African Development Bank Group

THE INDEPENDENT REVIEW MECHANISM

Annual Report 2006



The purpose of the Independent Review Mechanism is to provide people who are adversely affected, or likely to be adversely affected, by a project financed by Bank Group with the possibility to request the Bank to comply with its own policies and procedures.



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2 > Coverage of the Annual Report

This is the first Annual Report of the ADB Group's Independent Review Mechanism (IRM) prepared in accordance with paragraph 77 of the IRM Operating Rules and Procedures. The report covers the activities leading up to the establishment of the Independent Review Mechanism, and the period April – December 2006 when the Compliance Review and Mediation Unit (CRMU) came into operations, inter alia with the appointment of its Director. Some important activities required by CRMU to make the IRM fully operational, as well as clarifications to some of the IRM procedures and mandate are provided in the report. In separate boxes are included brief information on some essential IRM features.

To the extent that requests have been received, future reports will include information and follow-up actions on mediation and compliance review activities, and trends emerged from the IRM activities.





Activities leading up to the establishment of the Independent Review Mechanism

The establishment of the Independent Review Mechanism was approved by the Boards of Directors of the African Development Bank Group (ADB) in June 2004 following a study undertaken in 2003 of similar mechanisms of other multilateral development banks and international financing institutions.

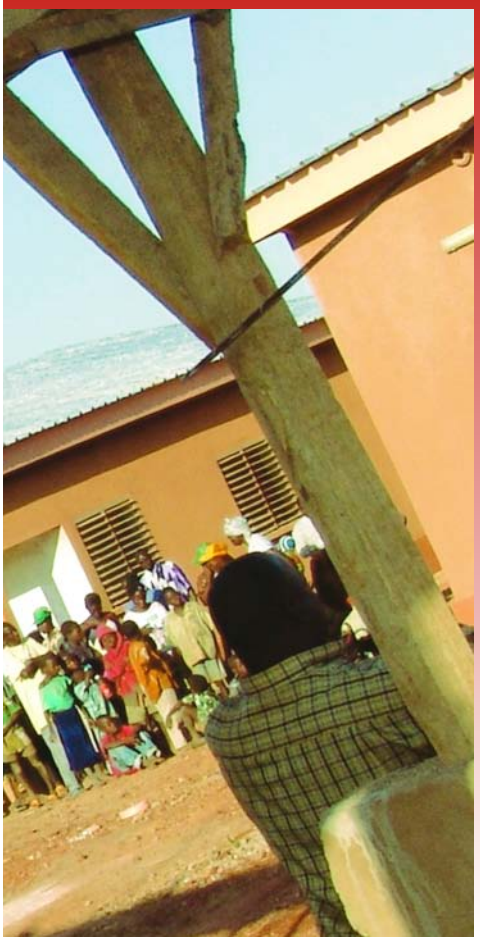
It was noted at the time of the study that the Bank had not received many complaints. However, it was argued that the reason for that might have been a reflection of lack of opportunity rather than the fact that affected people had not complained. For instance had the World Bank's Inspection Panel received several complaints on projects in Africa, and at least one of those projects had been co-financed with the ADB Group. It was furthermore emphasized that with the strengthening of democracy and enhanced economic development across the African continent, it would be likely that the ADB Group would attract more public scrutiny and attention from international and domestic NGOs. Finally the report highlighted that the number of complaints received by an inspection is not necessarily an accurate reflection of the benefits an accountability function could offer to the institution. The existence of an inspection function normally creates an incentive for staff and management to pay closer attention and to ensuring that the Bank's policies and procedures are complied with.

The study looked into different options for an ADB Group inspection function by inter alia taking into consideration the experiences gained at comparable institutions. The study recommended a mechanism having both a mediation function (problem-solving) and a compliance review, a mechanism which included both public and private sector projects, and a set-up with a small administrative unit with few permanent staff and a Roster of part time external Experts to undertake compliance reviews.

The Boards' Enabling Resolution dated 30 June 2004 of the Independent Review Mechanism closely followed the recommendations of the study. The resolution provided detailed guidance on the functional and administrative procedures, which inter alia included the establishment of the Compliance Review and Mediation Unit (CRMU) headed by a Director to administer the IRM. The Director of CRMU administratively reports to the President, and functionally to the Boards of Directors for project approved by the Boards, and to the President for projects not yet reached the stage of the Boards' approval.

The Roster of Experts comprises of three part time external Experts to be called upon as needed to investigate complaints received from adversely affected people due to the Bank's non-compliance with its own policies and procedures. The Experts will be appointed by the Boards of Directors on the recommendation of the President for a non-renewable term of five years. However, the first appointments will be staggered in such a way that one Expert will serve for three years, one for four years and one for five years. One of the Experts shall be appointed chairperson of the Roster of Experts.

Simultaneously with the Boards' Resolution to establish the Independent Review Mechanism (IRM), Operating Rules and Procedures were prepared and approved in principal by the Boards in 2004. However, the Boards decided to refer to the Committee for Development Effectiveness (CODE) to verify that the Operating Rules and Procedures were in accordance with the Boards' Enabling Resolution. The IRM Operating Rules and Procedures were finally approval by the Boards of Directors on 27 July 2006. A copy of the IRM Operating Rules and Procedures are annexed to this report.



BOX 1

Receipt and Registration of Requests

Within 14 days of receipt of a Request, the Compliance Review and Mediation Unit (CRMU) shall conduct a preliminary review of the Request to determine whether it falls within the mandate of the IRM. If it does not, CRMU shall inform the requestors accordingly. If the Request falls within the mandate, and contains a valid claim of harm, CRMU shall register the Request, and inform the Requestors, the Bank Groups' Boards of Directors and Management accordingly.

Within 21 days of being notified of the Request, the Management shall provide CRMU with evidence that it has complied, or intends to comply, with the Bank Group's relevant policies and procedures. If the management does not respond, the Boards of Directors and the President shall be informed by CRMU.

Within 21 days of receipt, or expiry of the time limit for the Management response or extended time provided for clarifications, CRMU may commence a Mediation exercise, recommend a Compliance Review or otherwise conclude the matter.

Activities of the independent Review Mechanism during 2006

Since the appointment of the Director of the Compliance Review and Mediation Unit (CRMU), the most important activities have included the setting up of the CRMU with acquisition of office space, installation of office furniture, equipment and IT systems, development of information material and website, and not least the recruitment of CRMU staff and the Roster of Experts. These activities will continue into 2007 in order to make the IRM fully operational and ready to receiving and processing Requests for Compliance Reviews or Mediation.

With regard to public information, the IRM launched its website in August 2006. The website is integrated into the ADB Group's main website (www.afdb.org), from where it can be accessed through a direct link on the homepage. For time being only static information is provided, including the IRM Operating Rules and Procedures, the Boards Enabling Resolution of the IRM, information for potential beneficiaries of the mechanism on how to prepare and submit a Request for Compliance Review or Mediation. With the assistance of the Bank Group's IT Department and the External Relations and Communication Unit, the IRM website will be further developed during 2007. Gradually the site will provide more dynamic information, including a register of Requests, and reports and decisions resulting from mediation exercises and compliance reviews. Interactive features for registration by Civil Society Organizations and NGOs interested to cooperate with CRMU on outreach activities will also be developed.

A brochure intended for people living in areas where the Bank Group is financing projects has been printed. The brochure has been distributed to the Bank Group's Resident Missions. Resident Representatives have been requested to make the brochures available to interested persons in their respective countries. Resident Representatives have furthermore been asked to report back to CRMU on the need for printing the brochure in local languages. Likewise, the brochure has been distributed to the ADB Group's Operational Complexes with a request to respective Vice Presidents and Directors to encourage their operational staff to distribute the brochures and to disseminate information about the IRM when going on appraisal, project launch and supervision missions. The involvement of operational Bank staff for dissemination of information about the IRM is essential, and the task should be recognized as a normal undertaking to enhance the Bank Group's image of being transparent, accountable and effective.

