

## First Activity Report

### AFD Environmental and Social Complaints-Management Mechanism May 2017 - December 2018

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# 1. Introduction

## a. Mechanism creation

As part of its Corporate Social Responsibility (CSR) strategy, AFD set up an accountability mechanism in 2017 to receive and treat environmental and social (E&S) complaints from third-parties.

The AFD E&S Complaint Mechanism (the “Mechanism”) strengthens the transparency and accountability of AFD operations, contributing to an in-depth dialogue with civil-society and other partners, French lawmakers, and extra-financial rating agencies.

The accountability Mechanism aims to ensure an independent review of complaints addressed to AFD by individuals, groups, and/or legal entities who believe that an AFD-financed project implemented outside France has caused, or is likely to cause, social and/or environmental harm(s) that fall within the scope of the AFD E&S Risk Management Procedures.

The Mechanism promotes a constructive, out-of-court approach to dispute resolution based on finding amicable agreements.

The Mechanism offers two ways of treating complaints: (1) conciliation and (2) a compliance review.

- Conciliation uses a neutral, independent, and impartial third-party in an attempt to resolve differences between a complainant or his/her/its representative and the beneficiary of AFD financing for a project that is causing/has caused the complaint.
- A compliance review aims to determine whether or not AFD complied with its E&S Risk Management Procedures for an AFD-contracted and -financed project.

At the beginning of 2019, Proparco, AFD Group’s private sector financing arm, joined a similar accountability mechanism set up by two other development finance institutions with which Proparco regularly finances projects: Germany’s DEG and the Netherlands’ FMO. AFD and Proparco are currently establishing rules for responsibility-sharing and cooperation between their respective accountability mechanisms in order to accommodate complaints about projects that they co-finance.

## b. Management and supervision

The Complaints Office manages the Mechanism’s activities; it is housed within the AFD Strategy, Partnerships, and Communication Division. The AFD Ethics Advisor oversees the Complaints Office.

## c. Pilot phase operation

This report covers a pilot phase that tested the Mechanism from May 2017 to December 2018.

During that period, after a competitive-bidding process, three independent (external to AFD) experts were hired to form a panel. Recognized for their expertise in mediation, auditing, and E&S issues, they played a central role in treating complaints.

In April 2017, the AFD chief executive formally launched the Mechanism through a briefing note addressed to all AFD implementing, financing, and other partners; AFD field offices disseminated the briefing note locally.

AFD updated its standard financing agreements to include a new contractual clause that covers the Mechanism and its procedures. The clause expressly authorizes an AFD financing beneficiary to provide Mechanism experts with all project document(s) that may be needed to process an E&S complaint.

AFD also created a dedicated email address and web page on its internet site so that complaints can be filed by email or by online form, as well as by paper. AFD makes all Mechanism-related communication tools available in both French and English.

## 2. Complaints received

Between May 2017 and December 2018, the Complaints Office received ten complaints directly and four others that were forwarded by AFD operational departments.

### a. The Mechanism's scope and process

The Mechanism procedures published on the AFD website provide for any individual, group, or legal entity affected by, or likely to be affected by, an environmental or social harm caused by an AFD-financed project to file a complaint.

A complaint must be received by the Complaints Office 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 to the financing beneficiary for the project.

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

The Complaints Office will register any Complaint that meets the following criteria:

- Concerns an AFD-financed project in a country outside France, except for AFD-financed projects led by NGOs<sup>1</sup>;
- Covers one or more environmental and/or social harms;
- Describes previous efforts taken to resolve the dispute with the financing beneficiary.

