



Inter-American Development Bank

**Proposed
Independent Consultation and Investigation Mechanism**

Invitation to comment on draft of April 29, 2009

This is a draft for public comment only and remains subject to consideration by the IDB Board of Executive Directors.

Inter-American Development Bank Independent Consultation and Investigation Mechanism

During the discussions regarding the Eighth General Increase in the Resources of the Bank, the Board of Governors of the Inter-American Development Bank (the "Bank") mandated that the Bank establish an independent inspection function in order to "increase the transparency, accountability and effectiveness of the Bank's performance". The Governors directed that such a function would "be performed independently from Management, [and] would investigate allegations by affected parties that the Bank had failed to apply correctly its own operational policies."¹

In 1994, the Bank's Board of Executive Directors established the Independent Investigation Mechanism, which created a process for the investigation of allegations by parties claiming to be adversely affected by Bank-financed operations in which the Bank had failed to comply with its own operational policies. *See* GN-1830-1.

This Policy (the "Policy") for the Independent Consultation and Investigation Mechanism (the "Mechanism") of the Bank supersedes its Independent Investigation Mechanism policy (GN-1830-11). The Mechanism shall have the powers and shall function as stated below.

A. Definitions.

As used in this Policy, the following terms shall have the following meanings:

1. **Bank:** The Inter-American Development Bank.
2. **Bank-Financed Operation:** Covers Bank investment financing activities, whether with or without sovereign guarantee (public or private sector), and includes investment projects and any other 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. Policy-based loans and emergency loans are excluded from application of the Mechanism. Requests may be filed with respect to operations not yet approved by the Board (a) after the signing of the mandate letter, for non-sovereign guaranteed operations, or (b) after the project number has been issued, for sovereign guaranteed and MIF operations.
3. **Board:** The Board of Executive Directors of the Bank.
4. **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. In the case of operations not yet approved by the Board or the Donors Committee, as the case may be, references to "borrower/recipient" are intended to

¹ See Agreement regarding the Eighth General Increase in the Resources of the Bank, AB-1704, par. 2.97 (Aug. 1994).

cover the party or parties expected to receive the financing in connection with the proposed operation.

5. **Days:** Calendar days.
6. **Donors Committee:** The Donors Committee of the MIF.
7. **Chairperson:** The person serving as Chairperson of the Panel.
8. **Compliance Review:** Involves a formal investigation of whether the Bank violated its own Operational Policies. The investigation is conducted by the Chairperson and the other members of the Panel and results in a report.
9. **Compliance Review Phase:** The process whereby a Compliance Review is conducted by the Panel.
10. **Consultation Phase:** The process conducted or coordinated by the Executive Secretary of the Office, which involves one or more consensual methods of addressing the concerns of a Requester. The Consultation Phase precedes the Compliance Review Phase.
11. **Disclosure of Information Policy:** The Bank's policy on Disclosure of Information (OP-102), as it may be amended from time to time.
12. **Executing Agency.** The entity designated in the relevant legal documentation to execute all or part of the project.
13. **Executive Secretary:** The person appointed by the President to serve as the Executive Secretary of the Office.
14. **IIC:** The Inter-American Investment Corporation.
15. **Management:** The Manager or Managers in charge of the relevant Bank-Financed Operation, or his or her delegate(s).
16. **Mechanism:** The Independent Consultation and Review Mechanism, and the Mechanism process includes both the Consultation and the Compliance Review Phases.
17. **MIF:** The Multilateral Investment Fund.
18. **Office:** The Office of the Independent Consultation and Review Mechanism.
19. **Operational Policies:** Those Board approved environmental and associated safeguards, women in development, and information disclosure policies (currently codified as OP-102 (Disclosure of Information), OP-703 (Environmental and Safeguards Compliance Policy), OP-704 (Disaster Risk Management Policy), OP-761 (Women in Development), OP-765 (Indigenous People), and OP-710 (Involuntary Resettlement)), which apply to the

design, appraisal, approval and/or implementation of Bank-Financed Operations, as well as those relating to the enforcement of compliance with a borrower/recipient's obligations required by such policies. Other Board approved policies, strategies, or other guidelines, procedures or norms approved only by the Management of the Bank are not subject to the Mechanism. The applicable Operational Policy shall be the version in effect at the time of the Request (for projects not yet approved by the Board) or, for projects approved by the Board, the version in effect at the time of Board approval of the operation that is the subject of the Request, unless the relevant policy or legal documentation provides otherwise. As new Bank policies are adopted, the Board may determine whether they are to be included within the scope of the Mechanism.

