

ENVIRONMENTAL AND SOCIAL COMPLAINTS MECHANISM RULES OF PROCEDURE

Agence Française de Développement

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1. DEFINITIONS

AFD or the Agency: Agence Française de Développement.

Agreement: A formal agreement between the Parties after Conciliation.

Banking secrecy: Professional secrecy binding any credit establishment and any financing company, including AFD, applied to all confidential information held by such entities in the framework of their professional activity and whose disclosure would risk harming personal privacy or trade secrets.

Beneficiary: Recipient of AFD financing, responsible for executing and implementing the project thus funded. The notion of Beneficiary is extended to delegated project owners if the Beneficiary does not directly implement the project.

Closure: Process aimed at deciding whether to terminate the handling of a Complaint, based on the conditions defined and the method described in Section 12 of these Rules of Procedure.

Closure Committee: Establishment of the Committee in charge of ruling on the closure of the Complaint handled by the Mechanism. The Committee's decision is based on a closure sheet (summarising the conclusions of the conciliation and/or compliance audit, as well as any other elements relevant to the treatment of the file), which is provided beforehand by the Secretariat. The Committee is composed of a representative from each of the following AFD departments: Compliance, Legal, Environmental and Social Support, the Strategy, Foresight and Official Relations and any division able to inform the decision-making and the Mechanism's Secretariat. It is chaired by the Ethics Advisor, who guarantees the independence of the decisions that are preferably taken by consensus or, failing this, by a majority of votes, bearing in mind that the representative of the department responsible for environmental and social support does not take part in the vote.

Complainant: Any natural or legal person who files a complaint with the Mechanism.

Complaint: A written communication filed with the Mechanism in accordance with these Rules of Procedure.

Compliance Audit: Process to determine whether AFD has complied with its Environmental and Social Risk Management Policy for a project.

Conciliation: A structured process aimed at amicably resolving differences between the Parties to the dispute. Based on the Parties' responsibility and autonomy and on the confidentiality of exchanges, the Conciliation process calls on assistance from a neutral, impartial, independent third party who has no decision-making power. AFD

is never a Party to the Conciliation process.

Conciliator: Conciliation Expert in charge of conducting the Conciliation in an independent, neutral and impartial manner.

Continuous improvement: Designates one of the functions of the Mechanism as described in the Section 11 of these Rules of Procedure.

“E&S”: Environmental and Social. These environmental and social dimensions refer specifically to the AFD E&S Risk Management policy.¹

Eligibility: Process used to determine the admissibility of the Complaint based on the terms and conditions defined and the method described in Section 7 of the Rules of Procedure. It establishes whether or not the registered Complaint should be dealt with through a Conciliation and/or Compliance Audit.

Eligibility Committee: Establishment of the Committee in charge of determining the Eligibility or Non-Eligibility of the Complaint registered by the Mechanism. In the event of Eligibility, the Committee recommends one and/or the other of the two ways of dealing with the Complaint, namely Conciliation and Compliance Audit. The Committee's decision is based on the Eligibility analysis provided beforehand by the Secretariat. This analysis is carried out by the Secretariat or by an Expert in accordance with the terms, conditions and method set out in section 7 of these Rules of Procedure. The Committee is composed of a representative from each of the following AFD departments: Compliance, Legal, Environmental and Social Support, Strategy, Foresight and Official Relations, any division able to inform the decision-making and the Secretariat of the Mechanism. It is chaired by the Ethics Advisor, who guarantees the independence of decisions, which are preferably taken by consensus or, failing that, by a majority of votes, bearing in mind that the representative of the department responsible for environmental and social support does not take part in the vote.

Environmental and Social Complaints Mechanism or “The Mechanism”: Mechanism governed by the present Rules of Procedure

Ethics Advisor: Appointed by the Executive Management and assigned a status that guarantees his/her independence, AFD Group's Ethics Advisor supervises the Environmental and Social Complaints Mechanism, which is managed by the Mechanism Secretariat in liaison with the mandated independent Experts and relevant AFD departments.

Executive Management: AFD executive officers.

Experts: External independent Experts, individually mandated by the Mechanism Secretariat to assist with all or part of the three Complaint processing steps: Eligibility

¹ Environmental and Social Complaints Mechanism | AFD-Agence Française de Développement

assessment of the Complaint, Conciliation mission, Compliance Audit.

Foreign country: Any country in which AFD operates.

Impacts: All development projects carry potential risks of negative impacts, particularly risks of an environmental and social nature. In the framework of its environmental and social risk management policy, AFD takes into consideration direct, indirect, cumulative and induced risks and impacts in the project's area of influence.

Parties (to the Conciliation): The natural or legal persons participating in a Conciliation. These comprise the Complainant or his/her/its Representative and the Beneficiary of the AFD financing; sometimes, the term also denotes other third parties concerned by the issue(s) raised in the Complaint.

Person affected by the project: Any natural or legal person exposed either temporarily or permanently to the E&S risks or negative impacts induced by the AFD-funded project.

Project: A project financed by AFD in a Foreign Country, whether through a loan or grant and which falls within the scope of AFD's environmental and social risk management approach. The term "Project" can designate a specific project, a programme comprising different projects or a sub-project.

Registration: The process, upstream of the Eligibility Assessment, that involves recording in the E&S Complaints Mechanism tracking register that a Complaint has been received and meets the terms and conditions of admissibility as defined in Section 6 of these Rules of Procedure.

Remedy: In accordance with the United Nations definition, the term 'remedy' describes the process and the outcome that seek to restore human dignity.² It involves a set of actions (which can be summarised in a specific action plan following a Compliance Audit or in a Conciliation agreement) aimed at countering or offsetting the negative incidents identified in connection with a project. Implementing remedial actions is the exclusive responsibility of the AFD Beneficiary. The monitoring of this implementation is ensured by the Secretariat of the E&S Complaints Mechanism and the project teams.

² <https://www.unepfi.org/humanrightstoolkit/remedy/>.

