

Public Draft

DOCUMENT OF THE INTER-AMERICAN DEVELOPMENT BANK

**REVISED DRAFT POLICY
OF THE INDEPENDENT CONSULTATION
AND INVESTIGATION MECHANISM**

June 2014

Under the Access of Information Policy, this document is subject to public disclosure.

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Glossary

Bank or IDB: The Inter-American Development Bank.

Bank-Financed Operation: All Bank investment or other financing activities, whether with or without sovereign guarantee (public or private sector), including any operational activities involving loans, grants, technical cooperation assistance, and guarantees financed or to be financed in whole or in part from Bank funds or from funds administered or guaranteed by the Bank, including MIF operations.

Board: The Board of Executive Directors of the Bank.

Borrower/Recipient: A party that has received financing in connection with a Bank or MIF operation and that has entered into a loan, technical cooperation, or guarantee agreement with the Bank.

Business Day: Business days refer to a day when the IDB is open for business in Washington, D.C.

Compliance Review Panel: The panel of experts assembled to investigate a given Request in the context of the Compliance Review Phase, described in paragraph 42 of this Policy.

Compliance Review Phase Coordinator: The ICIM staff member responsible for coordinating the Compliance Review Phase and serving as the Panel Chairperson for approved investigations, as described in paragraph 42.

Consultation Phase Coordinator: The ICIM staff member responsible for coordinating the Consultation Phase.

Donors Committee: The Donors Committee of the Multilateral Investment Fund.

Executing Agency: The entity designated in the relevant legal agreements to execute all or part of a Bank-Financed Operation.

Harm: Any direct, material damage or loss. Harm may be actual or reasonably likely to occur in the future.

ICIM: The Independent Consultation and Investigation Mechanism of the IDB.

ICIM Director: The Bank official appointed by the Board of Executive Directors as responsible for the ICIM, as described in sections D and J of this Policy.

IIC: The Inter-American Investment Corporation.

Management: The Bank manager or managers in charge of the relevant Bank-Financed Operation or his or her delegate.

MIF: The Multilateral Investment Fund.

Parties: The Requesters, Management, the Borrower, and the client, or the Executing Agency, if applicable.

Policy: This ICIM Policy.

President: The President of the Inter-American Development Bank.

Project: A specific project or technical assistance operation in support of which a Bank-Financed Operation, or MIF funding, as appropriate, has been approved.

Public Registry: The public web-based registry maintained by the ICIM which provides all public documents related to Requests received by the ICIM, as established in paragraph 62 of this Policy.

Relevant Operational Policies: All policies covered by the definition as established in paragraphs 11 and 12 of this Policy. The Relevant Operational Policy that will be applicable for projects approved by the Board is the version in effect at the time of Board approval of the Bank-Financed Operation that is the subject of the Request, unless the relevant policy or legal documentation provides otherwise. Guidelines, procedures, or norms approved only by Management of the Bank are not subject to the Mechanism. In the event that the Board of Executive Directors grants an explicit waiver of the obligation to apply a specific Relevant Operational Policy to a particular project, that policy may not be used as grounds for submitting a Request to the ICIM.

Request: A communication submitted by the Requesters or their Representative that alleges that they have suffered or may suffer harm due to the failure of the Bank to fulfill its Relevant Operational Policies within the context of a Bank-Financed Operation.

Requesters: Any two or more people residing in the country where a Bank-Financed Operation is implemented who have submitted a Request to the ICIM, considering that they have been or may be affected by the failure of the Bank to comply with one or more of its Relevant Operational Policies within the context of that operation.

A. Background

1. The Inter-American Development Bank (“IDB” or “Bank”) was established in 1959 and is currently the main source of multilateral financing for economic, social, and institutional development in Latin America and the Caribbean. It provides loans, grants, guarantees, and technical assistance to the public and private sectors of the borrowing member countries.
2. In 1994, the IDB Board of Governors mandated that the Bank establish an independent inspection function to increase the transparency, accountability, and effectiveness of the Bank. The Governors directed that the function be independent from Management and investigate policy noncompliance stemming from allegations from adversely affected parties. That same year, the Bank’s Board of Executive Directors (“Board”) created the Independent Investigation Mechanism.
3. In February 2010, the Board approved the Policy Establishing the Independent Consultation and Investigation Mechanism (ICIM), an enhanced mechanism that reflected current practice in independent accountability mechanisms (IAMs) and public input. The policy went through a pilot phase, and its implementation was evaluated in 2012 by the IDB Office of Evaluation and Oversight (OVE).
4. This Policy supersedes the Policy Establishing the Independent Consultation and Investigation Mechanism (see document GN-1830-49). The Mechanism’s powers and operating system are set forth below.

B. ICIM Objectives

5. The ICIM’s objectives are to:
 - a. Provide a mechanism and process independent of Bank Management in order to investigate allegations of Requesters of harm produced by the Bank’s failure to comply with its Relevant Operational Policies in Bank-Financed Operations;
 - b. Provide information to the Board regarding such investigations;
 - c. Be a last resort mechanism for addressing the concerns of Requesters, after reasonable attempts to bring such allegations to the attention of Bank Management have been made.

C. Guiding Principles

6. The ICIM’s Guiding Principles are to:
 - a. Be functionally independent from Bank Management;
 - b. Efficiently and effectively address Requests;

- c. Be objective, impartial, and transparent;
- d. Work in a cost-effective manner and avoid duplication with other Bank independent offices; and
- e. Reflect the highest professional and technical standards of the IDB.

D. Phases, Structure, and Composition of the ICIM

7. The ICIM's objectives are fulfilled through the following two phases to be selected by the Requesters, allowing the selection of the approach that best addresses the Requests:
 - a. Consultation Phase: This phase provides an opportunity for the Parties to address the issues raised in the Request in a flexible, collaborative manner.
 - b. Compliance Review Phase: This phase offers an investigative process related to the issues raised in the Request to establish whether the Bank has failed to comply with any of its Relevant Operational Policies and whether that has caused harm to the Requesters.
8. The ICIM is headed by a Director, who is assisted by Phase coordinators and the operations and administrative staff necessary to perform the Mechanism's work efficiently and effectively. All ICIM staff, including consultants, will report to the Director.
9. The Mechanism's Director is accountable to the Bank's Board of Executive Directors, to which he or she will report periodically on the ICIM's operation and results.