### b. General overview

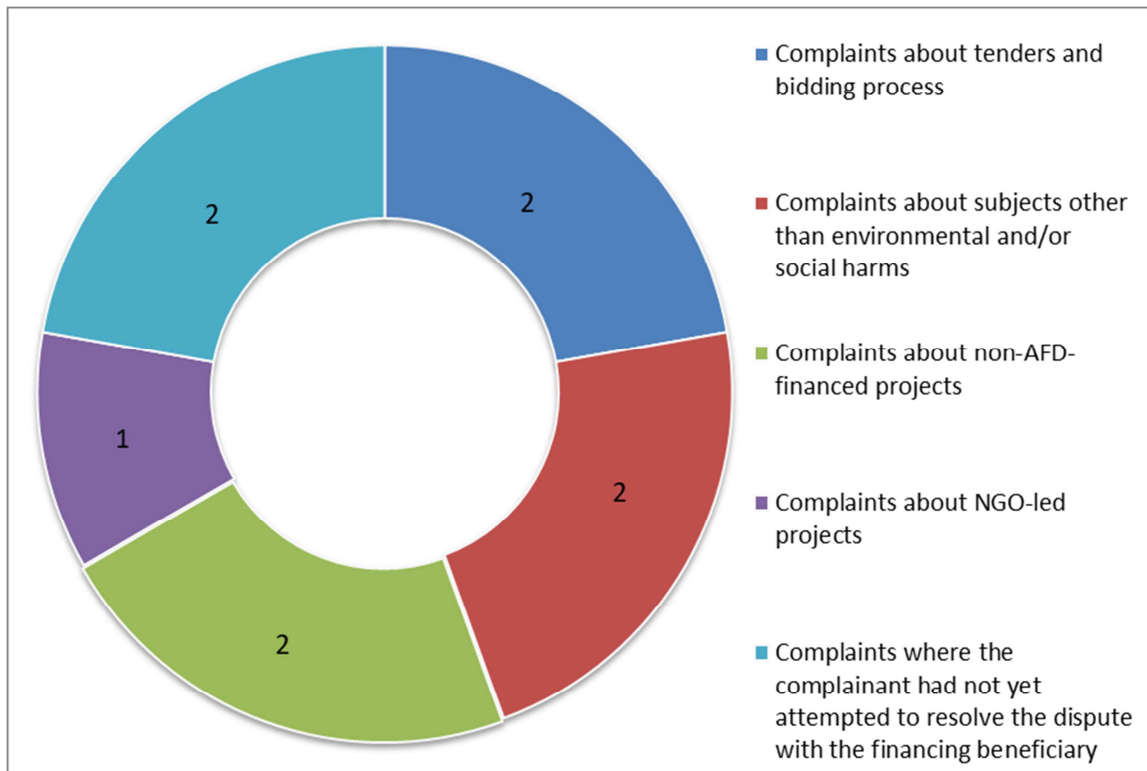
	2017	2018	Total
<b>Complaints addressed directly to the Mechanism</b>	<b>2</b>	<b>8</b>	<b>10</b>
Registered	1	0	1
Not-registered	1	8	9
<b>Complaints forwarded by operational departments, not registered (cf. 2.f)</b>	<b>1</b>	<b>3</b>	<b>4</b>

*Fig 1. Overview of complaints received*

<sup>1</sup> Projects initiated by NGOs are ineligible for the Mechanism because NGOs do not apply AFD's E&S Risk-Management Procedures.

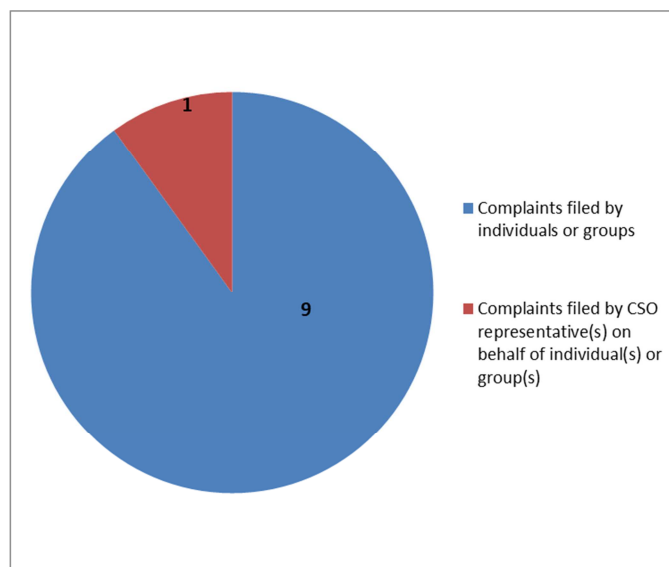
### c. Focus: not-registered complaints

Nine out of ten directly-received complaints were not registered.



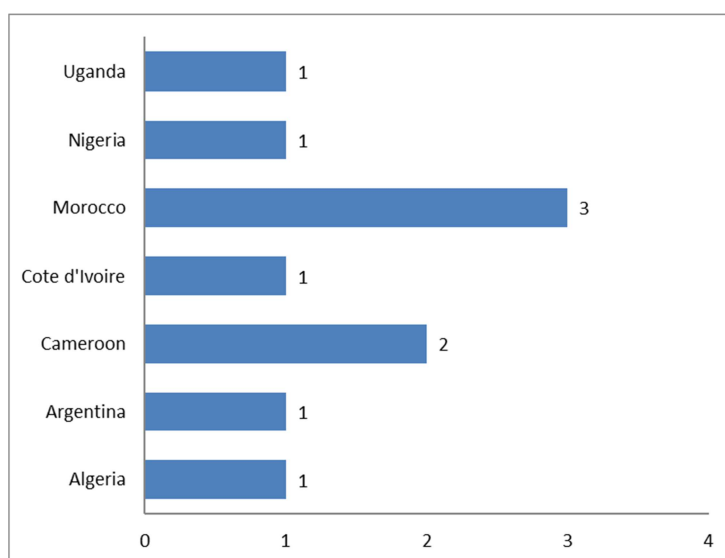
**Fig 2. Breakdown of reasons for not registering complaints**