External outreach activities have not been carried out during 2006, except for meetings with two international NGOs who have taken a special interest in the accountability of multilateral development banks. The IRM brochure has been distributed to those NGOs with the expectation that the brochures will find its way through their networks in different African countries to potential beneficiaries of the IRM. During 2007 enhanced outreach activities are planned, including visits by CRMU to a few Regional member countries of the Bank Group. Collaboration with African NGOs and Associations of NGOs for awareness of the existence of the IRM and its operational procedures will be further explored during 2007. In this connection a strategy for outreach activities and improved dissemination of information about the IRM is being prepared.

A seminar intended for operational Bank staff and elected officials was arranged in Tunis on 21 November 2006. Representatives of the World Bank's Inspection Panel and the Asian Development Bank's Compliance Review Panel were invited to present samples of cases that those institutions have investigated in the past. The seminar was attended by approximately 40 bank staff and generated many questions and a good discussion. It was encouraging to take note of the fact that many staff members had a positive view about involving themselves in the dissemination of information about the IRM. CRMU has been requested to repeat the seminar, and similar arrangements will be provided by CRMU with regular intervals during 2007 and onwards.

During 2006, the Director of CRMU participated in the 3rd meeting of Accountability and Recourse Mechanisms of International Financial Institutions that took place in Montreal, Canada from 18 to 19 May 2006.

The meeting, which has become an annual event and hosted by different financing institutions, gathered staff and experts from the independent review functions of major multilateral development banks and international and bilateral financing institutions. The meeting in Montreal provided a good opportunity for the Director of CRMU to learn from the experience of other review mechanisms, and to establish a network with accountability professionals from different financing institutions.

The Director of CRMU also paid a visit to the World Bank's Inspection Panel and IFC's Compliance Adviser/Ombudsman to learn from their experiences and their administrative and working routines, including the registration and processing of Requests.

BOX 2
Mediation (problem-solving)

In accordance with the IRM Operating Rules and Procedures, the Compliance Review and Mediation Unit (CRMU) is responsible for the Mediation processes. The objective of the mediation exercise is to restore an effective dialogue between the Requestors and any interested party with the view to resolving the issue or issues underlying the Request.

Within 30 days of a successful conclusion of a Mediation exercise, or 3 months of an unsuccessful exercise, CRMU shall prepare a Report to be submitted to the interested parties, the Boards of Directors and the President. The Boards of Directors, or the President if the project has not yet been approved by the Boards, shall decide on any remedial recommendations.

CRMU shall monitor the implementation of agreed solutions, and submit monitoring reports to the Boards of Directors and the President.



Challenges for CRMU to make the IRM fully operational

The setting-up of the IRM and CRMU

To make the Independent Review Mechanism fully operational, additional staff and the Roster of Experts have to be in place. As at the end of 2006, the position of a Compliance Officer is vacant, and the Experts have not been appointed. The selection of the Roster of Experts has been well advanced during 2006 and the appointment of the individual experts by the Boards of Directors is expected during the first quarter of 2007. On the other hand, the recruitment of the Compliance Officer is severely delayed, mainly due to the reform program of the Bank Group giving priority to the recruitment of management staff. However, efforts to recruit professional staff will be enhanced from the beginning of 2007, and it is expected that the Compliance Officer will take up his/her position during the second quarter of 2007.



Two offices have been provided for CRMU. Additional office space for the new staff member and the Experts will be required when they have been appointed. Investigations of the nature handled by the IRM require a secure working environment where the Bank staff and others participating in a review process can be interviewed by the review panels. There is also need for secure storage facilities for data and documents collected for investigations. Funds for such equipment have been included in the 2007 budget, and the procurement of audio-visual recording equipment and safe storage cabinets has high priority in 2007.

Enhanced awareness of the IRM function and related issues

The purpose of the IRM is to provide people who are or likely to be adversely affected by the violation of the Bank's policies and procedures with the possibility to request the Bank Group to comply with its own policies. However, not all people living in areas where projects are being planned and implemented may be aware of their rights, and probably much less aware of the Bank Group's policies and procedures, including the possibility for them to lodge a complaint with the Independent Review Mechanism. For this reason CRMU has an important task in the coming months and years to disseminate information about the IRM to various stakeholders.

Only people empowered with relevant information about their rights will be able to find out whether they will be deprived of their rights and interests as a result of a violation of the Bank Group's policies and procedure.

Since CRMU came into function in 2006 many people outside the Bank have asked how they can access information about projects, policies and operational rules and directives. Whereas CRMU would assist potential beneficiaries and

other interested people and organizations with such information, the dissemination of such information is the responsibility of the operational departments in cooperation with the External Relations and Communication Unit. In the course of 2007, CRMU would pursue the matter and together with other departments and units within the ADB Group support different ways of improving access to the Bank's policies and procedures. CRMU on its part would look into the possibility of establishing direct links from the IRM Internet website to other sites on the Bank's website containing information on projects and policies relevant for the IRM function.



BOX 3
Compliance Review

Within 30 days of determining the eligibility of a Request for a Compliance Review, the Compliance Review and Mediation Unit (CRMU) shall submit a Report to the Boards of Directors, or the President if the project has not yet been approved by the Boards, with a recommendation whether or not to undertake a Compliance Review. If CRMU recommends a Compliance Review, the Report shall include terms of reference and a recommendation of two Experts from the Roster who together with the Director of CRMU shall form a Compliance Review Panel.

If the Director of CRMU does not recommend a Compliance Review, the Chairperson of the Roster shall review the Request and determine its eligibility and to present a separate Report to the Boards of Directors, or the President, with his/her recommendation whether or not to undertake a compliance review. The report shall include terms of references and a proposal of two experts for the Compliance Review Panel.

The Boards or Directors, or the President depending on the status of the project, authorize on a non-objection basis the Compliance Review.

Within 30 days of completion of its investigations, the Compliance Review Panel shall report its findings and recommendations to the Boards of Directors, or the President. If the report recommends remedial changes in the scope or implementation of the project, the relevant Bank department shall asses whether the recommendations are appropriate, and if so, include a timetable and an estimate of the human and financial resources required to implement the recommendations.

The Report of the Compliance Review Panel shall also include a proposal for monitoring the implementation of its recommendations.

The Boards of Directors, or the President depending on the status of the projects, will consider the report and decide whether or not to accept its recommendations. The Panels' reports, including the Management's responses and decisions by the Boards of Directors or the President, shall be published on the Bank Group's Internet website.

Mediation ("Problem-Solving") versus Compliance Reviews

Responding to questions received from different groups, it is emphasized that the trigger for CRMU to engage in a mediation process is the receipt and registration of a Request for Compliance Review or Mediation. In accordance with Clause 20 of the IRM Operating Rules and Procedures, the Director shall determine whether to register an eligible Request for Mediation or Compliance Review. However, a mediation exercise will only be pursued when all interested parties of a problem have expressed their willingness to try to resolve the issue at hand and without seeking to attribute blame or fault to any party. The ultimate objective of the mediation exercise is to find a solution which is agreeable and satisfactory to all interested parties, not to investigate possible violation of the Bank's policies and procedures. Paragraph 43 of the IRM Operating Rules and Procedures, however, underscores that upon the conclusion of a problem-solving exercise, whether or not successful, the Director of CRMU shall determine whether the Request is also warranted for a compliance review. The recommendations will be submitted to the Boards or Directors, or the President, as applicable, for ratification in accordance with paragraph 46.

Determination of eligibility of Requests following an unsuccessful mediation

The IRM Operating Rules and Procedures were approved by the Boards of Directors on 27 July 2006. Prior to the Boards' approval, CODE had requested the Director of CRMU to clarify in the IRM Annual Report the role of the Chairperson of the Roster of Experts with respect to determining the eligibility of a Request not recommended for a compliance review by the Director following an unresolved Mediation exercise. For Requests which do not go through mediation, the Chairperson reviews any determination by the Director of ineligibility for a compliance review. However, for Requests going through the mediation process, the Director's recommendations are submitted to the President or to the Boards of Directors who exercise oversight over the Independent Review Mechanism.