E. ICIM Scope

10. The ICIM scope of work covers all Bank-Financed Operations, as of the date they are approved by the Board of Executive Directors, the Donors Committee, or the President, as the case may be.
11. The ICIM applies to all Relevant Operational Policies, which include the following:
 - Access to Information (OP-102)
 - Environment and Safeguards Compliance (OP-703)
 - Disaster Risk Management (OP-704)
 - Public Utilities (OP-708)
 - Involuntary Resettlement (OP-710)
 - Gender Equality in Development (OP-761)
 - Indigenous Peoples (OP-765)

12. Relevant Operational Policies will also be deemed to include policies approved following entry into effect of this Policy, and all such policies may be explicitly designated by the Board as falling within the purview of the ICIM.

F. General Criteria for Request Intake

13. Who Can File a Request? Requests may be filed by:
- a. Any group of two or more people who have been or anticipate being affected, residing in a country where a Bank-Financed Operation is implemented;
 - b. A representative living in the host country or in another country provided he or she indicates the persons on whose behalf he or she is acting and provides written evidence of the authority to represent them.
14. Content and Form of a Request. There is no specific format for a Request. However, in order to be considered, it must include the following:
- a. The name, address, and other contact information of the Requesters;
 - b. When a Request is made through any representative, it must clearly identify the people on whose behalf the Request is made and provide written evidence of the authority to represent the Requesters;
 - c. An indication of whether the Requesters wish to maintain their identity confidential and the reasons why;
 - d. A description of the Bank-Financed Operation and the country where the project is located;
 - e. An allegation that the Bank failed to correctly apply one or more of its Relevant Operational Policies;
 - f. A clear explanation of the alleged harm and its relation to the noncompliance of the Relevant Operational Policy in a Bank-Financed Operation;
 - g. A description of the measures taken by the Requesters to solve the problem with IDB Management, and the results of those measures;
 - h. A statement as to whether the Requesters wish to use the Consultation Phase, the Compliance Review Phase, or both;
 - i. When the above information is not available, the Requesters should provide an explanation.
15. Confidentiality. Anonymous Requests will not be accepted. In the event that the Requesters need to maintain their identity confidential due to fears of retaliation, the ICIM will maintain such confidentiality.
16. How to File a Request
- a. Requests should be addressed to the ICIM and submitted in writing by email, mail, or fax.

- b. The IDB's official languages are Spanish, English, Portuguese, and French. Requests submitted in other languages will be accepted, but additional time will be required for their translation and processing.
 - c. Requests may be delivered to the ICIM Office in Washington, D.C. or to any IDB Country Office (addressed "To the attention of the ICIM Office"), from which they will be forwarded to the ICIM Office. The ICIM's address is: Independent Consultation and Investigation Mechanism, Inter-American Development Bank, 1300 New York Avenue, NW, Washington, D.C. 20577, United States, email: mecanismo@iadb.org, telephone: 202-623-3952, fax: 202-312-4057.
 - d. Potential Requesters may obtain information on the procedural requirements for submission of a Request on the ICIM website (www.iadb.org/icim) or by contacting ICIM staff (at the addresses and numbers indicated above). The ICIM may provide information to potential Requesters on the scope of action, exclusions, eligibility criteria, Relevant Operational Policies, the difference between the Consultation Phase and the Compliance Review Phase, and other details of the ICIM process in general. Requesters will be advised that the ICIM does not award compensation, damages, or similar benefits. The ICIM cannot advise on the substantive aspects of a Request.
17. Sequencing of Requests and Opting Out
- a. Requesters may choose: (i) the Consultation Phase; (ii) the Compliance Review Phase; or (iii) both. When Requesters choose both phases, processing will be sequential and will begin with the Consultation Phase.
 - b. Requesters may opt out of the Consultation Phase at any time during the process. If they had also requested a Compliance Review Phase, it will then be initiated. It will not be possible to reopen the Consultation Phase once the Compliance Review Phase has begun.
 - c. Requesters may opt out of the Compliance Review Phase, but it will be the responsibility of the ICIM Director to assess the relevance of continuing and to submit a recommendation on whether or not to continue with the process to the Board for consideration by short procedure.
18. Impact of an ongoing Consultation or Compliance Review. The fact that a Consultation Phase or Compliance Review Phase is initiated and ongoing does not halt the processing, execution, or disbursements of an ongoing Bank-Financed Operation. If based on the available information, the ICIM Director determines that serious irreparable harm may result in the continued execution of a Bank-Financed Operation, the ICIM Director may recommend to the Board or the Donors Committee that execution be suspended. The decision on that recommendation will be made by the Board or the Donors Committee, subject to applicable Bank policies and legal documentation.

19. Exclusions. The ICIM will not process Requests related to the following:
- a. Considerations of ethics or fraud, specific actions by Bank employees, nonoperational matters such as internal finance or administration, complaints of corrupt practices, and procurement decisions or processes. When receiving Requests regarding these issues, the ICIM Director will forward them to the relevant IDB office and include a record of the referral in the Public Registry;
 - b. Any Request that is anonymous, or on its face is without substance;
 - c. Particular issues or matters that have already been reviewed by the ICIM, unless justified by new evidence or circumstances not available at the time of the initial Request;
 - d. Particular issues or matters raised in a Request that are under arbitral or judicial review in an IDB member country. If, after determination of eligibility, the ICIM becomes aware of the existence of arbitral or judicial proceedings, the ICIM Director will be responsible for assessing the implications and submitting a recommendation on whether or not to move forward with the process to the Board for consideration by short procedure;
 - e. Requests related to operations that have not yet been approved by the Board, the President, or the Donors Committee. When receiving Requests related to this exclusion, the ICIM Director will forward the Request to Management, including a record of the referral in the Public Registry. During the operation's preparation, Management will take the Request into account, and in the event that the operation is subsequently submitted for consideration, the project document will include a reference to the Request with a description of Management's response and any action taken in regard to it;
 - f. Requests that are filed more than 24 months after the last disbursement of the relevant Bank-Financed Operation.
20. Registry of Requests
- a. When a Request is received by the ICIM, it will verify that the Request contains all required information and, without prejudice to the eligibility process, that it is not clearly linked with any of the exclusions set forth in paragraph 19;
 - b. Based on this review, within a maximum term of five business days as of receipt of the Request, the ICIM Director will make one of the following decisions:
 - i. If the Request does not include all the information required for its processing (see paragraph 14), the Director will communicate with the Requesters and inform them of the missing information, granting the Requesters a maximum term of 10 business days as of such

communication to provide the information. If the information is not received within the indicated term, the process will be considered terminated, without prejudice to the fact that the Requesters may resubmit the Request once they have gathered the required information; or

