

June 2022

AFD ENVIRONMENTAL AND SOCIAL COMPLAINTS MECHANISM RULES OF PROCEDURE

Agence Française de Développement

**Rules of 20 May 2022
(amending those of 14 March 2019)**

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1. Definitions

Action Plan: Plan made by AFD following Compliance Review recommendations in order to remedy current and/or future Project-implementation shortcomings.

Admissibility Review: The process whereby, upon receiving the Admissibility Check analysis from the Complaints Office, the Admissibility Committee reviews the analysis and facts of the Complaint and decides if the Complaint will be rejected or if the Complaint is admissible. If found admissible, the Admissibility Committee recommends treating the Complaint through Conciliation and/or a Compliance Review. The Admissibility Committee prefers to make its decisions through a collegial consensus but, failing that, will decide via a majority vote.

AFD, or Agency: Agence Française de Développement.

AFD Management: AFD executive officers.

Agreement: Agreement made between the Parties after the Conciliation process.

Banking Secrecy: One of the conditions of the relationship between a bank, such as AFD, and its Beneficiaries is that the Beneficiaries' dealings and financial affairs will be treated as confidential in order to preserve personal privacy and/or trade secrets.

Beneficiary: The recipient of the AFD funding, responsible for carrying out the funded project. The notion of Beneficiary is extended to delegated project owners if the Beneficiary does not directly implement the project.

Business day(s): Days the AFD Paris office is open, between and including Monday through Friday, excluding French public holidays.

Complainant: Any individual, group, or legal entity that files a Complaint.

Complaint: An online or written communication from a Complainant or Representative addressed to the Complaints Office in accordance with these Rules that claims a Person has been or likely will be Affected by a Project that causes one or more E&S harms.

Complaints Office: Department responsible for the management of E&S Complaints. In particular, it is in charge of receiving, registering and conducting the Complaint Eligibility Check as well as monitoring the Complaint process. Placed within the Strategy Department under the supervision of the AFD Group Ethics Advisor, the Complaints Office acts independently of the AFD Operations Division.

Compliance Review: The process of determining whether or not AFD complied with its Environmental and Social Risk Management Procedures for a Project.

Conciliation: A consensual, out-of-court dispute-resolution process whereby the Parties to a dispute use a Conciliator in an attempt to amicably resolve their differences. The Parties remain autonomous, and the Conciliator meets with the Parties both separately and together while maintaining all Parties' confidentiality and decision-making authority. AFD is never a Party to the Conciliation process.

Conciliator: Person in charge of conducting the conciliation, in an independent, neutral and impartial manner. The Conciliator can be AFD's internal Mediator or an External Expert in Conciliation.

Eligibility Assessment: The preliminary Eligibility Assessments carried out by the Complaints Office, with External Expert assistance if needed, in collaboration with the Ethics Advisor and in accordance with the terms and conditions set out in Section 6 of these Rules.

Eligibility Committee: Establishment of the Eligibility Committee responsible for determining the Eligibility, or Non-Eligibility, of the Complaint registered by the Mechanism. In the event of Eligibility, the Committee recommends one and/or the other of the two ways of dealing with the Complaint, namely Conciliation and Compliance Audit. The Committee's decision is based on the Eligibility assessment report provided by the Complaints Office beforehand and carried out by the Complaints Office or by an expert, in accordance with the terms and conditions set out in section 6 of these Rules. The Committee is composed of the Complaints Office and a representative from each of the following AFD departments: Compliance, Legal, Environmental and Social Support, Final evaluation and Strategy. It is chaired by the Ethics Advisor, who guarantees the independence of decisions, which are preferably taken by consensus or, failing that, by a majority of votes, bearing in mind that the representative of the department responsible for environmental and social support does not take part in the vote.

“E&S”: Environmental and Social dimension (s), referring, in particular, to AFD's E&S risk management policy¹.

Ethics Advisor: Appointed by the Executive Board (Chief Executive) and with a status that guarantees his independence, the AFD Group Ethics Advisor supervises the Environmental and Social Complaints-Management Mechanism, which is managed by the Complaints Office, in conjunction with the mandated independent experts and the relevant AFD departments.

External Expert(s): Independent expert(s) that receive an individual mandate from the Complaints Office to assist with all or part of one of the three Complaint treatment steps: Admissibility Check, Conciliation, and Compliance Review.

Foreign Country: Any country outside France where AFD operates.