Whether an amendment of the IRM Operating Rules and Procedures to extend the role of the Chairperson of the Roster to review the Director's determination of ineligibility for compliance review following a mediation exercise is desirable, is a matter that may be further discussed during the scheduled review of the Independent Review Mechanism.

Publication of IRM information

An important aspect of the IRM is to maintain a high level of transparency at various stages of its proceedings. Besides keeping the Requestors and the Bank Group's Boards of Directors and Management directly informed, the general public will be able to follow the progress of IRM proceedings through publications on the Bank Group's Internet website designated for IRM activities. Information on this website will inter alia include:

1. The Registration of Requests for Compliance Review or Mediation;

2. CRMU problem-solving reports resulting from Mediation exercises;

3. CRMU reports (or reports from the Chairperson of the Roster of Experts) with recommendations whether or not to undertake a Compliance Review, including decisions made by the Boards of Directors or the President on the authorization of a compliance review;

4. The Compliance Review Panels' reports with findings and recommendations, inclu-



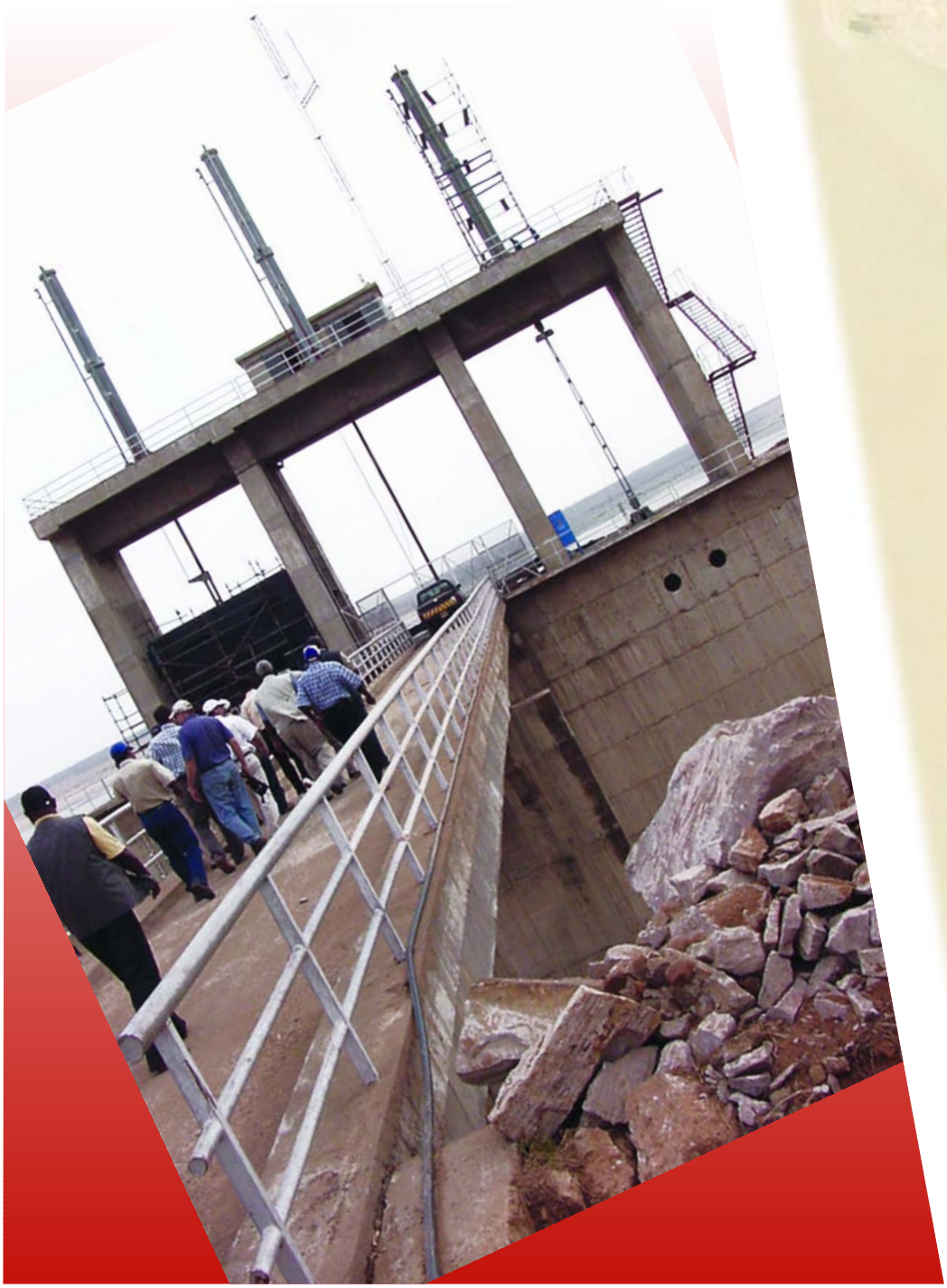
ding responses from the Bank's Management and the decisions by the Boards of Directors or the President.

5. Monitoring reports on the implementation of recommendations that have been approved by the Boards of Directors or the President.

The role of CRMU and Experts with respect to advising the Bank's Management

The Director of CRMU has during 2006 in a few cases been invited by Operational Departments and Management to provide advice on potential cases for complaints. In order to maintain his independence and to safeguard against possible conflict of interest at a later stage, the Director has declined from giving advice on specific Bank financed operations. The IRM Operating Rules and Procedures do not provide for such advisory services, except for the recommendations given in connection with Compliance Reviews on specific project matters and the related appropriateness of policies and procedures of the Bank Group. The Director of CRMU will in his Annual Report discuss trends, relating to the activities of the Bank Group, that have emerged from problem-solving exercises and compliance reviews, including lessons learnt about the impacts and challenges in implementing the Bank Group's operating policies and procedures.

The Independent Review Mechanism had at its disposal a budget of UA 350,330 for 2006. The actual costs for CRMU activities in 2006 including administrative expenditure and personnel costs amounted to UA 243,650. No costs were incurred for IRM mediations or compliance reviews.



