

Annual Report
DEG / FMO Independent Complaints Mechanism
July 2016 – June 2017

8 August 2017

Table of contents

1. Introduction.....	22
2. Complaint related activities.....	32
2.1 Overview of complaints received	32
2.2 Compliance Review ‘Sendou I’	43
2.3 Monitoring follow-up Barro Blanco	43
3. Other activities related to the Mechanism	64
3.1 Review and update of the ICM Policy.....	64
3.2 Outreach and awareness.....	64

Abbreviations

IAM	Network of Independent Accountability Mechanisms
ICM	Independent Complaints Mechanism
IEP	Independent Expert Panel

Definitions

<i>Complaints Office</i>	Function performed by FMO's Internal Audit function and by DEG's Corporate Strategy and Development Policy Department, respectively, which registers and acknowledges receipt of Complaints, coordinates adequate fulfilment of the Complaints process and provides practical support to the Independent Expert Panel.
<i>Compliance Review</i>	The process to determine whether DEG/FMO has complied with the policies that may be relevant for an admissible complaint.
<i>Dispute Resolution</i>	The process to assist in finding a resolution for the issues underlying an Admissible Complaint. This process may include information sharing, fact-finding, dialogue and mediation. A pre-condition for Dispute Resolution is that all relevant parties are willing to participate in such a process.
<i>DEG / FMO-Financed Operation</i>	Any activity or any asset of the Client that is or is going to be financed by DEG/FMO funds or from funds administered by DEG/FMO in whole or in part, regardless of the nature of the financial instrument (loans, equity, project financing, grants, technical cooperation assistance and guarantees).
<i>Independent Expert Panel</i>	A group of three persons assessing and handling Complaints, with environmental, social, legal and financial expertise. In exercising its mandate, the Panel is fully independent of FMO and DEG.
<i>Mechanism</i>	Independent Complaints Mechanism
<i>Panel</i>	Independent Expert Panel

1. Introduction

As part of their commitment to act responsibly and transparently, in 2014, DEG and FMO established an Independent Complaints Mechanism to ensure individuals, groups, communities or other parties who believe to be adversely affected by a DEG and/or FMO-Financed Operation the right to be heard and the right to complain.

The ICM consists of the Complaints Offices of both institutions and an Independent Expert Panel. The Panel decides on the admissibility of each complaint and handles admissible complaints. The Independent Expert Panel currently has three members:

- Steve Gibbons
- Maartje van Putten
- Michael Windfuhr

The ICM adheres to good international practice and works in line with its policy and procedures available under <http://www.deginvest.de/icm> and <https://www.fmo.nl/independent-complaints-mechanism>.

This is the third Annual Report of the Mechanism and the report covers the activities of the ICM from July 2016 until June 2017. During this period, the ICM focused on a Compliance Review with regard to a complaint related to the ‘Sendou I’ project in Senegal. Furthermore, the ICM has been monitoring the follow up of recommendations made in the Compliance Review report regarding the complaint related to the Barro Blanco project in Panama. Other activities of the ICM related to a revision of the policy and related documentation and increasing outreach and awareness for the Mechanism.

2. Complaint related activities

2.1 Overview of complaints received

Since July 2016 the ICM has received 1 complaint. It was filed in July 2016 and concerns the coal-fired power plant ‘Sendou I’ in Senegal, which is amongst others financed by FMO. The complaint that FMO received in the previous period (2016 until June) related to the same FMO Client and both complaints were handled as one. More information is provided in paragraph 2.2.

		2017 (until June)	2016 (July – Dec)	2016 (until June)	2015	2014
DEG client	Inadmissible				1	
	Admissible					
FMO client	Inadmissible					1
	Admissible		1	1		
Joint client	Inadmissible				2	1
	Admissible					1

2.2 Compliance Review ‘Sendou I’ (FMO client)

‘Sendou I’ is a 125 MW coal-fired power plant project near the town Bargny in Senegal. The ICM has received two complaints in 2016 related to this project. *Takkom Jerry* and *Lumière Synergie pour le Développement* submitted the first complaint in May 2016, which the Panel declared admissible in July 2016. *Collectif des communautés affectées de Bargny* filed the second complaint in July 2016, after the Panel declared the first complaint admissible. The Panel declared the second complaint admissible in August 2016. All complainants are representing persons and groups allegedly affected by the project.

