

2019 Activity Report

AFD Environmental and Social Complaints-Management Mechanism

Table of Contents

1. Introduction.....	2
a. Complaint mechanism context.....	2
a. Management and supervision	2
b. Mechanism operation updated in 2019	2
a. The Mechanism's scope and process	3
c. Complaints by country.....	4
2. Complaints currently in process.....	6
a. Pune, India	6
b. Dakar, Senegal	7
c. Zenata, Morocco.....	7
3. Complaints closed or being monitored	7
a. Closed complaints.....	7
c. Monitoring a complaint in South Kivu, DRC	9
4. Learnings and perspectives	9
a. Initial results and issues.....	9
b. Heading toward a new expert pool and an evaluation	10

1. Introduction

a. Complaint mechanism context

The AFD Environmental and Social Complaints-Management Mechanism (the “Mechanism”)¹ is an out-of-court accountability mechanism that allows any individual, group and/or legal entity to file a complaint if he/she/it believes that an AFD-financed project implemented outside France has caused, or is likely to cause, social and/or environmental harm(s). The Mechanism promotes a constructive 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 Environmental and Social (E&S) Risk Management Procedures for an AFD-contracted and -financed project.

The Mechanism’s Complaints Office saw increased activity in 2019, the Mechanism’s second full year of operation. By the year’s end, the Complaints Office had closed all complaints received in 2018. Of the 12 new complaints received in 2019, as of the time this report was written (January 2020), the Mechanism was treating four complaints and monitoring one. In addition, the Complaints Office was supervising an action plan and mediation agreement instituted for a complaint registered in 2017, the Mechanism’s first.

In early 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 Development Finance Company (FMO). The Proparco complaints-management mechanism works in tandem with the AFD Mechanism on complaints that stem from projects jointly-financed by Proparco and AFD.

a. 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, working under the AFD Chief Executive, oversees the Mechanism.

b. Mechanism operation updated in 2019

Following the Mechanism’s 2017-2018 pilot phase, the way the Mechanism operates became more flexible and gradual in 2019 in order to improve its responsiveness and ability to treat a larger number of complaints.

First, after a competitive-bidding process, the Complaints Office contracted with nine independent experts to assist with Mechanism work during 2019 and 2020; each external expert in the pool can be called on to conduct complaint admissibility reviews, compliance reviews, and/or conciliations.

AFD further enhanced Mechanism operations with (1) an internal Admissibility Committee that discusses and validates the admissibility of registered Complaints and (2) the AFD internal mediator to conduct conciliations. Overseen by the AFD Ethics Advisor, the Admissibility Committee is composed of AFD employees from departments that do not report to the AFD Operations division. As befits her profession, the internal mediator

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

studies each complaint and independently and neutrally determines whether she can conduct a conciliation (if applicable) to resolve the complaint, or if an external expert from the pool would be better placed to do so.

In addition, all AFD financing contracts now include a mandatory clause that E&S complaints may be addressed through the Mechanism.

2. Complaints received in 2019

The Mechanism received 12 complaints in 2019.

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 and 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 NGOs²;
- Covers one or more environmental and/or social harms;
- Describes previous efforts taken to resolve the dispute with the financing beneficiary.

b. Overview of complaint activity

Year	Received	Closed	In process	Monitored
2017	2	1	0	1
2018	8	8	0	0
2019	12	7	4	1
Total	22	16	4	2

Fig 1. Complaints received and closed or active since 2017

² Projects initiated by NGOs are ineligible for the Mechanism because NGOs do not apply AFD's E&S Risk-Management Procedures.

c. Complaints by country

In 2019, the 12 complaints received originated in 10 countries, bringing the number of different countries filing complaints since 2017 to 16 on three continents. Various types of AFD development projects have prompted complaints since the Mechanism was set up.