> CRMU staff

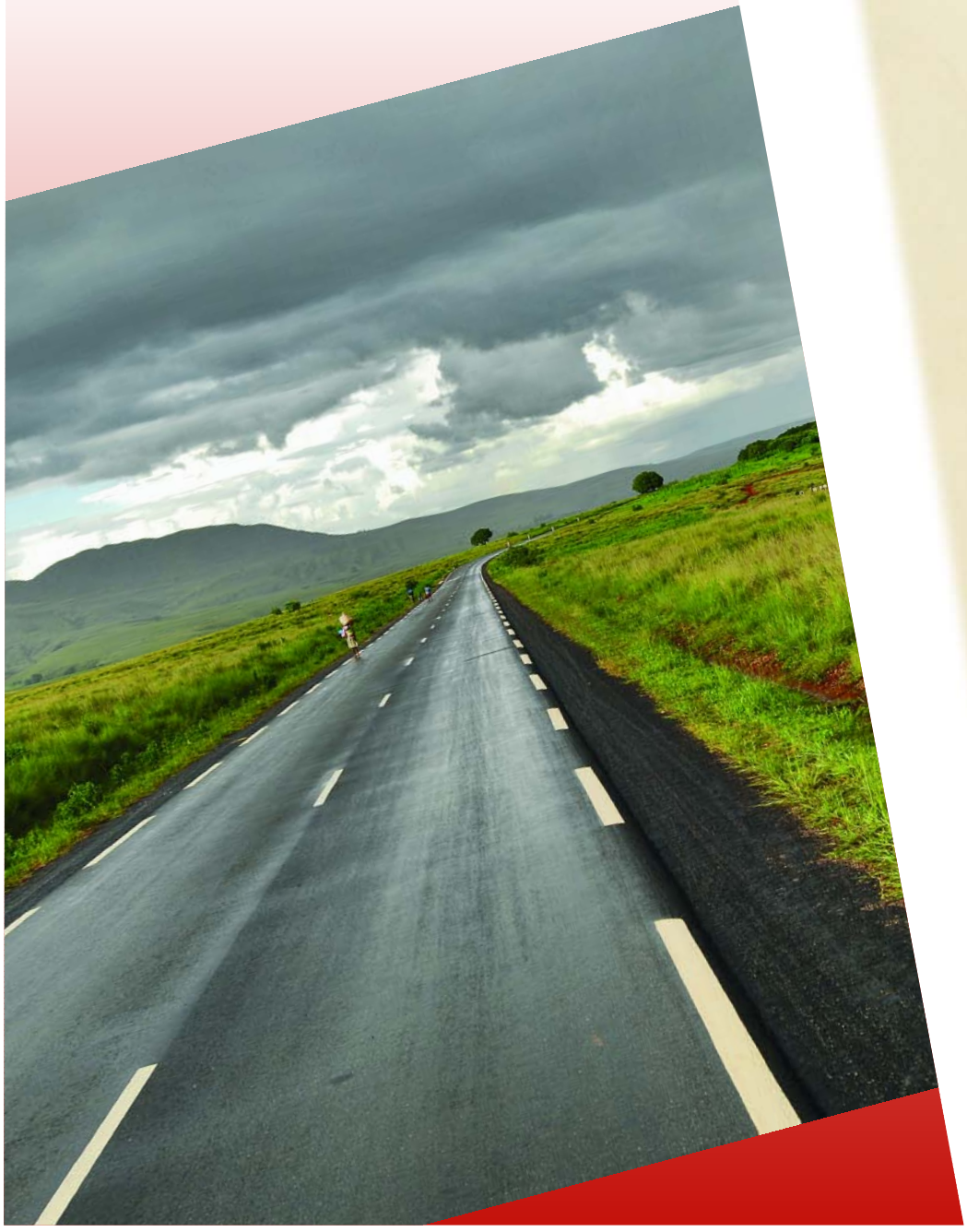
as of 31 December 2006



Mrs. Anasthasie Diakite and Mr. Per Eldar Sovik.

Mr. Per Eldar Sovik was appointed to Director of the Compliance Review and Mediation Unit in April 2006. Before taking up this position, he had served the Nordic Development Fund (NDF) for more than 9 years, since 2000 as Vice President. He has experience from project operations in various sectors, procurement, policy formulation, project and institutional evaluations, project monitoring and portfolio performance rating. Mr. Sovik has worked as adviser and in management positions for various bilateral and multilateral financing institutions in different African countries, such as Sudan, Kenya, Ethiopia, Ghana and Zambia. He has a Master degree in economics and social studies from Manchester University, United Kingdom, and a first degree comprising economics, management and law from the University of Bergen, Norway.

Mrs. Anasthasie Diakité has been employed as Senior Secretary for the Compliance Review and Mediation Unit since May 2006. She has worked for the ADB Group for more than 15 years as secretary to different departments. Most recently she worked as senior secretary in the office of the Director of the Department of Social Development – Central and Western Regions. Before joining the ADB Group, Mrs. Diakite worked for about 10 year as bilingual secretary at Esso Exploration (Exxon), and other international organizations such as UNDP, UNICEF, ECOBANK, COMAFRIQUE in Côte d'Ivoire. She has a higher secretarial degree (BTS), and has studied English language for 2 years at Language Tuition of Correspondence and Davies' School, London, United Kingdom, to become bilingual secretary.



> ANNEX

Operating Rules and Procedures of the Independent Review Mechanism



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I. INTRODUCTION

The Compliance Review and Mediation Unit ('CRMU') is the focal unit of an independent review mechanism established by the Boards of Directors of the African Development Bank (the 'Bank') and the African Development Fund (the 'Fund') pursuant to Resolutions B/BD/2004/9 – F/BD/2004/7 and B/BD/2004/10 adopted by the Boards of Directors on 30th June 2004 (collectively the 'Enabling Resolution').

The Enabling Resolution establishes the CRMU's authority and these Operating Rules and Procedures ('Rules') are adopted within the framework of the Enabling Resolution to provide detail to the operational provisions. The text is based on the Enabling Resolution.

a. Purpose

The CRMU has been established for the purpose of providing people adversely affected by a project financed by the Bank, the Fund, the Nigeria Trust Fund and other Special Funds administered by the Bank (collectively the 'Bank Group') with an independent mechanism through which they can request the Bank Group to comply with all its own policies and procedures. The mechanism is, therefore, available when two or more affected persons believe that the Bank Group has failed to comply with any of its policies and procedures; that this failure has, or threatens, to adversely affect them and that efforts have been made to ask the Bank Group's Management (the 'Management') itself to remedy the problem.

b. Functions

The role of the CRMU is to perform both compliance review and problem-solving functions. Through its compliance review function, the CRMU will, in the case of Bank Group-financed sovereign guaranteed projects, focus on issues of non-compliance by an institution within the Bank Group with any of its operational policies and procedures in respect of the design, implementation or supervision of such project, and, in the case of private sector and/or non-sovereign guaranteed Bank Group-financed projects, on social and environmental compliance. The problem-solving function will be used where complaints or grievances can also, or alternatively, benefit from problem-solving techniques to assist in trying to resolve the underlying issues. These techniques will include independent fact-finding, mediation, conciliation, dialogue facilitation and reporting.

The compliance review function will be triggered when the CRMU receives a request for review based on an eligible complaint. It will make a preliminary review of the complaint and determine whether the case is more appropriate for problem-solving or compliance review. The CRMU will oversee the problem-solving exercise. The CRMU will conduct the compliance review function with the assistance of external experts.

The CRMU will make recommendations to the Boards of Directors of the Bank and Fund (collectively the 'Boards') or the President of the Bank Group (the 'President'), as the case may be, on remedial action that may be taken following a problem-solving exercise and/or on the initiation of a compliance review exercise with respect to any particular complaint.

The CRMU may monitor the implementation of recommendations that it makes and that are approved by either the Boards or the President, as the case may be, following completion of a problem-solving or compliance review exercise.

c. Composition

A director (the 'Director') assisted by a compliance officer and secretarial support staff heads the CRMU. The CRMU will maintain a roster of three (3) experts ('Roster') appointed by the Boards on fixed, non-renewable terms. The CRMU shall provide administrative support to compliance review panels, comprising the Director and two experts from the Roster ('Expert(s)'), which undertake compliance review exercises.

d. Participants

During the preliminary review period – from the receipt of a complaint and request for review up to the time a decision is made on whether

to register the request – the CRMU will accept statements or evidence from (i) the Requestors or their representative; (ii) Management; and (iii) any other individual or group of individuals invited by the Director to present evidence or comments.

During a problem-solving exercise or substantive compliance review, the following shall be entitled to submit information or evidence relevant to the complaint: (i) any person who is either a party to the problem-solving exercise or review; and (ii) the authorized representative of a party or parties that satisfies the Director or a compliance review panel ('Panel'), as the case may be, that he has or they have a direct interest in the subject matter of the complaint, apart from the general public interest (collectively 'interested person(s)'.

II. SUBJECT MATTER OF REQUESTS

a. Scope

1. The CRMU is authorized to accept requests for review ('Request(s)') from two or more persons with a common interest ('Requestors') who allege that an actual or threatened material adverse effect on the affected persons' rights or interests arises directly from an act or omission of a member institution of the Bank Group as a result of the failure by the said institution to follow any of its own operational policies and procedures during the design, appraisal and/or implementation of a Bank Group-financed project. Requestors will be encouraged and required, prior to submitting a Request, to make good faith efforts to resolve their complaints with Management.

b. Limitations

2. CRMU is not authorized to receive Requests relating to:

i) procurement by the Bank Group or its borrowers from suppliers of goods and services financed by or expected to be financed by the Bank Group under a loan or grant agreement, or from losing tenders for the supply of such goods and services which shall continue to be addressed under other existing procedures;

ii) fraud or corruption;

iii) matters before the Administrative Tribunal of the Bank;

iv) matters before other judicial review or similar bodies;

v) frivolous or malicious complaints;

vi) complaints motivated by an intention to gain competitive advantage;

vii) matters over which the CRMU, a Panel, the President or the Boards has/have already made a recommendation or reached a decision after having received and reviewed a Request, unless justified by clear and compelling new evidence or circumstances not known at the time of the prior request;

viii) complaints filed more than 12 months after the physical completion of the project concerned or more than 12 months after the final disbursement under the loan or grant agreement or the date of cancellation of the undisbursed amount;

ix) actions that are the responsibility of other parties, including the borrower or potential borrower, and which do not involve any action or omission on the part of the Bank Group;

x) the adequacy or unsuitability of Bank Group policies or procedures; and

xi) private sector or other non-sovereign guaranteed projects except in instances of an alleged breach of the Bank-Group's agricultural, education, health, gender, good governance or environmental policies.

