



**The Independent Review
Mechanism of the
African Development Bank**

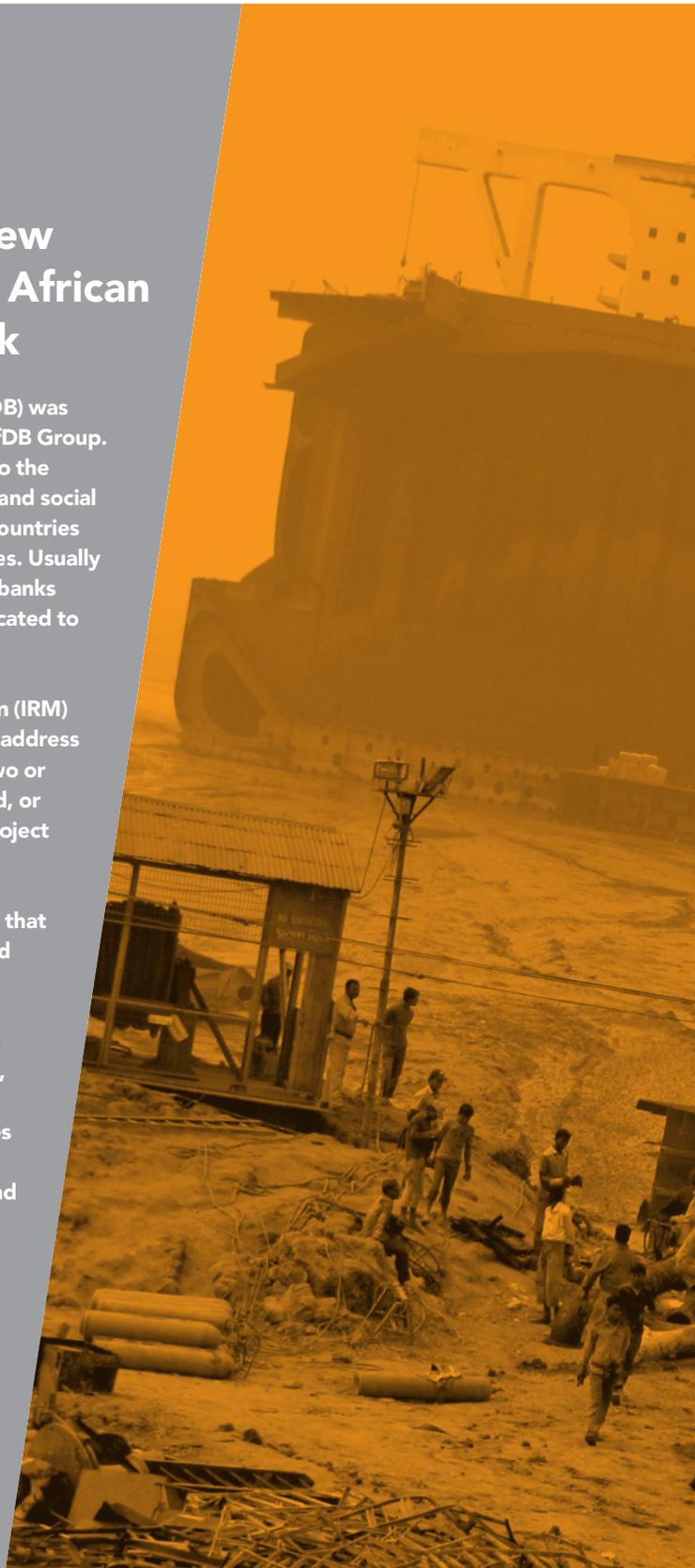
About the Independent Review Mechanism of the African Development Bank

The African Development Bank (AfDB) was established in 1964 as part of the AfDB Group. The bank's mission is to contribute to the sustainable economic development and social progress of its 53 African member countries and 24 non-African member countries. Usually located in Abidjan, Ivory Coast, the bank's headquarters have temporarily relocated to Tunis, Tunisia.

The Independent Review Mechanism (IRM) was established by AfDB in 2004 to address complaints made by any group of two or more people who have been harmed, or who are likely to be harmed, by a project funded by the AfDB Group.