The complaints relate to similar alleged issues with respect to relocation and resettlement, air pollution and health issues and community consultation. Performing a Compliance Review process was deemed most appropriate to address the allegations made in the complaint. The Panel has, among others, visited the project site, held interviews with stakeholders involved and reviewed relevant documentation. At the date of this report, the Compliance Review report is under review by the relevant parties involved with the complaint and it is anticipated that the final report will be publicly issued in September 2017.

2.3 Monitoring follow-up Barro Blanco (FMO and DEG client)

In May 2015 a Compliance Review report related to the complaint regarding the Barro Blanco Hydroelectric Project (BBHP) in Panama was issued by the Panel. The Panel has made a number of findings in relation to FMO and DEG. In accordance with the ICM Policy the Panel, supported by the Complaints Office, has monitored the implementation of the two remaining (out of 5 in total) actions committed to by FMO and DEG which required further follow-up during the course of 2016-2017. The monitoring report issued mid-2016 covered the first three action points. The two remaining action points for the institutions are:

4. Seek, together with the client, an acceptable environmental solution for the remaining small fraction of the total shoreline where access is still under discussion.
5. Ensure that explanation efforts related to flood levels continue and that water quality management and monitoring remain of significant importance and therefore subject to the Lenders’ ongoing reviewing of the project.

The Panel had direct contacts with the complainants, FMO and DEG on a regular basis through 2016-2017. The panel also reviewed the documents made available by both institutions, including monitoring reports.

The Panel note a greater degree of direct engagement between FMO/DEG and the affected communities and the representatives of the Comarca Ngäbe-Buglé, including, for the first time, a visit by both institutions to the affect communities in Panama – alongside the institutions’ consultant, who had regularly visited the site over recent years.

However, the Panel wishes to express its extreme concern at the apparent impacts that have been caused by the test flooding, and then compounded as the project has moved towards operation. There is a question over the subsequent steps that have, or have not, been taken to remedy any negative impacts. The Panel understands that the primary responsibility for these have been taken by the

Government and notes that FMO and DEG have made their position much clearer in relation to their expectations where third party action or inaction will impact on issues covered by their policies and the IFC Performance standards.

Given the still serious and open nature of the ongoing commitments and the complex nature of the project, the Panel intends to continue monitoring progress made on action points 4 & 5 above for the time being.

The 2017 Barro Blanco monitoring report can be found [here](#).

3. Other activities related to the Mechanism

In addition to the work on actual complaints, the Panel and the Complaints Offices contributed to strengthening the Mechanism and raising internal and external awareness for the Mechanism.

3.1 Update of the ICM Policy

The ICM Policy was revised after a public consultation process which had led to valuable comments from stakeholders. The revised version came into effect 1 January 2017.

The main improvements that were made relate to:

- Explaining the aim and functioning of the ICM more clearly; its structure and how it is embedded within the two organizations.
- Clarifying the ICM approach for DEG/FMO-Financed Operations approved prior to the ICM's creation.
- Allowing complainants to submit complaints in their own language, which will improve the accessibility of the ICM for those parties that are affected.
- Clarifying the ICM approach for complaints that are already being handled or have been settled by other mechanisms. Such complaints will be evaluated by the IEP on a case-by-case basis.
- Improving predictability of the process by including timelines and related communication at various phases of handling the complaint.
- Specifying the reporting and monitoring process and roles for Dispute Resolution and Compliance Review.
- Further enhancing the independence of the Panel.

3.2 Outreach and awareness

The Panel and Complaints Offices find it crucial to connect with other parties operating in the field of accountability mechanisms; both to exchange knowledge with other mechanisms but even more so to raise awareness of the ICM's existence, its way of working and the importance of having an Independent Complaints Mechanism.

The ICM is a member of the global Network of Independent Accountability Mechanisms (IAM). One of the Panel members took part in its annual meeting in Manila in September 2016 and in December 2016 participated in the IAM's working group that focuses on the development of guiding principles and standards for accountability mechanisms.

Awareness of the institutions' staff is an important factor for the proper functioning of the ICM. In January 2016, therefore, the Panel discussed human rights laws and standards that apply to businesses with DEG's staff. In addition, the ICM was presented:

- at the meeting of the chairpersons of the European Development Financial Institutions (EDFI) in November 2016,

- at departmental meetings at FMO in February and March 2017, to elaborate on the updated ICM policy;
- at the EDFI meeting regarding Environmental & Social affairs in The Hague in April 2017; and
- at the meeting of the Dutch Banking Association in Amsterdam in June 2017 in relation to the Dutch Banking Sector Agreement on international responsible business conduct regarding human rights.

Working on outreach and raising awareness remains relevant and the ICM will continue to address this.