documents at the IDB’s Public Information Center in Washington, DC, or through regional Public Information Center Field Offices. The Center’s contact information is: Tel: + 1 202 623 2096; Fax: +1 202 623 1928; Email: [pic@iadb.org](mailto:pic@iadb.org).

#### **Example of a MICI Complaint<sup>72</sup>**

In early 2010, the Panamanian organization Environmental Alliance for Integral Development – United for Panama (“AAPRODIUPA” for its initials in Spanish) filed a complaint with MICI regarding the Pando-Monte Lirio Hydroelectric Energy Project.

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<sup>69</sup> Previously called “Disclosure of Information,” as according to their 2010 policy document.

<sup>70</sup> Previously called “Women in Development,” as according to their 2010 policy document.

<sup>71</sup> IDB Disclosure of Information Policy (Feb. 10, 2011), *available at* <http://www.iadb.org/aboutus/howweareorganized/index.cfm?lang=en&id=6110>.

<sup>72</sup> This is an example based on MICI’s old Policy, as there are currently no complaints that have gone through MICI’s whole process under the new Policy. The current Policy has substantially restructured the office and changed the titles of key MICI personnel: at the time of this example, the Consultation Phase Coordinator was called the Project Ombudsperson and the Compliance Review Coordinator was referred to as the Panel Chairperson.

The project involved construction of two hydroelectric dams in Western Panama that would divert and remove access to 90% of the river's water for a stretch of about 26 kilometers. The complaint raised concerns about various policy violations, including the failure to study how much water was necessary to maintain the life of the river, the lack of an adequate cumulative impact assessment and the absence of a watershed-wide management plan.

The Project Ombudsperson found the complaint eligible for Consultation and attempted to facilitate a joint dispute resolution process with the CAO, to whom complainants had filed a parallel complaint. However, after several months, the company decided that it was no longer interested in dispute resolution, and the complaint was transferred to Compliance Review.

The Panel Chairperson found the complaint eligible and conducted a full investigation, publicly releasing its audit report, which found numerous significant policy violations by the IDB, in October 2012.<sup>73</sup> The audit confirmed that the IDB approved the project despite knowledge that it, together with the 25 other dams in construction or planned for the Chiriquí Viejo River, ran a risk of transforming the river into a series of isolated pools.

The Board responded to MICI's findings by requiring that an Action Plan addressing policy violations be created. The Board asked that Bank Management report back prior to any further disbursements of funds for the project. However, the Board did not give MICI a role in monitoring implementation of the Action Plan, and complainants are not satisfied with the pace or scope of change related to the Plan. Complainants have indicated that much of the harm they originally feared has indeed taken place, despite MICI's strong findings and recommendations.

This case provides another example of both the possibilities and the limits of accountability mechanisms. The MICI Project Ombudsperson was not able to help facilitate an agreement and the Consultation process caused substantial delay. The compliance investigation and report documented significant policy violations and led to Board action to change the project, but the implementation of the resulting Action Plan was not as successful as the complainants had hoped.

### **How to Contact MICI**

Independent Consultation and Investigation Mechanism  
Inter-American Development Bank  
1300 New York Ave., N.W.  
Washington, DC 20577  
United States of America  
Tel. +1 202 623 3952  
Fax: +1 202 312 4057  
E-mail: [mecanismo@iadb.org](mailto:mecanismo@iadb.org)

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<sup>73</sup> The CAO decided not to conduct a full investigation and closed the complaint at the compliance appraisal stage despite protests by complainants.

## The United Nations Development Programme's (UNDP) Social and Environmental Compliance Review and Stakeholder Response Mechanism

Information on this new mechanism will be added to the Accountability Resource Guide soon.

Please visit <http://www.accountabilitycounsel.org/resources/arg/> for the latest version of this Guide.



## **The United Nations Green Climate Fund (GCF) Independent Redress Mechanism**

**The UN Green Climate Fund (GCF) is in the process of establishing an Independent Redress Mechanism. Information on this new mechanism will be added soon.**

**Please visit <http://www.accountabilitycounsel.org/resources/arg/> for the latest version of this Guide.**

## PART III NATIONAL ACCOUNTABILITY MECHANISMS

Most national accountability mechanisms are located in national export promotion agencies, some of which are called export credit agencies. These agencies are government-run institutions that give loans, grants, and insurance to domestic corporations doing business abroad. The stated goal of such support is to promote domestic companies and to contribute to development abroad. Collectively, these agencies fund and support more private sector projects than any other type of financial institution.<sup>74</sup> Only a few export promotion agencies around the world have accountability offices. Accountability offices created by the Australian, Brazilian, Canadian, Japanese and American governments are discussed below.

National accountability mechanisms also include offices set up to receive complaints about multinational corporations from or operating in particular countries. These offices include the National Contact Points as established by the OECD Guidelines for Multinational Enterprises and Canada's Office of the Extractive Sector Corporate Social Responsibility Counsellor, which are discussed below.

### The Australian Export Finance & Insurance Corporation's (EFIC) Complaint Mechanism

#### **What is the Australian Export Finance & Insurance Corporation (EFIC)?**

EFIC is Australia's export credit agency, which was established in its current form in 1991. It supports the export of Australian goods and services overseas by providing financial solutions and advice to Australian businesses and their overseas buyers. EFIC also works closely with the federal, state and territory governments of Australia, industry associations, chambers of commerce, bilateral business councils, national and regional bodies and financial institutions from around the world.

#### **What is the EFIC Complaint Mechanism?**

EFIC has created a Complaint Mechanism to address concerns about its activities or supported projects. EFIC's General Counsel manages the complaints mechanism and reports to the EFIC Board Audit Committee. The Complaint Mechanism offers dispute resolution services, which may include the use of external assistance such as experts and mediators. The resolution process may also involve other parties and be referred to other parties after consulting with complainants. It does not offer compliance review.

#### **EFIC Quick Summary**

Anyone (an individual or a group) concerned about an EFIC sponsored project can submit a complaint to the Complaint Mechanism, which will respond to the complaint.

The Complaint Mechanism emphasizes dispute resolution, with the expectation that most complaints will be resolved between EFIC and the complainant, potentially through mediation. EFIC expects to investigate the complaint and provide a written response with a plan and timeline for resolution within 15 business days of receiving your complaint.

Actions and decisions of the Complaint Mechanism can be appealed to Australia's Commonwealth Ombudsman.

<sup>74</sup> For a critique of export credit agencies, visit ECA Watch at <http://www.eca-watch.org/>.

## **How to File a Complaint with the EFIC Complaint Mechanism?**

You can file a complaint with the EFIC Complaint Mechanism if you are a customer, client, individual, group, community, entity or other party concerned about, affected by or likely to be affected by EFIC's activities or supported projects.

Complaints must be in writing, but do not need to follow any specific format. Complaints should include:

- Your name and contact information;
- If someone else is representing you, contact information for the representative;
- A description of your concerns regarding EFIC's activities or an EFIC-supported project;
- A description of any previous efforts to resolve the issue;
- A description of the desired result or outcome of the complaint;
- Whether you have had any previous contact with EFIC on this or similar issues; and
- Any request for confidentiality of identity or any information contained in the complaint. This request must be supported by a statement of reasons for the request.

### **Confidentiality**

You can request that your identity or the complaint be kept confidential. The Complaint Mechanism will respect your request unless disclosure is required by any law, rule, regulation, court, treaty or other body or international instrument.

## **How does the EFIC Complaint Mechanism Operate?**

When the Complaint Mechanism receives your complaint, it will notify you within five business days. In the notification, you will be provided with a contact person within the Complaint Mechanism.

At this time, the complaint is recorded on EFIC's Incident Register and reported to the EFIC Board Audit Committee. The Complaint Mechanism will then investigate the complaint, during which time it may contact you. Ten business days after notification, you are provided with a written response to the complaint. If a response cannot be made within the ten day timeframe, EFIC will explain why, what they are doing and when you can expect to receive an answer.

There is limited information available about the details of the Complaint Mechanism process. Who else may be involved in the resolution process will be discussed between you and the Complaint Mechanism. Upon your agreement, the Complaint Mechanism may involve project managers, external experts or mediators in the resolution process. The outcome of the complaint process and any potential remedies are complaint specific.

### **Appeal to the Commonwealth Ombudsman**

The Commonwealth Ombudsman can investigate complaints about actions and decisions of EFIC Complaint Mechanism. A complaint over the Complaint Mechanism can be

made to the Ombudsman by telephone, in person, in writing, by fax, or using an online complaint form.<sup>75</sup> Translation services can also be provided.

### **EFIC Policies That May Apply to an EFIC Complaint**

The Complaint Mechanism does not require you to list any violations of policies or procedures in your complaint. However, when filing a complaint, it may be useful to know that EFIC undertakes an environmental and social review of projects, which is done using all World Bank Safeguard Policies or all IFC Performance Standards as a minimum benchmark.<sup>76</sup> EFIC also voluntarily applies the Equator Principles.

### **Information Disclosure Policy**

Pursuant to its policy, EFIC keeps an online register of all Category A projects, meaning projects that have the potential for significant adverse environmental and/or social impacts.<sup>77</sup>

Public disclosure of EFIC's potential involvement is also done with regards to all transactions in which EFIC has a repayment term or policy length of two years or more, and the transaction has a value of SDR 10 million or more.

EFIC's ability to provide you with other information might be restricted by EFIC's contractual obligations.

### **How to Contact the EFIC Complaint Mechanism**

Complaints can be made using the online form available at <http://www.efic.gov.au/about/Pages/Complaints-mechanism-submissions.aspx> or by submitting them to:

General Counsel  
Export Finance and Insurance Corporation  
PO Box R65  
Royal Exchange NSW 1223  
Australia  
Fax: +61-2-9251-3851  
Email: [complaint@efic.gov.au](mailto:complaint@efic.gov.au)

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<sup>75</sup> See Commonwealth Ombudsman for more information <http://www.ombudsman.gov.au/pages/contact-us/>

<sup>76</sup> EFIC is bound by the OECD *Recommendation of the Council on Common Approaches for Officially Supported Export Credits and Environmental and Social Due Diligence* which contains reference to World Bank Safeguard Policies and IFC Performance Standards, available at <http://search.oecd.org/officialdocuments/displaydocumentpdf/?cote=TAD/ECG%282012%295&doclanguage=en>

<sup>77</sup> EFIC discloses in an archive all Category A transactions it has considered since 2009. Beginning in July 2011, all supported transactions in the current fiscal year have been disclosed in an online register, available at <http://www.efic.gov.au/corp-responsibility/envr-responsibility/Pages/CategoryAregister.aspx>.

## The Brazilian Development Bank's (Banco Nacional de Desenvolvimento Econômico e Social (BNDES)) Ombudsperson

### What is the Brazilian Development Bank (BNDES)?

BNDES is a Brazilian state-owned development bank that is the main source of financing for infrastructure and expansion of industry in Brazil and the South American region. It aims to support socio-environmental development to bolster employment and reduce social and regional inequalities in Brazil. In 2012, BNDES disbursed roughly US\$67 billion to companies headquartered in Brazil and working around the world. BNDES has also opened its own Export-Import Bank that is exclusively dedicated to the foreign trade sector.

### What is the BNDES Ombudsperson?

BNDES created the position of Ombudsperson in 2003. The Ombudsperson receives suggestions, reports of misconduct, and complaints, from both the external and internal stakeholders. The Ombudsperson can assist in resolving disputes between citizens and BNDES by “issuing clarifications and trying to strengthen the bonds between the BNDES, its clients and the general public.” The Ombudsperson also makes suggestions for necessary improvements to Senior Administration.<sup>78</sup>

### How Does the BNDES Ombudsperson Operate?

There is currently little information available about the functioning of the BNDES Ombudsperson. We have heard that it can be challenging to use, with limited transparency and indecisive results. BNDES does not currently have a disclosure policy regarding complaints.

### How to Contact the BNDES Ombudsperson

The BNDES Ombudsperson can be contacted via an online form: [http://www.bndes.gov.br/SiteBNDES/bndes/bndes\\_en/Navegacao\\_Suplementar/Ouvidoria/formulario.html](http://www.bndes.gov.br/SiteBNDES/bndes/bndes_en/Navegacao_Suplementar/Ouvidoria/formulario.html) or at the following address:

BNDES Ombudsperson / Ouvidoria  
Avenida República do Chile,  
100 - 19º andar 20031-917  
Rio de Janeiro - RJ – Brazil  
Phone: +55 21 2172-7447  
Fax: +55 21 2172-7117

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<sup>78</sup> See [http://www.bndes.gov.br/SiteBNDES/bndes/bndes\\_en/Navegacao\\_Suplementar/Ouvidoria/](http://www.bndes.gov.br/SiteBNDES/bndes/bndes_en/Navegacao_Suplementar/Ouvidoria/).

## Canadian Office of the Extractive Sector Corporate Social Responsibility (CSR) Counsellor

### What is the CSR Counsellor?

The Office of the Extractive Sector CSR Counsellor is a federal agency set up by the Canadian government to further its corporate social responsibility strategy for Canada's international mining, oil, and gas sectors.<sup>79</sup> The Office came into effect in March 2010 and has both an advisory role and a dispute resolution role referred to as the Review Process.

### What is the CSR Counsellor's Review Process?

In the Review Process, the CSR Counsellor facilitates dispute resolution between Canadian mining, oil and gas companies and communities outside of Canada. The Counsellor exists only as a neutral convening institution for dispute resolution and cannot make any compliance findings.

### CSR Counsellor Quick Summary

The CSR Counsellor performs dispute resolution in cases involving the Canadian private extractive sector.

Anyone outside Canada affected by a Canadian mining, oil or gas company in events that took place after October 19, 2009, can complain, but disputes raised must be connected with the office's Performance Guidelines.

If a request passes the Initial Assessment, the CSR Counsellor initiates a Review Process with a focus on mediation through information gathering, relationship building and dialogue.

The Review Process ends if 1) an agreement is reached between the parties (completion); or 2) no progress is made in mediation (termination). Either way, the CSR Counsellor publishes a Final Report.

### How to File a Complaint with the CSR Counsellor?

Requesters must be either:

- a Canadian mining, oil, or gas company (registered or head-quartered in Canada); or
- a project-affected individual, group, or community outside of Canada who is being affected by the activities of a Canadian extractive sector company not in compliance with the Performance Guidelines.