The IRM was designed to make sure that the AfDB follows its own policies and procedures during the design and implementation of its projects. Complaints may relate to projects in sectors ranging from transportation, hydropower, agriculture or infrastructure. Examples of the types of issues raised in complaints to the IRM include social, environmental and economic issues.

The AfDB is expected to review and revise its IRM policy in 2013/2014. This brochure covers the AfDB IRM policy as of September 2013.



The background image shows a large industrial vessel, possibly a ship or barge, docked at a pier. In the foreground, there are several workers and a large pile of pipes or industrial equipment. The entire scene is overlaid with a semi-transparent orange filter.

Key AfDB rules

The AfDB is currently in the process of revising their rules – called ‘safeguard policies’ – to ensure that their projects include greater protection of local populations, vulnerable groups and the environment. The new safeguard policies, which are anticipated to come into effect in late 2013, include Operational Safeguards (OS), Environmental and Social Assessment Procedures (ESAP) and a policy on Integrated Environmental and Social Impact Assessment (IESIA).

The OS set clear guidelines in terms of what the Bank expects from its clients regarding social and environmental assessments and minimising adverse community impacts. Guidelines cover the following:

OS1 Environmental and Social Assessment:

Establishes the importance of determining and minimising a project’s environmental and social impacts.

OS2 Involuntary Resettlement: Aims to ensure that, when physical or economic resettlement cannot be avoided, people should be treated fairly, receive compensation or resettlement assistance to improve their standard of living, and share in the benefits of the project.

OS3 Biodiversity and Ecosystem Services: Clients should avoid impacts on biodiversity and ecosystem services. When direct and indirect impacts are unavoidable, they should implement measures to minimise impacts and restore biodiversity and ecosystem services.

OS4 Pollution Prevention and Control, Greenhouse Gases, Hazardous Materials and Resource Efficiency: Aims to manage and reduce project-related pollutants that could have adverse effects on human health and the environment; and sets a framework for efficiently using natural resources, especially energy and water.

OS5 Labour Conditions, Health and Safety: Maintains that workers’ rights should be protected and remain consistent with national legal requirements. This includes protection from abuse and exploitation and avoidance of child labour.

The ESAP and the IESIA will be finalised once the AfDB Group Board of Directors approves the OS.



How to file a complaint

The following step-by-step guide explains the process that affected groups and their representatives can follow to submit a complaint. There are various tools available for assistance. The IRM of the AfDB, as well as SOMO and Accountability Counsel, can provide advice and additional information about submitting a complaint.

Overall strategic considerations

- Consider the benefits of a complaint, as well as limitations of the IRM, and set appropriate expectations.
- Consider whether another strategy might be more effective or efficient. Using the IRM is most effective when combined with other strategies, including: engaging with the media; seeking campaign support from other organisations; government advocacy; or other tactics.
- Understand the time and resources required to complete the IRM process, which might take several years.
- Consider whether beginning an IRM complaint process could place the affected group at risk of retribution or intimidation. Consider the need for confidentiality and develop a strategy in advance about how to address risks.

General information about the IRM

The IRM was created to provide communities with an effective tool through which they can request that the AfDB is complying with its policies and procedures. The IRM handles complaints about both public and private sector operations, and is administered by the AfDB's Compliance Review and Mediation Unit (CRMU), which reports directly to the AfDB's Boards of Directors.

The IRM has both compliance review and problem-solving functions:

- Compliance review focuses on non-compliance with the Bank's operational policies and procedures in the design, implementation or supervision of a project.
- Problem-solving is used to solve the issues raised in a complaint by encouraging the parties involved (complainants, project promoters or any other parties) to reach an agreeable solution.

Both IRM functions are undertaken in a way that does not place blame on any party involved.

The CRMU has support staff and is headed by a Director, who is chosen for a five-year term that can only be renewed once. The Director cannot have worked for the AfDB Group for five years before being appointed, and cannot work for the AfDB again until three years after the Director's term ends.

