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Activity Report 2020

The Environmental and Social Complaints Mechanism

The AFD Environmental and Social (E&S) Complaints Mechanism was set up in spring 2017 to strengthen the Agency's response to its transparency and accountability requirements. It was part of an overall context of good practices put in place by the major donors: the World Bank, International Finance Corporation (IFC), the European Investment Bank (EIB), the European Bank for Reconstruction and Development (EBRD), and the German Investment Corporation (DEG)/the Dutch Entrepreneurial Development Bank (FMO). It also helped to fulfil AFD Group's CSR commitments, as well as meet the expectations of civil society, parliamentarians, extra-financial rating agencies and the National Consultative Commission on Human Rights.

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1. INTRODUCTION

A- CONTEXT

The Environmental and Social (E&S) Complaints-Management Mechanism¹ (hereafter the "Mechanism") is an out-of-court mechanism that allows any individual, group or legal entity affected by the environmental or social aspects of an AFD-funded project to file a complaint. It promotes a constructive approach to dispute resolution, based on finding amicable solutions.

For complaints that meet the registration and admissibility criteria, it provides two ways of treating complaints, through conciliation and/or a compliance review:

- 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 of the AFD financing on the dispute giving rise to the complaint.
- The compliance review process aims to determine whether or not AFD has complied with its E&S risk management procedures on an AFD-financed project for which a financing agreement has been signed.

Three years after its creation, the Mechanism saw an increase in its activity in 2020 with fourteen new complaints received that year.²

It should be noted that in early 2019 Proparco, AFD Group's private-sector financing arm, joined a similar complaints-management mechanism developed by Germany's DEG and the Netherlands' FMO, with which Proparco regularly co-finances projects. A first complaint was received in December 2020. The AFD and Proparco Mechanisms keep each other informed on their respective activity and, if need be, work in close cooperation.

B- MANAGEMENT AND SUPERVISION

The Mechanism is managed by the Complaints Office (hereafter the "Complaints Office") hosted within the AFD Strategy, Partnerships, and Communication Department (SPC). The Ethics Advisor, working under the Agency's Chief Executive, oversees the Mechanism.

In 2020, the team was renewed:

- At management level: a new Complaints Officer was appointed, as well as her new manager
- At the supervisory level: a new Ethics Advisor was appointed.

C- TOWARDS A MORE STABLE FUNCTIONING IN 2020

Following its 2017-2018 pilot phase, the Mechanism's functioning was revised in 2019. This aimed to increase its responsiveness and bolster the capacity to treat a larger number of complaints by drawing on independent external expertise. Following a competitive bidding process, an initial panel of nine independent experts was contracted in 2019 and 2020. These experts can be called on individually to assist with the phases of complaint admissibility reviews, compliance reviews and conciliations.

The panel of experts was renewed in December 2020 for a two-year period, renewable once.

The revision of the Mechanism adopted in 2019 foresees the possibility for AFD's internal Mediator to intervene as conciliator in the event that a conciliation be proposed. In order to avoid any conflict of interest, this possibility has not been used since the September 2020 decision to entrust the internal Mediator with the Ethical Advisor function. Since then, conciliations are systematically entrusted to external conciliators, with the Ethical Advisor intervening in her supervisory function.

One significant step forward in 2020 is that the clause presenting the Mechanism is now mandatorily included in all financing agreements. This clause ensures the contractual character of the Mechanism and its ways of proceeding (waiver of banking secrecy) should complaints arise about the projects concerned. The clause explains how the Mechanism functions and thus encourages the beneficiary's adherence to the Mechanism, particularly to the conciliation process in which he/she/it could participate were a complaint to arise during the course of the project. It also informs the beneficiary about the publication of information and documents relating to an environmental and social complaint, particularly information on the complaint and its treatment.

¹ <https://www.afd.fr/en/e-s-complaints-mechanism>

² See the summary table, p.5

2. COMPLAINTS RECEIVED

In 2020, fourteen complaints were received, including eight since September 2020.

A- THE MECHANISM'S SCOPE

The Mechanism's Rules of Procedure, published on the AFD website³, allow any individual, group, or legal entity affected by an environmental or social harm caused by an AFD-financed project to file a complaint.

The complaint must be received within two years after the complainant discovers the harm(s) and within a maximum of five years after AFD has made its final loan, subsidy, or grant disbursement.