Assistance of a third party is allowed, and joint requests are allowed if both parties think they would benefit.

The CSR Counsellor requires that requesters have tried to engage with the other party in some way before making a request. Normally a requester is first expected to have approached the company (by phone or writing them), or to have used the project-level grievance mechanism if one exists. In assessing whether a complaint is eligible, the CSR Counsellor takes into account whether the request is being made in good faith and the extent to which other redress mechanisms have been exhausted.

<sup>79</sup> See [http://www.international.gc.ca/csr\\_counsellor-conseiller\\_rsc/review\\_process-processus\\_examen.aspx?lang=eng](http://www.international.gc.ca/csr_counsellor-conseiller_rsc/review_process-processus_examen.aspx?lang=eng)

Disputes or issues must be connected with the Canadian Government's endorsed Performance Guidelines, which include the IFC Performance Standards, the Voluntary Principles on Security and Human Rights and the Global Reporting Initiative. The CSR Counsellor has a strict mandate to not accept requests regarding Canadian, host country or international law. Your request for review must also relate to events that took place after October 19, 2009.<sup>80</sup>

### **What to Include in the Request?**

The request does not need to follow any specific format, but any submissions must be made in either English or French. The following information is required in the Request:

- Your name and contact information;
- The identity of the company whose activities form the basis of the request;
- Information, limited to what is publicly available, which supports the assertions made;
- The measures you have taken to try and resolve the matter;
- Confirmation that you understand the rules of procedure for the Review Process;
- Confirmation of your willingness to engage in constructive collaboration and dialogue with the company; and
- The desired outcome of the request.

### **How Does the CSR Counsellor's Review Process Work?**

The Review Process has three main stages:

- (1) **Initial Assessment** - When the CSR Counsellor receives a request for review, it notifies the other party within 24 hours. Within 5 business days, the Counsellor acknowledges receipt of the request. Then, the Counsellor has 40 business days to complete an intake screening determining whether the request is complete and meets a set of criteria including:

- Time elapsed since the alleged activity;
- Time elapsed since the requester became aware of the activity;
- Nature and seriousness of issue;
- Whether the request was made in good faith;
- Extent to which other redress mechanisms have been exhausted; and
- Whether the issue is substantiated.

During this process you may be asked for additional information to help the CSR Counsellor determine whether the request is eligible for Review. The eligibility determination is not a judgment on the merits of the allegations in the request. If the request is not eligible, the Review Process will be terminated. Parties will be notified of

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<sup>80</sup> See [http://www.international.gc.ca/csr\\_counsellor-conseiller\\_rsc/assets/pdfs/rules\\_procedure-regles\\_procedure-eng.pdf](http://www.international.gc.ca/csr_counsellor-conseiller_rsc/assets/pdfs/rules_procedure-regles_procedure-eng.pdf)

the decision, which will also be published on the Counsellor’s website.

- (2) **Trust Building and Situational Assessment** – The CSR Counsellor works with parties to facilitate communication and build trust for a period of up to six months. This phase typically involves a situation assessment, including a site visit, and may be extended with the agreement of the parties. The CSR Counsellor determines during this phase whether structured dialogue is appropriate. If no progress is made, the Review Process may be terminated.
- (3) **Structured Dialogue** - If parties make progress during the informal mediation stage and agree in writing to proceed, the Review moves into a “structured dialogue” of up to an additional six months. If the parties reach an agreement, the Review will be considered complete. If no agreement is reached, the Review Process will be terminated.

If the Counsellor finds it appropriate, an external mediator may be engaged to assist the parties in the resolution of their dispute. Independent third parties, or the participants themselves, may conduct fact-finding throughout the Review Process, with the intention of clarifying the issues under dispute and identifying possible alternatives for resolution of the dispute.

At the completion or termination of the Review Process, the Counsellor will publish a final report.

### **Confidentiality**

A requestor can request confidentiality, but only with regards to any information to be published on the CSR Counsellor’s website. Information acquired while carrying out the CSR Counsellor’s responsibilities is not disclosed without the permission of any person affected, except in accordance with an Act of Parliament.

### **Policies that May Apply to a Complaint to the CSR Counsellor**

The CSR Counsellor endorses the following performance standards:

- **International Finance Corporation’s Performance Standards on Social and Environmental Sustainability:**<sup>81</sup> This policy applies to both the IFC and its clients, and provides guidance on how to identify risks and impacts in order to help avoid and mitigate them for sustainable business.
- **Voluntary Principles on Security and Human Rights:**<sup>82</sup> It is a set of guidelines created by the US and UK government, companies in the extractive and energy sectors, and non-governmental organizations (“NGOs”), to guide the extractive companies to ensure safety and security of their operations as well as respect for human rights and fundamental freedoms.

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<sup>81</sup> See [http://www.ifc.org/wps/wcm/connect/115482804a0255db96fbfffd1a5d13d27/PS\\_English\\_2012\\_Full-Documents.pdf?MOD=AJPERES](http://www.ifc.org/wps/wcm/connect/115482804a0255db96fbfffd1a5d13d27/PS_English_2012_Full-Documents.pdf?MOD=AJPERES).

<sup>82</sup> See [http://www.voluntaryprinciples.org/wp-content/uploads/2013/03/voluntary\\_principles\\_english.pdf](http://www.voluntaryprinciples.org/wp-content/uploads/2013/03/voluntary_principles_english.pdf).



- **Global Reporting Initiative’s Sustainability Reporting Framework:**<sup>83</sup> It is a reporting system under the Global Reporting Initiative that has more than 600 Organizational Stakeholders, and sets the Principles and Standard Disclosures organizations can use to report their economic, environmental, and social performance and impacts.
- **Organisation for Economic Cooperation and Development (OECD) Guidelines for Multinational Enterprises:**<sup>84</sup> The guideline entails voluntary principles and standards for responsible business conduct by multinational enterprises as recommended by OECD governments. They cover areas such as employment and industrial relations, human rights, environment, information disclosure, combating bribery, consumer interests, science and technology, competition, and taxation. Canada’s National Contact Point (NCP) is the primary authority of these guidelines.

### Strategic Considerations

The Review Process raises several issues to consider before filing a complaint. First, the Process is entirely voluntary, so a party may decline to participate. To date, no company has agreed to the CSR Counsellor’s offer to initiate mediation with affected communities, and the Office has received a lot of criticism for its inability to bring companies to the negotiation table.<sup>85</sup> Second, the CSR Counsellor does not have a compliance function and cannot investigate or make findings about whether a company is in compliance with the Performance Guidelines. Third, the CSR Counsellor takes a fairly narrow view of its mandate and eligibility requirements, and has excluded other issues or asked requestors raising issues such as compliance with national or international law to limit their requests. Finally, the CSR Counsellor may require requestors to use project-level grievance mechanisms prior to submitting a request, even when such mechanisms are not functioning adequately.

### How to Contact the CSR Counsellor

Complaints must be received in writing, via electronic or regular mail or fax to:

The Extractive Sector Corporate Social Responsibility (CSR) Counsellor  
 1 Front Street West, Suite 5110  
 Toronto, Ontario M5J 2X5 CANADA  
 Tel: +1 416 973 2064  
 Fax: +1 416 973 2104  
 Email: [csr-counsellor@international.gc.ca](mailto:csr-counsellor@international.gc.ca)

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<sup>83</sup> See <https://www.globalreporting.org/resourcelibrary/GRIG4-Part1-Reporting-Principles-and-Standard-Disclosures.pdf>.

<sup>84</sup> See <http://www.oecd.org/daf/inv/mne/48004323.pdf>.

<sup>85</sup> See MiningWatch Canada, “Third Mining Company Walks Out on Canada’s Extractives Counsellor”, <http://www.miningwatch.ca/news/third-mining-company-walks-out-canada-s-extractives-counsellor>. Marketa Evans was the CSR Counsellor until October 18, 2013 following a quiet resignation. During her four years in office she did not mediate any of the six cases brought before the CSR Counsellor. See <http://www.ottawacitizen.com/opinion/op-ed/Canada+needs+effective+mining+oversight/9109205/story.html>.

## Export Development Canada's (EDC) Compliance Officer

### What is Export Development Canada (EDC)?

EDC is Canada's export credit agency, established in 1944. It provides risk management and financial support to Canadian exporters and Canadian companies investing abroad. As a Crown corporation working closely with the Canadian government, it supports both direct investment abroad and investment into Canada. EDC has facilitated more than \$1,041 billion in exports and foreign investment.

### What is the EDC Compliance Officer?

EDC's Compliance Officer was established in 2001 to provide a mechanism for resolving complaints either through dispute resolution and mediation or through a compliance audit to determine if EDC is following its corporate social responsibility practices and policies.

### How to File a Complaint with the EDC Compliance Officer?

Complaints can be submitted by any individual, group, community, entity or other party affected or likely to be affected by EDC's corporate social responsibility policies and initiatives.<sup>86</sup> These corporate social responsibility policies include those regarding public disclosure of information, environmental reviews, human rights and business ethics.

Complaints must be in writing, in English or French, but need not follow a specific format. Complaints should include the following information:

- Your name, address and other contact information such as phone and fax numbers, cell phone, and/or email address;
- If you are representing a complainant, contact information for yourself and the group/person you are representing and evidence of authority to represent that group/person;
- Background information on your complaint;
- A clear statement outlining your opinion of the social, business or environmental

### EDC QUICK SUMMARY

Any individual or group who has been, or is likely to be, affected by EDC's policies on public disclosure of information, environmental reviews, human rights and business ethics may complain to EDC's Compliance Officer.

Within a "reasonable" amount of time, the Compliance Officer will let you know whether your complaint is eligible. If eligible, the Officer will decide how to handle the complaint in a preliminary assessment.

Problem solving techniques such as dialogue, facilitation, or negotiation are the most common methods chosen to address a complaint. If there is a gap in EDC's implementation of its policy, a compliance audit can be recommended as well.

If the problem is not resolved at the end of this process, the Compliance Officer can make a recommendation to EDC's Board of Directors about future actions that should be taken to address the concerns raised.

<sup>86</sup> See EDC's Compliance Officer, Guidelines to Submitting a Complaint, <http://www.edc.ca/EN/About-Us/Management-and-Governance/Compliance-Officer/Documents/compliance-officer-steps-to-resolution.pdf>

- impact of the problem;
- Your desired result or outcome of an investigation; and
- What has been done to solve the problem, including any previous contact with EDC and the names of any people you may have dealt with in an attempt to resolve the issue or raise your concerns.

### **Confidentiality**

The Compliance Officer will not investigate anonymous complaints, but it does consider communication during the resolution process privileged and will not release confidential information provided to support a complaint without consent of the party who provided the information.

### **How does the EDC Compliance Officer Operate?**

The Compliance Officer acknowledges the receipt of your complaint within five business days. Within a reasonable period of time after that, the Compliance Officer will contact you to let you know if your complaint falls within its mandate and to let you know how long the review may take. If the Compliance Officer decides that your complaint does not fall within its mandate, you will receive a letter explaining why this decision was made.

If your complaint falls within the Compliance Officer's mandate, the Compliance Officer conducts a preliminary assessment to determine how the complaint should be handled. The Compliance Officer will recommend one or a combination of the following to resolve the complaint: 1) Promotion of dialogue; 2) Dispute resolution; or 3) Compliance Audit. As part of the resolution, the Compliance Officer will include a process for follow-up monitoring assisted by ECD.

The complaint process concludes either when a satisfactory solution is reached or when the Compliance Officer decides that further investigation or problem-solving techniques will not resolve the problem. At the conclusion of the process, the Compliance Officer can make a recommendation to EDC's Board of Directors about future actions to address the concerns raised.<sup>87</sup>

A compliance audit will only be recommended if, during an investigation, a gap is identified in the implementation of EDC's policies, procedures or guidelines. The EDC's internal auditors or an external third party will carry out any audits with oversight by the Compliance Officer. When an audit results in findings of noncompliance and/or identifies policy flaws, the Compliance Officer will assist in making recommendations to improve policies and achieve compliance. Compliance audits are conducted outside of the complaint process.

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<sup>87</sup> See EDC's Compliance Officer, Steps to Resolution, <http://www.edc.ca/EN/About-Us/Management-and-Governance/Compliance-Officer/Documents/compliance-officer-steps-to-resolution.pdf>

## **EDC Policies That May Apply to a Complaint to the Compliance Officer**

The EDC has a framework of environmental and social policy documents that guide its operations and the requirements of its clients.<sup>88</sup> Standards include the IFC Performance Standards and the Equator Principles.

### **Information Disclosure Policy**

The EDC Disclosure Policy<sup>89</sup> entitles the public to information such as general information about EDC projects, environmental information regarding Category A projects and EDC policies. The information should be available on the EDC website at <http://www.edc.ca>. If you are unable to locate information on the EDC website, contact Glen Nichols at [glnichols@edc.ca](mailto:glnichols@edc.ca) or contact EDC by phone: +1 613 598 2500 or fax: +1 613 237 2690.

### **How to Contact the EDC Compliance Officer**

Your written complaint, in English or French, may be submitted electronically at: [https://www19.edc.ca/edcsecure/eforms/csr/request\\_review\\_e.asp](https://www19.edc.ca/edcsecure/eforms/csr/request_review_e.asp) or sent via mail, hand delivery, email or fax to:

Compliance Officer  
Export Development Canada  
151 O'Connor Street  
Ottawa ON  
K1A 1K3 Canada  
Fax: 613-597-8534  
Email: [complianceofficer@edc.ca](mailto:complianceofficer@edc.ca)

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<sup>88</sup> See EDC's Environmental and Social Risk Management Framework, <http://www.edc.ca/EN/About-Us/Corporate-Social-Responsibility/Environment/Pages/default.aspx>

<sup>89</sup> See EDC's Disclosure Policy, <http://www.edc.ca/EN/About-Us/Disclosure/Documents/disclosure-policy.pdf>

## The Japan Bank for International Cooperation's (JBIC), Japan International Cooperation Agency's (JICA) and Nippon Export and Investment Insurance (NEXI) Examiners

### What are the Japan Bank for International Cooperation (JBIC), the Japan International Cooperation Agency (JICA) and the Nippon Export and Investment Insurance (NEXI)?