The CRMU also includes a Roster of Experts who assist in determining the eligibility of complaints and conduct compliance reviews. The Roster of Experts includes three independent members, appointed by the AfDB Boards of Directors, who serve for a five-year, non-renewable term. The CRMU will occasionally hire outside consultants to assist with investigations and fact-finding missions.

Community considerations prior to submitting a complaint

- o Determine the scope of the community experiencing harm and assess whether those people fully understand and support a complaint process. If they do not, consider whether it would be useful to conduct training for the affected group.
- o If possible, any community divisions should be resolved early on so that they do not undermine the process. Problem-solving is most effective when the affected community speaks with one voice.
- o Decide who will speak on behalf of the affected community during the complaint process; how decisions during the process will be made; what the desired outcomes are; whether the dialogue could produce those outcomes and how; and which issues will take priority in the dialogue process.



The Independent Review Mechanism **process**

Once the CRMU receives a complaint, the Director conducts a review within 14 days to assess whether the complaint raises issues regarding legitimate harm stemming from a Bank-funded project. The Director then registers the complaint, requests more information, or rejects it. Once registered, the Director decides whether it should be dealt with through problem-solving or compliance review. The Director then informs the President, and the Boards of Directors of the decision. AfDB Management is notified of the complaint and given 21 days to respond, stating whether they have complied or intend to comply with Bank policy.

Problem-solving

If requests are eligible for problem-solving, the Director will initiate a process that could include mediation, fact-finding or dialogue facilitation. At the end of the process, the Director reports to the President and the AfDB Boards regarding any results achieved and any recommendations or comments from relevant parties. The President or Boards will then decide whether to accept or reject the recommendations and a summary is made public.

Compliance review

If the complaint presents evidence of a violation of Bank policy, the Director of the CRMU or the IRM Roster of Experts may recommend a compliance review. It is up to the President or Boards to approve a compliance review. Experts from the CRMU Roster conduct the investigation of compliance review, which could include site visits and meetings with the affected community. Once completed, the experts submit the compliance review report and any recommendations for remedial action to the President or Boards.

Following the release of the compliance review report, Bank Management has 90 days to prepare a response and action plan. Thereafter, Bank Management and the CRMU jointly present the findings to the Boards. The President or Boards will make the final decision to accept or reject the findings and recommendations of the compliance review report. The relevant parties are informed of their decision, and it is published on the AfDB's website. CRMU and one of the experts monitor the implementation of the approved Management remedial action plans.

Write the complaint

The complaint should include:

- The date, name and signatures of the affected person or group; whether they wish their identities to remain confidential and if so why; and the name of any representatives assisting the affected person or group, with a signed letter providing proof of authority to provide the representation.
- A brief description of the project and, if possible, the policies and/or procedures that have been violated.
- An explanation of the harm, or expected harm, resulting from the AfDB project.
- An outline of the change you would like to see as a result of the CRMU process.
- A description of the steps already taken to resolve the problem with AfDB staff and why any responses have been inadequate.
- Supporting materials, such as correspondence with Bank staff, notes of meetings, maps or diagrams of the area, or a description of why those materials are not available.

The who, what, when, where, and why of filing a complaint

Who: Any two or more people who have been harmed by an AfDB-funded project may submit a complaint. Local representatives acting on behalf of the group may also submit a complaint as long as they provide the names of those they represent. Foreign representation is allowed only when local representation cannot be found. The Boards of Directors can also refer a project to IRM to conduct a compliance review.

What: A complaint must address a current or future serious harm that stems directly from a project that is a result of the AfDB's failure to follow its own policies and procedures in the design and/or implementation of a project.

When: Unless you request confidentiality, you can only submit a complaint to the IRM after you have tried in 'good faith' to resolve the issue with Bank staff. You may submit a complaint up to a year after the final disbursement of the loan or physical completion of the project.

Where: The individuals submitting a complaint must live in the area affected by an AfDB-funded project. The complaint may be submitted to AfDB's current headquarters, located in Tunisia, to one of the AfDB field offices, or to the CRMU.