¹ [AFD environmental-and-social-risk-management-policy](#)

Internal Mediator: The AFD's internal mediator is appointed for three years by the Chief Executive Officer. Free from any hierarchical authority, the Mediator acts according to principles of independence, impartiality, neutrality, and loyalty set forth in the French Code of Conduct for Mediators.

Impacts: All development projects carry potential risks of negative impacts, particularly environmental and social ones. AFD, in the framework of its environmental and social risk management policy, takes into account direct, indirect, cumulative and induced risks and impacts in the project's area of influence.

Parties: The natural or legal persons participating in a conciliation. In most cases, the Parties are the Complainant or his/her/its Representative and the Beneficiary of the AFD funding; sometimes other third parties involved with the issue(s) raised in the Complaint may join them.

Person Affected by a Project: Any individual, entity, group, or community directly and materially harmed, whether temporarily or permanently, by one or more E&S incidents caused, or likely to be caused, by a Project.

Project: A project financed by AFD in a Foreign Country, whether through a loan, grant, or subsidy, that qualifies for E&S accountability under the Mechanism.

Registration: The process of verifying that a Complaint contains all required documents and information and meets the terms and conditions defined in Section 5.a of these Rules. A Complaint must be registered before the preliminary Eligibility Assessment can take place.

Representative: Individual or entity authorized by the Complainant(s) to represent the Complainant(s) and to act in his/her/their name while filing and resolving a Complaint under the Mechanism.

Rules: These Rules of Procedure for the Mechanism.

Steering Committee: Committee ensuring the general governance of the Complaints Mechanism. It is made up of representatives from the following AFD departments: Compliance, Legal, Operations, Environmental and social support, Final evaluation, Strategy, the Complaints Office and partnerships with CSOs. It is chaired by the Ethics Advisor.

The AFD Environmental and Social Complaints-Management Mechanism or “The Mechanism”: accountability mechanism covered by these Rules.

2. Introduction and purpose

As part of its Corporate Social Responsibility (CSR) strategy, AFD set up an accountability mechanism in 2017 to receive and handle Environmental and Social (E&S) Complaints from third parties. Its purpose is to offer an amicable, additional and subsidiary remedy to populations negatively impacted environmentally and socially by a project funded by AFD, and to contribute to the continuous improvement of our operations.

This Mechanism strengthens the transparency and accountability of AFD projects and operations; it is part of an in-depth dialogue with civil-society partners, French lawmakers, and extra-financial rating agencies. The disclosure of any information within the framework of the Mechanism, relating to any Beneficiary, any Project and, more generally, to AFD's activities, is subject to compliance with the legal and regulatory obligations to which AFD is bound, in particular with regard to banking secrecy and data protection, as well as with AFD's policy and procedures on confidentiality and the publication of information. The accountability Mechanism aims to ensure the independent review and processing of complaints addressed to AFD by individuals, groups, and/or legal entities regarding the negative E&S impacts of a project carried out in Foreign Countries and financed by AFD, for which the E&S risk management policy for operations funded by AFD applies (excluding, therefore, projects in the French Overseas Territories, those financed by NGO's, the FGEF² or the MFMP³). The Mechanism is not intended to deal with complaints about the appropriateness of projects.

The Mechanism promotes a constructive approach based on finding amicable agreements.

The Mechanism offers two ways of treating Complaints:

- The Conciliation process consists of using a neutral, independent, and impartial third-party to help find an Agreement between the Complainant or his/her/its Representative and the Beneficiary and, where relevant, other parties involved (excluding the AFD), to resolve the E&S harm(s) and/or issue(s) cited in a Complaint;
- The Compliance Review process aims to determine whether or not the Agency complied with its Environmental and Social Risk Management Procedures for an AFD-financed and directly-contracted Project and to recommend remedies in cases of non-compliance.

² FGEF: French Global Environment Facility.

³ MFMP : Multilateral Fund for the Implementation of the Montreal Protocol

These Rules set out the conditions for Complaint Registration, Admissibility, and treatment, i.e., Conciliation and/or Compliance Review. The Rules also specify how the Mechanism functions, such as information access, outreach, and communications.

In no case does the Conciliation and Compliance Review provide for compensation from AFD.

3. Who can file an E&S Complaint?

Any individual or legal entity that considers itself concretely affected by the negative environmental and/or social impacts of a Project financed by AFD may file a Complaint. A person or a group of people may choose to appoint a Representative to submit the complaint on their behalf.

The complaint shall be registered if it meets all the criteria set out in paragraphs 4 and 5 of the present Rules.