20. **Panel:** The seven person body established pursuant to Section 30. With respect to a Compliance Review, references to "Panel" shall mean the Chairperson and two other persons selected to conduct the Compliance Review.

21. **President:** The President of the Bank.

22. **Project:** A specific project or technical assistance and in support of which a Bank-Financed Operation, or MIF funding, as appropriate, is outstanding or may reasonably be expected.

23. **Registry:** The public Registry established pursuant to Section 40, below.

24. **Request:** Any written communication to the Office in accordance with Section 45 or 64, below.

25. **Requester or Requesting Party:** Any one or more persons, organizations or entities residing in the national territory of a borrower, recipient or technical cooperation beneficiary or a representative that satisfies the requirements of Section 43, below.

26. **TOR:** The Panel's terms of reference prepared in accordance with Section 67, below.

B. Institutional and Administrative Aspects; Exclusions.

27. The Office. The Bank will establish and maintain an office (the "Office of the Independent Consultation and Review Mechanism" or the "Office") to serve as the executive secretariat for the Mechanism and perform the functions set forth in this Policy. The ICIM office will be placed in the Office of the Secretary. The activities of the Office shall be managed by a Bank employee designated as the Mechanism Executive Secretary. The Executive Secretary shall be appointed by the Bank President.

28. Reporting responsibilities. The Executive Secretary and any staff of the Office are considered staff of the Bank and subject to all Bank policies and codes of ethics. However, they are independent of the operational departments of the Bank.

29. Functions. The Executive Secretary shall have overall responsibility for the day to day activities of the Office, which shall include:

- a. Receiving and processing Requests for application of the Mechanism and assessing eligibility for the Consultation Phase;
- b. Facilitating, conducting and/or coordinating the Consultation Phase, including contracting outside experts, as appropriate and providing information to prospective Requesters;
- c. Creating and maintaining the Registry;
- d. Coordinating, with the appropriate Bank units, training and providing advice to operational units in their problem-solving activities, but not for specific cases under review or that may reasonably be expected to come under review by the Mechanism;
- e. Providing administrative support to the Panel in connection with the Compliance Review Phase and other Panel activities, including coordinating training for the Panel with the appropriate Bank units;
- f. Coordinating with peer institutions concerning potential harmonization of accountability mechanisms and sharing of experiences;
- g. Undertaking contacts with the public, publishing periodic reports, disseminating lessons learned, and developing means to promote access to and knowledge about the Mechanism;
- h. Adopting administrative procedures, in conjunction with the Panel Chairperson as appropriate, for the operation of the Mechanism and the Office; and
- i. Undertaking any other tasks that may be necessary or incidental to the administration of the Mechanism or the Office.

30. The Panel. The Bank will establish an independent Panel whose main function is to carry out Compliance Review Phase investigations pursuant to the Mechanism process. The Panel will report to the Board.

31. Composition and selection. The Panel shall be composed of seven (7) individuals appointed by the Board upon recommendation of the President. Panel members shall be selected for their recognized technical competence, integrity and knowledge of economic and social development, preferably in Latin America and the Caribbean. The Panel members will be nationals from different member countries of the Bank. The Board shall appoint a

Chairperson from amongst the Panel and the Chairperson shall serve in such capacity for the duration of his or her appointment unless otherwise determined by the Board.

32. Term. The Panel members shall be appointed for term of five (5) years, which may be extended only once, with the exception of the first Panel, the members of which shall be appointed for staggered terms of two or three years, subject to renewal for one additional term. The first Panel Chair shall be appointed for a term of three (3) years, which may be extended only once.

33. Eligibility for Panel service. Executive Directors, Alternate Executive Directors, Counselors, Advisers, or any employee of the Bank or persons holding consultant appointments shall not serve on the Panel until two (2) years have elapsed from the end of their service to the Bank. If a Panel member is called to work for the Mechanism during his or her term, the Panel member shall not be entitled to work for the Bank (either as employee, consultant, Executive Director, Alternate Executive Director, or advisor, assistant or consultant thereto) for a period of two (2) years after the expiry of his or her term.