Why: Submitting a complaint may bring the problem you are facing to the attention of the Boards of Directors and the President of the AfDB. They have the power to instruct Management to redesign projects to prevent harm, order compensation, remedy the inflicted harm or cancel the project. Bringing a complaint may also create a record of the Bank's violations, which may help the AfDB to prevent future policy violations and may help in advocacy campaigns to address problems.

File the complaint

You may submit the complaint in your local language, if you are not able to submit your complaint in English or French. Submit the complaint via email, fax or mail to:

Independent Review Mechanism (IRM) Contacts
Compliance Review and Mediation Unit (CRMU)
PO Box 323-1002
3rd Floor, EPI-C, African Development Bank Group
Tunis-Belvedere, Tunisia
T +216 71 10 20 56, +216 71 10 29 56
F +216 71 83 56 99
Email: crmuinfo@afdb.org

The complaint may also be submitted to your country's field office. Information on the location of the field offices can be found here: <http://www.afdb.org/en/countries/>.

Follow up on your complaint

- Once the complaint has been submitted, if you do not hear from the CRMU within 14 days, check with them to ensure that the process is moving along.
- It is often helpful to speak to members of the Bank Group Boards, as they will ultimately decide what to do with the CRMU's report. The Board may ask the CRMU to monitor any changes to the project as a result of the compliance review.
- If the compliance review concludes that the Bank has violated its rules, ensure the Boards follow through with any commitments made to remedy the harm (or potential harm) of the project.



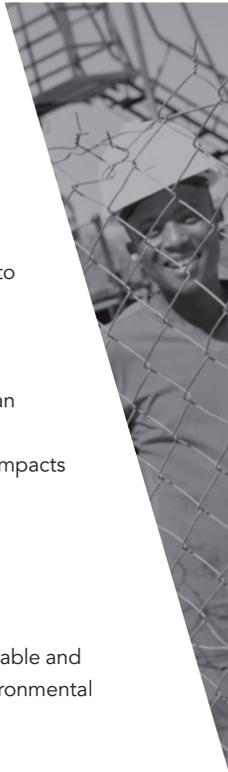
Benefits and limitations of the mechanism

Submitting a complaint to the CRMU could:

- help raise awareness about what is happening in projects financed by the AfDB, both locally and internationally;
- allow you to directly voice your concerns to the AfDB about a project;
- allow a direct dialogue with the project company through a problem-solving process, if the company agrees to participate in the process;
- lead to a formal investigation through a compliance review to determine whether or not there have been violations of AfDB policies; and
- lead to action by AfDB leadership to bring the project into compliance with its policies.

Submitting a complaint to the CRMU cannot:

- guarantee that harm being caused by an AfDB-supported project will be stopped or prevented;
- force a company to participate in a voluntary problem-solving process; if a company refuses to cooperate, the problem-solving process ends;
- attribute blame or lead to findings that a company or the AfDB is 'guilty'; or
- guarantee that the CRMU will conduct an investigation.



About this brochure

This brochure provides a brief overview of the work of the AfDB's Independent Review Mechanism and how to file a complaint. Civil society organisations, workers, communities and groups of individuals who are harmed by an AfDB-supported project can use the IRM process to address their grievance. This brochure briefly explains how.

About the Human Rights & Grievance Mechanisms Project

This publication is part of a series of brochures about grievance mechanisms by SOMO's Human Rights & Grievance Mechanisms Project. The project aims to improve the accessibility and effectiveness of non-judicial grievance mechanisms for stakeholders who experience adverse impacts on their human rights as a result of business activities.

For more information, go to www.grievancemechanisms.org.

About SOMO

SOMO is an independent, non-profit research and network organisation that promotes sustainable and fair global economic development and the elimination of the structural causes of poverty, environmental problems, exploitation and inequality.

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About Accountability Counsel

Accountability Counsel is a non-profit legal organisation that supports communities to defend their environmental and human rights when they have been harmed by internationally financed development projects. Accountability Counsel helps communities to voice their complaints about projects that affect them – and to demand remedies where rights are violated – through the use of non-judicial accountability offices.

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