> Preparation of a Request

III. PREPARATION OF A REQUEST

3. The CRMU's operational proceedings begin when a Request is received. This section of the Rules is primarily designed to give further guidance to potential Requestors on what facts and explanations they should provide.

a. Who can file a Request?

4. The CRMU has authority to receive Requests that complain of a violation of the Bank Group's policies and procedures from the following people or entities:

a) any group of two or more people in the country or countries where the Bank Group-financed project is located who believe that as a result of the Bank Group's violation, their rights or interests have been, or are likely to be, adversely affected in a direct and material way. They may be an organization, association, society or other grouping of individuals; or

b) a duly appointed local representative acting on explicit instructions as the agent of adversely affected people; or

c) in exceptional cases, referred to in paragraph 13 below, a foreign representative acting as agent of adversely affected people.

b. Contents of a Request

5. In accordance with the Enabling Resolution, Requests should contain the following information:

a) a description of the project, stating all the relevant facts including the harm suffered by or threatened to the affected parties;

b) where possible, an explanation of how Bank Group policies, procedures or contractual documents were seriously violated;

c) where possible, a description of how the act or omission on the part of the Bank Group has led or may lead to a violation of the specific provision;

d) a description of how the parties are or are likely to be materially and adversely affected by the Bank Group's act or omission and what rights or interests of the parties were directly affected;

e) a description of the steps taken by the affected parties to resolve the violations with Bank Group staff, and explanation of how the Bank Group's response was inadequate;

f) in Requests relating to matters previously submitted to the CRMU, a statement specifying what new evidence or changed circumstances justify revisiting the issue; and

g) if some of the information cannot be provided, an explanation should be included.

c. Form of Request

Written

6. All Requests must be submitted in writing, dated and signed by the Requestors and contain their names, contact addresses and an address to which correspondence shall be sent (if different from the Requestors' address(es)). The Requestors and any other interested persons may, however, request that their identities be kept confidential, and if so, the reasons for such confidentiality.

Confidentiality

7. If the Request contains a confidentiality request under paragraph 6 above, the Director shall determine whether such confidentiality is warranted. All reasonable efforts shall be used to keep confidential the identities of the Requestors and other interested persons. If in the reasonable opinion of the Director, the review process cannot proceed with the requested confidentiality being maintained, the Requestors and other interested persons shall be notified accordingly. The Director shall then agree the terms of proceeding with the Requestors and other interested persons or terminate the process if it is not possible to agree upon such terms.

Format

8. No specific form is necessary: a letter will suffice.

Language

9. The working languages of the CRMU shall be the official languages of the Bank (i.e. English and French). Requests may be submitted directly by affected people themselves in their local language if they are unable to obtain a translation. Where Requests are not in either English or French, the time needed to translate and ensure an accurate and agreed translation may delay acceptance and consideration of the Request.

10. The CRMU will try and respond to Requests in the language of submission, where practicable, but will in any event respond in either of the official languages of the Bank Group with which the Requestors are most comfortable.

Representatives

11. Where the Requestors are affected persons, or entities, representing affected people, the Requestors or their representative shall attach to the Request written signed proof that they have authority to act on behalf of the affected people.

12. If a non-affected representative submits the Request, he or she must provide evidence of representational authority and the names and contact address of the affected parties must be provided. Proof of representational authority, which shall consist of the original signed copy of the affected parties explicit instructions and authorization, must be attached.

13. In addition, in cases of non-local representation, the CRMU will require clear evidence that there is no adequate or appropriate representation in the country or countries where the project is located.

Document

14. The following documents should be attached:

a. all correspondence with Bank Group staff;

b. notes of meetings with Bank Group staff;

c. a map or diagram, if relevant, showing the location of the affected parties or area affected by the project; and

d. any other evidence supporting the Request.

15. If all the information listed cannot be provided an explanation should be included with the Request.

d. Delivery of Request

16. Requests must be sent by registered or certified mail or delivered by hand in a sealed envelope against receipt to the CRMU at the Bank Group's [principal office or Temporary Relocation Agency ('TRA')] or to the Bank Group's resident representative in the country or countries where the project is located. In the latter case, the resident representative shall, after issuing a receipt to the Requestors, promptly forward the request to the CRMU through the next pouch.

e. Advise on Preparation

17. People or entities seeking advice on how to prepare and submit a Request may contact the CRMU, which will provide information or may meet and discuss the requirements with potential Requestors.

f. Effect of Filing a Request

18. Notwithstanding any other provision in these Rules, the filing, assessment, registration or processing of a Request or the carrying out of a compliance review or problem-solving exercise shall not have the effect of suspending processing of, or

> Procedures on Receipt of a Request

disbursements in respect of, the relevant Bank Group-financed project. If at any time during the processing of a Request, the Director is of the opinion that serious, irreparable harm shall be caused by the continued processing or implementation of the Bank Group-financed project, the Director may make an interim recommendation to suspend further work or disbursement. Such recommendation shall be considered in light of any contractual obligation or other relevant policies of the Bank Group and the decision concerning such recommendation shall be made:

a) by the relevant Bank Group officer or body vested with the power to make such a decision; and

b) only if the Bank Group has the right to suspend or cancel in accordance with the terms of any applicable loan and/or investment and/or other agreement.

IV. PROCEDURES ON RECEIPT OF A REQUEST

19. When the CRMU receives a Request, the Director, on the basis of the information contained in the Request, shall, within fourteen (14) days of receipt of the Request, conduct a preliminary review to determine if the Request contains a bona fide allegation of harm arising from a Bank Group-financed operation and thereafter either register the Request, or ask for additional information or find the Request outside the CRMU's mandate.

a. Register

20. If a Request contains a bona fide allegation of harm arising from a Bank Group-financed operation, and it appears to contain sufficient required information, the Director shall make a determination on whether the Request should be: (i) registered for a problem-solving exercise; and/or (ii) considered further for recommendation for a compliance review. Once this determination is made, the Director shall register the Request in the register of Requests (the 'Register'); promptly notify the Requestors, the Boards and the President of the registration, the proposed remedial course of action and the reasons therefore and transmit to the Boards and/or the President as the case may be a copy of the Request with the accompanying documentation, if any.

Contents of Notice

21. The notice of registration shall:

a) record that the Request is registered and indicate the date of the registration and dispatch of that notice;

b) the notice will include the name of the project, the country or countries where the project is located, the names of the Requestors unless anonymity is requested, and a brief description of the Request;

c) notify the Requestors that all communications in connection with the Request will be sent to the address stated in the Request, until another address is indicated to the CRMU; and

d) request Management to provide the CRMU, within twenty-one (21) days after receipt of the notice and Request, with written evidence that it has complied, or intends to comply with the Bank Group's relevant polices and procedures. The notice shall specify the due date of the response.

b. Request Additional Information

22. If the Director finds the contents of the Request or documentation on representation insufficient, he or she may ask the Requestors to supply further information.

23. Upon receipt of a Request, the Director shall send a written acknowledgment to the Requestors, and will specify what additional information is required.