The complaint must be made as a last resort and only after the complainant has not found satisfaction through the out-of-court avenues provided by the financing beneficiary, or after the complainant describes a situation where such steps could not be taken because doing so would risk worsening the dispute.

To be registered, a complaint must specifically meet the following criteria. It must:

- involve an AFD-funded project in a country outside France, except NGO and FFEM projects⁴,
- cover one or more environmental and/or social harms,
- describe previous efforts taken to resolve the dispute with the financing beneficiary.

B- OVERVIEW

Overview of complaints received

Year	Received	Not registered	Closed	Under analysis or treatment	Monitored
2017	2	1	0	0	1
2018	8	8	0	0	0
2019	12	7	3	2	0
2020	14	8	1	5	0
Total	36	24	4	7	1

Overview of admissible complaints and associated treatment

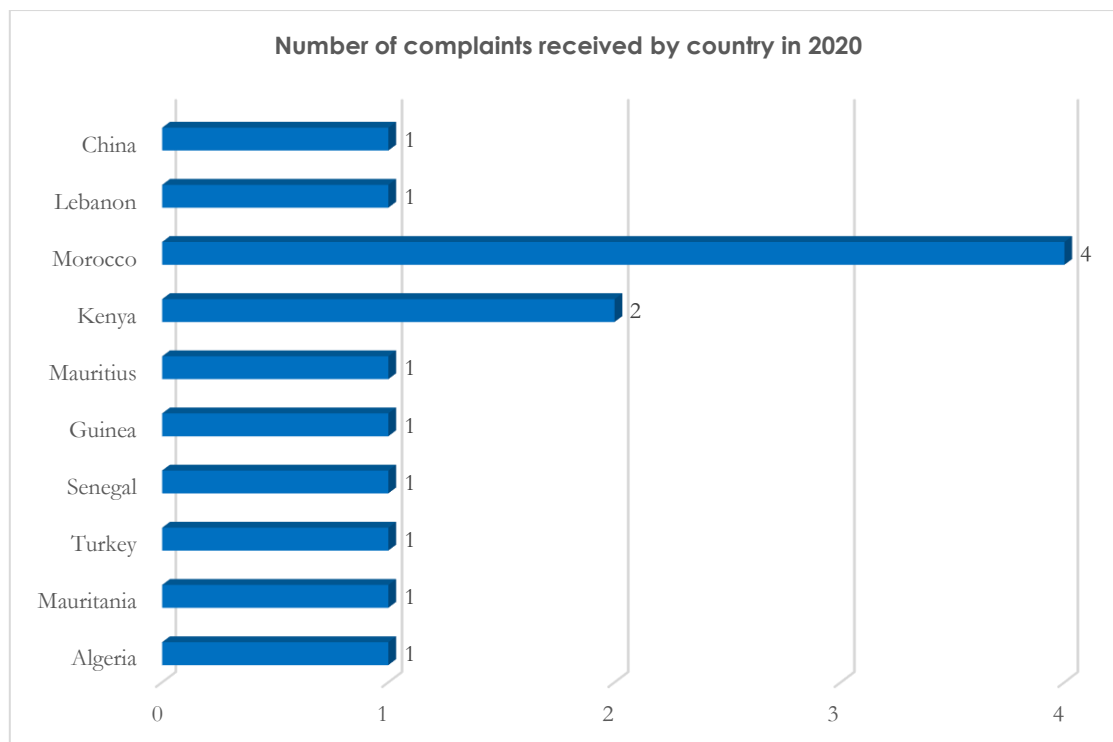
Year	Received	Registered	Inadmissible	Admissible	Compliance Review (CR) / Conciliation (C)
2017	2	1	0	1	CR and C
2018	8	0	0	0	/
2019	12	3	2	1	CR and C
2020	14	1	1	0	/
Total	36	5	3	2	

³ [Rules of procedure E&s complaint mechanism 2019 EN \(afd.fr\)](#)