JBIC, established in 1999, is the export credit agency of the Japanese Government. JBIC promotes Japanese exports, imports and economic activities through loans, equity, guarantees and other financial support. It supports and promotes the international competitiveness of Japanese industries, and supports Japanese and non-Japanese projects overseas that benefit environmental conservation.

JICA is a Japanese development agency established in 2003. It provides bilateral aid directly to developing countries in the form of technical cooperation, loans, and grants. It aims at addressing the global agenda, reducing poverty through equitable growth, improving governance, and achieving human security.

NEXI is a Japanese agency, established in 2001 that provides trade and investment insurance to Japanese companies. Its aims at promoting stability and development in Japan's economic community through risk management in international transactions, anticipation of changes in the market and by responding to customer needs.

### What are the JBIC, JICA and NEXI Examiners?

The Examiners were established to receive complaints regarding JBIC,<sup>90</sup> JICA<sup>91</sup> and NEXI<sup>92</sup> projects. The process they follow in handling complaints is called the Objection Procedures.

<sup>90</sup> See Summary of Procedures to Submit Objections concerning JBIC Guidelines for Confirmation of Environmental and Social Considerations, July 2012, available at <http://www.jbic.go.jp/en/about/environment/guideline/disagree/pdf/en-disagree-2012.pdf>

<sup>91</sup> See JICA Objection Procedures Based On The Guidelines For Environmental And Social Considerations, April 2010, available at [http://www.jica.go.jp/english/our\\_work/social\\_environmental/guideline/pdf/objection100326.pdf](http://www.jica.go.jp/english/our_work/social_environmental/guideline/pdf/objection100326.pdf)

### Examiner Quick Summary

Two or more people may complain to the Examiner if:

- they live in a country where JBIC, JICA or NEXI has financed a project;
- they have suffered or are likely to suffer harm from the project;
- the harm has resulted from JBIC's, JICA's or NEXI's failure to follow their social and environmental policies; and
- they have already made efforts to address their problem with both the project sponsor and the relevant JBIC, JICA or NEXI Department.

The Examiner assesses eligibility and decides whether or not to investigate. The Examiner may also attempt to mediate the dispute. Within 2 (JICA) or 3 (JBIC and NEXI) months, the Examiner will issue a report with a finding regarding compliance with relevant policies. The relevant Department must respond, and the senior leadership of each institution decides what action to take, if any.

The Objection Procedures were established to:

- ensure **compliance** with the JBIC, JICA and NEXI's social and environmental policies; and
- encourage dialogue and assist in **dispute resolution** between the parties.

### How to File a Complaint with the JBIC, JICA and NEXI Examiners?

Two or more people directly harmed or likely to suffer harm because of JBIC's, JICA's or NEXI's failure to follow their social and environmental policies may file a complaint to the JBIC, JICA or NEXI Examiners. If the circumstances of your country or region require it, another person may file a complaint on your behalf, but you must authorize the person to act and the complaint must still identify you.

Complaints must meet the following **eligibility criteria**:

- The complaint must be filed by two or more people;
- The complaint must raise issues regarding a JBIC, JICA<sup>93</sup> or NEXI project;
- You must be a resident of the country in which the project takes place;
- You must have actually (and directly)<sup>94</sup> suffered harm, or be likely to suffer harm, because of a policy violation by JBIC, JICA or NEXI;
- You must file the complaint during the time period specified by the Objection Procedures (see more detailed explanation below); and
- You must have made efforts to address your problem with the relevant JBIC, JICA<sup>95</sup> or NEXI<sup>96</sup> Department before filing the complaint. You should also have done the same with the project sponsor<sup>97</sup> unless you were unable to do so for unavoidable reasons. You should take detailed notes and keep records of all communications with these groups and their responses.

Your complaint may be submitted in English, Japanese, or your country's official language. **The following information must be included in the complaint:**

- Your name and contact information and that of the other complainant(s);

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<sup>92</sup> See NEXI, Procedures for Submitting Objections on Guidelines of Environmental and Social Considerations in Trade Insurance (2003), available at [http://nexi.go.jp/en/environment/objection/pdf/08b\\_1.pdf](http://nexi.go.jp/en/environment/objection/pdf/08b_1.pdf).

<sup>93</sup> Complaints can only be filed about certain types of JICA projects, specifically: (1) loan aid; (2) grant aid (excluding projects executed through international organizations); (3) preliminary studies of grant aid undertaken by the Ministry of Foreign Affairs; (4) technical cooperation for development planning and (5) technical cooperation projects.

<sup>94</sup> JBIC and NEXI require the harm to be both "actual" and "direct", whereas JICA only requires "actual" harm.

<sup>95</sup> For JBIC and JICA, the relevant Departments are the Operational Departments. In order to communicate your issues with the JBIC or JICA Operational Departments, send a description of your issues to the closest JBIC or JICA office with a request that the complaint be forwarded to the Operational Department. For the nearest JBIC office, please visit <http://www.jbic.go.jp/en/about/office/index.html>; and for the nearest JICA office, please visit <http://www.jica.go.jp/english/about/organization/overseas/index.html>.

<sup>96</sup> For NEXI, you should contact the NEXI Department in charge of underwriting business: Underwriting Department, Structured and Trade Finance Insurance Department and Environment Group of Financial Risk Management Department. For the nearest NEXI office, please visit <http://nexi.go.jp/en/corporate/access/>.

<sup>97</sup> The Project Sponsor, also called the Project Proponent, is generally the corporation, government, or group actually constructing or creating the project at issue.

- If a representative is filing the complaint on your behalf, evidence of his/her authority to represent you<sup>98</sup> and an explanation of why it is necessary for him/her to submit the complaint on your behalf;
- Information about the project at issue, including its country, specific location, project sponsor and a short description of the project;
- A description of the harm that you have suffered or are likely to suffer in the future as a result of JBIC's, JICA's or NEXI's violations of their social and environmental policies, called Guidelines;
- A description of provisions of the Guidelines you believe have been violated;
- Facts supporting your belief that the Guidelines have been violated;
- Facts explaining why JBIC's, JICA's or NEXI's failure to follow the Guidelines has caused the harm (or expected harm);
- A description of how you think the issue should be resolved; and
- Facts describing your attempts to resolve the issues with the project sponsor. If you were unable to attempt to resolve issues with the project sponsor due to unavoidable reasons, state these reasons in your complaint. You must also include facts describing your attempts to resolve the issues with the relevant JBIC, JICA or NEXI Department. If you found the response of the relevant Department unsatisfactory, state your reasons in the complaint. You should include copies of all records of communications between you and the project sponsor and the relevant Department.

A sample request form can be found in Appendices section of the Objection Procedures for JBIC, JICA or NEXI.

Finally, as mentioned above, the Examiners have rules regarding when you may file a complaint. For **JBIC**, you must submit a complaint after the loan agreement is executed and before the loan has been fully disbursed. If the loan has been fully disbursed, but JBIC is still monitoring the project, you may submit a complaint about violations of the monitoring provisions of the Guidelines. If the JBIC Examiner receives a complaint too early (e.g. before the loan agreement has been signed), JBIC's Examiner may send the complaint to JBIC's Operational Department. The Operational Department will then respond to the complaint and report to the JBIC President and CEO.

For **JICA**, the timeframe for when you can complain depends on the type of JICA project you are complaining about.

1. **Loans, grants or technical cooperation projects:** You may submit a complaint after JICA discloses the project's categorization and before the project is completed. If the project is completed, but JICA is still monitoring the project, you may submit a complaint about violations of the monitoring provisions of the Guidelines.
2. **Preliminary studies of grant aid, undertaken by the Japanese Ministry of Foreign Affairs:** You may submit a complaint after JICA discloses the project's categorization and up to one month after the final report is disclosed on the website.

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<sup>98</sup> According to the JICA Office of Audit, such evidence can take the form of a letter of authorization from you to your representative.

3. **Technical cooperation for development planning:** You may submit a complaint after JICA discloses the project's agreement document and up to one month after the final report is disclosed on the website.

For **NEXI**, you must submit a complaint after the conclusion of the insurance contract and before the completion of the supply of funds. Where NEXI is monitoring the project, and even if the funding has been fully disbursed, you may submit a complaint about violations of the monitoring provisions of the Guidelines. If the Examiner receives a complaint too early (e.g. before the insurance contract has been signed), NEXI's Examiner may send the complaint to the NEXI Department in charge of underwriting business. The Department will then respond to the complaint and report to the NEXI Chairman.

### **Confidentiality**

You must provide your real name and contact information to the Examiner in the complaint. If you do not want the project sponsor to know your identity, you may request confidentiality in the complaint. When you do so, JICA and JBIC Examiners will not disclose your name and any information about you to the project sponsor. For NEXI, however, you should obtain written confirmation from the Examiner's office prior to disclosing your intention to file a complaint, as the translated rules are unclear. For all three institutions, it is crucial to note that the Examiner can still disclose your identity and information to the institution's operational staff.

### **How do the Examiners Operate?**

The Examiner will notify you that your complaint has been received within 5 business days, after which it will conduct a Preliminary Investigation. As part of the Preliminary Investigation, the Examiner will check the documents you have submitted to verify that they set out all the required information, and may interview you to make sure that you are qualified to bring a complaint. The Examiner will also check that the complaint was made in "good faith." Factors in assessing good faith include whether the complaint is truthful and whether it was submitted to: obtain undue compensation; delay the project; damage the credit or reputation of the project sponsor; or further unrelated political purposes. The Preliminary Investigation should normally be completed in one month.

After the Preliminary Investigation, the Examiner decides whether to conduct a full investigation. If the Examiner decides not to investigate, the Examiner will notify you and JBIC/JICA/NEXI of its reasons. Even if the Examiner decides not to investigate, it may transfer your complaint to the relevant JBIC, JICA or NEXI Department for review and monitoring of the project. Alternatively, if the issues raised in the complaint are the subject of a lawsuit or any other dispute resolution proceeding in Japan or elsewhere, the Examiner may decide to wait to make a decision about conducting an investigation. In that case, the Examiner will notify you of this decision.

If the Examiner decides to conduct a full investigation, the Examiner will notify you, JBIC/JICA/NEXI, the project sponsor and other parties involved. The Examiner's investigation may include interviews with you and members of the relevant JBIC, JICA or NEXI Department, and inspection of documents or other relevant materials. The Examiner may also



interview other residents of the project area, the project sponsor, specialists or local or national governmental officials.

The Examiner may also attempt to mediate the dispute by encouraging dialogue.<sup>99</sup> The Examiner may conduct individual interviews as part of this process. There is limited information available about the Examiner's dispute resolution process. The Examiner will complete the compliance investigation regardless of what happens in the dispute resolution process.<sup>100</sup>

Within two (JICA) or three (JBIC and NEXI) months, the Examiner issues a report describing the results of the investigation or dialogue and recommending how to bring a project into compliance if violations are found. The report is sent to the President (JICA), Executive Committee (JBIC), or Chairman and CEO (NEXI) of the institution and to all of the relevant parties. If the Examiner believes it needs more time, it may explain why further activities are indispensable in a report to the President, Executive Committee or Chairman and CEO (as the case may be), who may extend the investigation or dialogue period by up to two months.

One month after the Examiner's report has been completed and sent to the parties, the relevant JBIC, JICA or NEXI Department must issue a written response with measures that need to be taken to ensure compliance with relevant Guidelines. The President or Chairman of each institution decides what action to take, if any.

### **Policies That May Apply to Examiner Complaints**

The relevant JBIC policies are JBIC's Guidelines for Confirmation of Environmental and Social Considerations<sup>101</sup> used to conduct screening and environmental reviews of projects. The guidelines cover:

- Human health and safety concerns, and impacts on natural environment including air, water, soil, waste, accidents, water usage, ecosystem and biota; and
- Social concerns including involuntary resettlement of the population, the indigenous people, cultural heritage, landscape, gender, children's rights, communicable diseases such as HIV/AIDS, the working conditions (including occupational safety) and impact that may lead to trans-boundary and global environmental problems.

JBIC funded projects are to follow environmental laws and standards of the host national and local governments concerned in their project implementation and relevant aspects of World Bank Safeguard Policy regarding environmental and social considerations.

JICA's guidelines for environmental and social considerations<sup>102</sup> also cover similar areas of impacts on human health and safety, the natural environment and other social impacts.

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<sup>99</sup> The JICA Office of Audit has indicated in a written response to Accountability Counsel's queries that it regards the Examiner's encouragement of dialogue and dispute resolution as being dependent on the Examiner's findings on JICA's compliance or non-compliance.

<sup>100</sup> This was clarified by the JICA Office of Audit in a written response to Accountability Counsel's queries.

<sup>101</sup> See JBIC Guidelines for Environmental and Social Considerations revised in 2012 at: [https://www.jbic.go.jp/wp-content/uploads/page/efforts/environment/confirm\\_en/pdf\\_01.pdf](https://www.jbic.go.jp/wp-content/uploads/page/efforts/environment/confirm_en/pdf_01.pdf)

<sup>102</sup> See JICA Guidelines for Environmental and Social Considerations at: [http://www.jica.go.jp/english/our\\_work/social\\_environmental/guideline/pdf/guideline100326.pdf](http://www.jica.go.jp/english/our_work/social_environmental/guideline/pdf/guideline100326.pdf). These JICA Guidelines were issued in 2010. Unlike the 2004 version, which addressed JICA's technical cooperation function only, the 2010 Guidelines addresses the functions of loan aid and grant aid, which were transferred from JBIC to JICA's operations in 2008.

NEXI has also established Guidelines on Environmental and Social Considerations in Trade Insurance, which set out the policy and procedures for confirming that the borrowers or project proponents have taken appropriate steps for environmental and social considerations.<sup>103</sup> These policies are similar to those of JBIC and JICA and cover the same areas of human health and safety concerns, impacts on natural environment, and social concerns as listed in JBIC's Guidelines for Confirmation of Environmental and Social Considerations.