24. The Director may decline to register a Request until all necessary information and documentation is filed.

c. Outside Scope

25. If the Director finds that the matter is without doubt manifestly outside the CRMU's mandate, he or she shall notify the Requestors of his or her refusal to register the Request and of the reasons therefore. This will include, without limitation, Requests that:

a) are clearly outside the CRMU's mandate including those listed in paragraph 2 above;

b) do not show the steps taken or effort made to resolve the matter with Management;

c) are from a single individual or from a non-authorized representative of affected parties;

d) are correspondence, including but not limited to letters, memoranda, opinions, submissions or requests on any matter within the CRMU's mandate which are not requests for a review; and

e) are manifestly frivolous, absurd or anonymous.

Records

26. The number of such Requests and communications received shall be noted in the Register on a quarterly basis and the yearly total included in an annual report prepared by the CRMU (the 'Annual Report').

d. Need for Review

27. In cases where additional information is required, or where it is not clear whether a Request is manifestly outside the CRMU's mandate, the Director shall designate an Expert to review the Request and advise on whether it is eligible.

e. Revised Request

28. If the Requestors receive significant new evidence or information at any time after the initial Request was submitted, they may consider whether or not it is serious enough to justify the submission of a revised Request.

29. If a revised Request is submitted the time period for Management's response and the CRMU or the Panel's recommendation, as the case may be, will begin again from the time such revised Request is registered.

f. Extension of Time Periods

30. Any time period referred to in these Rules may be extended by the Director for as long as is strictly necessary to ensure full and proper investigation, assessment, review and initiative. Any such extension shall be promptly notified to the Requestors and all interested persons. In considering whether any extension is required, the Director shall take into account, inter alia, the location of the Bank Group-financed project, the need for Bank staff to participate in the process, any time-sensitive issues relating to the Bank Group-financed project, the availability of Experts and the need for translation of communications.

V. MANAGEMENT'S RESPONSE

31. Within twenty-one (21) days after being notified of a Request, Management shall provide the CRMU with evidence that it has, or intends to comply with the Bank Group's relevant policies and procedures. After the CRMU receives Management's response, it shall promptly enter the date of receipt in the Register.

32. If there is no response from Management within twenty-one (21) days, the CRMU shall notify the Boards and the President accordingly and send a copy to the Requestors.

Clarification

33. In order to undertake a problem-solving exercise and/or make an informed recommendation, the CRMU or the Panel, as the case may be, may request clarification from Management; in the light of Management's response, request more

information from the Requestors; and provide relevant portions of Management's response for comment. A time limit for receipt of the information requested shall be specified; and

a) whether or not such clarification or information is received within the time limit, undertake and conclude the problem-solving exercise and/or make its recommendation to the Boards or the President as hereinafter provided or otherwise terminate the process within twenty-one (21) days of receipt, or at the expiry of the time limit for the receipt, of Management's clarification; or

b) in the event it is not possible for the Requestors to provide the information quickly, the CRMU, or the Panel, as appropriate may advise the Requestors to submit an amended Request; the Boards and Management will be notified that the process will recommence when the amended Request is received.

VI. PROBLEM-SOLVING

a. Problem-Solving Exercise

34. In considering whether a problem-solving exercise should be undertaken, the Director shall take into consideration:

a) whether the problem-solving exercise is appropriate and may assist in addressing undue, incidental effects resulting from Bank Group-financed project conditionalities agreed in the context of the project concerned;

b) whether the problem-solving exercise is likely to have a positive result;

c) whether the Requestors and any interested persons are amenable to such problem-solving exercise;

d) whether the Bank Group has or continues to have sufficient leverage to influence change;

e) whether the conduct of a problem-solving exercise may interfere with the conduct of a compliance review, if any;

f) whether the problem-solving exercise may duplicate, or interfere with, or may be impeded by, any other process pending before a court, arbitration tribunal or review body (such as an equivalent mechanism at another co-financier) in respect of the same matter or a matter closely related to the Request; and

g) any other relevant matters.

35. If, as provided in paragraph 34 above, the Director determines that a Request may be handled through a problem-solving exercise, he or she shall invite all the relevant parties, namely the Requestors, Management representatives and other interested persons to participate in the exercise.

36. The objective of a problem-solving exercise is to restore an effective dialogue between the Requestors and any interested persons with a view to resolving the issue or issues underlying a Request, without seeking to attribute blame or fault to any such party. A problem-solving exercise may be conducted only if the Request has been declared eligible in accordance with paragraph 20, but irrespective of whether a compliance review is conducted.

37. In undertaking the problem-solving exercise, the Director may use a variety of problem-solving techniques, including independent fact-finding, mediation, conciliation, dialogue facilitation, investigation and reporting.

b. Problem-Solving Report

38. The Director shall prepare a separate problem-solving exercise report ('Problem-Solving Report') within thirty (30) days of the conclusion of the problem-solving exercise and shall include:

a) the facts underlying the Request;

b) the considerations on which the conclusions and recommendations, if any, are based; and

c) any relevant comments from the Requestors and any interested persons.

Successful Problem-solving Exercise

39. If the problem-solving exercise is successful, the Director will include in the Problem-Solving Report the solution agreed upon by the Requestors, Management and any interested person. The Problem-Solving Report shall be provided to all the participants in the problem-solving exercise and to the Boards and the President.

40. The CRMU will monitor the implementation of the solution agreed upon in a problem-solving exercise. Where the project forming the subject matter of the Request has not yet been presented to the Boards for their approval, the Director shall submit the monitoring report to the President and, as and when the project is submitted for Board approval, to the Boards. Any report to the President shall be immediately copied to the Boards.

Unsuccessful Problem-Solving Exercise

41. If the problem-solving efforts are not successful, either within a period of three (3) months from the commencement of the problem-solving exercise or by common consent of the parties, the Director will declare the problem-solving exercise unsuccessful and submit in the Problem-Solving Report a description of the efforts made, the reasons for their failure and make recommendations on steps the Bank Group could take to deal with the unresolved issue. The Problem-Solving Report should be submitted to the participants in the problem-solving exercise, the Boards and the President.

42. The President, in cases where the project that is the subject matter of the Request has not yet been submitted for Board approval, and the Boards, in cases of projects that they have already approved, will decide whether to accept or reject the Director's recommendations for remedial action. If the President or Boards decide to reject the recommendation, they will inform all participants in writing of their reasons for doing so. A summary of the decision and the Problem-Solving Report shall, subject to the Bank Group's Disclosure of Information Policy and any requests for confidentiality, be published on the Bank Group's website.

c. Conversion of a Problem-Solving Exercise to Compliance Review

43. Where at the conclusion of a problem-solving exercise, whether or not successful, the Director determines, as provided in paragraph 44 below, that a compliance review is warranted, the Director may include in the Problem-Solving Report a recommendation that the project undergo a compliance review. Such a recommendation will be submitted to the President or Boards, as the case may be, for ratification in accordance with paragraph 46.

VII. COMPLIANCE REVIEW

a. Recommendation for a Compliance Review

44. If, as provided in paragraphs 20, 33 or 43 above, the Director determines that there is prima facie evidence the Requestors have been harmed/threatened with harm by a Bank Group-financed project and that the harm or threat was caused by the failure of the Bank Group's staff and Management to comply with any of the Bank Group's relevant policies and procedures, he or she shall within thirty (30) days of such determination submit a report recommending a compliance review of the project in issue to the (a) President, with a copy to the Boards, if the Request relates to a Bank Group-financed operation that has not been approved by the Boards, or (b) Boards if the Request relates to a Bank Group-financed operation that has been approved by the Boards.

45. The compliance review recommendation shall include draft Terms of Reference which shall set out the scope and time frame for the compliance review and shall provide an estimate of the budget and a description of additional resources required to complete the review and shall identify two Experts from the Roster (one of whom shall chair the Panel) who shall constitute, together with the Director, a Panel to conduct the compliance review.

46. In considering the recommendation for a compliance review, the Boards or the President, as the case may be, may:

a) approve the recommendation(s) on a 'non-objection' basis; or

b) remit the Request to the Director or to an Expert to reassess the recommendation regarding the membership and/or chair of the Panel, and the draft Terms of Reference for the compliance review, with a new recommendation, if any, being submitted to the President or the Boards as the case may be.

