

## **Notice of Admissibility**

### **The Independent Complaints Mechanism FMO / DEG Complaint lodged by Association des personnes victimes d'érosion côtière re Lomé Container Port**

On 22 August 2018 the Independent Complaints Mechanism (ICM) of FMO and DEG received a complaint from Association des personnes victimes d'érosion côtière in relation their financing of the Lomé Container Port in Togo.

FMO and DEG have confirmed to the Independent Complaints Mechanism that the project is financed by the institutions.

#### **The complaint and admissibility**

The complainants have provided a description of the project and their complaint. The complainants represent a large group of people in the community; as they have not yet provided sufficient evidence for this, the ICM would like to ask that this information be provided.

The complainants have expressed their concerns about specific subjects such as the site selection of the project near to the community and environmental impacts predominantly derived from coastal erosion, including economic impacts, destruction of homes and significant cultural impacts.

The independent experts of the complaints mechanism are of the opinion that the complaint fulfils the criteria for admissibility, with the exception of having sufficient evidence from the named complainants that they represent the community. Given that the complainants have had complaints accepted by other comparable mechanisms, the ICM provisionally accepts the complaint based on the assumption that the complainants will provide further information on the community that they represent and information of that community's approval of the complainant organisation to represent them during the next phase.

The members of the panel are of the opinion that this complaint now will move to the next phase of assessment with regard to both compliance review and determining whether a problem solving approach is possible and appropriate. There are also some additional issues that need to be determined during this phase.

#### **Next steps: contractual arrangements and preliminary review**

As a first step, FMO and DEG will work with their client in order to provide for necessary contractual arrangements, notably those covering access to client's information, its premises and senior management. These are not currently in place, as the financing contracts were concluded before the establishment of the Independent Complaints Mechanism.

It is anticipated that this will require additional time. The ICM will inform the complainants on a regular basis about the process and timelines.

In the meantime, the panel will study, consult and seek further information from the complainants, look into options for a constructive problem-solving process and consult the other financial institutions that have received and dealt with complaints related to the project.

Given that there have been significant complaints brought to other comparable institutions, including IFC's Compliance Advisor Ombudsman (CAO), a key initial step for the panel will be to determine the extent to which the issues that the complainants are raising with FMO and DEG either already have been or could be dealt with through those mechanisms.

As soon as necessary contractual arrangements have been put in place, the panel will review the relevant project documentation. If the compliance review route is taken, the panel will analyse the process of the project design, due diligence and implementation by FMO and DEG. The panel will also continue to consult and seek further information from the complainants on what they are seeking to achieve from the complaint, looking into options for a constructive problem-solving process and if necessary consider a visit to the project area.

The preliminary review by the members of the panel will lead to decisions on the appropriateness of mediation and compliance review and also determine what order/sequence should be applied. The panel members will also establish and communicate a timeline for the ongoing management of the complaint.

Steven Gibbons

Michael Windfuhr

8 October 2018