Fig. 2 Number of complaints received by country 2019

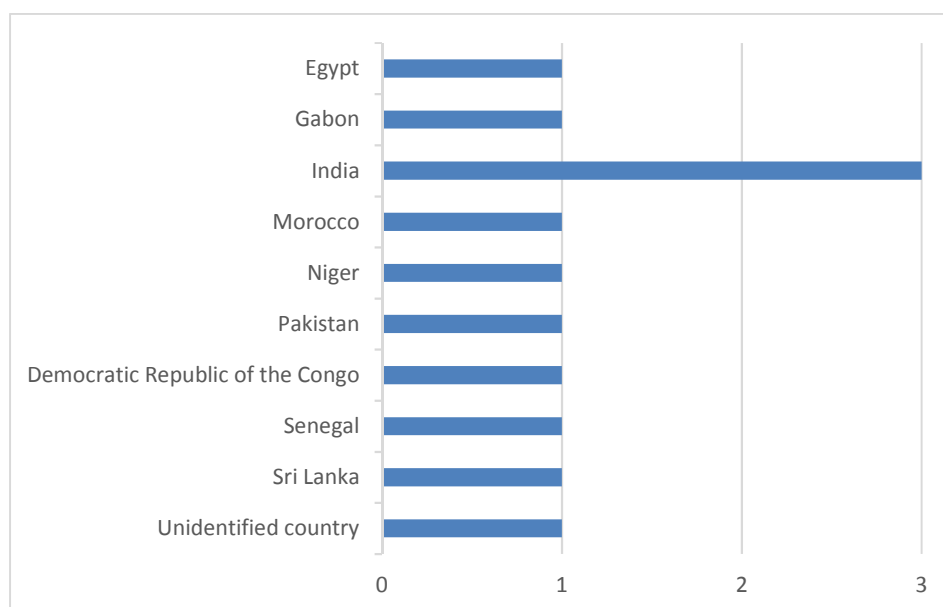
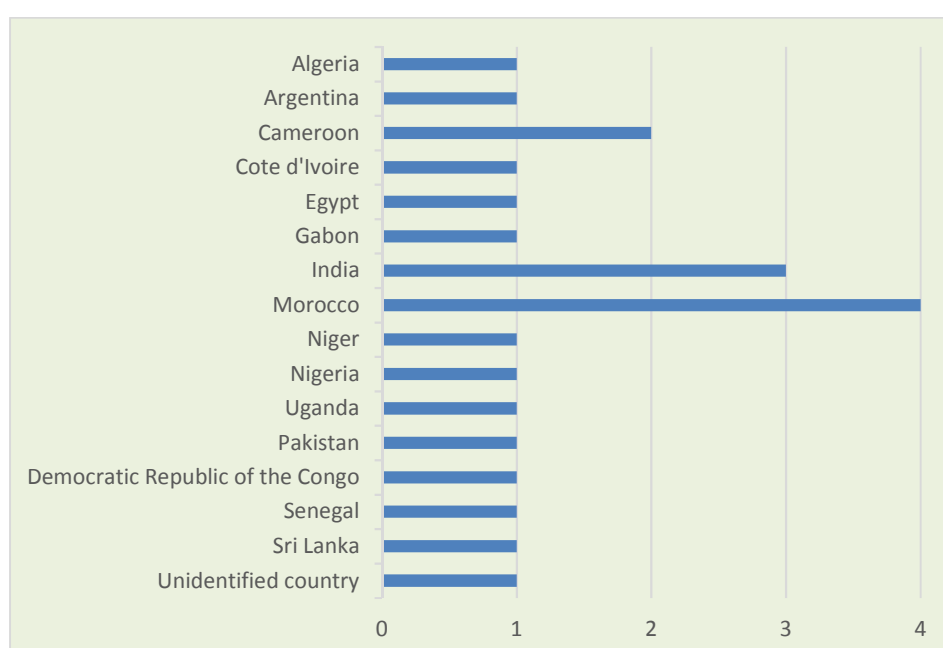