Remedy has a legal framework based on the reporting framework in compliance with the United Nations' Guiding Principles

Remedy can be in various forms, including:

- Apology (including acknowledgement of harm done)
- Restitution (restoring someone or something to its former condition prior to the harm or impact)
- Rehabilitation (facilitating someone's recovery from harm, which may include medical or psychological care as well as legal and social services)
- Compensation (including both monetary and non-monetary forms) not applicable to AFD
- Sanction by AFD (including contractual sanctions and penalties)
- Guarantees of non-repetition (including specific measures, mitigants, and activities to ensure that human rights abuses do not re-occur).

Representative: Individual or entity duly authorised by the Complainant(s) to represent the Complainant(s) and to act in his/her/its name regarding a Complaint filed with the Mechanism.

Retaliation: Retaliation denotes any act of violence, threat, intimidation or discrimination directed against an individual, entity or persons associated with him/her/it in retaliation to a referral filed with the Mechanism or to their cooperation with the Mechanism. In line with the United Nations Human Rights Council definition, retaliation can include physical, psychological or economic harm, take place online or offline, and be carried out by state or non-state actors. The San José Guidelines³ recall that the absence of reprisals is a prerequisite to guarantee effective access to any grievance mechanism.

Rules: The present Rules of Procedure of the E&S Complaints Mechanism.

SEAH: Sexual exploitation, abuse and harassment.⁴

Sexual exploitation	Sexual exploitation is any actual or attempted abuse of a position of vulnerability, differential power, or trust, for sexual purposes, often for monetary, social or political gain.
Sexual abuse	Sexual abuse is the actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions.
Sexual harassment	Repeated unwelcome remarks or conduct of a sexual or sexist nature that violate an individual’s dignity, creating an intimidating, hostile or offensive situation. Any form of serious pressure, even unrepeated, aimed at coercing a sexual act is deemed sexual harassment.

Secretariat of the Mechanism or “the Secretariat”: Responsible for managing E&S Complaints, the Secretariat is specifically in charge of receiving and registering Complaints and conducting the preliminary Eligibility analysis, as well as monitoring the processing of E&S Complaints. Hosted within the Strategy department under the supervision of the AFD Group Ethics Advisor, the Secretariat acts independently of the Operations Executive Management.

Steering Committee: Committee that ensures the smooth running and functioning of the Complaints Mechanism and also lays down its general guidelines. It comprises representatives from the following AFD departments: Compliance, Legal, Operations, Environmental and Social Support, CSO partnerships, Strategy, Foresight and Official Relations, and the Mechanism Secretariat. Other divisions may be called on to sit on

³ <https://www.ohchr.org/en/treaty-bodies/preventing-and-addressing-acts-intimidation-and-reprisal-cooperation-treaty-bodies>

⁴ IASC definition. Created in 1991 by United Nations General Assembly Resolution 46/182, the Inter-Agency Standing Committee (IASC) is the longest-standing and highest-level humanitarian coordination forum of the United Nations system.

the Committee depending on the Steering Committee's Agenda. The Committee is chaired by the Ethics Advisor.

Working days: Days when AFD's Paris office is open in Paris: from and including Monday to Friday, excluding French public holidays.

2. INTRODUCTION

As part of its Corporate Social Responsibility (CSR) strategy, AFD set up a Mechanism in 2017 to handle E&S Complaints from third parties.

This Mechanism strengthens the transparency and accountability of AFD operations and is part of an in-depth dialogue with civil society partners, French lawmakers, and extra-financial rating agencies. The disclosure of any information within the framework of the Mechanism, relating to any Beneficiary, any Project and, more broadly, to AFD's operations, is subject to compliance with the legal and regulatory obligations to which AFD is bound, particularly with regard to banking secrecy and data protection, as well as to AFD's policy and procedures on confidentiality and the publication of information.

3. MISSION, SCOPE AND MAIN FUNCTIONS OF THE MECHANISM

3.1 Mission

The purpose of the Mechanism is to offer an alternative, extra-judicial and subsidiary remedy to populations through (a) a Conciliation process and/or (b) a Compliance Audit to remedy, as far as possible and according to the resources that the Beneficiary has available, the negative environmental and social impacts of an AFD-funded project.

In addition, the Mechanism aims to (c) contribute to the continuous improvement of AFD's operations.

3.2 Scope

The Mechanism aims to ensure the independent handling of Complaints addressed to AFD by one or several natural or legal persons regarding the negative E&S impacts of a project carried out in Foreign Countries and financed by AFD, to which the E&S Risk Management Policy for AFD-funded operations applies (thus excluding projects particularly in the French Overseas Territories, those financed by the CSO

window, by FISEA, the FFEM⁵ the FID⁶ or the FMPM⁷, seed facilities, expertise or technical assistance funds, budget support⁸ or guarantees).

The complaints formulated under projects financed via debt-relief agreements (C2D) can be handled by the Mechanism when this is expressly provided for under the agreement concerned.⁹

The Mechanism is not intended to deal with complaints about the appropriateness of projects.

These Rule of Procedure are supplemented by a specific procedure dedicated to handling complaints related to cases of SEAH.

3.3 Main functions

The Mechanism fulfils three main functions:

- The Conciliation process involves proposing the intervention of a neutral, independent, and impartial third party to help find an Agreement between the Complainant or his/her/its Representative and the Beneficiary and, where relevant, other concerned parties (excluding the AFD).
- The Compliance Audit aims to determine whether or not AFD complied with its Environmental and Social Risk Management Procedures for a project that it financed and for which an agreement was signed. The Audit aims not only to recommend remedies to ensure compliance with the E&S standards but also to assist the Beneficiary in drawing up remedial action plans (cf. Chapter 2).
- The continuous improvement of practices mainly involves analysing the causes underlying the Complaints and advising AFD's operational teams and the Executive Management so as to avoid the occurrence of further complaints.

In no case does use of the Mechanism provide for any compensation from AFD.

The first chapter of the Rules of Procedure sets out the process and terms and conditions for the Registration and Eligibility (to a Conciliation or Compliance Audit) of a Complaint.

The second chapter sets out the functions of the Mechanism: Conciliation,

⁵ FFEM: French Facility for Global Environment.

⁶ FID: Fund for Innovation in Development.

⁷ FMPM: Montreal Protocol Multilateral Fund.