### **Information Disclosure Policy**

JBIC discloses the project name, country, location, an outline and sector of the project, and its category classification, as well as the reasons for that classification, after screening of the project. For Category A (likely to have significant adverse environmental impact) and Category B (potential impact is less adverse than that of Category A) projects, JBIC publishes on its website the status of acquisition of the Environmental Impact Assessment (EIA) reports and environmental permit certificates and the confirming of environmental and social considerations. JBIC also provides the results of its environmental reviews of projects in Categories A, B, as well as the results of the monitoring conducted by the project proponents to the extent they are made public in the host country.<sup>104</sup>

JICA discloses information on environmental and social considerations and of the cooperation projects themselves. For Category A projects (likely to have significant adverse impacts), JICA discloses final reports or equivalent documents of preparatory surveys, EIA reports (120 days prior to concluding agreement documents) and environmental permit certification, and Resettlement Action Plans and Indigenous People Plans, if preparations are required, prior to environmental review. JICA also discloses the results of environmental reviews and the monitoring results on their website, when approved to do so by the project proponents.<sup>105</sup>

NEXI discloses information relevant to environmental and social considerations of its projects at two different stages: before and after concluding the insurance contract. The available information includes Screening Results and Results of Environmental Review.<sup>106</sup>

Additionally, the NGOs Friends of the Earth Japan,<sup>107</sup> Mekong Watch<sup>108</sup> and JACSES<sup>109</sup> are other important sources of information if you are considering filing a complaint.

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<sup>103</sup> NEXI, Guidelines on Environmental and Social Considerations in Trade Insurance (2009) [http://nexi.go.jp/en/environment/social/pdf/ins\\_kankyou\\_gl-e.pdf](http://nexi.go.jp/en/environment/social/pdf/ins_kankyou_gl-e.pdf)

<sup>104</sup> For links to the information disclosed by JBIC, see <https://www.jbic.go.jp/en/efforts/environment/projects>.

<sup>105</sup> For links to the information disclosed by JICA, see [http://www.jica.go.jp/english/our\\_work/social\\_environmental/id/index.html](http://www.jica.go.jp/english/our_work/social_environmental/id/index.html).

<sup>106</sup> For links to the information disclosed by NEXI, see <http://nexi.go.jp/en/environment/social/>.

<sup>107</sup> See Friends of the Earth Japan: <http://www.foejapan.org/en>.

<sup>108</sup> See Mekong Watch: <http://www.mekongwatch.org/english>.

<sup>109</sup> See Japan Center for a Sustainable Environment and Society: <http://jacses.org/en>.

## Where to Submit the Complaint

### **JBIC:**

Office of Examiner for Environmental Guidelines  
Japan Bank for International Cooperation  
4-1, Ohtemachi 1-chome Chiyoda-ku,  
Tokyo 100-8144, Japan  
FAX: + 81-(0)3-5218-3946  
E-mail: [sinsayaku@jbic.go.jp](mailto:sinsayaku@jbic.go.jp)

### **JICA:**

Examiners for the Guidelines  
Office of Audit  
Japan International Cooperation Agency  
Nibancho Center Building  
5-25, Niban-cho, Chiyoda-ku,  
Tokyo 102-8012, Japan  
FAX: +81-03-5226-6973  
E-mail: [jicama-jigi@jica.go.jp](mailto:jicama-jigi@jica.go.jp)

### **NEXI:**

Chiyoda First Building 3rd Floor 3-8-1, Nishikanda,  
Chiyoda-ku Tokyo 101-8359, Japan  
Nippon Export and Investment Insurance  
Examiner: Mr. Kazuo Matsushita  
E-mail: [kankyosinsayaku@nexi.go.jp](mailto:kankyosinsayaku@nexi.go.jp)  
Fax: +81-3-3512-7660

## Netherlands Development Finance Company (FMO) and German Investment Corporation (DEG) Independent Complaints Mechanism

Information on this new mechanism will be added soon.

Please visit <http://www.accountabilitycounsel.org/resources/arg/> for the latest version of this Guide.

## The U.S. Overseas Private Investment Corporation's (OPIC) Office of Accountability

### What is the Overseas Private Investment Corporation (OPIC)?

OPIC, established in 1971, is an agency of the United States Government. While it is not technically an “export credit agency,” OPIC provides financing and insurance to U.S. businesses in their investments abroad and works to promote U.S. foreign policy through its private-sector support programs.

### What is the OPIC Office of Accountability?

OPIC's Office of Accountability was established to provide an independent forum where people affected by OPIC projects can voice and resolve complaints and to help assure that OPIC complies with its social and environment policies. The Office of Accountability has two functions:

- **Problem-Solving:** for resolving complaints from local communities, with or without allegations of non-compliance by OPIC, through a process that may include independent fact-finding, dialogue facilitation or mediation; and
- **Compliance Review:** for assessing and reporting on OPIC's compliance with its policies related to environmental and social impacts, including worker rights and human rights.

The Office of Accountability updated its operational guidelines for problem-solving and compliance review in April 2014.<sup>110</sup>

### How to File a Complaint with the Office of Accountability?

Any member of a local community concerned about the adverse impacts of an OPIC-supported project may file a complaint with the Office of Accountability. You can request

### Office of Accountability Quick Summary

Any individual or group may submit a complaint to the OPIC Office of Accountability if they have concerns about harms or expected harms resulting from an OPIC-supported project.

For a problem-solving complaint, you must have already made an effort to resolve the problem with OPIC and/or the project sponsor.

The Office of Accountability conducts an eligibility assessment, after which it will conduct a preliminary investigation. You can request problem-solving, compliance review, or both, in either order.

If your complaint seeks problem-solving, the Office of Accountability may conduct a site visit. If the parties agree, the Office of Accountability will facilitate a dialogue or mediation.

If your complaint seeks compliance review, the Office of Accountability will investigate whether OPIC complied with its social and environmental policies.

<sup>110</sup> See [http://www.opic.gov/sites/default/files/files/final\\_draft\\_OA\\_guidelines.pdf](http://www.opic.gov/sites/default/files/files/final_draft_OA_guidelines.pdf).

problem-solving, compliance review, or both, in either order.<sup>111</sup> A local representative may submit a complaint on your behalf with your authorization and the complaint must clearly identify the people on whose behalf it is being made. Additionally, the Office of Accountability allows representation by non-local people only if “there is clear evidence that there is no adequate or appropriate representation in the country where the project is located.”<sup>112</sup>

Complaints by local communities must meet the following **eligibility criteria**:

- Complaints must be filed about harm or expected harm from a project that OPIC is supporting or is actively considering supporting at the time of the request. A complaint will not be found eligible if OPIC’s loan for the project has been fully paid back, its insurance contract has terminated, or, where OPIC provided support through a financial intermediary, that party is no longer invested in the project.
- For complaints requesting problem-solving, requestors must first have made a good faith effort to resolve the issues directly with the company.

Project sponsors may also submit complaints seeking problem-solving, and OPIC’s President & CEO or its Board may submit complaints seeking compliance review.

The Office of Accountability will not consider claims that the existing policy framework is inadequate, and it will not consider a second complaint about the same matter, unless there is new information.

Your complaint must be written in English or your native language and should include the following information:

- Your identity and contact information;
- The identity, contact information and credentials of any representative, and evidence of the nature and scope of the representative authority;
- Whether you wish your identity and/or information provided to the Office of Accountability to be kept confidential, giving reasons;
- The nature and location of the project, the name of the company carrying out the project, and any information you have about OPIC’s involvement;
- A statement of the harm resulting from or expected to result from the project;
- If you are requesting a problem-solving process, a brief description of your efforts to resolve the problem, including who you communicated with (OPIC, the company carrying out the project, and/or the government), when you communicated, whether you received a response, and why that response did not provide a satisfactory resolution (note that this is information not required if you request confidentiality); and
- Any other relevant facts, including supporting documents.

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<sup>111</sup> See <http://www.opic.gov/who-we-are/office-of-accountability/a-guide-for-communities>.

<sup>112</sup> See <http://www.opic.gov/who-we-are/office-of-accountability/problem-solving>.

## Confidentiality

You may ask in the complaint that your identity remain confidential, but you must provide a reason for the confidentiality request. The Office of Accountability does not accept anonymous complaints.

## How Does the Office of Accountability Operate?

After you file a complaint, the Office of Accountability registers the complaint on its public registry and conducts an eligibility assessment. If your complaint is not eligible, the Office will inform you in writing, giving you reasons. If it is found eligible, the Office of Accountability runs an assessment within 80 days, which may involve a site visit, and will then determine whether the complaint will proceed to Problem-Solving, Compliance Review, or both.

**Problem-Solving** involves a dialogue process between the parties, which may involve direct negotiation between Parties, or a facilitated mediation. The host country government may also be involved in this process. The Office of Accountability also offers training to assist in effective participation in a problem-solving process if requested. OPIC establishes that they must have direct communication with all parties regardless of representation during this process.

The Director of the Office of Accountability may end the problem-solving process at any time if it is clear that the process is unlikely to lead to positive results. At the end of a problem-solving process, the Office reports the results and conclusions of the process to the parties and the OPIC President & CEO. The results and conclusions are then made public. To the extent practicable, the Office of Accountability will monitor any changes made in response to agreements reached through problem-solving. It will produce a final report on the problem-solving process and post it on their website.

In a **Compliance Review**, the Office of Accountability examines whether or not OPIC applied the appropriate relevant environmental and social policies and procedures to their project in contestation and whether or not proper implementation steps were followed. In order to determine whether a full review is warranted, the Office of Accountability conducts a Compliance Appraisal to weigh the potential benefits of undertaking a full compliance review.

If a full Compliance Review is initiated, a draft compliance report will be produced based on information gathered. The draft report is circulated to OPIC Management for comment prior to the report being finalized. The final report is discussed with the President & CEO of OPIC, who decides what action should be taken to address any findings of noncompliance in the report. After this decision is made, the Office will inform you of the report's findings and any planned remedial actions and post a summary on its website. The Office of Accountability monitors implementation of any recommendations made by the President & CEO in response to the investigation, reporting on an annual basis.

## Policies That May Apply to a Complaint to the Office of Accountability

In 2010, OPIC adopted a revised Environmental and Social Policy Statement (ESPS), which applies to all projects whose applications were signed after August 2010.<sup>113</sup> The ESPS

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<sup>113</sup> See [http://www.opic.gov/sites/default/files/consolidated\\_esps.pdf](http://www.opic.gov/sites/default/files/consolidated_esps.pdf).

adopts the International Finance Corporation's Performance Standards and its Industry Sector Guidelines (see the above chapter on the CAO for more information). Additionally, the ESPS includes standards related to human rights and internationally recognized worker rights.<sup>114</sup> Earlier projects are subject to OPIC's Environmental Handbook.<sup>115</sup>

### **Information Disclosure Policy**

OPIC has made various commitments to "significantly expand the volume and breadth of information it discloses to the public about projects the agency supports."<sup>116</sup> This includes posting project summaries of all Category A projects prior to their approval.<sup>117</sup>

To request OPIC records not published on its website, you must make a request under the U.S. Freedom of Information Act. Information on how to submit such a request is available here: <http://www.opic.gov/who-we-are/foia>.<sup>118</sup>

### **Example of an Office of Accountability Complaint**

In late 2010 and early 2011, three villages in Oaxaca, Mexico filed complaints with the OPIC Office of Accountability regarding the Cerro de Oro Hydroelectric Project and requesting both problem-solving and compliance review. The complaints explain that the communities did not receive information about the project and were not consulted before construction began. They detail impacts to Chinanteco indigenous groups that were not considered during the Project's design and reveal insufficient plans to address and mitigate social and environmental impacts, including destruction of important waterways that communities depend on for consumption, household use and fishing. Complainants also note problems with land acquisition and the absence of a required local grievance mechanism.

The three communities, along with a fourth community also impacted by the project, participated in a successful dialogue process through OPIC's Office of Accountability and were able to reach an agreement in March 2011 which halted project construction and placed the future of an alternate design for the project into the hands of the communities. In November 2011, the three communities who had filed complaints rejected the company's alternative project design. As of December 2013, the project remains stopped.<sup>119</sup>

In April 2012, OPIC's Office of Accountability determined in its Compliance Appraisal Report that a full compliance audit was not necessary. While the Appraisal Report did not include formal compliance findings, it did generate several important recommendations for OPIC aimed at avoiding problems that arose in this case. OPIC Management responded to the Appraisal Report in October 2012, with actions to undertake in response to the Office of Accountability's recommendations.

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<sup>114</sup> See <http://www.opic.gov/doing-business-us/OPIC-policies/worker-human-rights>.

<sup>115</sup> See <http://www.opic.gov/doing-business-us/OPIC-policies/archived-documents>.

<sup>116</sup> See <http://www.opic.gov/who-we-are/transparency>.

<sup>117</sup> Projects being considered by the Board can be found here: <http://www.opic.gov/who-we-are/board-of-directors/pending-board-action>; projects already approved by the Board can be found here: <http://www.opic.gov/opic-action/all-project-descriptions>.

<sup>118</sup> If you have trouble accessing information through this process, or if you are being told that you will have to pay fees, please contact Accountability Counsel. We may be able to connect you with attorneys who can assist you pro bono.

<sup>119</sup> See <http://www.accountabilitycounsel.org/communities/mexico/>.



This case demonstrates that, under certain circumstances, communities can achieve significant results through the use of accountability mechanisms.

### **How to Contact the OPIC Office of Accountability**

Complaints can be submitted by filling out an online form,<sup>120</sup> by sending a complaint as an attachment in an email or by submitting a written complaint to OPIC headquarters in Washington, DC by mail, fax, e-mail or hand delivery. The Office of Accountability may be contacted at:

Director, Office of Accountability  
Overseas Private Investment Corporation  
1100 New York Ave., NW  
Washington DC 20527  
Tel: +1 202 336 8543; +1 202 312 2128  
Fax: +1 202 408 5133  
E-mail: [accountability@opic.gov](mailto:accountability@opic.gov)

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<sup>120</sup> The request form can be found online at:  
<http://www.opic.gov/sites/default/files/files/Request%20Form%20for%20Affected%20Parties%20or%20Their%20Representatives.docx>.

## OECD Guidelines for Multinational Enterprises – National Contact Points (NCPs)

### What is the Organization for Economic Cooperation and Development (OECD)?

The OECD is an international body made up of 34 industrialized nations which host the majority of corporations and export credit agencies that finance and guarantee projects around the world.