47. Any decision made by the President pursuant to paragraph 46 in respect of an operation that has not been approved by the Boards shall be immediately copied to the Boards. Subject to the provisions of the Bank Group's Disclosure of Information Policy (in particular those relating to the disclosure of confidential information and/or documents), the recommendation for a compliance review and the decision made by the President or the Boards, as the case may be, pursuant to paragraph 46 shall be promptly communicated to the Requestors and any other interested person, and a summary of the decision and the recommendation for a compliance review shall be published on the Bank Group's website.

b. Denial by Director of a Compliance Review

48. Where, following the receipt and registration of a Request in which the Requestors have sought a compliance review and such Request is not otherwise processed through a problem-solving exercise, the Director determines that the Request is not eligible for a compliance review, the Request shall be referred to the Chairperson of the Roster who shall determine the eligibility or otherwise of the Request for compliance review within twenty-one (21) days of the Director's determination.

49. If the Chairperson of the Roster determines that the Request is not eligible for a compliance review, he or she shall inform the Boards or the President (where the project in issue has not been approved by the Boards) of the ineligibility. If the Chairperson of the Roster determines that the Request is eligible for a compliance review, he or she shall recommend to the Boards or to the President, as the case may be, that a compliance review be authorized. Such compliance review recommendation shall include the details prescribed in paragraph 45 above.

c. Conduct of a Compliance Review

50. The Panel shall conduct the compliance review in accordance with the relevant approved Terms of Reference and within the required time frame. The Panel shall take any appropriate steps required to conduct the compliance review, and in particular may:

a) solicit additional oral or written information from, or hold meetings with, the Requestors and any interested party;

b) undertake site visits to the project(s) in issue;

c) retain additional expertise in accordance with paragraph 74; and

d) take any other action as may be required to complete the compliance review within the required time frame.

Prior to taking such steps, the Panel shall take into account the budget implications and administrative requirements of such steps.

d. Panel Deliberations

51. The Experts on the Panel shall each have one (1) vote and decisions of the Panel shall be taken by simple majority. The Director shall participate in all aspects of a compliance review undertaken by a Panel but shall have a vote only in the event of a deadlock in a Panel's deliberations.

e. Compliance Review Report

Contents

52. Within thirty (30) days of the completion of its investigations, the Panel shall report its findings and recommendations in a report ('Compliance Review Report'), which shall:

a) include a summary discussion of the relevant facts, the respective positions of any interested party in relation to the subject matter of the Request and the steps taken to conduct the compliance review;

b) set out the findings of the Panel which, unless otherwise provided in the Terms of Reference, shall be limited to determining whether or not any action by the Bank Group, or failure to act, in respect of a Bank Group-financed project has involved one or more material violations of policies in accordance with paragraph 1;

c) if the Panel concludes that any Bank Group action, or failure to act, in respect of a Bank Group-financed project has involved one or more material violations of policies in accordance with paragraph 1, recommend:

i. any remedial changes to systems or procedures within the Bank Group to avoid a recurrence of such or similar violations;

ii. any remedial changes in the scope or implementation of the Bank Group-financed project, subject to consideration of any restrictions or arrangements already committed to by the respective Bank Group institution or any other relevant party in existing project-related agreements; and/or

iii. any steps to be taken to monitor the implementation of the changes referred to in (i) and (ii) above, and the person in charge of such monitoring (who shall be the Director and an Expert so appointed unless the Boards or the President, as the case may be, decide otherwise); and

d) attach a copy of the original Request, the response of the relevant Bank department(s) and a list of supporting documents relied upon in the compliance review.

If recommendations set out in sub-paragraph (c) above are included in the Compliance Review Report, the Compliance Review Report shall include an assessment from the relevant Bank department setting out whether such recommendations are appropriate and if so, a timetable and an estimate of the human and financial resources required to implement such recommendations, if approved by the Boards or the President, as the case may be.

No Award of Compensation

53. The Compliance Review Report may not recommend the award of compensation or any other benefits to the Requestors or any other person, entity or government beyond that which may be expressly contemplated in a relevant Bank Group policy.

Impartiality

54. Recommendations and findings of a Compliance Review Report shall be based only on the facts relevant to the Request under consideration and shall be strictly impartial.

Submission

55. The Panel shall submit the Compliance Review Report for consideration and decision to:

a) the President, with a copy to the Boards for information, if the relevant Bank Group-

financed project has not been approved by the Boards at the time the Compliance Review Report is ready for submission, or

b) the Boards, if the Boards have approved the relevant Bank Group-financed project at the time the Compliance Review Report is ready for submission.

Communication of the Compliance Review Report

56. Subject to the provisions of the Bank Group's Disclosure of Information Policy (in particular those relating to the disclosure of confidential information and/or documents), the Compliance Review Report shall be made available to the Requestors and any other interested persons at the same time as it is submitted for consideration and decision in accordance with paragraph 55.

Contents of Decision

57. The Boards or the President, as the case may be, shall decide whether or not to accept the findings and recommendations in the Compliance Review Report. Any decision made by the President in respect of a Bank Group-financed project that has not been approved by the Boards shall be immediately copied to the Boards.

Publicity of Compliance Review decision

58. Subject to the provisions of the Bank Group's Disclosure of Information Policy (in particular those relating to the disclosure of confidential information and/or documents), the decision made by the Boards or the President, as the case may be, pursuant to paragraph 57 shall be promptly communicated to the Requestors and any interested party. Subject to the same provisions, such decision and the Compliance Review Report shall be published on the Bank Group's website.

Monitoring of changes

59. The persons in charge of monitoring the implementation of the changes referred to in sub-paragraph 52(c), shall report on such implementation to the Boards or the President, as the case may be, as often as required and in any event not less than once a year. Any report to the President shall be immediately copied to the Boards.

VIII. ADMINISTRATION OF THE CRMU

a. Term of Director

60. The Director shall be appointed by the President, in consultation with the Boards, for a five (5) year term that may be renewed only once for a successive five (5) year period. The Director shall not have worked for the Bank Group in any capacity whatsoever for the period of at least two (2) years prior to his or her appointment and shall not be entitled to work for the Bank Group in any capacity whatsoever following the expiry of his or her appointment.

b. Responsibilities of the Director

61. The Director shall have overall responsibility for the day-to-day operations and external relations of the CRMU, which shall include, but not be limited to:

a) arranging for the selection of Experts for the Roster as required upon resignation or expiration of an Expert's term of appointment in accordance with the Bank Group's procurement rules applicable to the selection of consultants and preparing the President's recommendation and reports to the Boards concerning the appointment and removal of Experts;

b) establishing, with the approval of the President, such administrative procedures and guidelines necessary for the proper functioning of the CRMU and the Roster;

c) overseeing the establishment and maintenance of the Register open to the public on the Bank Group's website, which shall contain significant data concerning the

delivery and registration of Requests, as well as the conduct and outcome of problem-solving exercises and compliance reviews;

d) maintaining a documentary record for each Request, as well as a library of all materials relevant to the functioning of the CRMU;

e) sending out notices of registered Requests to all interested persons; noting the progress of each Request on the Register and, if required by the circumstances, providing additional updates on such progress to the Requestors and other interested persons; responding to requests for information from Requestors and other interested persons in respect of a particular Request;

f) dealing with any requests for information about the CRMU; publicizing and being the spokesperson of the CRMU;

g) insuring that all timeframes are met and approving any extensions in accordance with paragraph 30; liaising with other CRMU officers and the Experts, and ensuring that such CRMU officers and Experts fulfill their responsibilities generally and in accordance with any applicable Terms of Reference;

h) without prejudice to the powers of the Boards and the President under these Rules, taking any steps required to ensure the integrity of CRMU processes, including the replacement of any Expert whose impartiality or independence in any compliance review is in doubt;

i) arranging for any translations of Requests, reports or other documents that may be required;

j) providing administrative and logistical support to other CRMU officers and the Experts, including without limitation, making and supervising arrangements for meetings, site visits and CRMU proceedings in the Bank Group's principal office or elsewhere;

k) administering the budgetary allocations for the CRMU;

l) overseeing the establishment and maintenance of one or more databases of consultants, researchers, technical experts, mediators, conciliators, facilitators, translators, interpreters, etc., whose services may be called upon in connection with compliance reviews and problem-solving exercises;

m) undertaking any other tasks that may be necessary or incidental to the administration of the CRMU and/or the Roster.