Fig. 3 Number of complaints received by country since 2017



d. Complaints by type of complainant

Fig. 4 Number of complaints by type of complainant 2019

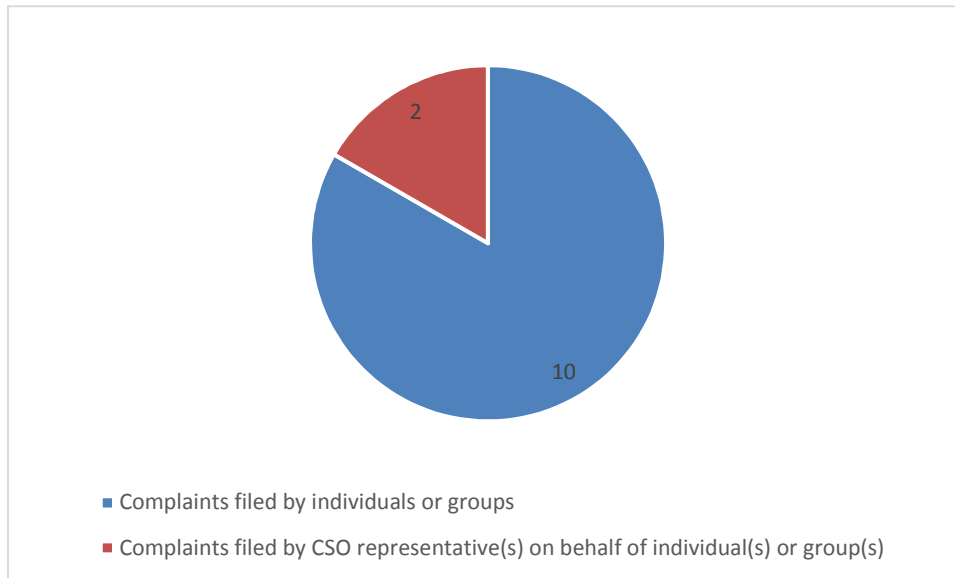
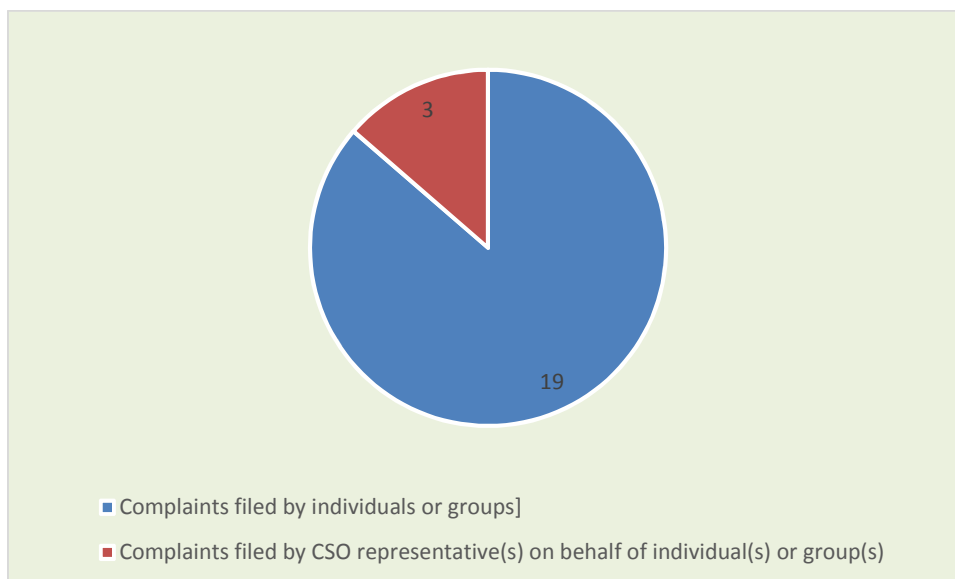


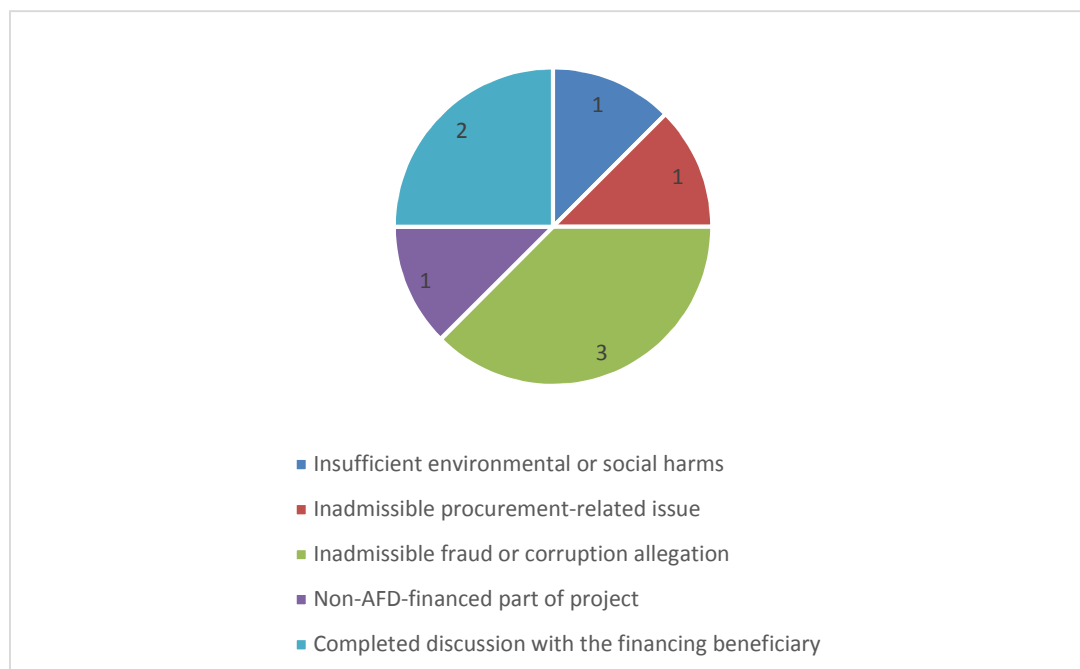
Fig. 5 Number of complaints by type of complainant since 2017