### What are the OECD Guidelines for Multinational Enterprises?

The OECD's Guidelines for Multinational Enterprises<sup>121</sup> (the Guidelines) establish standards on issues such as due diligence, disclosure, human rights, labor and the environment, among others, to which corporations operating in and from OECD countries should adhere. The Guidelines are "recommendations" to corporations from the 34 member countries of the OECD, as well as 12 non-member "adhering countries."<sup>122</sup>

Although the Guidelines are voluntary for corporations, there is an expectation that the Guidelines will be followed because OECD member and adhering countries have endorsed them.<sup>123</sup> In theory, all corporations operating in or from OECD member or adhering countries are expected to follow the Guidelines.

### What are National Contact Points?

The Guidelines are implemented through National Contact Points (NCPs). The NCPs are offices run by national governments in the member and adhering countries. The Guidelines allow countries significant flexibility in structuring their NCPs. This means that some NCPs are housed in a single government agency, such as the ministry of economy or trade, while others are inter-agency bodies or include non-governmental stakeholders. NCPs are responsible for encouraging national observance of the Guidelines.<sup>124</sup>

NCPs are also charged with receiving complaints and mediating disputes regarding specific actions by multinational corporations that violate the Guidelines (these are called

### OECD NCP Quick Summary

Any individual or group may complain to an OECD National Contact Point (NCP) in the location where a corporation is based or where it operates (the home or host country).

The complaint must detail how the company has violated the OECD Guidelines for Multinational Enterprises.

Each NCP establishes its own process for addressing complaints, but every process should include an Initial Assessment and a mediation phase. All NCPs should issue a Final Statement at the end of each process.

<sup>121</sup> The Guidelines 2011 Edition are available at: <http://mneguidelines.oecd.org/text/>.

<sup>122</sup> Adhering countries are non-OECD countries that have also endorsed the Guidelines. As of July 2015, the adhering countries are Argentina, Brazil, Colombia, Costa Rica, Egypt, Jordan, Latvia, Lithuania, Morocco Peru, Romania and Tunisia. Please note that this information changes frequently.

<sup>123</sup> See OECD Watch, Guide to the OECD Guidelines for Multinational Enterprises Complaint Procedure, 6 (June 2006), available at: <http://germanwatch.org/tw/oecd-gui06.pdf>.

<sup>124</sup> National Contact Points for the OECD Guidelines for Multinational Enterprises, available at: <http://www.oecd.org/daf/inv/mne/2013NCPContactDetails.pdf>.

“specific instances of conduct” and complaints to NCPs are often referred to as “specific instances”). As of July 2015, there had been approximately 330 such complaints filed to NCPs.<sup>125</sup>

### **How to File a Complaint with an NCP?<sup>126</sup>**

The NCPs are made available to the widest possible array of stakeholders: any interested party may file a complaint to an NCP. Complaints can be filed about past violations, violations currently occurring or violations that may occur if a company goes ahead with planned activities. However, in some cases, certain NCPs have refused to consider complaints focused on past or potential violations, insisting that their mandate is to focus only on future-oriented solutions to current or highly probable future violations.

For details about what should be included in a complaint to an NCP, see [the OECD Watch Guide to the Guidelines](#) or contact [Accountability Counsel](#). You can also use the [OCED Watch Case Check](#) to help determine whether the OECD Guidelines apply to your case (see footnote 126).

In order to file a complaint about a corporation that may have violated the OECD Guidelines, first determine which NCP is the most appropriate to use. It is best to file a complaint with the NCP located in the country where the conduct occurred. If there is no NCP in that country, you can file with the NCP in the country where the corporation is headquartered. In some cases, you may want to consider filing to both the NCP in the country where the conduct occurred *and* the NCP in the country where the corporation is headquartered.

Once you decide on the appropriate NCP, look up its rules to see what it suggests you include in your complaint. In general, your complaint should provide details about the “specific instance of conduct” that is at issue and which provisions of the Guidelines were violated. The complaint should also discuss the harm caused by the violation, any attempts you have made to resolve the dispute directly with the company, and your desired outcomes from the NCP process. Finally, you should include any available documentation or evidence that supports your complaint. Note that many (but not all) NCPs focus exclusively on dispute resolution and some may not accept your complaint if it is clear that you are not interested in dialogue with the company.

### **Confidentiality**

The Guidelines do not guarantee that all NCPs will respect requests that a complainant’s identity be kept confidential, although they suggest that the identities of individuals involved in an NCP process should be kept confidential.

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<sup>125</sup> Database for Specific Instances, available at: <http://mneguidelines.oecd.org/database/>.

<sup>126</sup> The organization OECD Watch has produced a comprehensive Guide to the NCP process: OECD Watch “Calling for Corporate Accountability – A Guide to the 2011 OECD Guidelines for Multinational Enterprises”, available at: [http://oecdwatch.org/publications-en/Publication\\_3962](http://oecdwatch.org/publications-en/Publication_3962). It has also produced a short brochure describing the Guidelines and discussing how to file a complaint, available at: [http://oecdwatch.org/publications-en/Publication\\_3816/](http://oecdwatch.org/publications-en/Publication_3816/). In addition, OECD Watch has an online tool called OECD Watch Case Check to help complainants decide whether the OECD Guidelines apply to a specific case, available at: <http://oecdwatch.org/oecd-watch-case-check>.

## How Do NCPs Operate?

While the OECD has adopted “Procedural Guidance”<sup>127</sup> on how the NCPs should operate, these rules are vague and NCPs differ in their interpretation the Guidance. Core criteria and guiding principles for the functioning of NCPs include visibility, accessibility, transparency, accountability, impartiality, predictability, equitability and compliance with the Guidelines.

Each NCP adopts its own specific procedural rules for handling complaints, and as a result, cases brought under the NCP process have received varying treatment. In general, however, there are three stages to an NCP complaint:

1. The NCP first makes a determination about “whether the issues raised merit further examination” and then responds to the complaining party. If the matter does not merit further consideration, the NCP will issue a public statement that, at a minimum, describes the issues raised and the reasons for the NCP’s decision.
2. The NCP brings the parties together for meetings for the purpose of mediating the dispute. There are no specific guidelines about how NCPs should operate once the decision has been made to mediate a dispute.
3. At the conclusion of the mediation, the NCP should make the results publicly available, “taking into account the need to protect sensitive business and other stakeholder information.” The statement issued by the NCP will vary depending on whether the mediation resulted in an agreement between the parties:
  - If an agreement is reached, the NCP should issue a report that describes, at a minimum, the issues raised, the procedures the NCP initiated and when agreement was reached. Information on the content of the agreement will only be included if the parties agree to disclose it.
  - If there is no agreement reached or when a party was unwilling to participate in the mediation, the NCP should make a statement that, at a minimum, describes the issues raised, the reasons why the NCP decided to offer mediation and the procedures the NCP initiated. The NCP may make findings and recommendations on the company’s implementation of the Guidelines, and can describe the reasons that agreement could not be reached.

During the mediation, the proceedings are confidential. If the parties fail reach an agreement, they can discuss the issues that were the subject of the mediation, but must keep confidential information and views provided by the other party during the mediation unless that other party agrees to their disclosure or if confidentiality would violate national law.

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<sup>127</sup> See OECD Guidelines for Multinational Enterprises at 71 (2011), available at: <http://www.oecd.org/daf/inv/mnc/48004323.pdf>.

## Limits to the Use of NCPs and Additional Strategic Considerations

A 2015 OECD Watch report analyzing the performance of the NCP system found that, as a whole, the system is failing to bring accountability for corporate wrongdoing.<sup>128</sup> In the 15 years since NCPs were created, only 1% of cases filed by civil society organizations and/or affected communities led to any improvement in conditions for victims of corporate abuse. However, a higher number of cases led to other types of outcomes, such as raising awareness of particular issues or instigating changes to corporate policies. The report makes a number of recommendations aimed at strengthening the system to make it more effective at providing remedy to affected communities.

In addition, when deciding whether an NCP complaint is likely to help you secure the outcome that you are looking for, it may be useful to consider the following issues:

- Are you prepared to follow the NCP's confidentiality rules? Some NCPs, such as the U.S. NCP, require complete confidentiality during *all* stages of the NCP process, including the *filing* of the complaint. This means that people filing a complaint cannot publish their own complaint or use it as a campaign tool. Doing so can be considered "bad faith" by the U.S. NCP and may lead the U.S. NCP to terminate its involvement in the case. The U.S. NCP's confidentiality rule is significantly broader than that of many other NCPs, but it is always a good idea to check with OECD Watch or other knowledgeable NGOs to understand a particular NCP's rules on confidentiality prior to filing a complaint.
- Is there already a lawsuit or other proceeding in a court of law dealing with the same issue? If so, the NCP may use the pending lawsuit as a reason to either decline to mediate a case or to wait to mediate a case until the legal proceeding is complete. Different NCPs have different rules about this issue.
- Because each NCP develops its own complaint procedures, the results of filing a complaint with an NCP are even more uncertain than with many of the mechanisms described above.<sup>129</sup> Because of this uncertainty, some communities may decide that bringing a complaint to an NCP is not worth the effort.
- Some of the NCPs have handled only a few cases over the course of many years, so they are still relatively untested. For these NCPs, their approach to handling different types of issues is still unknown.
- In some cases, there may be a conflict-of-interest between the NCP and the project that is the subject of a complaint. NCPs are part of national governments, and sometimes a national government will give export credit agency funding or other forms of support to a project. Therefore, a government that has a role in funding a project could also have a role in hearing the complaint about the project. Some NCPs have taken structural precautions to try to avoid conflicts of interest, while others are housed within government agencies whose role is to promote international corporate interests.

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<sup>128</sup> See OECD Watch, *Remedy Remains Rare* (Jun. 2015), available at: [http://oecdwatch.org/publications-en/Publication\\_4201](http://oecdwatch.org/publications-en/Publication_4201).

<sup>129</sup> Some NCPs are considered much more effective than others. You can contact OECD Watch or Accountability Counsel to get more information about the reputations of particular NCPs.

## Examples of NCP Complaints

As mentioned above, outcomes from NCP cases are highly variable. You may be satisfied with the negotiated solution to the specific instance of conduct or, at the other extreme, you may find that the NCP process was unfair, a waste of resources and resulted in no positive change in the situation. Here are examples of cases with varying results:

- **Positive Community-Level and Policy-Level Change:** In 2011, Argentine and Dutch NGOs filed a complaint against Nidera, a Dutch company, for abusing the rights of temporary workers at its corn seed processing operations in Argentina. After a series of meetings initially facilitated by the Dutch NCP, the parties reached an agreement under which Nidera strengthened its human rights policy, formalized a human rights due diligence procedure and allowed NGOs to monitor its Argentine corn seed operations. A subsequent fact-finding visit and worker interviews confirmed that Nidera had complied with the conditions of the agreement.<sup>130</sup>
- **Positive Results Perhaps Unrelated to NCP Complaint:** In 2005, the NGO Forum for Environment and Development (ForUM) filed a complaint against a Norwegian company for involvement with the Guantanamo Bay, Cuba prison system that abused international and human rights law. The NCP held meetings with the NGO and the company. After the meetings, the company pulled out of the Guantanamo project, although it cited losing a bid as the official reason. The NGO was pleased with the result.<sup>131</sup>
- **Limited Results:** In 2012, directly affected communities and several NGOs filed a complaint to the UK NCP regarding GCM Resources' proposed Phulbari coal mine in Bangladesh. The planned mine would directly displace an estimated 40,000 to 130,000 people and cause other social and environmental harm. An official statement by seven UN experts bolstered the allegations in the complaint. Unlike many of its peers, the UK NCP will assess whether a company violated the Guidelines and issue related recommendations. However, in this case, the UK NCP refused to consider allegations related to these potential adverse impacts, claiming that an assessment of the mine's potential impacts was outside its remit. The UK NCP did agree to assess the company's human rights due diligence and ultimately issued a recommendation that the company carry out a new human rights impact assessment.<sup>132</sup>
- **Complaint Improperly Rejected:** In 2012, a local NGO and an association of directly affected community members filed a complaint to the Dutch NCP regarding Shell's investment in the Sakhalin II integrated oil and gas complex in Russia. The Dutch NCP applied a heightened interpretation of the requirement that a complaint be substantiated, implying that complainants needed a positive court ruling before it would offer its good offices for complaints raising violations of domestic or international law. The NCP ultimately rejected the case, in part on these grounds.<sup>133</sup>

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<sup>130</sup> See OECD Watch, *Remedy Remains Rare* (Jun. 2015), available at: [http://oecdwatch.org/publications-en/Publication\\_4201](http://oecdwatch.org/publications-en/Publication_4201).

<sup>131</sup> See OECD Watch Newsletter, June 2006, available at [http://oecdwatch.org/publications-en/Publication\\_3043/](http://oecdwatch.org/publications-en/Publication_3043/).

<sup>132</sup> For more information, see Accountability Counsel, Bangladesh: Phulbari Coal Mine, available at: <http://www.accountabilitycounsel.org/communities/past-cases/bangladesh-phulbari-coal-mine/>.

<sup>133</sup> For more information, see Accountability Counsel, Russia: Oil and Gas Development, Sakhalin Island, available at: <http://www.accountabilitycounsel.org/communities/past-cases/oil-and-gas-development-sakhalin-island-russia/>.

## **How to Contact the NCPs**

A listing of all NCPs and their contact information is available at:  
<https://mneguidelines.oecd.org/ncps/>.

## PART IV INTERNATIONAL PRINCIPLES FOR CORPORATE ACCOUNTABILITY

The Equator Principles and the UN Guiding Principles on Business and Human Rights are internationally recognized standards aimed at addressing environmental, social and human rights in a corporate context. Neither set of principles has an independent accountability mechanism, but both require the establishment of project level grievance mechanisms. Additionally, broader complaint strategies may be considered for complaints based on the Equator Principles and the UN Guiding Principles on Business and Human Rights.

### The Equator Principles (EPs)

#### What are the Equator Principles?

The Equator Principles (EPs) are a voluntary set of standards for determining, assessing and managing social and environmental risk in project finance. The EPs were originally created in 2002, revised in 2006 and again in 2013. The current version is the EP III.<sup>134</sup> The EPs are based on the International Finance Corporation's (IFC) Performance Standards and General Environmental, Health and Safety Guidelines (see the above chapter on the CAO for more information).