- ii. If the Request includes the required information and is not clearly linked with any of the aforementioned exclusions, the Director will proceed to issue a notice of registration to move forward with the processing of the Request within the framework of the ICIM process; or
 - iii. If the Request is clearly linked with any of the exclusions set forth in paragraph 19, and therefore cannot be taken up by the ICIM, the Director will inform the Parties of the decision, will transmit the Request to the relevant unit of the Bank, thereby ending the ICIM process.
- c. In all cases, the decision will be recorded in the Public Registry and the Requesters, Management, and the Board of Executive Directors will be informed thereof.
21. Response by Management. Following the notice of registration, the ICIM will send a copy of the Request to Management, requesting a written response to the Request (“Response by Management” or “Response”). At the end of a term of no more than 21 business days as of the date of the notice of registration, Management will send the ICIM its Response, which will contain Management’s perspective with respect to the allegations submitted by the Requesters and may include the request to temporarily suspend the eligibility process as provided in paragraph 23(c), if deemed appropriate by Management.

G. Determination of Eligibility

22. ICIM Eligibility Criteria. Requests will be deemed eligible if it is determined that the Requesters meet all of the following criteria:
- a. The Request is filed by two or more persons who believe that they have been or may be affected and who are living in the country where the Bank-Financed Operation is located. If the Request is filed by a Representative, the identity of the Requesters on whose behalf the Request is filed will be indicated and written proof of representation will be attached.
 - b. The Request clearly identifies a Bank-Financed Operation that has been approved by the Board, the President, or the Donors Committee.
 - c. The Request describes the harm and its relationship with the noncompliance with one or more Relevant Operational Policies.
 - d. The Request describes the efforts that the Requesters have made to address the issues in the Request with Management and includes a description of the

results of those efforts, or an explanation of why contacting Management was not possible.

- e. None of the exclusions set forth in paragraph 19 apply.

23. Eligibility Process

- a. The eligibility process involves the analysis of the Request with respect to the eligibility criteria (see paragraph 22) to determine whether or not the Request is eligible for the Consultation Phase, the Compliance Review Phase, or both, as selected by the Requesters.
- b. The ICIM will have a term of up to 21 business days as of the date of receipt of the Response by Management to determine the Request's eligibility.
- c. Should Management request a temporary suspension of the eligibility determination process in order to make corrections to the Bank-Financed Operation, the ICIM Director will grant a term of suspension of up to 45 business days as of the date of receipt of the Response by Management if, and only if, there is a specific plan to make corrections and a proposed timeline for carrying out the activities. The ICIM will notify the Requesters as soon as it decides to grant the suspension.
- d. The ICIM Director, in consultation with the Consultation Phase and Compliance Review Phase Coordinators, will determine the eligibility of the Requests based on the eligibility criteria established in this Policy.
- e. In the eligibility determination process, the ICIM will consider all relevant information available at that time, including the Response by Management, project documentation, and the information provided by the Requesters. It may also require an onsite visit to the country where the project is being executed. In such a case, the ICIM Director will consult with the Executive Director for the host country. Site visits will comply with regular Bank procedures for official missions.
- f. When visits are made to project sites and meetings are held with the Requesters, the ICIM staff will inform them of procedural considerations, if necessary.
- g. At the end of the term, the ICIM will issue a Memorandum of Eligibility that will include a copy of the Request as well as the Response by Management. This memorandum will also include a description of the steps taken during the eligibility process, a summary of the facts and positions of the Parties, and a determination of whether the Request is eligible for the Consultation Phase, Compliance Review Phase, both, or neither. If eligible, the process will begin for the corresponding phase; otherwise, the process will be deemed concluded.

- h. Regardless of the result of the determination, the ICIM Director will promptly inform the Board, Management, and the Requesters thereof and will note the result in the Public Registry.

G. Consultation Phase

24. Objective of the Consultation Phase. The objective of the Consultation Phase is to provide an opportunity to the Parties to address the issues raised by the Requesters related to harm caused by the failure to follow one or more of its Relevant Operational Policies in the context of a Bank-Financed Operation. The Consultation Phase provides an approach that ensures unbiased, equitable treatment for all the Parties. There is no guarantee that Consultation will resolve all the problems to the satisfaction of the parties.
25. Consultation Modalities. The Consultation Phase is intended to be flexible, consensus-based, and tailored to the specific issues raised in the Request related to policy noncompliance. The methods to be used will depend on factors such as urgency, type of harm involved, remedies sought, and the likelihood that the exercise will have a positive outcome. These methods include but are not limited to: information gathering, joint fact-finding, facilitation, consultation, negotiation, and mediation. To support the process, the ICIM may hire local mediators or facilitators, as required.
26. Voluntary Nature. Participation in the Consultation Phase is voluntary and requires the consent of all Parties. Any of the Parties, including the Requester, who does not wish to move forward with the Consultation Phase, may unilaterally withdraw from the phase at any time. If the ICIM Director determines that this participant is essential for the process, the Consultation Phase will be considered concluded.
27. Assessment. Immediately after the Request is declared eligible for the Consultation Phase, the ICIM will start the assessment stage with the objective of understanding the harm related to policy noncompliance raised by the Request, identifying and gathering information from Requesters, Management, and other Parties, determining whether the parties would agree to seek a resolution using consultation methods, and if so, the best process for addressing any policy noncompliance.
28. Nature of the Assessment. While carrying out an assessment, the ICIM may utilize, but not be limited to, any of the following activities:
- Desk review, including reviewing any relevant IDB files;
 - Meetings with the Requesters, Management, executing agency, private sector client, civil society organizations, and/or other ICIM stakeholders;
 - Visits to the project site, in which case the ICIM will consult with the Executive Director for the host country regarding the site visit. Site visits will comply with regular Bank procedures for official missions.
29. Results of the Assessment: Within a maximum term of 40 business days as of the date of determination of eligibility, the assessment will conclude with a decision

on whether or not to conduct a Consultation Phase. Based on the results of the assessment, the ICIM will:

- a. Work with the Parties to reach an explicit agreement to move forward with the Consultation Phase, establishing a method for addressing the issues raised; or
 - b. Determine that a collaborative resolution is not possible, in which case the Request will be forwarded to the Compliance Review Phase, if the Requesters have asked to pursue that phase. If they have not, the ICIM process will be declared concluded.
30. Assessment Report. The results of the assessment will be set forth in an assessment report, which the ICIM will deliver to the Board, Management, and the Requesters and upload to the Public Registry. The report will include a general summary of the information gathered during the assessment and the reasons for the decision to proceed or not with the Consultation Phase. In the event of proceeding with a Consultation Phase, the assessment report will include the course of action, consultation method, and timeline agreed by the Parties for this phase.
31. Consultation Phase Time Frame. The ICIM will complete the Consultation Phase within a maximum period of 12 calendar months as of the date of issue of the assessment report. This term may be extended if, at the end of the term, the ICIM Director believes that extending the term will help bring about a consensus-based resolution of the issues raised. Otherwise, the ICIM Director will consider the Consultation Phase terminated.
32. Limitations on Agreements. The Consultation Phase will not support agreements that are contrary to Bank policies or its code of ethics, or that would violate domestic laws of the parties, or international law. The Consultation Phase itself does not result in award of compensation or similar benefits.
33. Consultation Phase Report. Upon completion of the Consultation Phase, the ICIM will prepare a report on the results of the Consultation process. The report will be distributed to the Board or to the Donors Committee for consideration by short procedure and to Management for information. After consideration by the Board or the Donors Committee, the report will be made available to the Requesters and posted on the Public Registry.
34. Confidentiality. The terms of the agreement will be released through the Public Registry unless all of the signing parties agree on confidentiality, in which case the ICIM will post a summary.
35. Monitoring. When applicable the ICIM will develop, in consultation with the Parties, a monitoring plan and time frame for the agreement reached, which will be included in the Consultation Phase Report. The plan will include:
- a. That there is direct or outside monitoring of any agreement reached by the parties;

- b. That there are adequate measures to determine whether such agreement is being implemented appropriately;
- c. Subject to the Board's no objection, monitoring for a term consistent with the terms of the agreement, and in no case to exceed five years as of the date the agreement was signed The ICIM will submit a report to the Board for information at least annually, which will be posted on the Public Registry.

I. Compliance Review Phase

- 36. Objective of the Compliance Review Phase. The purpose of the Compliance Review Phase is to impartially and objectively investigate allegations by Requesters that the Bank has failed to comply with its Relevant Operational Policies and has caused harm to the Requesters.
- 37. Scope of the Compliance Review Phase. The Compliance Review process is fact-finding in nature. It is not a judicial process and is not designed to establish guilt or innocence, or to adjudicate fault or apportion blame among the various parties involved. The ICIM only has a mandate to investigate allegations of noncompliance with Relevant Operational Policies in Bank-Financed Operations. It does not have a mandate to investigate actions of government agencies, host governments, borrowers, or other lenders, sponsors, or investors in connection with the Bank-Financed Operation.
- 38. Conditions for a Compliance Review Phase. A Request will proceed to the Compliance Review Phase if:
 - a. the Requesters have opted for both ICIM phases and, after their Request was declared eligible, the Consultation Phase ended without a consensus-based solution; or
 - b. the Requesters have opted only for the Compliance Review Phase, and their Request was declared eligible.
- 39. Recommendation for Compliance Review and Terms of Reference (TOR): When a Request is transferred to Compliance Review, the Compliance Review Phase Coordinator, under the supervision of the ICIM Director, will prepare, within a maximum term of 21 business days, the recommendation and the TOR for the investigation, in consultation with Management and the Requesters. The TOR will include, but not be limited to, the objectives of the investigation, the items to be investigated, a description of the Bank-Financed Operation, a proposed timeline and budget for the investigation, and anticipated use of consultants. The TOR are intended solely for the guidance of the Compliance Review Phase and to inform interested Parties of what to expect.
- 40. Comments by Management. Upon completion of the TOR, the ICIM will send a copy to Management, which will have a term of up to 10 business days to make comments.

41. Consideration of the Recommendation. Upon receipt of Management's response, or upon expiration of the term (whichever occurs first), the ICIM will submit its recommendation on whether or not to conduct a Compliance Review investigation to the Board or the Donors Committee, jointly with Management's comments, if any. The recommendation will be considered by the Board or the Donors Committee by short procedure. Objections to Compliance Review investigations will be in writing and will be considered by the Board or the Donors Committee. Decisions by the Board or the Donors Committee regarding the recommendation will be communicated to the Requesters and posted on the Public Registry along with the recommendation and TOR after their consideration.
42. Formation of the Compliance Review Panel. Upon approval of the Compliance Review, the ICIM Director, in consultation with the Compliance Review Phase Coordinator, will identify and hire two independent experts to form the Panel that will conduct the review. The Panel will be made up of the Compliance Review Phase Coordinator, who will act as Panel Chair, and two additional members who will be selected based on the experience required in each case. The formed Panel will have the assistance of the ICIM's operating and administrative team, and of additional consultants, if necessary.
43. Conducting the Compliance Review
 - a. The ICIM will promptly begin the Compliance Review once the Board has approved the investigation and the investigation team is formed.
 - b. The ICIM will consult with the Executive Director for the host country regarding the site visit. Site visits will comply with regular Bank procedures for official missions.
 - c. The time required will vary with the complexity and scope of the Bank-Financed Operation and the number of Relevant Operational Policies involved. The maximum term will be defined in the timeline included in the TOR, as indicated in paragraph 39. However, the ICIM will attempt to complete the investigations, including issuing the draft report, within a maximum term of six calendar months as of formation of the Panel. If more time than is established in the TOR is needed to complete the investigation, the ICIM Director will extend the time frame on a case-by-case basis, subject to the Board's no objection.
 - d. During the Compliance Review Phase, the ICIM will consult regularly with the Requesters and Management, including updating the Requesters and Management periodically on progress. The ICIM will also consult as needed with the Board member representing the project's host country. Management will cooperate fully and proactively with the ICIM during the Compliance Review Phase.

