



We welcome FMO, DEG and Proparco's strengthened Independent Complaints Mechanism (ICM) policy as a step forward in accountability for these development finance institutions. Since the mechanism was established, Both ENDS, Inclusive Development International (IDI), SOMO and others have supported communities who have experienced harm to their lives and livelihoods because of projects financed by these development finance institutions (DFIs) to file complaints and go through the ICM process.

For many years, there was an urgent need to review the mechanism's policy to improve access to accountability and remedy for communities harmed. In the past year, Both ENDS, IDI and SOMO have participated in the consultation process, together with other CSOs that have supported communities through complaints procedures, as well as experts on the topic of DFI accountability. We are very pleased to see a strengthened mechanism, that is a result of commitment by all actors involved. Nevertheless, there are still critical gaps that we believe need to be addressed.

The new policy introduces significant improvements that strengthen the ICM's mandate and operational capacity. We particularly welcome the:

- **Structural improvements** including creation of a structurally distinct, single mechanism with its own website and creation of the ICM's advisory and outreach functions.
- **Possibility to file complaints post-exit:** the ICM is allowing complaints to be submitted up to 12 months after project exit. However, for a complaint to be admissible post-exit, it is required to show "compelling reasons" that the complaint could not be submitted prior to exit, which is still outside of best practice.
- **Enhanced references to international standards** including IFC Performance Standards, UN Guiding Principles on Business and Human Rights, and OECD Guidelines. Although the language used in the policy still uses the Bank's own environmental and social policies as point of reference, which leaves some room for confusion: if FMO, DEG or Proparco weaken their policies, it may cast confusion about whether or not the above mentioned standards apply.
- **Explicit recognition of retaliation risks** against marginalized populations including women, Indigenous Peoples, and human rights defenders, and measures to mitigate risks in contexts where these risks are present.
- **Procedural improvements** including shorter timelines, clear explanations about the procedures, a clear mandate to monitor Management Action Plans (MAPs), and a possibility to also monitor non-compliances beyond the MAP.
- **Deferral process improvements** including important changes made between the draft and final policy that give more agency to complainants, particularly language making it clear that the Independent Expert Panel will not defer complaints if complainants object and clarifying that deferral can be terminated at any time. This represents a positive step forward in respecting complainant agency throughout the process.

- **Steps toward greater independence** including a strengthened secretariat, more autonomy over budget, and independent communications channels.

Despite these advances, several fundamental gaps persist that limit the ICM's ability to fulfill its mandate and ensure that the banks are accountable and communities have access to remedy:

Financial Intermediaries Gap: While the policy acknowledges complaints against financial intermediaries (FIs) and provides much needed clarification for how the ICM will handle FI complaints, it also creates a significant remedy gap that is out of line with best practice, as well as the UN Guiding Principles. The policy denies access to Dispute Resolution for all FI complaints in which the DFI applied a Portfolio Approach, even if the sub-project that is the subject of a complaint falls within the scope of the DFI's loan to the FI (e.g. inside the "use of funds" or the "ring-fence.").

Moreover, the policy effectively limits the scope of Compliance Review in such cases and attempts to preemptively distance the DFIs from playing any role in contributing to remedy. This is a significant departure from how other independent accountability mechanisms (IAMs) and DFIs handle FI complaints, and it directly contradicts the well-established human rights principle that financial institutions that contribute to harm must contribute to remedy.

Given that the Banks' preferred approach to FI lending is the Portfolio Approach, this policy will effectively block communities from accessing remedy for the majority of cases in which these DFIs finance harmful projects through intermediaries. Moreover, it creates complicated rules which may be difficult for many CSOs and complainants to understand. Additionally, increased transparency is a necessary condition to be able to be accountable for FIs. Although the Banks have committed to revising their disclosure policies on FIs, this has yet to materialize.

Early Complaint Timeline Gap: There remains confusion about when complaints can be filed during the project lifecycle. The policy states complaints are not eligible when "there is not yet an active financial relationship." This creates contradictory guidance, especially when combined with the definition of DFI-financed operation as "any activity or any asset of the Client that is or *is going to be* financed by DFI funds." The lack of clarity on early complaint filing is problematic from both a complainant perspective and a prevention of harm perspective, as it limits opportunities to address issues before they cause harm or otherwise escalate.

Dispute Resolution Timeline: The strict 24-month cut-off for Dispute Resolution is inappropriate. Some productive and promising dispute resolution processes may require longer timeframes to reach meaningful resolution. Looking across IAMs, there are many examples of dispute resolution process that ultimately achieved successful results, but where such results took longer than 24 months. Forcing otherwise productive processes to close simply due to a policy timeline can be counterproductive and undermine the effectiveness of the mechanism.

Inadequate Retaliation Protections: The policy fails to establish robust measures to address retaliation against human rights defenders. Critical missing elements include: the ICM's authority to publicly recommend project suspension in cases of unresolved retaliation, and mandatory publication of disaggregated data on all documented retaliation cases including investigation findings and recommended actions.

Insufficient Capacity and Independence: While the policy acknowledges the need for greater capacity, the language remains vague and non-committal. We recommended an explicit

commitment to sufficient ICM dedicated staffing (a minimum of 3 committed positions) and adequate budgetary resources to execute its mandate effectively and independently.

Limited Mandate and Scope: The policy maintains restrictions on self-initiation by the ICM and excludes climate-related complaints, limiting the mechanism's ability to address emerging environmental and climate justice concerns.

Some of these gaps can be addressed immediately via improved practices of both the ICM and the Banks, without any changes to the new policy. The Banks can improve their transparency on FIs, but they must live up to that commitment, which has been outstanding for several years without result. It is also well within the power of the Banks to contribute to remedy in FI cases, in particular where a compliance review helps establish their contribution to harm. Additionally, in terms of zero tolerance for retaliation, the Banks and the ICM can take a step forward when the risk occurs by taking meaningful action.

The revised ICM policy represents a significant advancement over its predecessor, demonstrating that stakeholder engagement and civil society input can yield meaningful improvements in institutional frameworks. We commend the adoption of numerous recommendations that emerged through the consultation process. The trajectory shown through this policy revision provides a foundation for further advancement, but the journey toward genuine accountability and effective remedy is far from complete. We remain committed to working collaboratively while holding the institutions accountable to the highest standards.