⁸ Refer to the current E&S Risk Management Policy.

⁹ The contractual clauses introducing the Environmental and Social Complaints Mechanism are not compulsory in debt relief agreements (C2D).

Compliance Audit and the continuous improvement of AFD's operations.

The third chapter specifies the roles of the Mechanism's stakeholders.

The fourth chapter sets out the transparency and accountability initiatives.

The current Rules are supplemented by a specific procedure applicable to handling cases of sexual exploitation, abuse and harassment.

CHAPTER 1: COMPLAINT REGISTRATION AND ELIGIBILITY PROCESSES

4. WHO CAN FILE AN E&S COMPLAINT?

Any natural or legal person that considers that he/she/it is concretely affected by the negative environmental and/or social impacts of an AFD-funded Project may file a Complaint. A person or a group of people may choose to appoint a Representative to submit the Complaint on their behalf.

The Complaint will be registered provided that it meets all the criteria set out in Sections 5 and 6 of the present Rules of Procedure.

5. HOW TO FILE AN E&S COMPLAINT?

a. Complaint procedures

The Complaint is submitted using the dedicated form available on the AFD website.¹⁰

It can also be submitted as plain text:

- by e-mail: reclamation@afd.fr
- by post
Agence Française de Développement
Secretariat of the Environmental and Social Complaints Mechanism
5, Rue Roland Barthes
75598 Paris Cedex 12 – France

¹⁰ Environmental and Social Complaints Mechanism | AFD-Agence Française de Développement

- in person at the AFD headquarters or in the AFD network of local agencies.¹¹ The Complainant must then specify that it intends to refer the matter to AFD's E&S Complaints Management Mechanism.

If the Complaint is addressed to an AFD local agency, the agency will forward the Complaint to the Secretariat.

For advice for how to draft and file a Complaint, it is also possible to contact the Mechanism's Secretariat by e-mail or by post.

At the latest within ten (10) working days from reception of the Complaint at AFD headquarters, the Secretariat will acknowledge receipt of the Complaint to the Complainant or his/her/its Representative. The relevant AFD departments are also informed of the reception of the Complaint.

If a large number of Complaints concerning an AFD-funded project is received by the Mechanism Secretariat (more than 20), the Secretariat will notify the Complainants of the receipt of the Complaints, but it will not be able to reply to each one of them. The Secretariat will choose to give a grouped reply. In this case, the notification period may be extended by 3 weeks.

If the Complaint is forwarded to the Secretariat by a local agency, the notification period may take up to eight (8) working days longer. If necessary, these deadlines may be extended.

Information relating to the key stages of the process (Registration, Eligibility, processing, Closure) is communicated by e-mail to the Complainant or his/her/its Representative and to the Beneficiary.

b. Identification of the Complainant and representation procedure

The Complaint must identify the Complainant(s). If the Complainant uses a Representative to help file a Complaint, the Representative must provide a Power of Attorney, Delegation of Authority Letter, or Letter of Procuracy that is legally valid in the Complainant's country. The Complainant must sign the document and authorise the Representative to act in his/her/its name as pertains to the Complaint. The Representative must also provide a list of duly named Complainant(s). The Representative is the contact point for all official communications between the Mechanism Secretariat and the Complainant.

However, the Secretariat may also communicate with the Complainant(s) directly if necessary and appropriate. The Secretariat keeps the Complainant's) or his/her/its Representative informed of the progress of the Complaint.

¹¹ Addresses of the AFD local agencies: <https://www.afd.fr/en/our-agencies-around-world>

If the Complainant is a legal entity, it must provide its statutes.

A Complainant can request that his/her/its identity (or the identities of some or all of the persons or entities filing the Complaint) remain confidential.

c. Information to include when filing a Complaint

In order to process the Complaint within a reasonable time, the following information is required:

- the identities and contact details of the Complainant(s) and, if applicable, his/her/its Representative: postal addresses, telephone numbers and/or e-mail addresses;
- as precise a definition as possible of the Project concerned and its name;
- a description of the actual or potential environmental and/or social impacts that prompted the filing of the Complaint;
- as precise a date as possible on which the facts were discovered;
- as precise a description as possible of the steps already taken and the state of the discussions with the Beneficiary and, in particular, the mobilisation of the extra-judicial means of remedy provided by the Beneficiary, such as the project-level complaints management mechanism, as well as mechanisms provided by other donors if relevant, and the results of these efforts;
- in the event that the Complainant(s) declare(s) a risk of retaliation, the Secretariat will provide specific measures to ensure that his/her/their identity remains confidential.

Exchanges between the Complainant(s) and the Secretariat may be organised to facilitate the collection of all this information.

d. Language for submitting a Complaint

Complaints may be submitted in French, English or one of the official languages of the Foreign Countries in which AFD operates. All correspondence from the Mechanism Secretariat to the Complainant or Representative can be written in French or English. If necessary, in order to facilitate communication between the Mechanism and the Complainant or his/her/its Representative, such correspondence may be translated into a third language (official language of the Foreign Country where the Project subject of the Complaint is located). Complaints not filed in English or French may require longer response times due to the need for translation. Only the French version is binding.

e. Procedure for receiving a Complaint and data protection

All Complaints received are entered into the E&S Complaints Mechanism Register. The information recorded in this Register includes the date on which the Secretariat received the Complaint, the designated Project name and location, the subject of the Complaint, and the identity of the Complainant and, if applicable, his/her/its Representative.

Thereafter, the Secretariat records in the Register all successive complaint-handling steps.