34. Nature of service. The Chairperson of the Panel and the other members of the Panel shall render their services on an as-needed basis. The Chairperson shall serve on each Compliance Review that is ongoing during his or her term. Contracting for services of Panel members will follow Bank rules for contracting consultants, except as expressly otherwise determined by the Board. In the performance of their functions, Panel members shall be considered officials of the Bank entitled to enjoy the privileges and immunities accorded to Bank employees under the Agreement Establishing the Inter-American Development Bank.

35. Remuneration. Panel members shall be paid an annual honorarium and remuneration for work performed on a Panel at levels to be determined by the Board upon a recommendation of the President. They shall be reimbursed for their travel and expenses on the same basis as the judges of the Bank's Administrative Tribunal.

36. Training of Panel members. Panel members shall be required to attend meetings organized by the Executive Secretary for at least five (5) days in each calendar year to enhance their knowledge of the Bank Operational Policies and discuss the functioning of the Mechanism.

37. Resignation or removal from Office. Members of the Panel may resign or be removed by the Board at any time without cost or liability to the Bank. In the event a member is removed or resigns from the Panel, a replacement may be appointed by the Board, upon recommendation of the President, to complete that term or appointment.

38. Authority to consult experts. The Panel will have the authority to hire independent experts and/or other consultants when needed to supplement its expertise and/or resources. The Panel or any member may seek the advice of the Bank's Legal Department with respect to legal questions that may arise concerning the Mechanism or any matter under consideration.

39. Authority to adopt administrative procedures. The Panel will have the authority to establish procedures for the administration of Panel activities and for the conduct of investigations.

40. Public Registry. The Office shall establish a public Registry to provide information on the status of Requests under the Mechanism. The Registry will be accessible to the public electronically.

41. Exclusions. Neither the Consultation Phase nor the Compliance Review Phase will be applied to:

- a. actions that are the responsibility of parties other than the Bank, such as a borrower/recipient, technical cooperation beneficiary, or executing agency, and that do not involve any action or omission on the part of the Bank;
- b. Requests related exclusively to the laws, policies or regulations of the host country, borrower or the executing agency;
- c. actions or activities that do not relate to a Bank-Financed Operation or that are not subject to the Bank's Operational Policies;
- d. any review of the adequacy, suitability or effectiveness of any of the Bank's policies;
- e. procurement decisions or processes;
- f. a particular matter or matters that have already been reviewed pursuant to the Mechanism, unless justified by clear and compelling new evidence or circumstances not available at the time of the initial Request;
- g. Requests dealing with a Bank-Financed Operation that are filed following completion of an Operation, defined as of the date when the Project Completion Report is submitted;
- h. ethics or fraud questions, specific actions of Bank employees, non-operational matters such as internal finance or administration, allegations of corrupt practices, or matters subject to review by other bodies established by the Bank;
- i. any Request that (i) is without substance, (ii) is frivolous, malicious or trivial, or (iii) has been submitted to gain a competitive business advantage; and

- j. Requests that raise issues under arbitral or judicial review by national, supranational or similar bodies.

C. The Consultation Phase.

42. Purpose of the Consultation Phase. The purpose of the Consultation Phase is to provide a forum for a party that believes that it has been or could reasonably be expected to be directly, materially adversely affected by the failure of the Bank to follow its Operational Policies in a Bank-Financed Operation.

43. Who can file a Request for Consultation? A Request may be presented to the Office by one or more persons, groups or organizations or by a qualified representative of the Requester residing in the national territory of the relevant borrower, recipient or technical cooperation beneficiary. If a Request is presented through a representative, it should clearly identify the person or people on whose behalf it is acting and provide evidence of its authority to represent them.

44. Prerequisites for Consultation Phase. The Mechanism is intended to be activated only as an instrument of last resort, once Management's efforts to address concerns are exhausted. Before it files a Request under the Mechanism, a party that believes it is or could reasonably be directly, materially adversely affected by the failure of the Bank to follow its Operational Policies in a Bank-Financed Operation must first try in good faith to resolve its concerns through direct contact with the Management of the Bank. The Executive Secretary shall satisfy him or herself that the Requester has taken steps to bring the issue to the attention of Management and shall inquire with Management as to its response. In cases where Management is involved in addressing the concerns raised, the Executive Secretary shall allow 45 days from the date of acknowledgment by the Executive Secretary of the Request before it is registered and notice is given to the parties listed in Section 50, below.