44. Comments by Management and Requesters. Once the ICIM has completed its investigation, it will issue a draft report including a review of its main findings of fact and recommendations, and forward them to Management and the Requesters for their comments. Management and the Requesters have a term of 21 business days to send comments on the draft report. The ICIM will consider the comments for its final report, but the contents of the final report are the exclusive decision of the ICIM, and the report should remain strictly impartial and objective.
45. Compliance Review Report. In preparing its report, the ICIM will take into account all relevant facts that may have an impact on the case at hand. The report will include the ICIM's findings as to whether (and if so, how and why) an action or omission by the Bank relating to a Bank-Financed Operation resulted in the failure to comply with a Relevant Operational Policy (indicating the Policy in question and a description of the noncompliance), and in harm to the Requesters. The report should also include a description of the Compliance Review Phase methodology used for determining findings of harm and how it is linked to the violation of one or more Relevant Operational Policies. The ICIM may also provide its recommendations, views, or observations on findings or systemic issues relating to Relevant Operational Policy noncompliance. The Compliance Review Report should be designed to provide the factual and technical basis for a decision by the Board on preventative or corrective action in connection with the Bank-Financed Operation under investigation.
46. Consideration of the Compliance Review Report. Within a maximum term of 21 business days following receipt of the comments by Management and the Requesters, the ICIM will submit its final report for consideration under standard procedure by the Board or the Donors Committee, attaching as annexes the comments by the Requesters and Management. The Board will consider the final report in a timely manner.
47. Final Decision. The Board (or the Donors Committee) will make the final decision regarding any actions that may be deemed appropriate or necessary, in light of the Compliance Review findings and recommendations. If deemed appropriate, the Board will instruct Management to develop, in consultation with the ICIM, an action plan and present it for consideration. Once approved by the Board, the ICIM will inform the Requesters of the Board's decision and any action plan prepared as well as progress in its implementation.
48. Report Release to Public. After Board consideration of the Compliance Review Report, the Report, and Management's and the Requesters' responses will be posted on the Public Registry.
49. Monitoring. When applicable, the ICIM will monitor implementation of any action plans or remedial or corrective actions agreed upon as a result of a Compliance Review. To do so, it will prepare a monitoring plan and timeline in accordance with the needs of the case and in consultation with the Requesters, Management, and other interested Parties, as applicable. Management will collaborate with the ICIM

throughout the duration of the monitoring, which will be determined by the Board, on a case-by-case basis, and which in no case will exceed five years as of the date on which the Board approves Management's action plan. The ICIM will issue a monitoring report for distribution to the Board for information at least annually. This report will be posted on the Public Registry.

J. Institutional and Administrative Considerations

50. The ICIM Office. The ICIM Office will report to the Board of Executive Directors, not to Management, and will be run by a Director who will report directly to the Board of Executive Directors. The ICIM staff, including the Consultation Phase and Compliance Review Phase Coordinators, will report to the Director.
51. Compliance with Bank Policies. All ICIM staff are subject to the Bank's policies and code of ethics, and will act in a manner that does not give rise to any conflict of interest or jeopardize the objectivity or integrity of the ICIM.
52. Eligibility to work at the ICIM.
 - a. The ICIM Director, the Compliance Review Phase Coordinator, and the Consultation Phase Coordinator will be independent from Management of the IDB and the MIF and in general will be chosen from outside the Bank.
 - b. Executive Directors, Alternate Executive Directors, Counselors, and Bank staff wishing to serve in these positions may not serve in the ICIM until three years have lapsed since the end of their employment with the Bank. This requirement does not limit the staff working in the ICIM to apply for these positions.
 - c. Upon completion of his or her service to the Bank, the ICIM Director, the Compliance Review Phase Coordinator, and the Consultation Phase Coordinator may not work at the Bank in any capacity. This restriction does not apply to junior administrative and operational staff.
53. ICIM Director Appointment
 - a. The ICIM Director will be appointed by the Board of Executive Directors of the Bank from a list of eligible candidates presented to it by a selection panel designated by the Board of Executive Directors. A selection process will be conducted with the assistance of the Human Resources Department in accordance with the Bank's policies and procedures and the TOR attached this Policy.
 - b. The ICIM Director will be a full-time employee of the IDB appointed for a five-year period, with the possibility of a single renewal for an equal period.
 - c. The staff grade for the ICIM Director will be determined by the Board of Executive Directors following a recommendation from Human Resources

based on the relevant functions of the position and the expertise and competencies of the selected finalist, and in accordance with the Bank's personnel and recruitment policies.

54. Removal of the ICIM Director. The ICIM Director will serve at the discretion of the Board of Executive Directors and may be removed from office by the Board at its discretion with or without cause.
55. Appointment of the Compliance Review Phase Coordinator and Consultation Phase Coordinator.
 - a. The ICIM Director, with the support of the Human Resources Department, will be responsible for hiring the Consultation Phase Coordinator and the Compliance Review Phase Coordinator on the basis of merit and through an open selection process, in accordance with the Bank's policies and procedures and the TOR attached to this Policy.
 - b. Both Coordinators will be full-time employees of the Bank under contracts of up to five years.
 - c. The staff grades for the Phase Coordinator positions will be determined by the ICIM Director following a recommendation from the Human Resources Department based on the relevant functions of the positions and the expertise and competencies of the selected finalists, and in accordance with the Bank's relevant personnel and recruitment policies.
56. Authority to Contract. The ICIM Director is authorized to contract any external expert necessary, in strict compliance with the Bank's policies and procedures. In consultation with Human Resources, the ICIM Director will also prepare and maintain a list of independent expert consultants with specialized knowledge in areas such as mediation, dispute resolution, compliance, auditing, resettlement, environmental and social safeguard policies, and other required areas of expertise. These experts will not come from Management.
57. Authority to Adopt Administrative Procedures. The ICIM Director is authorized to establish guidelines and adopt internal administrative procedures that are consistent with this Policy and the Bank's other policies and procedures.
58. Access to Information and Confidentiality. The disclosure of all information produced and received by the ICIM will be subject to the Access to Information Policy. In addressing a Request, the ICIM will have access to all relevant information for the due discharge of its work, and Bank staff will cooperate fully with the ICIM to ensure such access. All information provided by any of the Parties to the ICIM as confidential will be maintained confidential at all times and may not be disclosed without the written authorization of the party who provided the information, in accordance with the Access to Information Policy.

