

For the attention of

Centre for Research on Multinational Corporations (SOMO)
Both ENDS
Accountability Counsel
Center for International Environmental Law (CIEL)
Lumière Synergie pour le Développement (LSD)
BankTrack
Oxfam Novib
ActionAid Netherlands
Foundation for the Development of Sustainable Policies (FUNDEPS)
Urgewald

Cologne / The Hague, December 20th, 2016

FMO / DEG Independent Complaints Mechanism (ICM)**Revised ICM policy to be published on January 2nd, 2017**

Dear contributors,

Following the first period of operations of the Independent Complaints Mechanism (ICM), the Complaints Offices of both DEG and FMO initiated a review of the ICM Policy. The draft of the revised policy was subject to a public consultation process from mid of January until the end of February 2016. We would like to express our highest appreciation for taking the time and making the effort to comment on the draft document. Together with the Independent Expert Panel (IEP) we have closely evaluated each comment and considered if and how to integrate it into our policy. The revised ICM policy will be published at [DEG's](#) and [FMO's](#) website and become effective on January 1st, 2017. We would like to use this opportunity to explain the main improvements we made and present to you the final version of the ICM policy.

What has changed in the revised version of the policy?

➤ *The aim and functioning of the ICM are explained more clearly*

The comments we have received show us amongst others that the previous phrasing of the aim and the functioning of the ICM (its structure and how it is embedded within the two institutions) were not perfectly clear and at risk of misinterpretation. Consequently, we have updated our wording in §1.1.2 and §1.2 to be better understood.

➤ *Dealing with DEG/FMO-Financed Operations approved prior to the ICM's implementation*

The comments received motivated us to obtain an external legal advice on the matter of dealing with operations that were improved prior to the implementation of the ICM. The advice confirmed DEG's and FMO's understanding that DEG and FMO have to treat all

client-related details and documents as confidential, unless the client has consented to sharing information with the IEP and with the broader public in relation to (i) any future admissible complaint, and/or (ii) subsequent reports, findings and/or recommendations following such a complaint. Consequently, the core message has not changed in the revised policy. However, we have updated our wording in §2.1.3 to better explain the reasoning behind this approach.

➤ *Complainants are allowed to submit complaints in their own language*

For the ICM to be able to do its work, it needs to be accessible for those parties that are affected. We follow the argumentation that accessibility will be improved greatly by allowing complainants to submit complaints in their own language and have revised §3.1.1 accordingly. We do note however that in such cases, processing may take some additional time due to the need for translation.

➤ *Complaints that are already being handled or have been settled by other mechanisms will be assessed on a case-by-case basis*

We have amended §3.1.7 to allow the submission of complaints that are already being handled or have been settled by another mechanism. In such cases, it is the responsibility of the IEP to evaluate the specific context of the complaint.

➤ *Predictability is improved by including timelines and related communication*

One of the comments received was to improve predictability of the ICM by identifying deadlines for all stages of the complaint. We support the recommendation to improve predictability. We have included deadlines for the acknowledgement of the receipt of the complaint, the admissibility phase as well as the preliminary review phase in the policy.

Considering that complaints are very individual and that the processing of a complaint will depend on the complexity of that case, we refrained from identifying deadlines for the dispute resolution and the compliance review phase. Instead, it is now clearly stated that the preliminary review should result in an overview of the next steps with indicated timelines that are to be communicated to the complainants.

After the IEP has finalized its draft report, either for dispute resolution or compliance review, the policy identifies clear deadlines for commenting and finalizing the report.

➤ *The reporting and monitoring process and roles have been specified*

The reporting process for dispute resolution has been specified in the final policy. The process now foresees a round of fact-checking for all concerned parties before the IEP finalizes the report.

Depending on the outcome of the dispute resolution and/or the compliance review phase, the responsibility for the monitoring function is defined. Any agreements reached by the parties

involved in the Dispute Resolution will usually contain a mutually agreed program with timelines for implementation as well as roles and responsibilities to monitor the progress made. It is up to the parties to decide whether this function lies with the ICM / IEP.

When material non-compliances are identified in a Compliance Review, the ICM will monitor the situation until actions taken by FMO and/or DEG assure that the material non-compliance(s) have been addressed by the institution(s). We have deleted the timeline previously included in the policy.

➤ *The Independence of the IEP is further enhanced*

In addition to the provision that Panel members should not have had any involvement in activities related to DEG/FMO-financed operations two consecutive years prior to the start of their term, the policy now also includes a cooling-off period of two years after their term has ended.

We realized that the process of selecting independent Panel members was not communicated transparently in the past. Therefore, we have specified the application and appointment process and defined the required composition of the Panel.

➤ *Other improvements in the policy*

In addition, the comments we received provided for some other improvement points of the policy. These include amongst others the specification of the description of the complaint and linking the policies referenced.

What happens with the other recommendations received?

Some of the recommendations we have received on the process of the public consultation are, although very valuable for DEG and FMO as an institution, not directly relevant for the ICM policy. These recommendations have not been included in the policy update but were passed on to the relevant departments within each institution.

Again, we highly appreciate the comments you have provided on the draft revision of the ICM policy, which have contributed to further improving our Mechanism. We look forward to cooperate and engage with you in the future.

Sincerely,

DEG - Deutsche Investitions- und
Entwicklungsgesellschaft mbH

Netherlands Development Finance
Company (FMO)



Christiane Rudolph
Complaints Office DEG



Friso Schellekens
Complaints Office FMO