AFD is responsible for maintaining the E&S Complaints Mechanism Register in compliance with the European Union General Data Protection Regulation 2016/679 (GDPR) and French Law n° 78-17 of 6 January 1978, as amended (Act on Data Processing, Data Files and Individual Liberties). Individuals and entities recorded in the Register have the following rights with respect to their personal data: access, rectification, erasure, restriction, opposition, objection and portability. These rights may be exercised by sending a written request to informatiquelibertes@afd.fr

6. REGISTERING E&S COMPLAINTS

f. Registration conditions

The Secretariat will register the Complaint if it meets the main criteria listed below:

- a) It identifies the Complainant and/or, if relevant, her/his/its authorised Representative.
- b) It includes the contact details of the Complainant and, if relevant, of the Representative (residential address(es) and/or postal address(es), telephone number(s), e-mail address(es) (if these data exist).
- c) It includes the name and/or a description of the Project that is the subject of the Complaint, as well as evidence that the Project is financed by AFD.
- d) It describes the actual or potential negative environmental and/or social impacts that prompted the filing of the Complaint.
- e) When the Complaint relates to a dispute with the Beneficiary, it describes the preliminary good-faith but unsatisfactory efforts that the Complainant has made vis-à-vis the Beneficiary to settle the disputes described in the Complaint; in particular, the mobilisation of extra-judicial means of remedy provided by the Beneficiary, such as a project-level complaints-management mechanism, as well

as such means provided by other donors, if relevant. In addition, a description of the outcome of such efforts must be provided or an explanation of why they failed to resolve the dispute. This registration condition is valid only when the project-level complaints-management mechanism is fully operational and capable of fulfilling its function. In the event that where such steps could not be taken, notably because of a risk of retaliation, the situation must be described.

- f) The Complaint is submitted within two (2) years after discovering the facts and within a maximum of five (5) years after AFD has made its final disbursement to the Beneficiary of the Project.

The Secretariat will not register the Complaint, particularly in the following cases:

- If it is not based on the Project's E&S impacts or if it solely concerns the appropriateness of the project.
- If it exclusively concerns allegations of fraud, corruption, anti-competitive practice or procurement issues (in these cases, the Complaint will be forwarded to the relevant AFD department).
- If it concerns a project that AFD did not finance.
- If it concerns a project that was not carried out in a Foreign Country, which thus does not fall within the scope of the AFD Environmental and Social Risk Management Policy or which is not within the Mechanism's scope (cf. paragraph 3.2 above).
- If it concerns questions that the Mechanism has already treated in a previous Complaint, unless the current Complaint describes new issues, facts and/or elements unknown on the date that the previous Complaint was filed.
- If the Complainant has not exhausted or unsuccessfully mobilised other avenues of non-judicial dispute resolution provided by the Beneficiary, unless the Complainant proves that his/her/its good-faith use of such avenues could not be mobilised, or if the project-level complaints mechanism is not fully operational and capable of fulfilling its function.
- If the subject of the Complaint has already been settled or is being settled in a judicial/extra-judicial mediation or procedure, through arbitration or an alternative dispute resolution procedure other than that made available by the Beneficiary.
- If the Complaint is or was subject to processing by another donor or if, under a "mutual reliance" agreement, this donor is the principal lead of the Project.

g. Suspension or rejection of registration

If the Mechanism Secretariat considers that the Complaint meets the conditions for Registration, the Ethics Advisor informs the Complainant or his/her/its Representative and the Beneficiary. The Secretariat then informs the relevant AFD departments. This decision is taken within a reasonable timeframe, depending on the possible particularities of the Complaint.

If the Mechanism Secretariat considers that it cannot register a Complaint because it fails to meet one or more of the conditions for Registration set out above, but that this formal obstacle to registration could be overcome (e.g. transmission of proof of authorisation to represent the Complainant, which was omitted when the Complaint was filed), the Secretariat informs the Complainant or his/her/its Representative accordingly. In this case, the decision regarding Registration is put on hold by the Secretariat, which then grants the Complainant a period of time to comply with the Registration conditions and provide the missing elements required.

If the missing elements are not received within the time period set by AFD, the Mechanism Secretariat will inform the Complainant or his/her/its Representative of the decision to not register or process the Complaint, explaining the reason(s) for this decision. The Secretariat will also inform the relevant AFD departments. The Secretariat may close the Complaint if the Complainant or his/her/its Representative does not provide the requested elements within 6 months following the notification. If new elements are provided after this time period, the Complainant or his/her/its Representative may file a new complaint with the Mechanism.

When two or more Complaints are filed by the same Complainant(s) or by different Complainants but concerning the same project, and the content of the Complaints is reasonably similar, the Secretariat may either request that the Complaints be reviewed together or suspend the processing of any Complaint received after the first one, pending the results of the review of the first Complaint. In this context, the Secretariat notifies the Complainant(s).

h. Cooperation with other international financial institutions

If the Project is co-financed by other international institutions or another AFD Group subsidiary, the Secretariat informs these institutions/entities of the Complaint Registration as well as their respective mechanism(s), as appropriate. The Secretariat is encouraged to communicate and cooperate with such mechanisms. Cooperation is particularly sought after when the same Complaint is filed with both the AFD Mechanism and the co-financier's mechanism or within the framework of a reciprocal delegation initiative.

7. DETERMINING THE ELIGIBILITY OF COMPLAINTS

Once the Complaint has been registered, the Secretariat analyses its eligibility or mandates an Expert to perform the Eligibility assessment. Based on this assessment and the Eligibility conditions defined below, this step aims to determine whether or not the Complaint is eligible for Conciliation and/or a Compliance Audit. Local expertise consultancies may be necessary during the Eligibility Assessment, as well as during the subsequent processing steps (Conciliation or Compliance Audit).

i. Eligibility assessment

The Secretariat or the Expert mobilised conducts the Eligibility assessment in a factual manner, seeking to understand the underlying reasons for the issue(s) raised in the Complaint along with the positions of the Parties involved. It is based on an analysis of the eligibility requirements as defined under the present Rules, as well as on a document review and interviews with the Complainant, the Beneficiary, the Project team and the staff of the local AFD agency concerned. It may also require a field visit and mobilise any other method deemed appropriate.

In the absence of prior authorisation from the Beneficiary in the financing agreement signed with AFD, allowing the communication of Project documents necessary for the processing of the Complaint by one or more Expert(s), the Secretariat requests and ensures that the Beneficiary's express agreement is obtained for this purpose.

If the Beneficiary refuses, the Secretariat closes the Complaint.

To conduct the Eligibility assessment, the Secretariat or Expert also consults the person(s) or entities concerned by the Complaint and the project team, taking into consideration all facts, documents and statements thus gathered.