4. How can an E&S Complaint be filed?

a. Complaint submission process

The Complaint is submitted using the dedicated form available on the AFD⁴ website.

It can also be submitted on plain paper:

- by e-mail: reclamation@afd.fr

- by post :

Agence Française de Développement
Secretariat of the Environmental and Social Complaints Mechanism
5, Rue Roland Barthes
75598 Paris Cedex 12 – FRANCE

- in person at the AFD Headquarters or in the AFD⁵ network of local agencies. The Complaint must then specify that it aims to refer the matter to AFD's E&S Complaints Management Mechanism.

⁴ [E & S Complaints Mechanism | AFD - Agence Française de Développement](#)

⁵ AFD network of agencies: [Le réseau des agences de l'AFD | AFD - Agence Française de Développement](#)

If the Complaint is addressed to a local branch, the branch will forward the Complaint to the Complaints Office. For advice for how to draft and file a Complaint, it is also possible to contact the Mechanism's Complaints Office by e-mail or by post.

At the latest within ten (10) working days following the reception of the Complaint at AFD Headquarters, the Complaints Office shall acknowledge receipt of the Complaint to the Complainant or his representative. The relevant departments of the AFD are also informed of the reception of the Complaint.

Please note that the notification period may take up to eight (8) working days longer in the case where the Complaint is forwarded to the Complaints Office by a local agency. Moreover, these deadlines may be extended if necessary.

Information relating to the key stages of the process (Registration, Eligibility, processing, closure) is communicated by e-mail to the Author of the Complaint or his/her Representative and to the Beneficiary. Where a Party so requests, documents are also sent by post.

b. Identification of the Complainant and representation modalities

The Complaint must identify the Complainant(s). The Complainant can file and proceed to resolve his/her/their Complaint directly or he/she/it can use a Representative to do so. If the Complainant(s) uses a Representative to help file and resolve a Complaint, the Representative must provide a Power of Attorney, Delegation of Authority Letter, or Letter of Procuration that is legally valid in the Complainant's country. The Complainant must sign the document and authorize the Representative to act in his/her/their name as pertains to the Complaint. The Representative must also provide a list of duly named Complainant(s).

The Representative will then be the contact point for all official communications between the Mechanism and the Complainant, although the Complaints Office may also communicate with the Complainant directly if necessary and appropriate. The Complaints Office informs the Complainant (or Representative) about the Complaint's progress.

If the Complainant is a legal entity, it must provide its statutes.

A Complainant can request that his/her/its identity, or that of some or all of the individuals or entities filing the Complaint, remain confidential. The confidentiality request and reasons for it must be filed with the Complaint.

c. Information to include when filing a Complaint

The Complaint must include the following information:

- name and contact details (full postal and residence addresses, telephone number(s), and/or e-mail address) for the Complainant(s) (and Representative, if applicable);
- a clear definition or description of the Project;
- - A description of the environmental and/or social impacts, proven or potential, for which the Complaint is filed;
- the date the harm(s) were discovered;
- a description of the steps already taken and the state of discussions with the Beneficiary, the preliminary good faith attempts made by the Complainant to settle the disputes set out in the Complaint with the Beneficiary, and in particular proof of mobilisation of extra-judicial means of remedy provided by the Beneficiary, such as the Project's Complaints-Management Mechanism - as well as the result of these efforts or an explanation of why they were unsuccessful. If such steps have not been taken, in particular because of a risk of retaliation, , then the related situation must also be described.

d. Language

Complaints may be submitted in English, French, or the official language(s) of the Foreign Country where the Project is located and/or where AFD operates. All correspondence from the Mechanism to the Complainant or Representative can be written in French or English, as the recipient prefers. If necessary, in order to facilitate communication with the Complainant or Representative, such correspondence may be translated into an official language of the Foreign Country where the Project subject to the Complaint is located. Complaints not filed in English or French may require delays in response due to the need for translation. Only the French version is binding.

e. Complaint reception procedures and Data Protection

All Complaints received are entered in the E&S Mechanism register to record the date that the Complaints Office received a Complaint, the designated Project name and location, the subject of the Complaint, and the Complainant's(s) and, if applicable, Representative's name(s).

The Complaints Office then records all successive complaint-resolution steps in the register as per Sections 5 through 9 below.