### d. Complaints by type of complainant



**Fig 3. Breakdown of complaints by type of complainant**

#### e. Complaints by country



**Fig 4. Breakdown of complaints by country**

#### f. Complaints forwarded by operational departments

During the period under review, AFD operational departments at headquarters or in field offices sent in four complaints that had not been specifically addressed to the Mechanism.

A complaint in Egypt raised labor law issues that depended directly on the European Bank for Reconstruction and Development (EBRD), the cofinancing partner, which handled the claim.

For the other three complaints (two in the Palestinian Territories and one in Senegal), the local AFD field offices and the Complaints Office facilitated an exchange of information and stimulated discussions between the complainants and the AFD-financed beneficiaries. The Complaints Office will monitor the results of these discussions until the dispute is resolved.

### 3. Complaint treatments

#### a. Facilitating resolution for non-registered complaints

Even though nine complaints were not formally registered, AFD provided information to the complainants, facilitated discussions with the financing beneficiary, and followed up on such exchanges, in most cases demonstrating AFD's positive influence in defusing conflicts.

Two of the nine complaints involved inadmissible procurement issues that the Complaints Office forwarded to the relevant AFD team for processing.

A complaint in Argentina and another in Morocco concerned non-AFD-financed projects. In the first case, a discussion between the complainant and the AFD field office for Argentina confirmed that AFD had not intervened in the country's roadways, the subject of the complaint. In Morocco, the Mechanism and the AFD project team facilitated discussions between a CSO that represented the complainants and a non-yet-

financed AFD implementation partner for a sanitation project that was in progress. The Complaints Office is monitoring this dialogue with a view toward AFD potentially financing the project.

Another complaint in Morocco presented no environmental and/or social harm(s) and the Complaints Office received no further clarification about it after making an inquiry. In Nigeria, an AFD financing beneficiary promised a complainant that it would revise the layout of an electricity-infrastructure project in order to avoid affecting a complainant's land. The Complaints Office is monitoring the situation.

A complaint from Algeria concerned a project initiated by a French NGO; as such, the project is not covered by the Mechanism.<sup>2</sup> Nonetheless, the Complaints Office facilitated an exchange of information between those concerned by the project.

The AFD field office in Morocco helped a complainant begin discussions with a financing beneficiary – a prerequisite for registering a complaint – that served to resolve the dispute. Finally, in Cameroon, a complaint was not registered because the complainant had not yet attempted to resolve it. When subsequent discussions between the complainant and the financing beneficiary broke down, the Complaint Office registered and treated the complaint (cf. 3.b).

## **b. Resolving a complaint about a stormwater project in Douala**

In Cameroon, an individual affected by a stormwater drainage project filed a complaint that was registered in September 2017, as his discussions with the Douala Urban Community (DUC) broke down. The complaint was about the amount of compensation the individual had been granted for damages he suffered.

The Mechanism's panel of experts found the complaint admissible and recommended that it be treated by both conciliation and a compliance review.

Once the panel completed the conciliation process, the complainant and the DUC signed an agreement in January 2018 that provided for:

- The complainant to surrender his original land title to the Compensation and Assessment Commission of Wouri Prefecture and to request a reassessment of his compensation award, a new copy of the land title, and regularization of construction documents.
- The DUC to support these requests in dealings with the Commission.

The compliance review completed by the panel of experts in May 2018 found that AFD did not comply with its current E&S procedures in a series of instances that occurred after financing had been granted, primarily during the project's Resettlement Action Plan. Since the project in question first received financing in 2011, before AFD had updated its E&S policy and procedures in 2015, the resettlement implementation, for instance, did not comply with the new, international E&S standards that AFD had adopted, particularly for the level of compensation awarded to people affected by such a project.

When AFD revised its E&S procedures in 2015 in order to correct several resettlement and other issues that had been found in pre-2015 projects, the new policy provided for participation by and consultation with potentially affected persons, including vulnerable populations; it also provided for a review of E&S risk-management documents before approving funding. Therefore the expert panel recommended these steps "retroactively" for the 2017 stormwater-project complaint, as well as others.

In response to the 2018 compliance-review findings, AFD management validated an action plan and published it online. The plan puts forward the following actions:

- **For the project currently underway:**

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<sup>2</sup> Cf 2.a The Mechanism's scope and process.