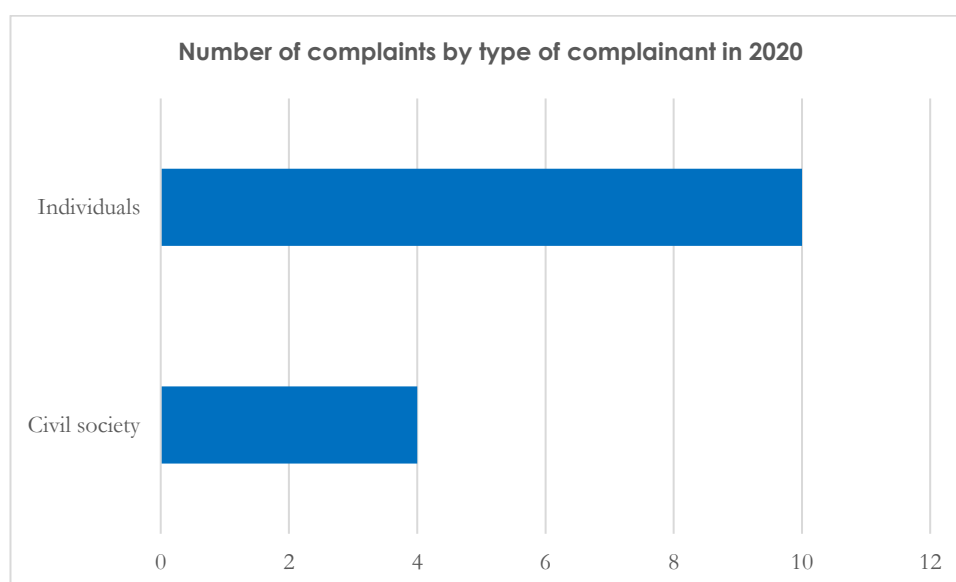
⁴ As projects launched by NGOs and the FFEM do not apply AFD's E&S risk management procedures, they are ineligible for the Mechanism.

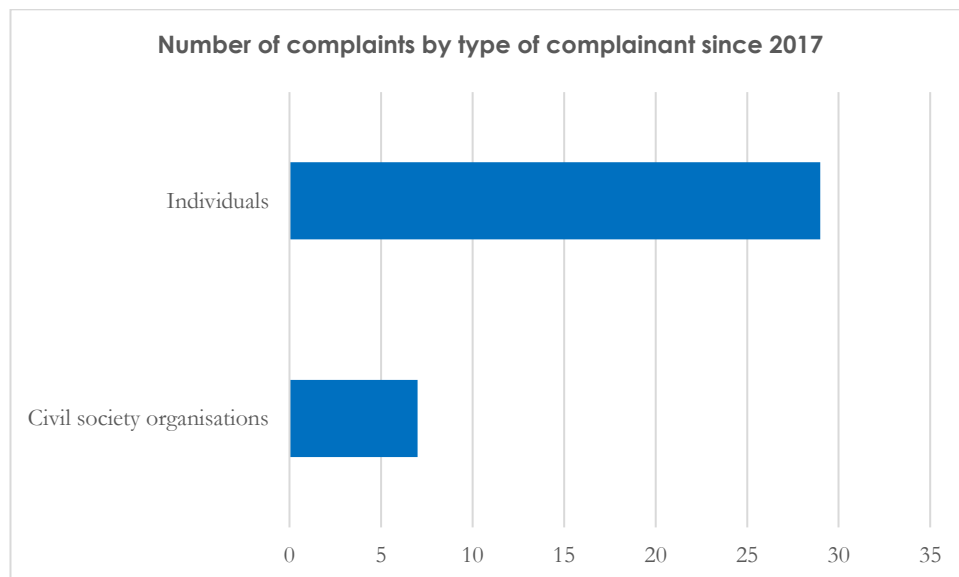
C- COMPLAINTS BY COUNTRY

In 2020, the complaints originated in ten countries, and since 2017, 22 countries spread across three continents. Since the Mechanism was set up (2017), 70% of the complaints are from Africa.