#### What are Equator Principles Financial Institutions (EPFIs)?

EPFI's are banks involved in project finance that have adopted the EPs. A full list of EPFIs can be found on the Equator Principles website, <http://www.equator-principles.com>. There are currently 78 official EPFIs in 35 countries, covering over 70 percent of international project finance debt in emerging markets.<sup>135</sup>

The Equator Principles Association manages and ensures the long-term viability of the EPs. The Steering Committee of the EP Association manages and coordinates between EPFIs, Working Groups, and EPFI management. The Governance Rules, updated in October 2013, provide guidance on the processes for the management, administration, and development of the EPs.<sup>136</sup>

One important provision of the Governance Rules is Rule 6(g)(iii), which provides for de-listing banks that fail to comply with reporting requirements. De-listing involves removing the bank from the list of EPFIs. However, while de-listing could be a potentially useful tool

### EQUATOR PRINCIPLES QUICK SUMMARY

The EPs are voluntary standards adopted by private banks involved in project finance, across all industry sectors.

While affected individuals and groups can bring a complaint about the effects of a project through a required local-level grievance mechanism, there is no official EP accountability mechanism to challenge EP compliance by banks at an international level.

To complain internationally about violations of the EPs, you may take action such as sending a letter to the relevant EP and to the EP Association, urging de-listing the bank for violating the Principles.

<sup>134</sup> See [http://www.equator-principles.com/resources/equator\\_principles\\_III.pdf](http://www.equator-principles.com/resources/equator_principles_III.pdf).

<sup>135</sup> See About the Equator Principles, <http://www.equator-principles.com/index.php/about-ep/about-ep>.

<sup>136</sup> See [http://www.equator-principles.com/resources/ep\\_governance\\_rules\\_october\\_2013.pdf](http://www.equator-principles.com/resources/ep_governance_rules_october_2013.pdf). For more information on management structure, see <http://www.equator-principles.com/index.php/about-ep/38-about/about/12>.



around which to advocate, it is weakened by the fact that banks that have been de-listed can re-adopt the EPs and again be considered active EPFIs.

### **When do the EPs apply?**

The EPs apply to the private banks who have adopted the Principles. The EPs apply across all industry sectors to four financial products provided by the banks: 1) Project Finance Advisory Services; 2) Project Finance; 3) Project-Related Corporate Loans; and 4) Bridge Loans. Within each of these categories, transactions must meet additional, specific requirements to fall within the scope of the Principles.<sup>137</sup>

The scope of the EPs is essentially global, but distinction is made between projects located in so called ‘designated countries’ (High income OECD countries), where projects merely need to meet all relevant legislation and standards, and those in other countries where ‘applying the EPs’ means ensuring that the project also meets the Performance Standards and Environmental Health and Safety Guidelines of the International Finance Corporation (IFC).

### **How Do the EPs Impact Projects on the Ground?**

There are three ways in which banks are expected to incorporate and implement the EPs when financing a project:

- Projects should be screened according to a common terminology established in the IFC Performance Standards.
- Based on the initial screening, all high-risk projects, and certain medium-risk projects, require the borrower to: conduct an Environmental and Social Impact Assessment;<sup>138</sup> consult with affected communities in a participatory and culturally appropriate manner;<sup>139</sup> and develop and maintain an Environmental and Social Management System including an Environmental and Social Management Plan or Action Plan. An independent environmental and/or social consultant should review and verify the above requirements. Consultants or qualified and experienced experts retained by the borrower also review and verify borrower’s independent monitoring and reporting information over the life of the loan. The borrower should send the participating bank these reports for review to ensure compliance with the EPs.
- In loan documentation, banks will require borrowers to comply with the social and environmental covenants included in their Management Plans and Action Plans. If the

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<sup>137</sup> The EPs apply to Project-Finance Advisory Services and Project Finance where the total project capital is US\$10 million or more. The EPs apply to Project-Related Corporate Loans where: the majority of the loan is related to a single project over which the client has effective operational control (either direct or indirect); the total aggregate loan amount is at least US\$100 million; the bank’s individual commitment is at least US\$50 million; and the loan tenor is at least two years. The EPs apply to Bridge Loans with a tenor of less than two years that are intended to be refinanced by Project Finance or Project-Related Corporate Loans that meets the above criteria. *See* “Scope”, Equator Principles III, June 2013 available at [http://www.equator-principles.com/resources/equator\\_principles\\_III.pdf](http://www.equator-principles.com/resources/equator_principles_III.pdf)

<sup>138</sup> In limited high risk circumstances, it may be appropriate for the borrower to complement its Assessment with specific human rights due diligence as referenced in the UN Guiding Principles on Business and Human Rights.

<sup>139</sup> Projects with adverse impacts on indigenous people require their Free, Prior and Informed Consent.

borrower fails to comply within an agreed upon grace period, the bank has the right to remedy the situation as it considers appropriate.

In addition, the EPFI Best Practice Working Group has published two documents that provide guidance and best practices for implementation of the EPs.<sup>140</sup> Neither of the documents are required frameworks, but rather suggestions to assist EPFIs implement the EPs when financing a project.

Finally, Principle 10 of the EPs requires the borrower to make a summary of a project's Social and Environmental Impact Assessment available online.

### **How to Complain About EP Violations**

The EPs contain requirements that for all high and certain medium risk projects, borrowers must establish a local grievance mechanism that can receive and facilitate resolution of complaints about the project's environmental and social impacts. The mechanism should be scaled to the risks and impacts of the project and seek to resolve concerns promptly. Communities can raise concerns about all aspects of a project, including consultation, disclosure, and community engagement, to these local mechanisms.

In terms of holding an EPFI accountable for violations of the EPs, *there is no official mechanism at the international level to enforce EPFI compliance.* This is a major weakness that undermines the legitimacy and credibility of the Equator Principles.

Communities affected by projects financed by banks that have adopted the EPs may want to seek NGO assistance to communicate directly with those institutions to request compliance, copying all communication to the EP Association.<sup>141</sup> If non-compliance with the EPs includes failure to fulfill reporting requirements, affected communities may want to write to the EP Association and request that the EP be “de-listed.”

### **Example of a Case Challenging EP Compliance**

Advocacy around the Botnia Paper Mill project in Uruguay provides an illustrative example of how to request compliance from an EPFI. In the Botnia case, a coalition of organizations wrote directly to the private banks providing financing for a controversial paper mill project near the Uruguay-Argentina border. The coalition first submitted an EP Compliance Complaint to ING Group, an EPFI since 2003, after which ING Group withdrew support for the project.<sup>142</sup> The coalition also submitted an EP Compliance Complaint to Calyon, another

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<sup>140</sup> EPFI Best Practice Working Group, “Guidance to EPFIs on Incorporating Environmental and Social Considerations into Loan Documentation,” available online at [http://www.equator-principles.com/resources/ep\\_loan\\_document\\_guidance\\_note.pdf](http://www.equator-principles.com/resources/ep_loan_document_guidance_note.pdf), and “Guidance to EPFIs on Equator Principles Implementation Reporting,” available online at [http://www.equator-principles.com/resources/ep\\_implementation\\_reporting\\_guidance\\_note.pdf](http://www.equator-principles.com/resources/ep_implementation_reporting_guidance_note.pdf).

<sup>141</sup> The NGO BankTrack closely monitors and reports on the development and implementation of the Equator Principles. It tracks a number of Equator Principles projects and has experience with public pressure campaigns aimed at specific projects or EPFIs. See [http://www.banktrack.org/show/pages/equator\\_principles](http://www.banktrack.org/show/pages/equator_principles)

<sup>142</sup> ING Group did state that the reason for their withdrawal from the project was not due to the EP Compliance Complaint, though the bank was an early supporter of the EPs. The EP Compliance Complaint to ING Group is available online at <http://casopasteras.cedha.net/wp-content/uploads/2011/09/complaint-letter-to-ing-eng.pdf>. See also ING's Letter Announcing Pullout, available online at <http://casopasteras.cedha.net/wp-content/uploads/2011/09/ing-pullout-letter-april-12-2006.pdf>.

project financier and part of Crédit Agricole, a French bank and EPFI.<sup>143</sup> While this strategy contributed to the withdrawal of support from ING Group, Calyon asserted that because the financial support was in the form of a general loan and not project finance, they were not obligated to follow the EPs. They retained their EPFI label and continued to claim to adhere to the EPs in their project finance work.

The Botnia Paper Mill case provides one example of how an EP Compliance Complaint can be structured and used as part of a larger accountability strategy.

### **How to Contact the EP Association and the EPFIs**

The EP Association can be contacted through the EPFI Administrator:

Samantha Hoskins and Joanna Clark  
EPFI Administrators/Secretariat  
Equator Principles Association  
Tel: +44 1621 853 900  
Fax: +44 1621 731 483  
Email: [sam.hoskins@workethics.co.uk](mailto:sam.hoskins@workethics.co.uk), [secretariat@equator-principles.com](mailto:secretariat@equator-principles.com)

Most EPFIs can be contacted through a corporate social responsibility or sustainability representative within the bank. A link to the website of each participating EPFI is available on the EP website, and the relevant individual or office of many EPFIs is linked to in the Reporting section of the website.<sup>144</sup>

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<sup>143</sup> The EP Compliance Complaint to Calyon is available online at <http://casopasteras.cedha.net/wp-content/uploads/2011/08/Equator-Principles-Compliance-Complaint-to-CALYON.pdf>.

<sup>144</sup> See <http://www.equator-principles.com/index.php/members-reporting/members-and-reporting>.

## The United Nations Guiding Principles on Business and Human Rights

### What are the UN Guiding Principles on Business and Human Rights?

The United Nations Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework (the Guiding Principles) are a set of general and operational principles on the issue of human rights and transnational corporations.

The development of the Guiding Principles was based on a mandate from the UN Commission on Human Rights, now the UN Human Rights Council, in 2005.<sup>145</sup> Professor John Ruggie, the UN Special Representative on Business & Human Rights, was given the initial task of identifying and clarifying existing standards and practices on issues of business and human rights. This work later developed into particular recommendations. After rounds of stakeholder input, The Human Rights Council unanimously endorsed the final version of the Guiding Principles in July 2011.<sup>146</sup>

### GUIDING PRINCIPLES QUICK SUMMARY

The Guiding Principles are a global set of standards for business and human rights. The framework consists of three pillars:

- State duty to protect human rights
- Corporate responsibility to respect human rights
- Access to remedy

The Guiding Principles establish that corporations should have project-level grievance mechanism to address adverse human rights impacts and identify principles such mechanisms should follow. Other UN procedures may also be relevant for a wider complaint strategy.

The Guiding Principles established a 3-pillar framework:

- The **State duty to protect** against human rights abuses by third parties, including businesses, through appropriate policies, regulation, and adjudication;
- The **corporate responsibility to respect** human rights, meaning that corporations conduct human rights due diligence, including identifying, preventing and mitigating their impacts to avoid causing, contributing or being directly linked to human rights abuses, and that corporations must address human rights abuses with which they are associated; and
- The need for victims of business-related human rights abuse to have **access to remedy**, both judicial and non-judicial.<sup>147</sup>

### When Do the Guiding Principles Apply?

The Guiding Principles establish a global standard of practice expected of all States and companies with regards to business and human rights. The corporate responsibility to respect human rights exists independently of States’ ability to protect against abuses, and the Guiding

<sup>145</sup> The Commission on Human Rights was replaced by the United Nations Human Rights Council in 2006.

<sup>146</sup> See A/HRC/RES/17/4, available at <http://www.business-humanrights.org/media/documents/un-human-rights-council-resolution-re-human-rights-transnational-corps-eng-6-jul-2011.pdf>.

<sup>147</sup> Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework, available at [http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR\\_EN.pdf](http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf).

Principles apply to all enterprises regardless of their size, sector, operational context, ownership and structure.

It is important to note, however, that the Guiding Principles create no binding legal obligations for companies to respect human rights.

### **What Human Rights Standards Apply?**

Under the Guiding Principles, corporations must respect “internationally recognized human rights,” which are to be understood, at a minimum, as the rights expressed in the International Bill of Human Rights and the International Labour Organization’s Declaration on Fundamental Principles and Rights at Work.<sup>148</sup> Depending on the circumstances of a particular situation, a corporation may also need to consider additional standards, such as rights of individuals that belong to a specific group or population.<sup>149</sup>

### **How to use the Guiding Principles?**

When considering how to use the Guiding Principles to address corporate human rights abuses, you should be aware that the Guiding Principles do not establish an independent accountability mechanism where you can complain about violations of the Guiding Principles. This has been criticized as a major weakness by civil society.

The following are some alternate ways in which you may be able to use the Guiding Principles in your human rights advocacy.

- **Project Level Grievance Mechanisms:** The Guiding Principles establish that corporations causing or contributing to human rights abuses should provide for or cooperate in effective remedy for affected individuals or communities. This may include establishing project level grievance mechanisms that are legitimate, accessible, predictable, equitable, transparent and rights compatible. Such mechanisms should also be based on engagement and dialogue. If the company that you want to complain about does not already have a project level grievance mechanism, or if the mechanism does not meet the above criteria, you can advocate to establish an effective grievance mechanism on the basis of the Guiding Principles.
- **The UN Working Group on Business and Human Rights (the Working Group)<sup>150</sup>:** The Working Group has been tasked with ensuring that the Guiding Principles are widely disseminated and robustly implemented. Although investigations of individual cases of alleged business related human rights violations are not a part of its mandate, the Working Group conducts country visits and issues statements at the end of each visit addressing the issues and concerns it

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<sup>148</sup> See Guiding Principles, Principle 12. The Guiding Principles have been criticized for not incorporating the full body of relevant human rights law and standards.

<sup>149</sup> See Guiding Principles commentary on Principle 12. Examples include the UN instruments on the rights of: indigenous peoples; women; national or ethnic, religious and linguistic minorities; children; persons with disabilities; and migrant workers and their families. Moreover, in situations of armed conflict, corporations should respect the standards of international humanitarian law.