In the context of this assessment, the Secretariat or Expert mobilised also assesses, if necessary and when possible, the risk of retaliation against the Complainant, based on the factual elements available, on the local context and the information gathered from the Parties concerned. This risk assessment aims to determine whether specific measures can be envisaged, such as greater confidentiality measures, more secure communication channels or any other adapted processing arrangements, in line with the precautionary principle and the Complainant's informed consent, as well as within the limits of the Mechanism's operational capabilities.

The Secretariat compiles its findings in a preliminary Eligibility analysis which it sends to the Eligibility Committee for a collegial review and final decision. The analysis recalls the content of the Complaint and also includes:

- a summary of the facts and the positions of the natural or legal persons concerned by the Complaint (including, if necessary, verification of the powers/authorisations of the Representative(s) of the Complainant(s);
- a precise description of the actual or potential E&S impacts;
- a description of existing risks of retaliation and the specific measures recommended, as appropriate;
- a recommendation on the Eligibility of the Complaint and, in if eligible, the proposal for a Conciliation and/or a Compliance Audit.

The Eligibility Committee's decision (Eligibility or Non-Eligibility) and the proposed complaint processing method(s) are recorded by the Secretariat in the Mechanism's Register. The Complainant or his/her/its Representative, the Beneficiary and the AFD departments concerned are informed of the outcome of the Eligibility assessment stage by the Ethics Advisor.

If the Complaint is not eligible, the Ethics Advisor informs the Complainant (or his/her/its Representative) and the Beneficiary of the decision taken and indicates the reasons.

If the Eligibility Committee considers that the Complaint is ineligible because it does not meet one or more of the Eligibility requirements which could subsequently be remedied, the Eligibility Committee can put its procedure on hold and allow the Complainant ten (10) working days to remedy the situation.

If the Complaint is declared eligible, the summary of the Eligibility assessment, drafted by its author, and the Eligibility Committee's decision are published on the Mechanism's page on the AFD's website (list of eligible Complaints), after the prior express consent of the Beneficiary and the Complainant. The Secretariat ensures that these documents comply with AFD's publication obligations.

If the Beneficiary and/or Complainant express their opposition to the publication of these documents, the Secretariat may publish them in an anonymised format.

j. Eligibility criteria excluding a Conciliation or Compliance Audit

A Complaint is not eligible for Conciliation or a Compliance Audit if:

- it is filed for clearly futile or malicious purposes;
- it reveals that the complainant is acting in a self-interested manner in order to obtain an undue financial gain or to satisfy a personal agenda or animosity;
- its main objective is to gain a competitive advantage from the Complaint by obtaining access to information or delaying the execution of the Project;
- it concerns the obligations of a third party other than AFD and its Beneficiary (financing from another financial institution).

k. Conditions specific to Conciliation

When the Complaint raises issues that appear to be suitable for resolution through Conciliation, the Secretariat or the mobilised Expert must first investigate whether the Complaint falls within one of the cases listed below.

A Complaint is eligible for Conciliation if:

- more generally, there exists no risk of interference with any other process or procedure initiated by the same Complainant (or by certain members of the group, if

the Complainant is a group), or the entity/person with whom the Complainant has a dispute;

- the Complainant does not prevent his/her/its identity from being communicated to the Beneficiary. If this is not the case, the Secretariat then informs the Complainant or his/her/its Representative that a Conciliation process cannot be implemented and closes this aspect of the Complaint, indicating the reason for this decision.

I. Conditions specific to a Compliance Audit

When the Complaint raises questions about AFD's compliance with the E&S Risk Management Policy in force at the time when the Financing Agreement was signed, the Secretariat or the Expert mobilised checks whether the Complaint is eligible for a Compliance Audit.

A Complaint is eligible for a Compliance Audit if:

- it calls into question acts or omissions that could constitute a major non-compliance with respect to AFD's E&S Risk Management Policy or which may have caused significant harm.

If the Complaint is eligible for a Compliance Audit in view of the above criteria, a review of the Complaint by another mechanism does not prevent the Complaint from being processed in accordance with the Rules since it involves an audit of AFD's compliance with its own E&S Risk Management Policy.

8. IMPACTS OF COMPLAINTS ON AFD PROJECTS

The fact that a Complaint was registered and/or found eligible for further examination by the Mechanism does not mean that AFD will suspend its participation in the Project. However, if at any time during the processing of the Complaint, the Secretariat or Ethics Advisor believes that a serious, irreparable harm (linked to E&S risks) could be caused by continuing execution of the AFD-funded Project (especially when the Project execution depends on AFD's provision of funds), the Ethics Advisor in collaboration with the Secretariat may recommend to the operational teams and the Operations department's management that AFD suspend disbursements for the Project. This type of recommendation should take into account co-financing implications, if relevant.

In no case do the Conciliation and Compliance Audit processes provide for AFD to compensate the Complainant.

CHAPITRE 2: IMPLEMENTATION OF THE MECHANISM'S FUNCTIONS

9. IMPLEMENTATION OF THE CONCILIATION PROCESS

Once a Complaint is declared eligible and a Conciliation process is envisaged, the Ethics Advisor contacts the Parties to explain the Conciliation proposal made to them. At this stage, he/she specifies the principles of the Conciliation approach, particularly its voluntary nature, each Party's responsibility in the decision-making, the confidentiality of the discussions, and the neutrality and impartiality of the Conciliator. In addition, he/she specifies that no information concerning one Party will be communicated to the other Party without the former's prior written consent.

In the event that a risk of retaliation against the Complainant or another party to the Complaint has been identified, the Secretariat works together with the Conciliator to ensure that the Conciliation is implemented according to the methods designed to prevent the identified risks, particularly concerning confidentiality and securing the communications, while respecting the informed consent of the individuals or entities concerned and the Mechanism's operational capabilities.

The Conciliator determines whether the terms and conditions of his intervention within this context are met, and, in particular, if each of the Parties has given his/her/its agreement for his/her intervention.

The Conciliator may, if the parties so agree and if circumstances permit, rely on a local expert mandated by the Secretariat, whose mission is carried out in complete independence under the authority of the Conciliator.