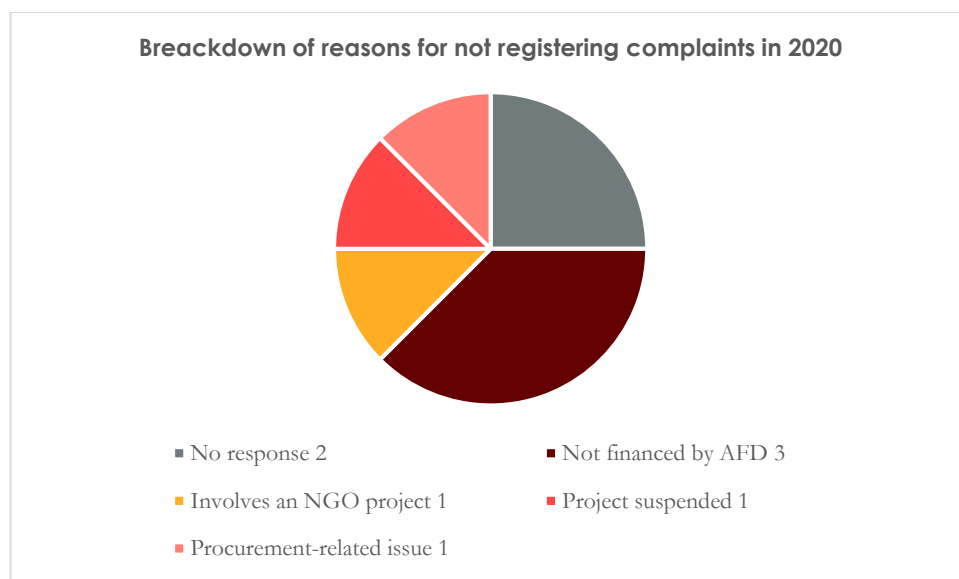
D- COMPLAINTS BY TYPE OF COMPLAINANT





E- COMPLAINTS NOT REGISTERED BY TYPE OF REASON

Of the fourteen complaints received in 2020, eight failed to fulfil the registration criteria. The figure below shows the reasons for their inadmissibility.



Although these complaints were not formally registered, they nonetheless led to information, facilitation and awareness-raising work for AFD's project teams and beneficiaries.

3. INADMISSIBLE PROJECTS IN 2020

A- MERSIN, TURKEY

An individual filed a complaint in November 2020 concerning a project to improve drinking water infrastructure in Mersin, Turkey. The complaint denounced the expropriation of the complainant's land. An admissibility review was conducted by an independent expert and recommended that the complaint be considered inadmissible. This recommendation was endorsed by the Mechanism's Admissibility Committee.

4. COMPLAINTS CURRENTLY UNDER REVIEW OR TREATMENT

A- DAKAR, SENEGAL

The Collectif national des impactés du TER and the NGO Lumière Synergie pour le Développement filed a complaint in June 2019 concerning the impacts of the Dakar-to-Diamniadio Regional Express Train project, representing over one thousand people affected by the involuntary resettlement operations in the Dakar, Pikine and Rufisque departments. The complaint denounces social harms in the implementation of the Resettlement Action Plans, as well as the inadequacy of consultation with project-affected people. The African Development Bank (AfDB), which co-financed the project, has also received the complaint.

The complaint led to an on-site admissibility review by an independent expert, together with the AfDB's independent accountability mechanism. The admissibility committee stated that the complaint qualified for conciliation, which was agreed on by the parties, as well as a compliance review. The Mechanism mobilised AFD's internal mediator to lead the conciliation process, jointly with the conciliator from AfDB's mechanism. The conciliation process, which led to a meeting in Dakar on 20 February 2020 and a videoconference meeting on 11 December 2020, is ongoing and has called in a local conciliator. The compliance review by an independent expert is also underway.

B- ZENATA, MOROCCO

Three people filed a complaint contesting the census of people affected by involuntary resettlement within the Zenata new-town project. The admissibility review is now in progress.

C- BIOUGRA, MOROCCO

The group of Biougra associations filed a complaint concerning the sub-project for rehabilitation of the Biougra wastewater treatment plant (WTP), to denounce various social and environmental impacts including: the siting of the WTP, destruction of argan trees, lack of consultation, pollution etc. The impacts mentioned are partly linked to the initial wastewater treatment plant financed by KfW.

The admissibility review was carried out by an independent expert. Given the highly complex financing arrangements, the admissibility committee approved the complaint's admissibility early 2021 and decided to propose a conciliation that will be conducted jointly with KfW.

D- TAGHJIJT, MOROCCO

Two complaints were filed about the Taghijjt WTP project, one by an NGO and another by an individual. The complaints will be treated jointly as they involve the same project. The complaints denounce the lack of public consultation and the pollution of an oasis. After verification of all the registration conditions, the claim was registered and the admissibility review can now begin (February 2021).