45. Form and content of Request. Requests shall be in writing. The Request may be submitted in any of the official languages of the Bank. A Request must include relevant facts, such as contact information for the Requester, the identity and location of the Bank-Financed Operation, the nature of the harm alleged, an allegation that the Bank failed to apply one or more of its Operational Policies, the alleged act or omission of the Bank in contravention of its Operational Policies, the steps taken to discuss the matter with Management and its response, and a statement of the outcome that the Requester would like to see as a result of the Consultation Phase. A model form of Request shall be available electronically, although use of this form is not required. The Executive Secretary shall provide information to prospective Requesters.

46. Request for Consultation Phase and Compliance Review. A Request may request that both a Consultation Phase exercise and Compliance Review be undertaken, but the Consultation Phase Request will be processed first and the Consultation Phase must be terminated before the Compliance Review begins. See Section 64 for filing requirements for Compliance Review Phase.

47. Confidentiality. Anonymous Requests will not be accepted, but the Bank will protect the confidentiality of a filing party if so requested in the Request.

48. Delivery. Requests may be delivered by hand, mail (electronic or post) or facsimile to the Office or any Bank office.

49. Impact of the filing of a Request. The filing of a Request does not stop the processing or execution of the Bank-Financed Operation, including disbursements by the Bank or the MIF, as the case may be. Processing and execution continue during the Mechanism process, other than in an exceptional case where the Bank decides upon suspension of preparation, disbursement and/or execution in accordance with standard Bank procedures and subject to the relevant legal documentation.

50. Registration. The Executive Secretary shall acknowledge receipt of a Request within five (5) days. Within 15 days of receipt, the Executive Secretary shall conduct and complete a preliminary review to determine the eligibility of the Request. Subject to Section 44, above, if the Request is deemed eligible, the Executive Secretary shall promptly register it in the Registry and notify the Board and the Donors Committee, in the case of a MIF-funded operation, the President, and the project execution agency and/or borrower/recipient. The initial registration is a purely administrative matter that precedes an assessment step. If the Request is deemed ineligible, the Executive Secretary shall promptly inform the Requesters in writing, indicating the applicable reason.

51. Assessment. Following registration, the Executive Secretary shall conduct an assessment. The purpose of the assessment is to clarify the issues and concerns raised by the Request, identify and gather information from all stakeholders, including potentially other parties similarly situated to the Requester, inquire as to the views and incentives of all stakeholders, and help determine whether a resolution to the issues raised can be reached and what is the best process for doing so.

52. Nature of assessment. The nature and extent of the assessment will be determined by the Executive Secretary based on the issues raised by the Request. An assessment may involve a desk review, a site visit, discussions with the Requester, Management, or other relevant parties, public meetings, retainer of experts, or other steps.

53. Result of the assessment. Based on the results of the assessment, the Executive Secretary will either (a) work with the stakeholders to produce an explicit agreement to proceed on a Consultation Phase exercise, establishing a process for addressing the issues raised in the Request or identified through the assessment, or (b) determine that a collaborative resolution is not possible, in which case the Executive Secretary will deliver the Request and all pertinent information to the Panel for a Compliance Review assessment. The assessment will conclude with a decision whether or not to proceed in a Consultation Phase exercise, and a clear outline of the course of action proposed and agreed to by the parties.

54. Timeframe and reporting. The assessment will be completed within 120 days of the date the Request was determined eligible for assessment. The Executive Secretary will provide an assessment report to the stakeholders, the President, the Board and the Donors Committee (in the case of a MIF-funded operation) and the public.

55. Consultation Phase exercise. The objective of a Consultation Phase exercise is to address issues raised in the Request. There is no guarantee that the Consultation Phase will resolve all issues to the satisfaction of the parties. Consultation Phase actions will be tailored to the individual Request, depending on factors such as its urgency, principal parties, remedies sought and the likelihood that the consultation will have positive outcomes. For example, any or more of the following could be used: fact-finding, promoting further discussion and negotiation among the parties to stimulate self-generated solutions; retainer of experts; and more active, consensual, problem-solving approaches such as facilitation, conciliation or mediation or review or investigation. Because the Consultation Phase process is intended to be flexible and tailored to the needs of each operation, there are no standard rules, timeframes or procedures for this phase, except as otherwise explicitly set forth in this Policy.