K. General Provisions

59. Time Periods. The time periods referred to may be extended by the ICIM Director for as long as is strictly necessary to ensure the full and proper processing of Requests. To do so, the ICIM Director will submit the rationale for such an extension and the proposed new deadline for completion for consideration by the Board or the Donors Committee by short procedure. Management and the Requesters will be promptly notified of any extension, and the extension will be posted on the Public Registry.
60. Outreach Activities. The ICIM Office has a mandate to conduct public outreach throughout Latin America and the Caribbean. The ICIM Director will develop and implement an outreach strategy to inform civil society. The ICIM Director will coordinate with other Bank offices and units to ensure that information about the Mechanism is integrated into Bank activities and publications designed to promote information about the institution. Bank Management will support the ICIM's efforts to publicize the ICIM.
61. Publications. The ICIM Director will prepare an annual report describing the Mechanism's activities during the previous year, including a description of Requests received and the outcome of the Requests, and follow-up of the ICIM process. The annual report may also discuss lessons learned, trends, and systemic issues, and provide recommendations on preventing noncompliance and other advice that stems directly from ICIM cases. The annual report will be submitted to the Bank's Board for information, and made available to the public through its website. The ICIM will also maintain an interactive website, on which it will disseminate other publications relevant to its work such as brochures, case studies, and best practices.
62. Public Registry. The Mechanism will maintain a virtual Public Registry that will provide up-to-date information on Requests submitted to the Mechanism and their processing, and will include the publication of the public documents provided for under this Policy.
63. Languages. All ICIM reports will be published in Spanish and English. When a Request is from a Portuguese- or French-speaking country, the reports will also be issued in the relevant language. In the case of outreach materials, the ICIM will produce versions in the Bank's four official languages.
64. Legal Matters. If requested by the ICIM Director, the IDB Legal Department will provide legal information and advice regarding the Bank's rights and obligations in relation to a specific Bank-Financed Operation at issue in a Request, or regarding the interpretation of this Policy or other Bank policies. Except with regard to the Bank's rights and obligations, the ICIM Director may also, at any time, seek external legal advice on Request-related issues as they arise.

65. Conflicts of Interest. When any official of the ICIM has been previously involved in the planning, appraisal, implementation, or evaluation of a project that comes before the ICIM, said official will recuse him or herself from working on that Request and will notify the ICIM Director immediately of any conflict. If the ICIM Director is potentially in conflict of interest, he or she will immediately inform the Board, recuse him or herself, and assign a team member to work on the Request.
66. Budget. The ICIM Director is responsible for preparing and managing the ICIM Budget and will submit an annual request for resources to the Board, including any request for contingency funds pursuant to the projected work plan. The Board will provide the budgetary resources necessary for the ICIM to carry out its activities according to this Policy. The ICIM Director will report to the Board quarterly on the Mechanism's budget status.
67. IDB Group Entities. The ICIM may provide services related to MIF-financed projects, in which case the ICIM will also report its activities to the Donors Committee. The ICIM may also provide services to the Inter-American Investment Corporation (IIC), subject to the necessary and appropriate agreements between the IDB and the IIC.
68. Cooperation with other Independent Accountability Mechanisms (IAMS). When a Request involves another Independent Accountability Mechanism, the ICIM will collaborate with the mechanism involved to share information, technical experts, and where possible, plan joint site visits. The objective of such collaboration is to improve the Mechanism's cost-effectiveness and avoid duplication of efforts for the Parties involved.
69. Communication with the Media. The ICIM will issue its own press releases and public communications. Prior to any such release, the ICIM Director will inform the Bank's Office of External Relations. No ICIM official may speak to the media about any Request that is being processed by the ICIM or give press interviews during site visits in the host country.
70. Review of the ICIM Policy. This Policy will be independently reviewed in the time and form determined by the Board, within the first five years following this Policy's entry into effect.

Model Form Letter for Requesters

To:

Director
Independent Consultation and Investigation Mechanism
Inter-American Development Bank
1300 New York Avenue, N.W.
Washington, D.C. 20577
Email: mecanismo@iadb.org
Phone: 202-623-3952; Fax: 202-312-4057

1. We (**insert names**) live and/or represent the following individuals _____, who live in the area known as _____, where the project is being carried out (**name and/or a brief description of the Bank-financed operation and the name of the country where the operation is taking place**). Our names and contact information are attached.
2. We have suffered or are likely to suffer harm as a result of the IDB's failure to correctly apply the following relevant policies (**cite the operational policy or policies deemed not to have been complied with by the Bank**).
3. **Describe the direct, material harm that is occurring or is likely to occur and its relationship to relevant operational policy noncompliance.**
4. We have complained to the IDB Management on the following dates (**list dates and names of IDB officials who were contacted**) by (**explain how the complaint was delivered, e.g., meeting, letter, phone call**). **Explain whether there was a response from Management, and so, what the result was. Enter any other information about prior contact with the Bank.**
5. We choose (**enter Consultation or Compliance Review Phase, or both**) or (**if not known**) We would like an explanation of the options in order to make a decision.
6. **If you believe it is necessary for the ICIM to treat your identity as confidential, please so indicate, including the rationale.**
7. We request that the ICIM respond to our Request.

Signatures:

Date:

Contact addresses, phone number, fax number, email address.

Independent Consultation and Investigation Mechanism (ICIM) Terms of Reference for the Director

Description

The ICIM Director will have overall responsibility for the day-to-day operations of the ICIM, oversight, supervision, and management of all ICIM employees (including the Consultation Phase Coordinator and Compliance Review Phase Coordinator, operations and administrative staff, and contractuels). He or she will be responsible for the effective and efficient delivery of ICIM's work program, and for managing and overseeing the ICIM operations and budget. The ICIM Director may delegate some duties, as needed, to other ICIM employees. However, the ICIM Director is accountable for the overall proper functioning, organization, and integrity of the ICIM. The ICIM Director will serve for a five-year term with one renewable term if the Board so approves. He or she will serve at the discretion of the Board of Executive Directors. His or her employment may be terminated by the Board of Executive Directors at its discretion with or without cause; any severance payment will be made in accordance with the Bank's staff rules.

The ICIM Director will report directly to the IDB Board of Executive Directors (Board) and will review his/her work program periodically with the Board. He or she will be independent of Management and operations departments of the IDB and the MIF. The ICIM Director will be subject to the IDB Code of Ethics and Professional Conduct, Access to Information Policy, and other Bank policies, and will protect against conflicts of interest that could weaken the objectivity and integrity of the ICIM Office.