E- KIFFA, MAURITANIA

A complaint was filed regarding the hybrid power plant project in Kiffa. The complaint, filed by a former employee, denounces the work conditions and the lack of pay. The admissibility review is in progress.

F- MONBASA, KENYA

A complaint was filed about the project to rehabilitate airport infrastructure at Mombasa airport. The complaint denounces the destruction of dwellings and fruit trees. Registration of the complaint is being studied.

5. TREATED COMPLAINTS BEING MONITORED IN 2020⁵

A- DOUALA, CAMEROON

In Cameroon, the complaint from an individual affected by a stormwater drainage project was declared admissible for conciliation and a compliance review, which were both completed in 2018.

The conciliation resulted in an agreement to re-evaluate the amount of compensation awarded to the complainant and to republish urban planning documents. As of today, the complainant's affected building has been rebuilt and the planning documents are being updated. The complainant's request for a re-evaluation of the compensation is one of several requests pending examination by the Prefectural Commission for Compensation and Assessment⁶.

The compliance review found that, in a series of instances, AFD had not complied with its E&S procedures relating to the project's Resettlement Action Plan, which had only been validated after the project financing approval. The Plan's implementation did not comply with the international standards adopted by AFD. In 2015, a revision of AFD's E&S procedures corrected several of the issues identified on this project, which had been granted funding in 2011. In response to the compliance review, AFD released a three-pronged action plan:

Monitoring the stormwater drainage project

AFD regularly consults with its partner, the Urban Community of Douala, as well as with the Wouri Prefecture, about the progress made in processing requests from affected individuals. At the end of 2020, the work of checking and assessing the remaining requests had not been completed. Some compensation still has to be paid out. The Commission's report has been completed but the additional compensation decreed by the Cameroonian government has not yet been signed by the Presidency.

A decentralised ex-post evaluation of the project is scheduled as part of the evaluation of a "cluster" of projects. AFD will pay particular attention to the handling of resettlement issues when preparing the terms of reference for this evaluation.

Improving the quality of funded projects in Cameroon that involve resettlement

In 2019, AFD assigned an E&S expert to its new Central Africa Regional Office based in Douala. The posting helped to rekindle discussions with the World Bank on involuntary resettlement issues in Cameroon, notably with a view to holding a workshop on the subject with Cameroonian institutions in 2020. Due to the health context, the workshop did not go ahead and is now scheduled for 2021.

Preparing for future AFD financing for projects involving resettlements

AFD requires an in-depth analysis of local resettlement regulations, as well as its partners' resettlement capacities.

⁵ The complaints being monitored are those for which an action plan has been proposed following a compliance review. The Complaints Office then monitors the implementation of the action plan.

⁶ This point is detailed below in the compliance review monitoring.

In line with its E&S risk management policy, AFD encourages its partners to prioritise all alternatives to involuntary resettlement during the feasibility and project impact studies in order to minimise social impacts. In 2020, resettlement operations in several projects were avoided or limited. For example, for a programme in Côte d'Ivoire now under appraisal, the localities of the sub-projects have mainly been selected on social criteria to avoid project components requiring physical resettlement, to ensure that land tenure status is clear, and to limit economic relocations. This will be ensured thanks to the joint efforts of the technical teams and AFD's Environmental, Social, Sustainable Development Support Division. In another project in Nigeria to upgrade the electricity transmission network, more than 80% of dwellings avoided destruction.

Finally, AFD takes care to ensure the quality of Resettlement Action Plans and their adherence to the schedule set out in the AFD E&S procedures. For example, disbursements for a project in Ghana were suspended pending implementation of an effective compensation and monitoring scheme for the Resettlement Action Plan, with support from AFD.

6. LEARNINGS AND PERSPECTIVES

A- MAIN LESSONS LEARNT IN 2020

Knowledge about the Mechanism

The number of complaints and the diversity of the countries represented attest to wider public recognition of the Mechanism. It is used by both French and English speakers with a variety of profiles (individuals, residents' associations, NGOs, etc.).

In 2020, the inclusion of the clause in AFD financing agreements prompted greater awareness of this tool. The clause provides the opportunity, at the time the agreements are being negotiated, to address the activation of the Mechanism. As a result, it enables the counterparts to become aware of its existence, its functioning and their own involvement should a complaint arise during the project's life cycle.