AFD is responsible for maintaining the E&S Mechanism register in compliance with the European Union General Data Protection Regulation 2016/679 (GDPR) and French Law n° 78-17 of 6 January 1978, as amended (Data Protection Act). Individuals and entities recorded in the register have a right to access, rectify, suppress, and limit the use of their personal data, to object to its use, and to transfer it. These rights may be exercised by sending a written request to informatiquelibertes@afd.fr

5. Registration of E&S Complaints

a. Registration conditions

The Complaints Office will register the Complaint if it meets the following criteria:

- a) it identifies the Complainant(s);
- b) it identifies the Representative (if applicable) and provides proof (Power of Attorney, etc.) that he/she/it is legally entitled to represent the Complainant;
- c) it includes full contact details for the Complainant (and Representative if applicable): full postal and/or residence address(es), telephone number(s), email address(es);
- d) it includes the name and/or a description of the Project that prompted the Complaint, and proves that the Project was financed by AFD;
- e) it describes the actual or potential negative environmental and/or social impacts for which the Complaint is filed;
- f) it describes, when the Complaint relates to a dispute with a Beneficiary, the preliminary goodfaith yet unsatisfactory efforts that the Complainant has made with the Beneficiary to settle the issue(s) described in the Complaint. In particular, the mobilisation of extra-judicial means of remedy provided by the Beneficiary, such as a project-level Complaint-Management Mechanism. In addition, a description of the outcome of such efforts must be provided and/or an explanation for why they failed to resolve the dispute. In the case where such steps could not be taken, notably because of a risk of retaliation, the detailed situation must be described;
- g) it is submitted within two (2) years after discovering the harm(s) and within a maximum of five (5) years after AFD has made its final disbursement to the Beneficiary of the Project;
- h) it specifies that the Complaint is to be addressed by the AFD Environmental and Social Complaints-Management Mechanism.

The Complaints Office will not register the Complaint, particularly in the following cases:

- If it is not based on the E&S impacts of the project or if it is exclusively about the appropriateness of the project;
- If it exclusively concerns allegations of fraud, corruption, anti-competitive practice and/or procurement issues, in which cases the Complaint will be forwarded to the relevant AFD office;
- If it concerns a Project that AFD did not finance;
- If it concerns a Project that was not carried out in a Foreign Country;

- If it concerns an issue or harm that does not fall within the scope of the AFD Environmental and Social Risk Management Policy:⁶
- If it concerns one or more issues or harms that the Mechanism has already treated in a previous Complaint, unless the current Complaint describes new issues, facts and/or harms that were unknown when the previous Complaint was filed;
- If the Complainant has not exhausted or unsuccessfully used other avenues of out-of-court dispute resolution provided by the Beneficiary, unless the Complainant proves that his/her/its good-faith use of such avenues could not occur.
- If the Complaint has already been settled in a judicial / judicial or extra-judicial mediation procedure, arbitration or an alternative dispute resolution procedure other than that made available by the Beneficiary;
- If the Complaint is subject to a legal recourse, unless such procedures have been suspended to allow conciliation or mediation.

b. Decision, Suspension or Rejection of Registration

If the Mechanism-Complaints Office considers that the Complaint meets the conditions for registration, the Ethics Advisor informs the Complainant or his/her Representative and the Beneficiary. The Complaints Office then informs the relevant AFD departments. This decision is taken within a reasonable timeframe, depending on the possible particularities of the Complaint.

If the Mechanism Complaints Office considers that it cannot register a Complaint because it does not meet one or more of the conditions for Registration set out above, but that this obstacle to registration could be overcome (e.g. transmission of proof of authorisation to represent the Complainant which was omitted when the Complaint was filed), the Complaints Office informs the Complainant or his/her Representative accordingly. In this case, the decision regarding Registration is put on hold by the Complaints Office who grants the Complainant ten (10) business days to comply with the Registration conditions and provide the missing elements required.

If the missing element(s) are not received within the allowed ten (10) business days, the Ethics Advisor will explain to the Complainant or his/her Representative why the Complaints Office will not register or process the Complaint. The Complaints Office will in turn inform the relevant AFD departments of the reasons for rejection.

If the Complainant or his/her Representative does not provide the requested information within 6 months of the notification, the Complaints Office may close the complaint. If new elements are provided after this period, the Complainant or his/her Representative will have to file a new Complaint with the Mechanism.