e. Complaints not registered and reason why not

Among the 12 complaints received in 2019, the Complaints Office did not register eight for the inadmissibility reasons shown below (Figure 6).

Fig. 6 Breakdown of reasons for not registering complaints 2019



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

3. Complaints currently in process

a. Pune, India

An Indian citizen and a citizens group, "Friends of Dr. Salim Ali's Bird Sanctuary", both approached the Mechanism with a complaint about a change to Pune's planned metro route. AFD's financing beneficiary, the contracting authority, had modified the original route in order to accommodate new historic-building preservation regulations. The complainants claimed that the modified route would go through a semi-wild area that shelters many trees and bird species, harming them.

The Mechanism spread out registration and admissibility reviews for these complaints over the year while waiting for the local authorities to confirm the modified route. When the High Judicial Court of Bombay validated the modified route, AFD updated the project's E&S impact studies.

Legal proceedings that had been initiated by a complainant rendered both complaints inadmissible for conciliation. At the end of 2019, in order to determine the complaints' admissibility for a compliance review, the external expert assigned to the complaints updated the admissibility review with information about a flood risk that had been raised during the year. As the legal situation and the expert's findings evolved, this case has prompted numerous discussions between the Complaints Office and the AFD project team, the complainants, and the contracting authority.

b. Dakar, Senegal

The “National RET-Affected Group” (Collectif National des Impactés du TER) and “Light Synergy for Development” (Lumière Synergie pour le Développement), a nongovernmental organization, filed a complaint about the Dakar-to-Diamniadio Regional Express Train (RET) project. The two groups represent more than 1000 people who have been affected by involuntary resettlement operations in Dakar, Pikine and Rufisque counties. The complaint denounces both the social harms caused by Resettlement Action Plans and the inadequacy of community consultations with project-affected peoples.

An external expert carried out an on-site admissibility review with an expert from the African Development Bank’s (AfDB) independent accountability mechanism, which had also received the complaint. In turn, the Mechanism’s admissibility committee declared that the complaint qualified for a compliance review and conciliation, a remedy accepted by the parties. The Complaints Office called on the internal mediator to act as conciliator and to work jointly with the AfDB mechanism in order to facilitate the conciliation process, which will begin in early 2020. Once the conciliation is underway, an external expert will conduct the compliance review.

c. Zenata, Morocco

Three people filed a complaint contesting a census of people affected by involuntary resettlement for the Zenata new-town project. The Complaints Office is currently studying what steps the complainants have taken locally in order to determine if it will register the complaint.

4. Complaints closed or being monitored

a. Closed complaints

The Complaints Office closed seven complaint files after sending them to the relevant donor, or to the AFD departments in charge of procurement or fraud and corruption, or after AFD facilitated an amicable agreement with the AFD financing beneficiary.

On several occasions, the Mechanism has encouraged disputing parties to resume discussions, thereby facilitating amicable resolutions even before the Mechanism conducts a conciliation or compliance review. For example, a sanitation project in Sri Lanka saw the contracting authority reconsider where to site a wastewater treatment center, thus resolving a complaint filed by a group of local residents before the Complaints Office had examined the complaint’s admissibility.

b. Monitoring a complaint in Douala, Cameroon

In Cameroon, an individual affected by a stormwater drainage project had filed a complaint that was determined admissible for conciliation and a compliance review; both were completed in 2018.

Conciliation resulted in an agreement to reevaluate the amount of compensation awarded to the complainant and to republish urban-planning documents. As of this writing, the complainant’s affected building has been rebuilt and the planning documents are being updated. The complainant’s request to reevaluate compensation is one of several requests waiting for an examination by the Prefectural Commission for Compensation and Assessment.³

³ This point is described below under “Monitoring the stormwater drainage project”.