56. Voluntary nature. The Consultation Phase requires the consent of the Requester, the project executing agency or borrower and any other parties deemed essential by the Executive Secretary. All such parties must consent to their participation in the consultation by approving the recommended course of action, including reaching agreement on the approach and method of consultation, funding arrangements, timing and binding nature of the outcome, as applicable. Any party, except the Executive Secretary, can opt out of the process, at any time. In such a case, the Requester may immediately file a Request for activation of the Compliance Review Phase of the Mechanism.

57. Impact of Consultation Phase. The fact that a Consultation Phase is initiated does not halt the processing or execution of the Bank-Financed Operation, including disbursements by the Bank or the MIF, as the case may be, other than in an exceptional case where the Bank decides upon suspension of processing, disbursement and/or execution in accordance with standard Bank procedures and subject to the relevant legal documentation.

58. Country approval for site visit. Any part of the consultation process to be conducted in the territory of a borrower/recipient country may be conducted only after obtaining the country's prior written consent, which must be confirmed in advance of the visit through the office of the relevant Executive Director.

59. Limitations. The Executive Secretary will not support agreements that would be coercive to one or more parties, are contrary to Bank policies or its code of ethics, or that would violate domestic laws of the parties or international law. Neither the Executive Secretary (nor any expert participating in the Consultation Phase) may interfere with the processing or execution of a Bank-Financed Operation. The Consultation Phase shall not result in the award of compensation or any other benefits to any person, entity or government beyond that which may be expressly contemplated in any relevant Bank policy and legal documentation or as may be duly and explicitly agreed to by the parties involved.

60. Consultation Phase Report. The Executive Secretary shall prepare a report on the results of the Consultation Phase exercise, which will be distributed to the President, Board (and the Donors Committee, in the case of a MIF-funded operation), Requesters, and public. The terms of a settlement agreement or approved recommendation will be made public, subject to the restrictions on release of information set forth in the Bank's Disclosure of Information Policy, unless the parties request confidentiality.

61. Monitoring. The Executive Secretary is responsible for making arrangements to provide for (a) direct or outside monitoring of any agreement reached by the parties to the consultation and (b) adequate measures to determine whether such agreement is being implemented in an appropriate manner. Subject to the Bank's Disclosure of Information Policy, monitoring protocols and reports shall be made public. The Executive Secretary will notify the President, Board (and the Donors Committee, in the case of a MIF-funded operation), and relevant parties of the results of its periodic monitoring exercises and of any recommendations that may result therefrom.

D. Compliance Review Phase.

62. Purpose of the Compliance Review Phase. The purpose of the Compliance Review Phase is to establish a process (a "Compliance Review") that enables a Requester to request an investigation of a Bank-Financed Operation by a Panel of independent experts if the Requester believes that its rights or interests are, or reasonably may be directly, materially adversely affected by a failure of the Bank to follow its Operational Policies in a Bank-Financed Operation.

63. Prerequisites for a Compliance Review. Before it may activate a Request under the Compliance Review Phase, a Requester must first file a Request under the Consultation Phase and make a good faith effort to utilize the Consultation Phase. If the Consultation Phase has been terminated or concluded for any reason, the Requester may file a Request under the Compliance Review Phase (or, if the Request initially duly invoked the Compliance Review Phase as well, it is activated at this point).

64. Filing requirements. The Request for the Compliance Review Phase shall be filed in the same manner and at the same place as the Request for Consultation (See Sections 45 and 48, above), and must include the same information, as well as a request for activation of the Compliance Review Phase. The Executive Secretary will update the Registry to indicate that a Request for Compliance Review Phase has been activated, and will notify the President, Board (and the Donors Committee, in the case of a MIF-funded operation), project execution agency and/or borrower and public of the filing.

65. Initial review. Once registered, the Chairperson will review the Request for eligibility and consider whether any Bank actions, or omissions, in respect of the Bank-Financed Operation may have involved or could reasonably be expected to involve a material violation of a relevant Bank Operational Policy and, in such case, shall conclude that a Compliance Review is warranted. The Chairperson will then identify two other members of

the Panel to serve on the investigative team for the Request, based on their expertise and availability.