<sup>150</sup> The Working Group was appointed for a three year term starting June 2011 and consists of five independent members from different countries.

encounters.<sup>151</sup> There is a potential opportunity for you to invite the Working Group for a field visit and raise specific cases of abuses.<sup>152</sup>

- **UN Special Procedures:** The UN has many different Special Procedures with mandates on specific rights or groups that in some instances can provide recommendations regarding corporate human rights abuses. This includes the UN Special Rapporteurs. In a recent statement several Special Rapporteurs joined together with the Working Group to issue a statement calling for a halt to a steel project in India and urging the corporation to respect the Guiding Principles.<sup>153</sup> In another recent example, the Office of the High Commissioner for Human Rights (OHCHR) issued an opinion on whether Barrick Gold’s grievance mechanism in Papua New Guinea fulfilled the principles set out in the Access to Remedy pillar of the Guiding Principles.<sup>154</sup>

### Strategic Considerations

The effectiveness of trying to leverage the Working Group or other UN Special Procedures varies. As with any mechanism, before you make an appeal, you should consider that you cannot control the findings of the Working Group or other UN bodies and may not always agree with their reports, statements or opinions.

Additionally, because the Working Group does not have a mandate to address individual complaints regarding violations of the Guiding Principles, an appeal to the Working Group will not result in a formal dispute resolution or compliance review, as offered by the accountability mechanisms in this Guide, and may not result in any action at all.

### Helpful Resources on the Guiding Principles

The civil society organizations SOMO, CEDHA and Cividep have put together a civil society guide to the Guiding Principles. Among other things, the guide offers concrete tools to assess whether a company is addressing human rights impacts adequately. The guide is available in several languages at [http://www.somo.nl/publications-en/Publication\\_3899](http://www.somo.nl/publications-en/Publication_3899).

The Business & Human Rights Resource Centre’s website on the Guiding Principles is another resource for tracking the implementation of the Guiding Principles, related cases and the work of the Working Group. Resources are available at <http://www.business-humanrights.org/UNGuidingPrinciplesPortal/Home> and <http://www.business-humanrights.org/UNWorkingGroupPortal/Home>.

An interpretive guide on the Guiding Principles has also been issued by the UN and is available at <http://www.ohchr.org/Documents/Issues/Business/RtRInterpretativeGuide.pdf>.

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<sup>151</sup> Since it was created, the Working Group has visited Mongolia (2012), the United States (2013) and Ghana (2013). See <http://www.business-humanrights.org/UNWorkingGroupPortal/Countryvisits>.

<sup>152</sup> See SOMO, “Guide on How to use the UN Guiding Principles on Business and Human Rights in company research and advocacy”, available at [http://www.somo.nl/publications-en/Publication\\_3899](http://www.somo.nl/publications-en/Publication_3899).

<sup>153</sup> OHCHR news, 1 Oct. 2013, “India: Urgent call to halt Odisha mega-steel project amid serious human rights concerns”, available at <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=13805&LangID=E>.

<sup>154</sup> OHCHR, “Re: Allegations regarding the Porgera Joint Venture Remedy Framework”, July 2013, available at <http://business-humanrights.org/media/ohchr-porgera-joint-venture-letter-aug-2013.pdf>.

## PART V TRAININGS, CONSULTATIONS & MORE INFORMATION

It may help to use this Guide along with interactive trainings and/or consultations with Accountability Counsel. Communicating with Accountability Counsel may help you to determine which tools or strategies may be the most effective for your particular circumstances. Some of the tools discussed in this Guide are appropriate for some communities but may not be appropriate for others. Trainings or consultations may also enable you to:

- Work in collaboration with local, regional or international organizations to gain from their experience and work with them in solidarity; and
- Make others working on similar issues aware of your campaign.

To schedule a training session for your group or organization, for a consultation about particular issues, or for a referral to a local lawyer or organization with expertise, contact Accountability Counsel at [info@accountabilitycounsel.org](mailto:info@accountabilitycounsel.org).

While the information in this Guide is regularly updated, please be sure to check before filing a complaint that you are referring to the latest guidelines and policies of the accountability mechanisms.

## APPENDIX OF MATERIALS

These materials may be distributed in hard copy with this manual at trainings or upon request. For a hard copy of the materials contained in the electronic links in the Appendix, please contact Accountability Counsel at [info@accountabilitycounsel.org](mailto:info@accountabilitycounsel.org).

### I. MATERIALS RELATED TO IBRD AND IDA

#### **The World Bank Group**

<http://www.worldbank.org/>

#### **Inspection Panel Brochure**

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

#### **World Bank (IBRD & IDA) Safeguard Policies**

<http://web.worldbank.org/WBSITE/EXTERNAL/PROJECTS/EXTPOLICES/EXTSAFEPOL/0,,menuPK:584441~pagePK:64168427~piPK:64168435~theSitePK:584435,00.html>

#### **World Bank Information Disclosure Policy**

<http://www1.worldbank.org/operations/disclosure/policy.html>

#### **A Citizen's Guide to the World Bank Inspection Panel**

<http://www.ciel.org/Publications/citizensguide.pdf>

#### **Strategic Guide for Filing Complaints with IFIs**

[http://www.foei.org/en/resources/publications/economic-justice-resisting-neoliberalism/2000-2007/strategic\\_guide.pdf/view](http://www.foei.org/en/resources/publications/economic-justice-resisting-neoliberalism/2000-2007/strategic_guide.pdf/view)

#### **SOMO and Accountability Counsel's Inspection Panel Brochure**

[http://www.accountabilitycounsel.org/wp-content/uploads/2013/05/HRGM\\_WWW\\_WB.pdf](http://www.accountabilitycounsel.org/wp-content/uploads/2013/05/HRGM_WWW_WB.pdf)

### II. MATERIALS RELATED TO IFC AND MIGA

#### **The International Finance Corporation (IFC)**

<http://www.ifc.org/>

#### **Compliance Advisor/ Ombudsman Operational Guidelines**

[http://www.cao-ombudsman.org/documents/CAOOperationalGuidelines2013\\_ENGLISH.pdf](http://www.cao-ombudsman.org/documents/CAOOperationalGuidelines2013_ENGLISH.pdf)

#### **CAO's Guideline to Filing a Complaint**

<http://www.cao-ombudsman.org/howwework/filecomplaint/>

#### **IFC Policy on Environmental and Social Sustainability**

[http://www.ifc.org/wps/wcm/connect/Topics\\_Ext\\_Content/IFC\\_External\\_Corporate\\_site/IFC+Sustainability/Sustainability+Framework](http://www.ifc.org/wps/wcm/connect/Topics_Ext_Content/IFC_External_Corporate_site/IFC+Sustainability/Sustainability+Framework)



**IFC Access to Information Policy**

<http://www.ifc.org/wps/wcm/connect/91bfd5004997b5969cc3fcb2b4b33c15/AIPFinalVersion.pdf?MOD=AJPERES>

**IFC Environment and Social Review Procedure**

<http://www.ifc.org/wps/wcm/connect/190d25804886582fb47ef66a6515bb18/ESRP+Manual.pdf?MOD=AJPERES>

**MIGA Policy on Social and Environmental Sustainability**

[http://www.miga.org/documents/Policy\\_Environmental\\_Social\\_Sustainability.pdf](http://www.miga.org/documents/Policy_Environmental_Social_Sustainability.pdf)

**SOMO and Accountability Counsel's CAO Brochure**

[http://www.accountabilitycounsel.org/wp-content/uploads/2013/05/HRGM\\_WWW\\_CAO.pdf](http://www.accountabilitycounsel.org/wp-content/uploads/2013/05/HRGM_WWW_CAO.pdf)

**III. MATERIALS RELATED TO AFRICAN DEVELOPMENT BANK**

**African Development Bank (AfDB)**

<http://www.afdb.org/en/about-us/>

**AfDB's Independent Review Mechanism (IRM)**

<http://www.afdb.org/en/about-us/structure/independent-review-mechanism-irm/>

**AfDB's IRM Operating Rules and Procedures**

<http://www.afdb.org/fileadmin/uploads/afdb/Documents/Compliance-Review/IRM%20Operating%20Rules%20and%20Procedures%20-%2016%20June%202010.pdf>

**AfDB's Policy on Disclosure Information**

[http://www.afdb.org/fileadmin/uploads/afdb/Documents/Policy-Documents/Bank\\_Group\\_Policy\\_on\\_Disclosure\\_and\\_Access\\_to\\_Information.pdf](http://www.afdb.org/fileadmin/uploads/afdb/Documents/Policy-Documents/Bank_Group_Policy_on_Disclosure_and_Access_to_Information.pdf)

**AfDB's Integrated Safeguards System Policy**

[http://www.afdb.org/fileadmin/uploads/afdb/Documents/Policy-Documents/December\\_2013\\_-\\_AfDB'S\\_Integrated\\_Safeguards\\_System\\_-\\_Policy\\_Statement\\_and\\_Operational\\_Safeguards.pdf](http://www.afdb.org/fileadmin/uploads/afdb/Documents/Policy-Documents/December_2013_-_AfDB'S_Integrated_Safeguards_System_-_Policy_Statement_and_Operational_Safeguards.pdf)

**AfDB's Policy Documents**

<http://www.afdb.org/en/documents/policy-documents/>

**SOMO & Accountability Counsel's Independent Review Mechanism Brochure**

<http://www.accountabilitycounsel.org/wp-content/uploads/2012/04/The-Independent-Review-Mechanism-of-the-African-Development-Bank.pdf>

**IV. MATERIALS RELATED TO THE ASIAN DEVELOPMENT BANK**

**Asian Development Bank (ADB)**

<http://www.adb.org/About/>

**ADB Accountability Mechanism Policy**

<http://www.adb.org/sites/default/files/accountability-mechanism-policy-2012.pdf>

**ADB's Office of the Special Project Facilitator**

<http://www.adb.org/site/accountability-mechanism/problem-solving-function/office-special-facilitator>

**ADB's Special Project Facilitator Complaints Registry**

<http://www.adb.org/site/accountability-mechanism/problem-solving-function/complaint-registry-year>

**ADB's Compliance Review Panel**

<http://compliance.adb.org/>

**ADB's Toolkits for Activists**

<http://www.bicusa.org/en/Article.1630.aspx>

**ADB's Policies**

<http://www.adb.org/Development/policies.asp>

**ADB's Public Communications Policy of 2011**

<http://www.adb.org/sites/default/files/pcp-2011.pdf>

**V. MATERIALS RELATED TO THE EUROPEAN INVESTMENT BANK**

**European Investment Bank (EIB)**

[www.eib.org](http://www.eib.org)

**EIB's Complaints Mechanism**

<http://www.eib.org/infocentre/publications/all/complaints-mechanism-policy.htm>

**EIB's Complaints Mechanism Operating Procedures**

[http://www.eib.org/attachments/strategies/complaints\\_mechanism\\_operating\\_procedures\\_en.pdf](http://www.eib.org/attachments/strategies/complaints_mechanism_operating_procedures_en.pdf)

**EIB's Environmental and Social Principles and Standards**

[http://www.eib.org/attachments/strategies/eib\\_statement\\_esps\\_en.pdf](http://www.eib.org/attachments/strategies/eib_statement_esps_en.pdf)

**EIB's Transparency Policy**

[www.eib.org/attachments/strategies/transparency\\_policy\\_en.pdf](http://www.eib.org/attachments/strategies/transparency_policy_en.pdf)

**VI. MATERIALS RELATED TO THE EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT**

**European Bank for Reconstruction and Development (EBRD)**

<http://www.ebrd.com/pages/homepage.shtml#&panel1-1>

**EBRD's Project Complaints Mechanism**  
<http://www.ebrd.com/pages/project/pcm.shtml>

**EBRD's Project Complaint Mechanism Rules of Procedure**  
<http://www.ebrd.com/downloads/integrity/pcmrules.pdf>

**EBRD's Environmental and Social Policy**  
<http://www.ebrd.com/downloads/research/policies/2008policy.pdf>

**EBRD's Performance Requirements**  
<http://www.ebrd.com/environment/e-manual/e31ebrd-performance-requirements.html>

**EBRD's Public Information Policy**  
<http://www.ebrd.com/downloads/policies/pip/pip-draft.pdf>

**V. MATERIALS RELATED TO THE INTER-AMERICAN DEVELOPMENT BANK**

**The Inter-American Development Bank (IDB)**  
<http://www.iadb.org/>

**IDB's Independent Consultation and Investigation Mechanism (MICI)**  
<http://www.iadb.org/en/mici/independent-consultation-and-investigation-mechanism-icim,1752.html>

**IDB's MICI Policy**  
<http://idbdocs.iadb.org/wsdocs/getdocument.aspx?docnum=38262425>

**IDB's MICI Brochure**  
<http://idbdocs.iadb.org/wsdocs/getdocument.aspx?docnum=38363569>

**IDB Environment & Safeguards Compliance Policy**  
<http://idbdocs.iadb.org/wsdocs/getdocument.aspx?docnum=1481950>

**IDB Information Disclosure Policy**  
<http://www.iadb.org/en/about-us/information-disclosure-policy,6110.html>

**Relevant IDB Operational Policies Considered by MICI**  
<http://www.iadb.org/en/mici/independent-consultation-and-investigation-mechanism-mici-policies-idb,1763.html>

**VI. MATERIALS RELATED TO AUSTRALIAN EXPORT FINANCE INSURANCE CORPORATION**

**Australian Export Finance Insurance Corporation**  
<http://www.efic.gov.au/Pages/homepage.aspx>

**EFIC's Complaints Mechanism**  
<http://www.efic.gov.au/ABOUT/Pages/Complaints-mechanism.aspx>

**Commonwealth Ombudsman**

<http://www.ombudsman.gov.au/pages/contact-us/>

**OECD's "Common Approaches" for Officially Supported Export Credits and Environmental and Social Due Diligence**

<http://search.oecd.org/officialdocuments/displaydocumentpdf/?cote=TAD/ECG%282012%295&doclanguage=en>

**VII. MATERIALS RELATED TO THE BRAZILIAN DEVELOPMENT BANK**

**Brazilian Development Bank (BNDES)**

[www.bndes.gov.br](http://www.bndes.gov.br)