The compliance review concluded that AFD did not follow E&S procedures for the project's Resettlement Action Plan, which was finalized after the project had been funded in 2011. In particular, the review found that the Plan's implementation did not comply with international standards that AFD had adopted. The 2015 revisions to AFD E&S procedures corrected several of the defects identified in this project. As a response to the compliance review, AFD released a three-pronged action plan:

- **(1) Monitoring the stormwater drainage project**

AFD regularly consults with its partner, the Urban Community of Douala, and with the Wouri Prefecture, about progress in processing compensation requests from affected individuals. As of the end of 2019, verification and evaluation of the remaining requests had not been completed. AFD conducted two oversight missions in December 2018 and June 2019; it also held progress-update meetings with the Prefecture in January and November 2019, insisting on the need to use all appropriate means to resolve the last cases that need verification. Their resolution will allow the Commission to prepare a report that clears the way for the Cameroonian government to decree additional compensation, following on a decree published in December 2016.

AFD has also scheduled a decentralized ex-post evaluation of this project as one of a cluster of projects that will be evaluated. When the Urban Community of Douala writes the terms of reference for that evaluation, AFD will pay extra attention to how resettlement issues are handled.

- **(2) Improving the quality of projects funded in Cameroon that involve resettlement:**

In 2019, AFD assigned an E&S expert to its new regional directorate for Central Africa, in Douala. The posting helped to revive discussions with the World Bank about involuntary resettlement issues in Cameroon; such talks will inform a workshop on the subject targeted to Cameroonian institutions and slated for 2020.

When such resettlement cases arise, AFD will encourage its financing beneficiaries, the Cameroonian authorities, to publish compensation decrees for resettlement-related projects before construction begins. No such decrees have been issued for AFD projects currently under construction or planned in Cameroon.

- **(3) Preparing for future AFD-financed projects that involve resettlement:**

AFD requires an in-depth analysis of relevant local resettlement regulations and its financing beneficiaries' institutional and operational resettlement capacities. In 2019, the Agency repeatedly provided funding to project management units and contractors so that they could draft and implement Resettlement Action Plans.

Through dialogue with its partners and other donors, AFD encourages countries to bolster their regulatory frameworks for resettlement, such as the Agency did during work on a project co-financed with the Ugandan government and Germany's KfW Development Bank.

In line with the AFD E&S risk management policy, the Agency encourages its partners to favor alternatives to involuntary resettlement when crafting feasibility and project-impact studies in order to minimize social impacts. In 2018, for example, resettlement was avoided in three cases: a drainage project in Pointe Noire, Republic of the Congo; a project on the Nag River in India; and a sanitation project in Bangui, Central African Republic. When relocations cannot be avoided and a Resettlement Action Plan is unavailable before AFD makes a project-funding decision, the Agency requires partners to establish a resettlement policy framework that defines Plan principles, estimates its cost, includes public and civil society discussions about the Plan, and conveys project-affected people's support for the Plan.

AFD also set up a Project Preparation Facility in 2017 to finance project preparation and independent third-party project monitoring. In Senegal, for example, the Facility funded such a monitor during implementation of the Resettlement Action Plan for the Regional Express Train project in Dakar.

In addition, AFD oversees Resettlement Action Plan quality, including compliance with timetables set out in AFD E&S procedures. For example, AFD suspended planned disbursements for the Dakar Regional Express Train project several times after noticing non-compliance with its Resettlement Action Plan. In another, older example, AFD did not disburse the last tranche of funding for a hydroelectric dam project at Huoi Quang in Vietnam because an AFD partner did not comply with its E&S commitments.

c. Monitoring a complaint in South Kivu, DRC

In the Democratic Republic of the Congo, a local environmental group filed a complaint denouncing illegal logging in the forest of a training-center project in South Kivu. During the complaint's admissibility review, even though the project contracting authority, the National Institute for Professional Preparation, was not responsible for the deforestation, it promised to replant trees on the damaged parcel of land.

The Mechanism therefore declared the complaint inadmissible for further treatment as long as the contracting authority carried through on its promise to reforest the area. In October 2019, the AFD project team verified that tree seedlings had been planted throughout the parcel as part of an Earth Day action, and that stumps showed new growth, thereby mitigating the probable harms cited in the complaint, erosion and landslides.