Key responsibilities include:

- Provides leadership and direction to the ICIM teams and oversees the attainment of objectives, operational goals, guidelines, and work programs for the Office.
- Establishes and manages the ICIM's work program and budget, and manages all ICIM employees to ensure effective and timely handling of all ICIM requests.
- Consults with the Board regarding questions on the interpretation of policies as applicable to the ICIM, if needed.
- Meets with the relevant Board Committee Chair in order to keep the relevant Board Committee informed of the ICIM's activities. Produces reports for the Board, as needed.
- Calls regular staff meetings to share information and promote teamwork.
- Intervenes and resolves any issues arising from the interaction and synergies of the ICIM employees as they interact in their respective areas of functioning.
- Supervises the work of the ICIM employees, approves their work programs and administrative authorizations, including engagement of contractuels, leave, mission travel, and expenses.

- Consults with the Human Resources Department to build a roster of experts (e.g., mediation, dispute resolution, indigenous peoples, resettlement, and environmental and social safeguard experts).
- Hires staff and consultants as needed in accordance with Bank policies and procedures and budgetary limitations.
- Reviews and monitors the status of all current and ongoing ICIM cases, ensuring time frames are met, as well as quality control and the integrity of the ICIM process.
- Establishes internal operating procedures or guidelines in collaboration with the Consultation and Compliance Review Phase staff.
- Oversees the receipt of Requests, notice of receipt, and works with the ICIM employees to determine eligibility of Requests.
- Ensures the integrity and quality of the reports issued by the ICIM and their compliance with Bank policies and procedures.
- Presents ICIM budget requests to the Board annually and ensures adherence to budgetary levels established by the Board.
- Ensures adherence by the entire ICIM to pertinent administrative and personnel rules and ensures proper workplace practices and behaviors of ICIM staff.
- Ensures maintenance and updating of the ICIM website as well as maintenance of an archive system.
- Assumes other functions related to the ICIM as may be prescribed by the Board.

Qualifications

- **Education:** Advanced degree (master's or equivalent) in a relevant discipline (business administration, public administration, project management, sociology, anthropology, economics, environmental studies, law, international relations, engineering, private sector, or other fields relevant to international development).

Experience:

- Proven leadership and management skills; management experience in a multicultural environment; and experience in the Latin American and Caribbean region. Demonstrated track record of leading an organizational office or team and managing change.
- Knowledge of and experience in project and personnel management, including budget management experience. Minimum of 12 years of relevant experience. Understanding of and experience in international development and multilateral financial institutions and private sector financing in Latin America and the Caribbean are preferred and desirable.
- Knowledge of and experience with other Independent Accountability Mechanisms is considered valuable.

- Demonstrated integrity and independence. Ability to deal objectively, impartially, and efficiently with the Requests brought to the Mechanism.
- Demonstrated results orientation. Proven ability to formulate objectives, set priorities, identify and optimize the use of resources, and drive results.
- Excellent interpersonal skills and experience and skill with supervision and management. Proven ability for team-building and consensus-building. Ability to work and incorporate diverse views from stakeholders.

Languages: Command of Spanish and English is required; proficiency in Portuguese and/or French is a plus.

Competencies:

- **Enabling performance and growth:** Delivers results by recruiting the right talent, coaching, and mentoring staff, and effectively managing people and resources. Sets performance standards and provides feedback and guidance to drive growth and continuous improvement.
- **Promoting diversity and inclusion:** Models inclusive behaviors and leverages diversity to achieve business results.
- **Strategic leadership:** Understands the strategic issues facing the IDB, setting business priorities which translate into initiatives that provide the greatest value for the organization. Is future-oriented, taking a broad and long-term view of options, challenges, and opportunities.
- **Leading change:** Charts a new course by demonstrating support for innovation and by defining the organizational changes needed for improving business effectiveness. Gains the necessary support to implement key changes.
- **Managing paradoxes:** Remains energized and focused, even when faced with conflicting interests between own expectations and organizational demands and pressures. Executes leadership decisions in the face of adversity and ambiguity.

Location: Washington, D.C.

Independent Consultation and Investigation Mechanism (ICIM) Terms of Reference for the Compliance Review Phase Coordinator

The Compliance Review Phase Coordinator, directly subordinate to the ICIM Director, will be a full-time employee of the IDB under a fixed-term contract of up to five years, reporting to the ICIM Director. The Compliance Review Phase Coordinator will be independent of Management and the operations departments of the IDB and the MIF and will be subject to the IDB Code of Ethics and Professional Conduct, Access to Information Policy, and other Bank policies, and will protect against conflicts of interest that could weaken the objectivity and integrity of the ICIM.

Key responsibilities:

- Works under the general supervision and guidance of the ICIM Director.
- Works jointly in the development of compliance review guidelines or protocols.
- Supports the ICIM Director and the Consultation Phase Coordinator to determine the eligibility of Requests.
- Works jointly with the ICIM Director in the development of terms of reference, identification of experts, and selection, contracting, and monitoring practices.
- Serves as Chairperson of the Investigation Panel formed for approved investigations.
- At the request of the ICIM Director, attends Board meetings to present or discuss eligibility reports, recommendations for investigation, draft investigation reports, and monitoring.
- Investigates Requests in an independent, thorough, and objective manner, in coordination with the experts.
- Consults with Requesters, Management, and other stakeholders, as appropriate.
- Works under the general supervision and guidance of the Director to prepare investigation reports.
- Monitors implementation of Board decisions on Compliance Reviews.
- At the request of the ICIM Director, attends Board meetings for any matter related to the Compliance Review Phase.
- Works with the ICIM Director and HRD to identify and select expert consultants to be added to the roster.
- Undertakes tasks and assignments as requested by the ICIM Director that may be necessary or relevant for Compliance Review work.

Candidate qualifications

Education: Advanced degree (master's or equivalent) in a relevant discipline (environmental studies, sociology, economics, engineering, law, or other private sector fields related to international development).