In the absence of the agreement of all the Parties to engage in a Conciliation within the framework proposed by the Mechanism, the Secretariat will close this part of the Complaint.

If the Conciliator's mission does not result in the resolution of all aspects of the dispute, it may be prolonged or supplemented with additional expertise. The Conciliation process is considered completed when the Parties reach an Agreement or when, in the Conciliator's opinion, no further progress in reaching an agreement is deemed possible. In the latter case, the Secretariat closes this part of the Complaint file.

In the event of an Agreement, the Parties, assisted by the Conciliator, define each Party's commitments, their implementation conditions, and a timeline. All Parties then sign the Agreement and the Conciliator countersigns it.

The Agreement commits the Parties to perform according to the implementation conditions and deadlines that they have set. The Conciliator asks the Parties to define in the Agreement:

- the procedures for monitoring each Party's commitments. If the Parties so wish, these procedures can call on the services of the Conciliator for a limited, mutually agreed period of time;
- the measures to be taken in the event that difficulties arise from the Agreement's implementation;
- the conditions under which the Parties agree to keep the Secretariat informed of the implementation of the Agreement.

The Conciliator also asks the Parties to determine the provisions of the Agreement about any information:

- that they want to share with AFD, and particularly with the Mechanism Secretariat;
- that they agree to have published in summary form and anonymised if necessary on the AFD website.

At the end of the Conciliation process, the Conciliator drafts a report indicating i) the methods used, ii) the results achieved, iii) the lessons learned from the mission, and where relevant and to the extent authorised by the Parties, iv) the provisions of the Agreement, v) the timeline for implementing commitments, and vi) any outstanding issues. The implementation of the Agreement is the sole responsibility of the Parties.

10. IMPLEMENTATION OF A COMPLIANCE AUDIT

Once the Complaint has been declared eligible and a Compliance Audit has been decided upon, the Secretariat together with the Ethics Advisor draft a mandate for the Audit. This mandate defines the type of expertise required to conduct the Audit, as well as its scope and target timeline.

The Secretariat mobilises one or more Experts to conduct the Audit.

The objective of the Compliance Audit is to establish whether (and, when relevant, how and why) an AFD action or omission related to the Project resulted in a failure to comply with the AFD E&S Risk Management Policy and, if so, to recommend corrective measures in order to ensure compliance.

The Expert in charge of the Compliance Audit examines the main documents and consults the individuals, groups and entities concerned by the Project and AFD. The Expert may also make one or more site visits and use other methods that he/she deems appropriate, such as using other Experts, etc. The Expert then prepares a draft Compliance Audit report.

If a risk of retaliation has been identified, the Secretariat works in coordination with

the AFD Divisions concerned and the Expert in charge of the Audit to ensure that the assessment is conducted in a manner adapted to the level of risk, while respecting the informed consent of the persons and entities involved and the operational capabilities of the Mechanism.

If the Expert concludes that AFD complied with its E&S Risk Management Procedures, the Secretariat submits the draft Compliance Audit report to the relevant AFD departments for comments within a reasonable timeframe (6 weeks). The Expert then produces a final Compliance Audit report, including an executive summary of his/her conclusions. The Secretariat then closes the Complaint file.

If the Expert finds that AFD did not comply with its E&S Risk Management Procedures,

- a) The Secretariat submits the draft Compliance Audit report to the relevant AFD departments for comments within a reasonable timeframe (6 weeks). The report includes a precise list of the non-conformities and proposes recommendations that can be implemented within the framework of the Project.
- b) After receiving the comments, the Expert has thirty (30) working days to submit a final version of the Compliance Audit report. The Expert can adapt his/her draft recommendations but not the proven factual findings. He/she then sends the final Compliance Audit report to the Secretariat, who forwards it to AFD's Executive Management.

The final version of the Compliance Audit report includes recommendations inviting AFD to:

- i) remedy the non-conformities observed in the implementation of the Project;
- ii) take the necessary measure available to it in order to prevent similar situations from reoccurring.

The Expert also provides a written summary of his/her conclusions.

After receiving the final version of the Compliance Audit report, AFD's operational teams draft an action plan indicating the follow-up actions that they intend to take in response to the audit. This action plan must be completed within a reasonable timeframe (about 6 weeks). This document, approved by AFD's Executive Management, includes any comments that the operational teams may have on the conclusions of the Expert auditor.

This action plan does not provide for any compensation from AFD. It presents the following main characteristics:

- A remediation action plan must include a description of the stakeholders' roles; success indicators, a timeline, a responsible exit strategy and a monitoring budget with dedicated resources;
- Remediation of the non-conformities observed in the Project's implementation will be carried out to the extent possible and according to the means of the

Beneficiary, who is solely responsible for the implementation of these remedial measures;

- Recommendations to modify policies, systems, procedures or guidelines aimed at avoiding a non-compliant situation can be addressed to the Beneficiary;
- AFD may use the contractual tools available to it to ensure that the Beneficiary takes responsibility for the actions to remedy the negative impacts of the Project.

The remediation action plan takes into consideration the assessed risk of retaliation and the preventive and mitigating measures identified during the processing of the Complaint.

The action plan is sent to and approved by the Beneficiary, who is solely responsible for the implementation of the actions concerning it.

Reports monitoring the implementation of the action plan are prepared by the operational teams until the time when the Secretariat deems that they are no longer necessary. These reports are sent to the Executive Management for information.

11. IMPLEMENTATION OF THE CONTINUOUS IMPROVEMENT OF OUR PRACTISES

The continuous improvement function of the Mechanism's practices has several advantages for AFD:

a. Based on evidence from the Conciliation or Compliance Audit files (notably the conclusions and recommendations formulated by the Experts in the Compliance Audit report), the Mechanism helps shed light on the shortcomings of AFD policies and their implementation.

b. The annual capitalisation exercise, summarised in the Mechanism's Annual Report, makes it possible to ensure continuous improvement and anchor a continuous institutional learning culture. On this basis, the Mechanism can provide observations to the Board of Directors.

c. By monitoring the environmental and social policy frameworks and new standards, AFD Group is able to mobilise and adapt to requests from its financial partners.