5. Learnings and perspectives

a. Initial results and issues

Mechanism information and communication

The number of complaints and the diversity of the countries represented attest to public recognition of the Mechanism. It is used by both French and English speakers from a variety of backgrounds.

The Complaints Office broadens awareness of the Mechanism by promoting it to civil society organizations (CSOs) during conferences and other events that focus on accountability and human rights issues. In 2019, for example, the Mechanism was presented to about 50 representatives from African CSOs at a seminar in Abidjan that AFD-partner financial institutions organized.

AFD aims to further increase awareness of the remedies offered by the Mechanism through more CSO outreach and additional public communication efforts.

Mechanism operations

The Mechanism's dispute-resolution tools, the admissibility review followed by a conciliation or compliance review, were tested by several initial complaints; this allowed the Mechanism to be adjusted in early 2019.

The Complaints Office and external experts underwent a learning curve in their handling of the first complaints received. Several cases dealt with increasingly complicated involuntary resettlement issues, which drew greater management attention to urban infrastructure projects. Other complaints stemmed from a wide variety of project types and a diverse set of project-affected people and situations; these complaints required highly specific analyses and unique treatments for each case.

The Mechanism's structure and transparency allowed third parties to use it – on several occasions, this simple fact allowed project stakeholders to resume discussions and solve problems or disputes even before an admissibility review took place. Several complainants expressed satisfaction in finding an amicable resolution to their disputes so early in the process thanks to the Complaints Office and local AFD offices facilitating communications and information exchanges between the parties.

When complaints cannot be remedied so quickly, it takes a long time to implement agreements and promises made once a complaint goes through the conciliation and/or compliance review process. The vital work of ensuring that such complaints find resolution falls on the Complaints Office, which is seeing its list of open files gradually increase.

Institutional cooperation and learning

While handling complaints that involve many interactions with internal and external parties, the Complaints Office has received excellent cooperation from AFD's operational departments.

The Complaints Office conducts periodic awareness-raising actions for AFD staff, including 25 information and discussion sessions since 2017. These actions aim to train staff on the operational changes that the Mechanism imposes while increasing awareness about the Mechanism's positive effects on AFD's vigilance, transparency, accountability, and reputation.

The first compliance review and conciliation exercises prompted internal debates and discussions within the complaint-related AFD project teams and divisions, leading to their paying more attention to E&S risk management for funded projects.

A unified AFD Group approach

In 2019, AFD and Proparco established rules for responsibility-sharing and cooperation between their respective accountability mechanisms in order to accommodate complaints about projects that they co-finance.

Collaboration between donors

Several 2019 complaints related to projects that AFD co-financed with the European Investment Bank (EIB) or the African Development Bank (AfDB). In each case, the relevant mechanisms sought the best possible means of cooperation in alignment with Independent Accountability Mechanisms Network (IAMnet) principles. (The AFD Mechanism is an IAMnet member).⁴ For example, the AFD and AfDB mechanisms began treating a complaint about the Regional Express Train in Dakar by jointly making an on-site investigation in 2019; stakeholders expressed appreciation for this intra-donor collaboration. Inter-mechanism coordination must be invented on a case-by-case basis: it should be as flexible as possible, draw on complainant's requests, and accommodate each mechanisms procedures and operations.

In 2019, the Complaints Office attended the annual IAMnet seminar, joining about 20 other accountability mechanisms from bilateral, regional and multilateral development finance institutions. IAMnet members discussed the use of accountability mechanisms in fragile countries, electronic management systems, communication with project-affected people, the evolution of complaint mechanisms in the light of recent inspections, and the impact of the decision of the United States Supreme Court in the Jam vs IFC case.

b. Heading toward a new expert pool and an evaluation

The AFD framework agreement that allows individual experts to be mobilized at different complaint-processing stages has proven flexible and satisfactory; it is well-adapted to the Mechanism and to a potentially increasing number of complaints. Since the current experts' contract expires in December 2020, in the second half of 2020 the Complaints Office will prepare and publish a call for tenders on similar basis in order to ensure continued services.

In 2020, AFD will also look for an opportunity to conduct an evaluation of the Mechanism in 2021. Since few bilateral development banks have an accountability mechanism for complaints, experience exchanges between partners of comparable nature and scope remain limited. An evaluation of these first years of Mechanism activity would be rich in lessons; it would also help calibrate the Mechanism's operation and discern the value it contributes to AFD and other stakeholders.

⁴ *Independent Accountability Mechanisms' Network*: <http://independentaccountabilitymechanism.net/>