66. Timeframe. Within 15 days, the Chairperson shall instruct the Executive Secretary to notify the Requester that the Request has been accepted or rejected or that additional information is required. If the Request is rejected, the Requester, the other Panel members, the Board (and the Donors Committee, in the case of a MIF-funded operation), the President, the borrower and/or executing agency and the public shall be notified in writing, including the reasons for rejection.

67. Scope of investigation. If the Request is accepted, the Panel will prepare terms of reference ("TOR") for conducting the Compliance Review, which shall include: the objectives of the investigation, the specific investigative criteria identified, a brief description of the Bank-Financed Operation, proposed schedule and budget for the investigation, and anticipated use of consultants. In preparing the TOR, the Panel shall consult with Management, who shall have 20 days to provide comments on the TOR. As limited information is available to the Panel prior to its investigation, the TOR are intended solely to guide the Compliance Review process.

68. Panel recommendation. The Panel shall submit a recommendation to conduct a Compliance Review and the TOR regarding the Compliance Review to (a) the Board (and the Donors Committee, in the case of a MIF-funded operation), or (b) the President, with a copy to the Board (and the Donors Committee, in the case of a MIF-funded operation), if the Request relates to a Bank-Financed Operation that has not been approved by the Board or the Donors Committee, as the case may be. In considering the recommendation, the Board or the President, as the case may be, shall either (a) approve the recommendation and the TOR on a "non objection" basis, or (b) object, in which case the recommendation and the TOR shall be considered by the Board in accordance with applicable Board regulations. Any decision by the President concerning a Compliance Review shall be immediately communicated to the Board (and the Donors Committee, in the case of a MIF-funded operation). Notice of the action by the Board or the President shall be posted on the Registry and communicated to the project executing agency, borrower/recipient, Requester and public.

69. Panel review. The Panel shall conduct the Compliance Review in accordance with the TOR and any administrative procedures adopted by the Panel. The Executive Secretary has no substantive role in the conduct of the investigation, and shall serve in a purely administrative fashion as Panel Secretary.

70. Input for Panel. In discharging its functions, the Panel will consult all concerned stakeholders, including Management, the Requester, the borrower/recipient or executing agency, and the relevant Executive Director. All will be given an opportunity to record their views. The Panel may make site visits, arrange to have outside expert technical advice, and take any other action as may be required to complete the Compliance Review.

71. Timing. The Panel's investigation and deliberations are not time bound because the amount of time will vary depending on the nature, complexity and scope of the Bank-Financed Operation and Operational Policies involved.

72. Role of the country approval for site visit. Any part of the investigation to be conducted in the territory of a borrowing/recipient country may be conducted only after obtaining the country's prior written consent, which must be confirmed in advance through the office of the relevant Executive Director.

73. Report. In preparing its Report, the Panel shall (a) take into account all relevant facts that may have an impact on the case at hand, and (b) make a finding as to whether there are any Bank Operational Policies that have not been complied with, identifying each such Policy. The Panel may also include its views or observations in regard to its findings or systemic or other issues, subject to consideration of applicable Bank policies and legal documentation. Findings and views of the Panel shall be strictly impartial.

74. Fact-finding nature. In deciding on the content of its report, the Panel should consider that the Mechanism is not a judicial process designed to establish guilt or innocence or to adjudicate fault or apportion blame among the various parties involved. In addition, it is not within the Panel's mandate to: (a) investigate actions of any party other than the Bank, such as government or local authorities, borrower/recipient, sponsors or other investors in connection with the Bank-Financed Operation; or (b) allocate responsibility for any adverse effects among the Bank, the borrower/recipient or other parties. The Panel's Report and its findings should be designed to provide the factual and technical basis for a Board decision on preventive or corrective action in connection with the Bank-Financed Operation under investigation.

75. No award of compensation. The Panel may not recommend the award of compensation or any other benefits to any person, entity or government beyond that which may be expressly contemplated in any relevant Bank policy and legal documentation.

76. Panel decision-making. The Panel must try to arrive at its findings and views by consensus; but, if this is not possible, the views of each participating member of the Panel must be expressly stated in the Report.