With the aim of improving practices, annual feedback is organised with the consulting firms to obtain an external view of the improvements that the Mechanism can make to the way that AFD operates.

The following documents are produced by the Secretariat and shared internally with the AFD teams:

- **Annual report.** The Secretariat prepares an annual report describing the Mechanism's activities during the previous year. This report is approved by the Mechanism's Steering Committee, then published as soon as possible on the AFD website.
- **Capitalisation report.** Included in the annual report, the capitalisation report is presented to the Steering Committee at the end of each year. All the departments concerned by the observations to drive the continuous improvement of practices receive this report and are invited to participate in the Steering Committee (Operations, Research, Geographies). This report may also be presented to the Board of Directors.

Independent advice. When requested, the Mechanism can also provide advice and comments on a new policy, doctrine, intervention framework, positioning, etc. of AFD Group in environmental and social matters.

12. CLOSURE OF A COMPLAINT

The conditions for closing a Complaint are met if:

- a Complaint fulfils the Registration conditions but the Secretariat has received no answers to its questions from the Complainant within 6 months;
- a Complaint is registered and no Eligibility assessment could be carried out within 12 months from Registration for reasons beyond the control of AFD;
- the Conciliation actions have not produced results within two years after the signing of the Conciliation Agreement or if no further progress can be reasonably expected;
- a Conciliation Agreement has been reached but not implemented within two years after this Agreement has been signed;
- remedial actions have been unsuccessful within two years after the action plan was signed by AFD's Executive Management and if no further progress can be reasonably expected.

The Secretariat presents the files to be closed to the Closure Committee and informs the Complainant(s) by email.

The information on Complaint closures are updated in the Mechanism's annual report and on the Mechanism's page on the AFD website.

It should be noted that the receipt of a new Complaint by a new Complainant about the same case, or if new information is received from the original Complainant(s), the Complaint file may be re-opened.

CHAPTER 3: ROLE OF THE MECHANISM'S STAKEHOLDERS

13. ROLE OF INTERNAL STAKEHOLDERS

The **AFD Ethics Advisor** guarantees the independent handling of E&S Complaints concerning AFD-funded projects. He/she ensures that the Secretariat manages the Mechanism in accordance with the present Rules. The Ethics Advisor chairs the Steering Committee and the Eligibility Committee and is, in particular, responsible for notifying decisions to the external parties concerned.

The **Secretariat** is responsible for the operational management of the Mechanism, in particular:

- analysing and registering Complaints;
- maintaining the E&S Complaints Mechanism register;
- preparing the Eligibility assessment after discussion with the relevant AFD departments, Experts (if required) and Parties to the Project in view of the Eligibility Committee's decision-making;
- preparing and following up the Mechanism's Steering Committee meetings;
- interfacing between all individuals/entities and departments concerned by the Complaint;
- monitoring the handling of Complaints - Conciliation and/or Compliance Audit – and disseminating the summary reports;
- disseminating and publishing the items provided for in Chapter 4;
- implementing and monitoring the improvement of practices within AFD Group;
- preparing and managing the budget;
- procuring, recruiting and mobilising Experts;
- informing and communicating elements both externally and within AFD;
- writing the annual activity report and the annual capitalisation report;
- managing the Mechanism's relations with stakeholders, as well as with other donors' complaints-management mechanisms;
- managing relations with internal and external stakeholders;
- managing AFD's contribution to the Independent Accountability Mechanisms Network (IAMnet).

The personnel of the Strategy Department and Research Department may help the

Secretariat to better understand or grasp certain complex contexts or sectors of activity.

The **external Experts hired by the Mechanism** intervene in several phases of the Complaint-handling process. At the Eligibility stage, they may be called on to study the file through desk research and interviews with the individuals, groups and/or entities related to the Complaint and the Project. In the event of a Conciliation process, Conciliation Experts are hired to conduct the Conciliation mission or to assist the internal Mediator on this mission. In the event of a Compliance Audit, an Expert is systematically called on. The Secretariat may also delegate eventual monitoring and reporting tasks to the Experts. The Experts are bound by strict confidentiality in compliance with the legal requirements and obligations of the Mechanism, particularly those laid out in its policy for preventing the risk of retaliation.

The Mechanism Secretariat maintains a dialogue with the Experts who have worked on the Complaints so that they receive information on AFD's handling of these Complaints.

Experts are selected and appointed according to AFD's transparent public procurement rules for consultants. They are selected on the basis of their i) experience, particularly in legal, social, environmental and related fields; ii) ability to interpret E&S procedures and resolve disputes in a fair, comprehensive, and equitable manner; iii) demonstrated integrity and independence; iv) ability to interact effectively with the Parties and civil society, and v) knowledge of AFD and similar institutions.

The Secretariat may revoke an Expert's mandate for cause.

Additional Experts, such as interpreters, translators and/or other types of technical Experts, are selected and appointed in compliance with AFD's transparent public procurement rules for consultants. These Experts carry out their activities under the authority of the Secretariat.

14. ROLE OF EXTERNAL STAKEHOLDERS

Civil society organisations (CSOs) provide an external view of the Mechanism (through consultations, for example) and contribute to its development and improvement. They can also act as important relays for the appointed Experts or individuals, groups and/or entities likely to be negatively impacted by the financing operations of the financial partners.

Members of Parliament and Parliamentary Committees may request a hearing with the Secretariat for a presentation of the reports produced or to ask specific questions with a view to drafting legislation.

The French Ministry for Europe and Foreign Affairs may facilitate exchanges between operators concerning the handling of complaints. Moreover, the Ministry's departments may also provide assistance on specific cases.

IAMnet. AFD is a member of the Independent Accountability Mechanisms Network (IAMnet), an international network of nearly twenty bilateral and multilateral development bank accountability mechanisms. IAMnet provides a framework for cooperation and experience sharing

CHAPTER 4: TRANSPARENCY AND ACCOUNTABILITY OF THE MECHANISM

15. COMMUNICATION AND PUBLICATION

The operation of the Mechanism, the processing of all Complaints and the disclosure of any information by the Mechanism within this framework are carried out in compliance with the legal and regulatory obligations to which AFD is bound, particularly with regard to banking secrecy and data protection, as well as to AFD's policy and procedures on confidentiality and the publication of information.