In 2020, the health context made it impossible to organise external communications with civil society organisations at events related to accountability and human rights issues.

Further increasing awareness of the remedies provided by the Mechanism remains an objective for the Agency.

Functioning

The proposed tools – conciliation and compliance review following an admissibility review – were deployed for several complaints, which allowed the functioning of the Mechanism to be tested and adjusted.

Several cases involved involuntary resettlement issues and drew heightened attention to increasingly complicated urban infrastructure projects. In addition, the complaints received also showed that the diversity of projects and situations of project-affected people required highly specific analysis and treatment in each case.

Thanks to the structure and transparency provided by the Mechanism, the fact that third-parties were able to mobilise it on several occasions made it possible to rekindle a dialogue between the project stakeholders and expedite the resolution of problems or disputes even before the launch of an admissibility review.

Unlike these rapid outcomes, it appears that, when a complaint gives rise to a conciliation and/or a compliance review, the commitments made during these processes take a long time to be implemented. This crucial monitoring work lies with the Complaints Office, which is seeing the number of open files gradually increase.

Good internal awareness and inter-department cooperation

For the Complaints Office, treating complaints involves many interactions with internal and external parties. In 2020, it benefited from the strong involvement of AFD's operational departments, both at headquarters and in its agency network, and particularly comprehensive exchanges with the teams from the Environmental, Social, Sustainable Development Support Division. The Complaints Office is also continuing to support the project appraisal teams at a very early stage (i.e., when the financing agreement is signed) to optimally prepare for good management of possible future claims.

The Complaints Office regularly carries out awareness-raising actions for AFD staff, including twenty-five information and exchange sessions since it was set up. The aim of the sessions is to train the staff on the operational changes induced by Mechanism, while also increasing their awareness of its positive impacts for AFD with regard to operational requirements, transparency, accountability and reputation. The first compliance review and conciliation exercises led to discussions and experience-sharing within the AFD project teams, which reinforced the attention paid to environmental and social risk management for funded projects.

Collaboration between donors

Several ongoing complaints involved co-financed projects, particularly with the European Investment Bank (EIB), the African Development Bank (AfDB) or KfW. In each case, the best possible cooperation was sought based on the principles of the IAMnet network⁷ to which the Mechanism belongs. For example, AFD and AfDB began joint treatment of the complaint concerning the Regional Express Train in Dakar, with conciliation being jointly financed and ensured by both donors. This inter-donor collaboration was appreciated by the stakeholders. In addition to the specific procedures and functioning of each mechanism, inter-mechanism coordination needs to be invented on a case-by-case basis. This should be as flexible as possible and grounded on the complainants' requests.

A specific article on the activation of the donor mechanisms was introduced during the renegotiation of the Mutual Reliance Initiative (MRI), which organises various joint financing actions between the European Union, KfW, EIB and AFD.

In 2020, the AFD's Complaints Office attended the annual IAMnet seminar, which brings together some twenty complaints mechanisms from bilateral, regional and multilateral finance institutions. The discussions mainly focussed on how Covid-19 was impacting the work of the complaints mechanisms and the treatment of complaints (effectiveness, sharing of good practices). The Complaints Office also took part in a presentation of the Green Climate Fund's complaints mechanism.

B- PERSPECTIVES

Information and awareness-raising

In 2021, the Complaints Office will continue to raise the awareness of AFD staff exercising operational functions, at headquarters and in the agency network, particularly through the newly created Regional Offices. A kit explaining the implications of the now mandatory clause about the Mechanism will be prepared jointly with the legal departments and released for the staff. It would be beneficial to mainstream a presentation of the Mechanism during internal training actions, particularly in training on Operational E&S Risk Management, for which e-learning modules are now being developed.

Moving towards a capitalisation approach

In 2021, as part of a continuous improvement approach, exchanges will begin with a group of internal practitioners involved in the Mechanism in order to draw lessons from its first years of operation. This reflection may also be fuelled by exchanges with independent experts concerning the different stages of the Mechanism's functioning (admissibility review, conciliation, compliance review) for better coordination and shared learnings.

⁷ Independent Accountability Mechanisms' Network: <http://independentaccountabilitymechanism.net/>