77. Management and Requester input. At the completion of its Compliance Review, the Panel will issue a draft report of its findings and, views, if any, to Management and the Requester for comments. Both Management and the Requester will have 45 days from receipt of the draft report to provide their comments to it. The Panel may make changes before issuing its final report, which shall reflect only the Panel's final findings and views on these matters, but which shall include in an annex the comments received. The Panel shall distribute its final report to (a) the President (with a copy to the Board and the Donors Committee, in the case of a MIF-funded operation), if the relevant Bank-Financed Operation does not require Board or Donors Committee approval, as the case may be, or has not been approved by the Board, or (b) the Board (with a copy to the President and the Donors

Committee, in the case of a MIF-funded operation) if the Bank-Financed Operation has been approved by the Board or the Donors Committee, as the case may be.

78. Receipt of Panel report. Once the Board (and the Donors Committee, in the case of a MIF-funded operation) or the President, as the case may be, has received the Report of the Panel, the Board or the President, as applicable, shall take note of the Report. The Board or the President, as the case may be, may meet with the Panel regarding the Report.

79. Board decision. The Board or the President, as the case may be shall make the final decision and instruct Management regarding any subsequent actions that may be deemed appropriate or necessary in light of the Panel findings.

80. Publication. Subject to the Bank's Disclosure of Information Policy, within 20 days from distribution of the Panel report, the Panel report, with any comments from the Requester or Management, will be posted on the Registry and delivered to the Requester. Any subsequent actions required by the Board or the President, as the case may be, shall also be made public, subject to the Bank's Disclosure of Information Policy.

81. Monitoring. At the Board's request, the Panel will monitor implementation of any approved remedial actions as a result of a Compliance Review and will report at least annually to the Board and the President.

E. General.

82. Access to staff and information. When conducting any review, investigation or assessment for the Mechanism, the Executive Secretary, Office staff, the Panel and any consultants working with any of them shall have full access to relevant Bank staff and files, and Bank staff shall be required to cooperate fully with them.

83. Transparency. The Mechanism shall make every effort to disclose information about its activities, subject to the restrictions on release of information set forth in the Bank's Disclosure of Information Policy. The Panel, the Executive Secretary and the Office staff are subject to the Bank's Disclosure of Information Policy, including those provisions aimed at maintaining the confidentiality of any information that is required by Bank policies to be confidential.

84. Annual Report. The Executive Secretary, with input from the Chairperson, shall prepare an annual report describing the activities of the Mechanism during the preceding year. The Report shall be submitted to the President, for transmittal to the Board for information, and shall be made available publicly.

85. Communication with others. Except as authorized by the Board or the President, as the case may be, neither the Executive Secretary nor the Panel shall make any statement, whether public or private, to parties other than the Requester or other concerned stakeholders on matters under consideration by the Mechanism. Nothing in this section shall prevent the Executive Secretary or a Panel member from undertaking any type of public

consultation that he or she considers necessary as part of a Consultation Phase exercise or Compliance Review, as the case may be.

86. IDB Group entities. The Executive Secretary, Office staff and the Panel may perform services with respect to MIF funded projects, in which case they will also report to the Donors Committee. The Executive Secretary, Office staff and Panel may also perform services for the IIC, subject to such agreements as may be necessary and appropriate between the Bank and IIC.

87. Cooperation with other institutions. Where a Request or Bank-Financed Operation involves another international financial institution or entity, the Office and Panel shall endeavor to collaborate with such institution or entity.

88. Review of the Mechanism Policy. Two years after the effective date of the Mechanism, the Board shall request an independent evaluation of the Mechanism. On the basis of such evaluation, and any comments thereon from Management, the Board will assess the experience with Mechanism.

89. Effectiveness. The Mechanism will become effective 90 days after the Board has given its final approval to this Policy, unless otherwise extended by the Board. During this transition period from the Independent Investigation Mechanism to the Independent Consultation and Investigation Mechanism, Requests for the activation of the Mechanism process will be accepted but they will not be processed until the Independent Consultation and Investigation Mechanism becomes effective. The eligibility of Requests filed during the transition period will be determined as of the date of the Request. Any Requests filed prior to the Board's final approval of this Policy will be processed under the rules and procedures of the Independent Investigation Mechanism.