Experience:

- Proven ability to interpret and apply rules and policies and knowledge of investigative, compliance, and audit strategies, methodologies, and techniques.
- Demonstrated knowledge of economic, social, and development conditions in Latin America and the Caribbean. Minimum 10 years of relevant experience, with a proven record in managing and delivering best practices in investigative, compliance review , and audit strategies, methodologies, and techniques.
- Awareness of dispute resolution field and/or conflicts that may arise in development projects is beneficial.
- Demonstrated ability to deal objectively, impartially, and efficiently with the Requests.
- Knowledge of and experience with international development and the operations of multilateral financial institutions and private sector financing in the Latin America and the Caribbean is preferred and desirable, as is understanding of environmental and social safeguards policies and performance standards of multilateral development banks.
- Proven strong ability to gather, analyze, and synthesize information from multiple sources and present it concisely and clearly.
- Highly developed communication and diplomatic skills, including the ability to engage effectively with civil society, nongovernmental organizations, clients, member country governments, other international organizations and comparable institutions, the IDB Board of Executive Directors, Management, and staff.
- Ability and willingness to travel frequently and on reasonably short notice to Latin America and the Caribbean, including rural areas and difficult environments.
- Excellent interpersonal skills and demonstrated ability to work as a team leader and build consensus; good exposure to international and multicultural environments.
- Experience and knowledge of other independent accountability mechanisms is considered valuable.

Languages: Command of Spanish and English is required; proficiency in Portuguese and/or French is a plus.

Competencies

- **Technical expertise:** Knowledge of and experience in investigative, compliance review, and audit strategies, methodologies, and techniques. Ability to manage a thorough and systematic investigative process.
- **Communication and knowledge-sharing:** Highly developed communications and diplomatic skills. Well-developed writing and editing skills. Advanced presentation skills sufficient to convey complex information on issues requiring specific fact-based reporting. Promotes effective sharing of knowledge within and outside the organization, in particular with strategic stakeholders, contributing to a continuous learning environment.

- **Effective engagement:** Ability to engage effectively with a variety of individuals and organizations, such as civil society, nongovernmental organizations, clients, member country governments, other international organizations and comparable institutions, the IDB Board, Management, and staff.
- **Critical thinking and judgment:** Uses data, experience, systematic analysis, and sound judgment to make sound decisions and devise effective solutions to problems. Assesses and manages risk in own work.
- **Negotiation skills:** Ability to acknowledge and manage conflicts in a timely and constructive manner, working through resistance and objections by providing proposals and negotiating compromises that take into account the key needs of all parties.
- **Strategic thinking/drive for results:** Proven ability to formulate objectives, set priorities, and identify and optimize the use of resources.

Location: Washington, D.C.

Independent Consultation and Investigation Mechanism (ICIM) Terms of Reference for the Consultation Phase Coordinator

The Consultation Phase Coordinator, directly subordinate to the ICIM Director, will be a full-time employee of the IDB under a fixed-term contract of up to five years, reporting to the ICIM Director. The Consultation Phase Coordinator will be independent from Management and the operations departments of the IDB and the MIF and will be subject to the IDB Code of Ethics and Professional Conduct, Access to Information Policy, and other Bank policies, and will protect against conflicts of interest that could weaken the objectivity and integrity of the ICIM.

Key responsibilities

The Consultation Phase Coordinator's key responsibilities include:

- Works under the general supervision and guidance of the ICIM Director.
- Supports the ICIM Director and the Compliance Review Phase Coordinator to determine the eligibility of Requests.
- Coordinates the Consultation Phase using consensual and flexible dispute resolution and mediation methods.
- Works with the ICIM Director to develop operating guidelines and protocols.
- Conducts assessments of Requests eligible for the Consultation Phase and makes proposals as to whether to move forward with dispute resolution, mediation, or other methods.
- Works with stakeholders to build consensus and resolve disputes.
- Prepares assessment reports and final reports on the outcome of the Consultation Phase.
- Works with the ICIM Director and with HRD to identify and hire experts for the Consultation Phase.
- Undertakes tasks and assignments as requested by the ICIM Director that may be necessary or relevant for the Consultation Phase.

Candidate qualifications:

Education: Advanced degree (Master's or equivalent) in a relevant discipline (environmental studies, sociology, economics, engineering, law, international development, or other private sector field related to international development).

Experience:

- Strong record of experience in dispute resolution or mediation and strong knowledge of conflicts that may arise in development projects.
- Demonstrated knowledge and experience with environmental sustainability and social issues, international development organizations, and civil society in Latin America and the Caribbean.

- Minimum of 10 years of relevant experience, with a proven record in managing and delivering best practices in dispute resolution or mediation methods.
- Demonstrated ability to act objectively and impartially with integrity.
- Knowledge of and experience with international development and the operations of multilateral financial institutions and the private sector in Latin America and the Caribbean is preferred and desirable.
- Proven ability to engage effectively with a broad range of stakeholders who may be party to a dispute in a development project.
- Ability and willingness to travel frequently and on reasonably short notice to Latin America and the Caribbean, including rural areas and difficult environments.
- Excellent interpersonal skills and demonstrated ability to work as a facilitator and build consensus.
- Good exposure to international and multicultural environments.
- Knowledge and experience of independent accountability mechanisms is considered valuable.

Languages: Command of Spanish and English is required; proficiency in Portuguese and/or French is a plus.

Competencies:

- **Technical expertise:** Knowledge and expertise in techniques, strategies, and methodologies for addressing conflicts and issues in development projects.
- **Leadership:** Ability to manage and lead a consensual problem-solving exercise with multiple stakeholders.
- **Communication and knowledge-sharing:** Highly developed communications and diplomatic skills. Well-developed writing and editing skills; advanced presentation skills sufficient to convey complex information on issues requiring specific fact-based reporting. Promotes effective sharing of knowledge within and outside the organization, in particular with strategic stakeholders, contributing to a continuous learning environment.
- **Effective engagement:** Ability to work and communicate effectively with a variety of individuals and organizations, such as civil society, nongovernmental organizations, clients, member country governments, other international organizations and comparable institutions, the IDB Board, Management, and staff.
- **Critical thinking and judgment:** Uses data, experience, systematic analysis, and sound judgment to make sound decisions and devise effective solutions to problems. Assesses and manages risk in own work.
- **Negotiation skills:** Ability to acknowledge and manage conflicts in a timely and constructive manner, working through resistance and objections by providing proposals and negotiating compromises that take into account the key needs of all parties.

- **Strategic thinking/drive for results:** Proven ability to formulate objectives, set priorities, and identify and optimize the use of resources.

Location: Washington, D.C.

Process Flow Chart