**BNDES Ombudsperson**

[http://www.bndes.gov.br/SiteBNDES/bndes/bndes\\_en/Navegacao\\_Suplementar/Ouvidoria/](http://www.bndes.gov.br/SiteBNDES/bndes/bndes_en/Navegacao_Suplementar/Ouvidoria/)

**VIII. MATERIALS RELATED TO CANADIAN OFFICE OF THE EXTRACTIVE SECTOR'S CORPORATE SOCIAL RESPONSIBILITY COUNSELLOR**

**CSR Counsellor**

[http://www.international.gc.ca/csr\\_counsellor-conseiller\\_rse/index.aspx?lang=eng](http://www.international.gc.ca/csr_counsellor-conseiller_rse/index.aspx?lang=eng)

**CSR Counsellor Review Process**

[http://www.international.gc.ca/csr\\_counsellor-conseiller\\_rse/review\\_process-processus\\_examen.aspx?lang=eng](http://www.international.gc.ca/csr_counsellor-conseiller_rse/review_process-processus_examen.aspx?lang=eng)

**IX. MATERIALS RELATED TO EXPORT DEVELOPMENT CANADA**

**Export Development Canada (EDC)**

<http://www.edc.ca/english/index.htm>

**EDC's Compliance Officer**

<http://www.edc.ca/EN/About-Us/Management-and-Governance/Compliance-Officer/Pages/default.aspx>

**EDC's Compliance Office Brochure**

<http://www.edc.ca/EN/About-Us/Management-and-Governance/Compliance-Officer/Documents/compliance-officer-steps-to-resolution.pdf>

**EDC's Environmental and Social Risk Management Framework**

<http://www.edc.ca/EN/About-Us/Corporate-Social-Responsibility/Environment/Pages/default.aspx>

**EDC's Information Disclosure Policy**

<http://www.edc.ca/EN/About-Us/Disclosure/Documents/disclosure-policy.pdf>

**X. MATERIALS RELATED TO JBIC and JICA**

**Japan Bank for International Cooperation (JBIC)**

<http://www.jbic.go.jp/english/>

**JBIC Guidelines for Confirmation of Environmental and Social Considerations**

<http://www.jbic.go.jp/en/about/environment/guideline/confirm/index.html>

**Summary of Procedures to Submit Objections concerning JBIC Guidelines for Confirmation of Environmental and Social Considerations**

<http://www.jbic.go.jp/wp-content/uploads/page/2013/08/757/en-disagree-2012.pdf>

**Japan International Cooperation Agency (JICA)**

<http://www.jica.go.jp/english/>

**JICA Objection Procedures Based on the Guidelines for Environmental and Social Considerations**

[http://www.jica.go.jp/english/our\\_work/social\\_environmental/guideline/pdf/objection100326.pdf](http://www.jica.go.jp/english/our_work/social_environmental/guideline/pdf/objection100326.pdf)

**Nippon Export and Investment Insurance (NEXI)**

<http://nexi.go.jp/en/>

**Procedures for Submitting Objections to NEXI Examiner**

[http://nexi.go.jp/en/environment/objection/pdf/08b\\_1.pdf](http://nexi.go.jp/en/environment/objection/pdf/08b_1.pdf)

**NEXI Guidelines on Environmental and Social Considerations**

<http://nexi.go.jp/en/environment/social/>

**XI. MATERIALS RELATED TO OPIC**

**The Overseas Private Investment Corporation (OPIC)**

<http://www.opic.gov/>

**OPIC Office of Accountability (OA)**

<http://www.opic.gov/who-we-are/office-of-accountability>

**OPIC Office of Accountability Brochure**

[http://www.opic.gov/sites/default/files/docs/accountabilitybrochure05\\_000.pdf](http://www.opic.gov/sites/default/files/docs/accountabilitybrochure05_000.pdf)

**OPIC Environmental & Social Policies**

[http://www.opic.gov/sites/default/files/consolidated\\_esps.pdf](http://www.opic.gov/sites/default/files/consolidated_esps.pdf)

**XII. MATERIALS RELATED TO PROJECTS WITH OECD-MEMBER FUNDERS**

**The Organization for Economic Cooperation and Development (OECD)**

<http://www.oecd.org/>

**OECD Guidelines for Multinational Enterprises**

<http://www.oecd.org/daf/inv/mne/48004323.pdf>

**OECD List of the National Contact Points**

<http://www.oecd.org/daf/inv/mne/2013NCPContactDetails.pdf>

**United States OECD National Contact Point Brochure**

<http://www.state.gov/e/eb/rls/fs/2012/183067.htm>

**OECD Watch: Guide to the OECD Guidelines for Multinational Enterprises Complaint Procedure**

[http://oecdwatch.org/publications-en/Publication\\_3962](http://oecdwatch.org/publications-en/Publication_3962)

**OCED Watch Case Check Tool**

<http://oecdwatch.org/oecd-watch-case-check>

**XIII. MATERIALS RELATED TO THE EQUATOR PRINCIPLES**

**The Equator Principles (EPs)**

[http://www.equator-principles.com/resources/equator\\_principles\\_III.pdf](http://www.equator-principles.com/resources/equator_principles_III.pdf)

**General Environmental, Health, and Safety General Guidelines**

<http://www1.ifc.org/wps/wcm/connect/554e8d80488658e4b76af76a6515bb18/Final%2B-%2BGeneral%2BEHS%2BGuidelines.pdf?MOD=AJPERES>

**XIV. MATERIALS RELATED TO THE UNITED NATIONS GUIDING PRINCIPLES ON BUSINESS AND HUMAN RIGHTS**

**Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect, and Remedy Framework"**

[http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR\\_EN.pdf](http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf)

**NON-GOVERNMENTAL ORGANIZATION (NGO) LINKS**

**Bretton Woods Project**

<http://www.brettonwoodsproject.org>

Bretton Woods Project “focuses on the World Bank and the IMF to challenge their power, open policy space, and promote alternative approaches... [They] serve as an information provider, watchdog, networker and advocate. [They] provide information for the benefit of civil society groups, official institutions, research institutes, governments and parliaments across the world. The project acts as a network hub in the UK and works with civil society – in Europe and internationally – to change the Bank and the Fund.”

**Bank Information Center (BIC)**

<http://www.bicusa.org/bicusa/index.php>

BIC “partners with civil society in developing and transition countries to influence the World Bank and other international financial institutions (IFIs) to promote social and economic justice and ecological sustainability. BIC is an independent, non-profit, non-governmental organization that advocates for the protection of rights, participation, transparency, and public accountability in the governance and operations of the World Bank, regional development banks, and IMF.”

#### **Banktrack**

<http://www.banktrack.org>

Banktrack “is the global network of civil society groups tracking the operations and investments of private sector banks (commercial banks) and their effect on people and the planet.” Their vision is to “to help contribute to a private financial sector accountable to society at large, whose operations contribute to creating healthy and just societies and preserve the ecological well being of the planet.”

#### **CEE Bankwatch**

<http://bankwatch.org>

CEE Bankwatch is “an international non-governmental organisation (NGO) with member organisations from countries across central and eastern Europe (CEE). [They] monitor the activities of international financial institutions (IFIs) which operate in the region and promote environmentally, socially and economically sustainable alternatives to their policies and projects.”

#### **Center for Human Rights and Environment / El Centro de Derechos Humanos y Ambiente (CEDHA)**

<http://www.cedha.org.ar/>

CEDHA “is a non-profit organization which aims to build a more harmonious relationship between the environment and people. Our work centers on promoting greater access to justice and guarantee human rights for victims of environmental degradation, or due to non-sustainable management of natural resources, and to prevent future violations. To this end, CEDHA fosters the creation of inclusive public policy that promotes inclusive socially and environmentally sustainable development, through community participation, public interest litigation, strengthening democratic institutions, and the capacity building of key actors.”

#### **Center for International Environmental Law (CIEL)**

[http://www.ciel.org/Intl\\_Financial\\_Inst/index.html](http://www.ciel.org/Intl_Financial_Inst/index.html)

CIEL “is a nonprofit organization working to use international law and institutions to protect the environment, promote human health, and ensure a just and sustainable society. We provide a wide range of services including legal counsel, policy research, analysis, advocacy, education, training, and capacity building.”

#### **EarthRights International (ERI)**

<http://www.earthrights.org>

ERI “is a nongovernmental, nonprofit organization that combines the power of law and the power of people in defense of human rights and the environment,

which we define as "earth rights." We specialize in fact-finding, legal actions against perpetrators of earth rights abuses, training grassroots and community leaders, and advocacy campaigns. Through these strategies, EarthRights International seeks to end earth rights abuses, to provide real solutions for real people, and to promote and protect human rights and the environment in the communities where we work.”

#### **ECA Watch**

<http://www.eca-watch.org/>

“ECA Watch is an organizing and outreach mechanism of the larger international campaign to reform Export Credit Agencies (ECAs). Organizations participating in the campaign include non-governmental organizations and bodies working on issues related to the environment, development, human rights, community, labor, and anti-corruption.”

#### **Environmental Law for the Americas (AIDA)**

<http://www.aida-americas.org/en/about>

AIDA is “a nonprofit environmental law organization that works across international borders to defend threatened ecosystems and the human communities that depend on them.”

#### **Friends of the Earth Japan**

<http://www.foejapan.org/en>

Friends of the Earth Japan is “an international NGO which deals with environmental problems at the global level” and “tackles problems such as global warming, deforestation, and development aid to the Third World.”

#### **Fundar**

<http://fundar.org.mx/index.html/>

Fundar is an organization of plural and independent civil society with the aim to promote democracy, welfare and social justice in the Mexican state as well as internationally. It engages in policy advocacy and public institutions through sharing of specialized knowledge, critical reflection and involvement with civil, social and governmental actors.

#### **International Corporate Accountability Roundtable (ICAR)**

<http://icar.ngo>

ICAR “is a coalition of human rights, environmental, labor, and development organizations that creates, promotes and defends legal frameworks to ensure corporations respect human rights in their global operations.”

#### **Inclusive Development International (IDI)**

<http://www.inclusivedevelopment.net>

IDI “is a human rights organization working to make the international economic system more just and inclusive. IDI supports and builds the capacity of local organizations and affected communities to defend their land and human rights in the face of harmful investment, trade and development. Through research, casework and policy advocacy, IDI works to strengthen the human rights regulation and accountability of corporations, financial institutions and development agencies.”



### **Human Rights Watch (HRW)**

<http://www.hrw.org/>

“Human Rights Watch defends the rights of people worldwide. We scrupulously investigate abuses, expose the facts widely, and pressure those with power to respect rights and secure justice. Human Rights Watch is an independent, international organization that works as part of a vibrant movement to uphold human dignity and advance the cause of human rights for all.”

### **International Federation for Human Rights (FIDH)**

[www.fidh.org](http://www.fidh.org)

FIDH is a nongovernmental federation for human rights organizations with 164 member organizations in over 100 countries. Its mission is to “contribute to the respect of all the rights defined in the Universal Declaration of Human Rights.” It aims to make “effective improvements in the protection of victims, the prevention of Human Rights violations, and the sanction of their perpetrators.” FIDH also publishes “Corporate Accountability for Human Rights Abuses: A Guide for Victims and NGOs on Recourse Mechanisms.” The guide is available at: <http://www.fidh.org/Updated-version-Corporate>.

### **IFIWatchnet**

<http://www.ifwatchnet.org/>

IFIWatchnet “connects organisations worldwide which are monitoring international financial institutions (IFIs) such as the World Bank, the IMF, and regional development banks.” (This website compiles a list of other key organizations around the world that monitor the IFIs and provide resources to project-affected people).

### **International Accountability Project (IAP)**

<http://accountabilityproject.org>

IAP “is a human rights advocacy organization that seeks to end forced eviction and create new global policy and practice for development that respects people’s homes, environment and human rights.” IAP’s methods include working “to win policy change, boost local advocacy efforts, and support grassroots activists and communities to access influential decision-making spaces.”

### **International Rivers**

<http://www.internationalrivers.org/>

International Rivers “has been at the heart of the global struggle to protect rivers and the rights of communities that depend on them” since 1985. They work “with an international network of dam-affected people, grassroots organizations, environmentalists, human rights advocates and others who are committed to stopping destructive river projects and promoting better options.”

### **Japan Center for Sustainable Environment and Society (JACSES)**

<http://www.jacses.org/en>

“Japan Center for a Sustainable Environment and Society (JACSES) is an NGO dedicated to achieving sustainable development and social justice in the society...” JACSES “facilitate[s] change through: policy-and practice-oriented

research; independent policy advocacy to protect the interests of vulnerable people; and awareness-raising that highlights individual voluntary action.”

### **Mekong Watch**

<http://www.mekongwatch.org/english>

“Mekong Watch is a Japanese NGO based in Tokyo. [They] combine research and advocacy to address and prevent the negative environmental and social impacts of development in the Mekong Region. [They] are especially concerned about the lack of consultation with affected communities in development planning and implementation and the role Japanese financing. By contacting communities directly, [they] try to bridge the information and communication gaps between them and decision-makers in Japan.”

### **Natural Justice**

<http://naturaljustice.org>

“Natural Justice: Lawyers for Communities and the Environment is a non-profit organization, registered in South Africa since 2007. [Their] vision is the conservation and sustainable use of biodiversity through the self-determination of Indigenous peoples and local communities. [Their] mission is to facilitate the full and effective participation of Indigenous peoples and local communities in the development and implementation of laws and policies that relate to the conservation and customary uses of biodiversity and the protection of associated cultural heritage. [They] work at the local, national, regional, and international levels with a wide range of partners.”

### **OECD Watch**

<http://www.oecdwatch.org/>

OECD Watch is an NGO made up of 60 member groups. OECD Watch produces useful publications, including a manual, that discuss the use of the National Contact Point process and cases brought under the NCP procedure. OECD Watch also conducts trainings regarding the OECD NCP procedure.

### **SOMO**

<http://somo.nl/themes-en/human-rights-grievance-mechanisms>

Centre for Research on Multinational Corporations (SOMO) “is an independent, not-for-profit research and network organisation working on social, ecological and economic issues related to sustainable development. Since 1973, the organisation investigates multinational corporations and the consequences of their activities for people and the environment around the world. SOMO conducts its own research, conducts research for Civil Society Organizations (CSOs), and coordinates and participates in networks.”