c. Delegation by Director

62. In his or her absence, the Director may delegate his or her authority to members of staff in his or her office in accordance with the Bank Group's Delegation of Authority Manual as may be amended from time to time.

d. Appointment of Experts to Roster

Roster

63. The Roster shall comprise three (3) individuals selected in accordance with the Bank's procurement rules applicable to the selection of consultants and appointed by the Boards on the recommendation of the President. The Experts shall be paid a retainer during their service on the Roster. The retainer, other remuneration and terms of appointment of Experts shall be determined by the Boards, upon the recommendation of the President, such terms to include the right of the Boards to remove an Expert for cause without cost or liability to the Bank. The Experts shall be reimbursed their travel and other expenses on the same basis as judges of the Administrative Tribunal of the Bank. The Boards shall appoint a Chairperson of the Roster from amongst the Experts and the Chairperson shall serve in such capacity for the duration of his or her appointment unless the Boards otherwise determine.

Selection Criteria

64. The Experts shall be nationals of members of the Bank or State participants in the Fund and shall be selected on the basis of their knowledge of Africa, their experience, expertise, integrity and ability to act independently. In making these appointments, the Boards and the President shall pay due regard to maintaining a reasonable degree of diversity of expertise, experience, nationality and gender.

Term of Experts

65. Except for the first three (3) Experts, who shall be appointed by lot for non-renewable terms of three (3), four (4) and five (5) years respectively, Experts shall be appointed to the Roster for a non-renewable term of five (5) years. If an Expert is engaged in a compliance review at the time the Expert's term expires, the term shall be extended for such period as may be necessary to complete the compliance review, unless the Board removes the Expert in accordance with paragraph 72.

Restriction on Bank Group employment

66. An Expert shall not have worked for the Bank Group (either as a staff member, Bank official, Executive Director, Alternate Director, Executive Director's Assistant or Adviser or consultant) for at least two years prior to being appointed to the Roster, and, if called upon to work for the CRMU during his or her term, shall not be entitled to work for the Bank Group (either as a staff member, Bank official, Executive Director, Alternate Director, Executive Director's Advisor or Assistant or consultant) for a period of two years after the expiry of his or her term.

Capacity of Experts

67. When performing CRMU functions, Experts shall serve in their individual, personal capacity and shall be subject to the same privileges and immunities, relevant Code of Conduct provisions, conflict of interest rules and confidentiality provisions as experts performing missions for the Bank Group. Experts shall be required to act impartially and independently and shall not participate in a compliance review of any Request related to a matter in which they have or had a personal interest or significant involvement in any capacity. Experts shall not interfere in the political affairs of members of the Bank nor shall they be influenced in their deliberations or decisions by the political character of the member(s) concerned. Experts shall immediately disclose to the Director:

a) any circumstances which might be deemed to affect their impartiality or independence in the discharge of their CRMU functions; and

b) any attempt to interfere with or improperly influence the discharge of their CRMU functions.

No communications by Experts

68. Except as authorized by the Boards or the President, as the case may be, Experts shall refrain from making any statement, whether private or public, to parties other than the Requestors and any interested person on matters under consideration by the CRMU. Nothing in this paragraph shall prevent an Expert from undertaking any type of public consultation that he or she considers necessary as part of a compliance review or problem-solving exercise, as the case may be.

Training of Experts in Bank Group matters

69. Experts shall be required to attend meetings organized by the Director for at least five days in each calendar year to enhance their knowledge of the Bank Group's policies, procedures and operations and to discuss the functioning of the CRMU. The Director shall notify the Experts of any such meetings and shall set the agenda.

Access to documentary records

70. The Experts shall have full access to such documentary records maintained pursuant to sub-paragraph 61(d). Whenever

an Expert obtains additional materials in the course of a compliance review, the Expert shall immediately provide a copy of such material for safekeeping in the documentary record.

Replacement of Experts

71. If an Expert appointed to a Panel to conduct a compliance review resigns or is unable to complete such assignment, the Director shall make a recommendation to the Boards through the President on a proposed course of action to ensure the prompt completion of the compliance review.

Removal of Experts

72. The Boards may remove Experts from the Roster at any time for cause.

IX. CONDUCT OF CRMU PROCEEDINGS

a. Proceedings generally

73. All CRMU inquiries, assessments, reviews and exercises shall be carried out as expeditiously as possible without compromising the integrity or comprehensiveness of such process. The Director and Panels shall take due account of the need to include any Bank staff, Requestors and any other interested persons who may have relevant information. The Director and Panels shall take care to minimize the disruption to the daily operations of all involved parties.

b. Additional expertise

74. The Director and/or a Panel shall be entitled to seek additional expertise to assist with an inquiry, assessment, review or exercise, if this is necessary for the successful performance of their duties and responsibilities. The CRMU shall first determine whether the relevant expertise is available from within the Bank Group without compromising the independence of the process. If such expertise cannot be made available due to a conflict of interest, or an appearance of a conflict of interest, the expertise may be sought externally, provided that the selection and appointment of any consultants, researchers, interpreters, translators and/or other technical experts shall:

a) be made, to the extent possible, with due regard to the Bank Group's procurement rules regarding the selection and appointment of consultants and in consideration of the short time periods within which tasks requiring external expertise are to be completed;

b) be made under the supervision of the Director; and

c) be subject to the availability of the necessary budgetary resources.

c. Access to staff and information, and confidentiality

75. When conducting any inquiry, assessment or review for a problem-solving exercise or a compliance review, the Director or a Panel shall have full access to relevant Bank Group staff and files, including electronic files, cabinets and other storage facilities and Bank staff shall be required to cooperate fully with them. However, the access to, and use and disclosure of, any information gathered by the Director or a Panel during any such process shall be subject to the Bank Group's Disclosure of Information Policy, any requests by an interested person for confidentiality and any other applicable requirements to keep sensitive commercial information confidential (such as a confidentiality agreement). No CRMU officer, Expert, staff member, consultant, researcher, interpreter, translator and other technical expert employed by the CRMU may release a document, or information based thereon, which has been provided on a confidential basis without the express written consent of the party who has provided such document.

d. Legal matters

76. The General Counsel shall, upon request, provide all legal information and advice needed in respect of the Bank Group's policies and procedures and the Bank Group's rights and obligations in respect of the Bank Group-financed project to which a Request relates.

X. GENERAL PROVISIONS

a. Annual report

77. The Director shall prepare the Annual Report describing the activities of the CRMU during the preceding year, including a discussion of any identifiable trends relating to the activities of the Bank Group that have emerged from the CRMU's problem-solving exercises and compliance reviews and of the lessons that the CRMU has learnt about the impacts and challenges in implementing the Bank Group's operating policies and procedures.

78. The Annual Report shall be prepared in consultation with all the Experts on the Roster and shall be submitted to the Boards and the Boards of Governors for information, and shall be published on the Bank Group's website.

b. Budget

79. The Bank Group shall provide such budgetary resources as shall be sufficient to allow all of the activities permitted by these Rules to be carried out. The Director shall prepare an annual budget indicating the level of resources required to carry out its mandate.

c. Business Days

80. Any reference to 'days' in these procedures shall be deemed to be a day on which the Bank Group is open for business in its principal office.

d. Immunities and Privileges

81. Nothing contained in these Rules shall be deemed to be a waiver by the Bank or the Fund of the immunities and privileges conferred by the Agreement establishing the African Development Bank, the Agreement establishing the African Development Fund, the Agreement establishing the Nigeria Trust Fund and the agreements establishing any other Special Funds administered by the Bank.

e. Amendment and effect of the Rules

82. The Boards may amend these Rules. These Rules shall prevail in the event of any inconsistency between these Rules and any other Bank Group document and in the absence of an express provision to the contrary.





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