- AFD will conduct two project oversight missions per year, and periodically consult with the Wouri Prefecture about progress made on requests by the complainant;
  - AFD will conduct an ex post assessment of the project, focusing on resettlement issues, and prepare the terms of reference and bid requests for this assessment in advance so that an evaluation can begin as soon as works are completed.
- **For the quality of projects financed in Cameroon that involve resettlement:**
    - AFD will contribute to multi-donor advocacy (alongside the World Bank) to change resettlement laws in Cameroon. AFD will also consider allocating resources to AFD's new regional office in Central Africa specifically for E&S issues;
    - AFD will encourage its financing beneficiaries to publish compensation decrees for projects that involved resettlement before construction begins, and to publish work-progress reports, in order to facilitate more efficient and equitable treatment of people affected by a project.
- **For future AFD-financed projects that involve resettlement:**
    - AFD will conduct an in-depth analysis of local resettlement regulations and financing beneficiaries' institutional and operational ability to implement resettlement according to AFD standards. Where appropriate, AFD will mobilize technical assistance as early as possible;
    - In accordance with AFD E&S risk-management procedures, before making a decision to grant funding, AFD will obtain a Resettlement Policy Framework from the financing beneficiary;
    - AFD will review and update its financing agreement templates in order to specify the resettlement standards applicable to AFD-financed projects;
    - In the E&S commitment plans that AFD procedures provide for, AFD will include an obligation for contracting authorities to pay for third-party monitors to supervise resettlement implementations.

Good cooperation facilitated the work carried out on this complaint by all stakeholders: the experts, DUC, complainant, AFD project team, and local AFD field office.

The Complaints Office is monitoring each party's promises and commitments made in the conciliation agreement and compliance review action plan.

### c. Learnings

The complaints received by the Complaints Office during the pilot phase showed great variety in the type of complainant, monetary value, extent of dialogue, and type of project.

The complaints addressed demonstrated that the strength of the Mechanism lies in its positive, and sometimes informal, search for amicable solutions. This approach provides a framework for discussions, allows greater transparency and accountability, protects the reputation of AFD and its financing beneficiaries, and increases their vigilance in controlling E&S risks.

For the next, post-pilot period, a more gradual and structured way of operating the Mechanism has been sought in anticipation of a variety of complaints and greater numbers of them.

## 4. Changes to the Mechanism

AFD drew on lessons from the 2017-2018 pilot phase to perform some cross-cutting work to improve the Mechanism; AFD management in turn approved several changes that began in 2019.

The changes aim to strengthen the Mechanism's responsiveness and ensure transparency and independence:

- A pool of independent, external experts who can be hired individually will be constituted to replace the collegial panel of experts, based on a call for tenders ;
- The Complaints Office and/or an external expert will examine the admissibility of complaints, subject to validation by an internal admissibility committee; the latter will be composed of AFD employees from non-operational departments and supervised by the AFD ethics advisor;
- The AFD internal mediator will be mobilized for conciliations. As befits his/her profession, the internal mediator will study the complaint and independently and neutrally determine whether he/she can conduct the conciliation or if an external expert from the pool would be better placed to do so.

External experts will continue to conduct compliance reviews since such an audit's primary purpose is to systematically identify possible violations and identify deficiencies in AFD's performance for corrective action.

These changes will take effect in the first half of 2019, after a pool of nine independent external experts has been contracted, in the form of framework agreements, information for the Board of Directors (on October 25, 2018), consultation with the AFD Social and Economic Council (on February 21, 2019), and a revision of the Mechanism Rules and Procedures by the Procedures Amendment Committee (on March 14, 2019).

## **5. Additional Mechanism activities**

### **a. Raising awareness internally**

Since 2017, the Complaints Office has conducted important awareness-raising activities within AFD that aim to train employees about operational changes needed to support the Mechanism while also promoting its positive impacts on AFD's vigilance, transparency, accountability, and reputation.

The Complaints Office helps AFD field offices and project teams negotiate the complaint-treatment clause when setting up financing agreements with beneficiaries. AFD operational teams have asked the Complaints Office for assistance with specific projects about forty times since 2017; over the same period, the Complaints Office periodically checked on a dozen sensitive projects for possible complaints.

### **b. Cooperation with peers**

In 2017, AFD became a member of the Independent Accountability Mechanisms Network (IAMnet); it facilitates cooperation and experience exchange between the complaints-management mechanisms of some 20 international donors.

### **c. Outreach**

The Mechanism was also presented to AFD's external stakeholders during several French and international events, such as a meeting with French CSOs in July 2017, a "CSR in Developing Countries" webinar for CSOs and African companies in March 2018, and a meeting with international CSOs in April 2018.