⁶ The AFD E&S Risk Management Policy can be found on: [Environmental and Social Risk Management Policy for AFD-funded Operations | AFD - Agence Française de Développement](#)

Where two or more Complaints are filed by the same Complainant(s) or by different Complainants but concerning the same project, and the content of the Complaints is reasonably similar, the Complaints Office may either request that the Complaints be reviewed together or suspend the processing of any Complaint received after the first one, pending the results of the review of the first Complaint. In this context, the Complaints Office notifies the Complainant(s).

c. Cooperation with other international financial institutions

If the Project is co-funded by other international institutions or another subsidiary of the AFD Group, the Complaints Office informs these institutions/entities of the Complaint Registration as well as their respective Mechanism(s), if any. Communication and cooperation with such Mechanism's is encouraged and particularly sought where the same Complaint is filed with both the AFD's Mechanism and the co-donors Mechanism's or in the context of a reciprocal delegation initiative.

6. Complaint Eligibility Assessment

The Eligibility assessment is carried out in a factual manner by the Complaints Office or the Expert mobilised, who strives to understand the reasons for the problem(s) raised and the positions of the Parties involved. It is based on an analysis of the conditions defined in these Rules as well as on a review of the documents and interviews with the Complainant, the Beneficiary, the project team and the local agency. It may also require a field visit, and mobilise any other method deemed appropriate.

a. Eligibility Assessment

The Complaints Office or the Expert mobilised, conducts the Eligibility assessment in a factual manner, seeking to understand the underlying reasons for the issue(s) raised in the Complaint along with the positions of the Parties involved. It is based on an analysis of the eligibility requirement defined hereby as well as on a detailed document review, and interviews with the Complainant or Representative, the Beneficiary, the Project team and the personnel of the relevant AFD local agency. It may also require a field visit, and mobilise any other method deemed appropriate.

In the absence of prior authorization from the Beneficiary in the financing agreement with AFD, allowing the communication of Project documents necessary for the processing of the Complaint by one or more Expert(s), the Secretariat shall request and ensure that the Beneficiary's express agreement is obtained for this purpose. If the Beneficiary refuses, the Secretariat shall close the Complaint.

The Complaints Office and/or External Expert also consults the Person(s), entities affected by the Project and Project team members concerned by the Complaint, taking into consideration all facts, documents, and statements thus gathered.

The Complaints Office compiles its findings in a preliminary Eligibility Assessment which it sends to the Eligibility Committee for a collegial review and final decision-making process. The analysis recalls the content of the Complaint and also includes:

- a summary of the facts and the positions of the individuals, groups, and entities concerned by the Complaint;
- a precise description of the actual or potential E&S impacts;
- a recommendation concerning the Eligibility of the Complaint and, where appropriate, the proposal for a Conciliation and/or a Compliance Audit.

The Eligibility Committee's conclusions (Eligibility or Non-Eligibility) and the proposed complaint processing method(s) are recorded by the Complaints Officer in the Mechanism register. The Complainant or his/her Representative, the Beneficiary and the AFD departments concerned are informed of the outcome of the Eligibility assessment phase by the Ethics Advisor.

If the Admissibility Committee decides that a Complaint is inadmissible, the Ethics Advisor informs the Complainant or Representative and Beneficiary and explains why.

If the Eligibility Committee considers that the Complaint is ineligible because it does not meet one or more of the Eligibility requirements that might be remedied to, the Eligibility Committee can put its review on hold and give the Complainant ten (10) business days to remedy the situation

The summary of the Eligibility assessment, drafted by its author, and the Eligibility Committee's decision are published on the Mechanism's page of AFD's website, after express prior agreement by the Beneficiary and the Complainant. The Complainant Office ensures that these documents comply with AFD's publication obligations.

The Complaints Office may also publish these documents anonymously, except in cases where the Beneficiary and/or the Complainant have expressed their express refusal.

b. Eligibility criteria excluding a conciliation or compliance audit

A Complaint is not eligible for Conciliation or a Compliance Audit if :

- it is filed for a clearly futile or malicious purpose ;
- it reveals that the complainant is acting in a self-interested manner in order to obtain an undue financial profit or to satisfy a personal agenda or animosity;
- its main purpose is to gain a competitive advantage from the Complaint by obtaining access to information or delaying the execution of the project;
- it concerns the obligations of a third party other than those of the Beneficiary or AFD.

c. Specific conditions for a conciliation

When the Complaint raises issues that appear to be subject to Conciliation, the Complaints Office or the mobilised Expert first investigate whether the Complaint falls within one of the cases listed below.

