

Annual Report
DEG / FMO Independent Complaints Mechanism
July 2015 – June 2016

4 August 2016

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1. Introduction

As part of their commitment to act responsibly and transparently, DEG and FMO established an Independent Complaints Mechanism (“ICM” or “Mechanism”) to ensure individuals, groups, communities or other parties who believe to be adversely affected by a project financed by DEG and/or FMO 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 (“IEP” or “Panel”). The Panel decides on the admissibility of each complaint and will process admissible complaints afterwards, including carrying out any compliance review activities. The Independent Expert Panel was established in January 2014 and has three members:

- Steve Gibbons
- Maartje van Putten
- Michael Windfuhr

In accordance with the ICM Policy, the term of each Panel member has been prolonged with another two years.

This is the second Annual Report of the Mechanism and covers the activities of the ICM from July 2015 until June 2016. During the last year, the focus of the ICM has been on monitoring the follow up of recommendations made in the Compliance Review Report regarding the complaint related to the Barro Blanco project in Panama, revising the policy and increasing outreach and awareness for the Mechanism.

2. Complaint related activities

2.1 Overview of complaints received

Since July 2015 the ICM has received three complaints. Two complaints related to allegations of collusive practices and corruption by clients of FMO and DEG. Based on the information that the complainants provided, the Panel decided the complaints were inadmissible as the complainants failed to identify policy breaches by DEG or FMO and the impact of the allegations. Because indications of potential corruption are taken very seriously, the cases have been referred to the compliance departments of FMO and DEG for follow-up.

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

The third complaint was filed in May 2016 and concerns an energy project financed by FMO; the coal-fired power plant 'Sendou' in Senegal. The complaint relates to alleged issues with respect to relocation and resettlement, air pollution and health issues and community consultation. The complainants have requested the Panel to undertake a Compliance Review and Mediation process. The Panel decided in July 2016 that the complaint is admissible and started a Preliminary Review which should lead to decisions on launching a constructive Mediation process and/or Compliance Review process and what sequence should be applied.

2.2 Monitoring follow-up Barro Blanco

In May 2015, the compliance review report related to complaint regarding the Barro Blanco Hydroelectric Project (BBHP) in Panama was issued by the Panel. The Panel has made a number of recommendations to FMO and DEG. In accordance with the ICM Policy the Panel, supported by the Complaints Office, has monitored and followed-up on the implementation of the following recommendations made:

1. Further raise the bar on the required level of information on stakeholder consultation available at the time of credit approval.
2. Have a more comprehensive Environmental and Social Action Plan (ESAP) at the time of signing of the credit agreement and not as a condition precedent to first disbursement.
3. Strive for a more elaborate formal opinion from lawyers or other experts, with defined expertise in indigenous peoples' rights and the local legal context, on the matter of the formal representative structures in (indigenous areas like) the Comarca and to structurally consider this for future investments.
4. Seek, together with the client, an acceptable environmental solution for the remaining fraction of the total shoreline where access is still under discussion.
5. Continue to review explanation efforts related to flood levels and water quality management.

The Panel concluded that the Management of DEG and FMO have taken up the recommendations and implemented changes to improve the quality of their appraisal and monitoring process of environmental and social risks and impacts related to their investments. Concerning commitment 4 and 5 the Panel will follow developments regarding FMO's and DEG's Management Response because an ongoing dialogue is taking place and no final solution to the conflict has been found. The monitoring report can be found [here](#).

In addition to monitoring the implementation of the recommendations made, on 21 January 2016 representatives of the CSO's SOMO and Both Ends (supporting M-10, one of the complainants), the Panel, the Complaints Offices of FMO and DEG and representatives of FMO management have met to evaluate the process of handling the Barro Blanco complaint. The outcomes thereof have been included in the update of the ICM Policy to the extent possible.

3. Other activities related to the Mechanism

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

Last year the ICM identified some areas for improvement, which we have been able to capture in the revised ICM policy and working templates and procedures. Currently we are putting in practice the recommendations to regularly update parties on the status of a complaint and implementing a more efficient and effective structure for handling a complaint by appointing one Panel member as lead and arranging independent support to the Panel additional to the support of the Complaints Office.

3.1 Review and update of the ICM Policy

In mid-2015 the ICM initiated an update of the ICM Policy to incorporate lessons learned from handling the first complaints. There was a meeting held in Paris between the ICM and several CSO's to discuss the proposed changes to the ICM Policy in December 2015. Following this meeting, some additional revisions were included and the policy was open for public consultation from 15 January – 29 February 2016.

We have received comments from several parties following the public consultation procedure. At the moment of writing this report, the policy is being finalized. The changes mainly relate to clarification of the procedures. Most relevant changes are:

- Explaining the aim and functioning of the ICM more clearly.
- 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.
- Assessing complaints that are already being handled or have been settled by other mechanisms on a case-by-case basis.
- Improving predictability by including timelines and related communication.
- Specifying the reporting and monitoring process and roles.
- Further enhancing the independence of the IEP.

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.

3.2.1 Independent Accountability Mechanisms Network

The ICM participated in the following activities related to the Network of Independent Accountability Mechanisms (IAMs) of which the ICM is a member:

- Attending the annual meeting of the Network of Independent Accountability Mechanisms (IAMs) at the World Bank in Paris in December 2015 by the Panel and Complaints Offices.

- Meeting with Civil Society Organizations for a conversation with European-based Independent Accountability Mechanisms to reflect on the current state of affairs and IAM policy developments in Amsterdam on 15 February 2016 by the Complaints Offices.
- Participation in IAM working groups on compliance review procedures and retaliation.

3.2.2 Other outreach and awareness activities

The Complaints Offices participated in the following activities:

- Attending and contributing to several meetings of the “Accountability and the Financial Sector” project in 2015 and 2016. This project relates to exploring opportunities for the establishment of one or several grievance mechanisms for commercial financial institutions.
- Presenting the ICM purpose and procedures at a meeting at the Social Economic Council (SER) in The Hague on 8 February 2016. This meeting was held in relation to the development of the Dutch Banking Sector Agreement on international business conduct regarding human rights.

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