Information, awareness-raising and outreach. The Secretariat produces and disseminates information within AFD, in AFD's countries of operation and to AFD's partners (development banks and civil society organisations, among others) on the Mechanism's purpose and use. The Secretariat organises informational and awareness-raising campaigns for AFD personnel (at the Paris headquarters and local agencies), depending on available resources. It prepares tools and implements outreach actions to inform, as effectively as possible, its partners and the populations in AFD's countries of operation, as well as civil society organisations. The Secretariat expands cooperation with other donors' complaint management mechanisms via the IAMNet network. Communication tools and outreach campaigns, as well as information sessions in Foreign Countries or regions, may be developed jointly.

Publication of Mechanism documents. The Secretariat publishes information related to the Mechanism's functioning, notably an information brochure for its partners and AFD's countries of operation, which details the procedures for filing a Complaint and the processing procedure. The documents are publicly available in both French and English on the AFD website, at AFD's Paris headquarters and in AFD's local agencies. These documents may also be translated into other languages as required or upon a request from a stakeholder.

Publication of information and documents relating to an E&S Complaint: AFD publishes and updates on its website:

- a summary table with a list of eligible Complaints, which contains the following information and documents: (i) the date on which the Complaint was submitted; (ii) the project concerned; (iii) the sector concerned by the Complaint; (iv) the Country of operation; (v) the subject of the Complaint; (vi) the status of the Complaint (Conciliation/Compliance Audit – ongoing or closed), and (vii) a summary of the Eligibility assessment and/or the Eligibility Committee's decisions and/or the Conciliation report according to the project stakeholders' express consent. If the Beneficiary and/or Complainant oppose the publication of these documents, the Secretariat may publish them in an anonymised format.
- An annual report in anonymised format containing summary information about the implementation of Conciliation agreements or action plans following Compliance Audits.
- A capitalisation report on the best practices that AFD has integrated.

The Secretariat ensures that these documents comply with AFD's publication requirements.

Neither the summary nor the Compliance Audit report is published on the Mechanism's dedicated pages on the AFD website. These are working documents for internal use only. If documents are not published for confidentiality reasons, this is indicated in the summary table. Certain information posing a risk to the rights of AFD and third parties may not be published.

General information about the processes. All Mechanism activities are implemented as quickly as possible without compromising the integrity or intelligibility of the process. The Secretariat takes into consideration the views of the Complainant, Beneficiary, any member of AFD personnel, and all other stakeholders who may hold relevant information.

Access to AFD personnel and confidential information. The various participants in the Mechanism - Secretariat, Ethics Advisor, Internal Mediator and Expert(s) - may ask for assistance from all of AFD departments, and in particular the Legal Department, to ensure the proper fulfilment of their missions on Eligibility assessments, Conciliations or Compliance Audits. They may contact AFD personnel on any subject relating to their mission and have access to the necessary information. The Secretariat ensures that interviews and requests for information are properly organised. AFD personnel are required to fully cooperate with the Mechanism. The information collected by the Secretariat, Internal Mediator and Expert(s) in the course of their activities can be used and disclosed in compliance with the French Monetary and Financial Code, AFD's Transparency Policy and any other applicable confidentiality requirements

designed to preserve the confidentiality of sensitive information. AFD is subject to the European Union General Data Protection Regulation (GDPR) and the French Data Protection Act (No. 78-17 of 6 January 1978, as amended) which guarantee privacy, personal data protection, and all other rights recognised by this legislation, as stated supra. No Mechanism employee, Expert, consultant, researcher, interpreter, or translator hired by the Mechanism may disseminate any document in whole or in part without the express written consent of the Party providing the information and of AFD.

16. EVALUATION AND ACCOUNTABILITY

Evaluation of the Mechanism. The Mechanism may be subject to internal audits. An external evaluation of the Mechanism may also be decided by its Steering Committee. The results of the evaluation are presented internally and externally. They may lead to an amendment to the Rules in line with the procedures set out in the paragraph below entitled "Amendment and impact of the Rules".

Accountability of the Mechanism. The activities and operations of the Mechanism are presented to AFD's Board of Directors as necessary and at least every three (3) years.

17. MISCELLANEOUS PROVISIONS

Amendment and impact of the Rules. The Rules of Procedure may be amended by AFD's Chief Executive Officer, who reports thereon to the Board of Directors. In the event of any inconsistency between the Rules and any other AFD document, and unless otherwise expressly stipulated, the Rules shall prevail. The Rules are reviewed every 5 years and whenever the Committee deems it necessary.

Mechanism budget. AFD provides the Secretariat with sufficient financial resources to complete all activities authorised by these Rules. The Secretariat prepares and manages the budget.

Code of Good Conduct. Experts working for the Mechanism commit to following a Code of Good Conduct by signing a contractual document. All AFD employees working for the Mechanism are subject to the provisions of AFD's Ethics Charter¹² and the rules and provisions regarding conflicts of interest and confidentiality, as detailed below.

¹² [AFD Group Ethics Charter | AFD – Agence Française de Développement](#)

Confidentiality. the Experts commit to treating all information of whatever kind with the utmost confidentiality, be it information that they access in the course of their mission or information communicated directly by AFD either in writing or orally by one of their colleagues, particularly information relating to AFD, its functioning, partners and projects, especially the above-mentioned Project. The Experts thus commit to not communicate, disclose or reveal in any way the information and deliverables produced during their mission to any third party without the prior written consent of AFD.

AFD requires exemplary conduct from the Experts during their missions and interviews with the Parties and requires that they foresee all necessary safety and confidentiality conditions, while respecting the Complainants. Under no circumstances are the Experts allowed to express a personal opinion during their professional activity.

Report language. All reports are written in French by the Secretariat or by one or more Expert(s). If necessary, they can be translated into English or the official language of the country where the Complaint arose. The Mechanism's Annual Activity Report is published in French, English and Spanish.

Language policy. The Rules are translated into French, English and Spanish. If there is a discrepancy between the French version and any other version, the French version will prevail.