A Complaint is eligible for Conciliation if:

- the subject of the Complaint has not been dealt with by the equivalent Mechanism of a co-financing institution, or if it has been dealt with by that Mechanism, and needs to be completed, in particular if new elements have appeared in the meantime;
- there is no risk of interference with any other process or procedure initiated by the same Complainant (or by certain members of the group if the Complainant is a group), or the entity/person with whom the Complainant has a dispute;
- the Complainant does not prevent his/her identity from being communicated to the Beneficiary. If this is not the case, then the Secretariat informs the Complainant or his/her Representative that a Conciliation process cannot be implemented and closes this aspect of the Complaint indicating the reason for this decision.

d. Conditions for a Compliance Audit

When the Complaint raises questions about AFD's compliance with the E&S Risk Management Policy in force at the time of signature of the Financing Agreement and appears to justify a Compliance Audit, the Secretariat or the Expert mobilised checks whether the Complaint is eligible for a Compliance Audit.

A Complaint is eligible for a Compliance Audit if:

- it involves acts or omissions for which AFD is responsible
- the fact(s) alleged in the Complaint does (do) not consist of a minor technical violation of the provisions of the "Policy for the Environmental and Social Risks Control related to Operations financed by AFD", unless this minor technical violation appears to have caused significant damage;
- it challenges the implementation of the Agency's E&S Risk Management Policy.

If the Complaint is eligible for a Compliance Audit, a review by another mechanism does not prevent the Complaint from being processed in accordance with the Regulations, since it is an audit of AFD's compliance with its own E&S Risk Management Policy.

7. Impacts of Complaints on AFD Projects

The fact that a Complaint was registered and/or found admissible for further examination by the Mechanism does not mean that AFD will suspend its participation in the Project. However, if at any time during the processing of the Complaint, the Complaints Office or Ethics Advisor believe that a serious, irreparable E&S harm could be caused by further Project execution, especially when such execution depends on AFD providing funds for it, the Ethics Advisor (in collaboration with the Complaints Office) may recommend that AFD suspend disbursements for the Project. This type of recommendation should take into account co-financing implications, if applicable.

Conciliation and the Compliance Review do not provide for AFD to compensate the Complainant.

8. Conciliation process

Once the Eligibility Committee declares all or part of a Complaint eligible for Conciliation, the Ethics Advisor, working with the Complaints Office contacts the Parties involved to explain the Conciliation proposal. He specifies the principles of the Conciliation process, particularly its voluntary and confidential nature and each Party's responsibility in deciding how to resolve the dispute. He also stresses the Conciliator's neutrality and impartiality. and further specifies that no information concerning one Party will be communicated to the other Party without the former's prior written consent.

The Conciliator may be the AFD Internal Mediator or an Independent Expert, as decided by the Eligibility Committee. The Conciliator may not be the AFD Mediator if the internal mediation function is exercised jointly with that of Ethics Advisor.

The conciliator determines, if the terms and conditions of his intervention within this context are met, and, in particular, if each of the Parties has given its agreement, for his intervention. The Conciliator may, if the parties so agree and if the situation so requires, rely on a local expert mandated by the Complaints Office, his or her mission is carried out in complete independence under the authority of the Conciliator.

In the absence of the agreement of all the Parties to enter into a Conciliation, the Complaints Office will close this part of the Complaint.

If the Conciliator and the Parties cannot resolve all aspects of the dispute in an initial attempt, the time allowed for Conciliation may be prolonged. The Conciliation process is considered completed when the Parties reach an Agreement or when, in the

Conciliator's opinion, no further progress is possible. In the latter case, the Complaints Office closes this part of the Complaint file.

In the event of an Agreement, the Parties, assisted by the Conciliator, define each Party's commitments, their implementation conditions, and a timetable. All Parties then sign the Agreement and the Conciliator countersigns it.

The Agreement commits the Parties to perform according to the conditions and implementation deadlines that they have set. The Conciliator asks the Parties to define in the Agreement:

- Procedures for monitoring each Party's commitments. If the Parties wish, these procedures can call on the services of the Conciliator for a limited, mutually agreed period of time;
- Measures to take in the event that difficulties arise from the Agreement's implementation;
- Conditions under which the Parties agree to keep the Complaints Office informed of Agreement implementation.

The Conciliator also asks the Parties to determine the stipulations of the Agreement about any information that they want to:

- Share with AFD, especially the Complaints Office;
- Publish in summary form on the AFD internet site (anonymously, if so desired).

At the end of the Conciliation process, the Conciliator prepares a report on (i) methods used, (ii) results achieved, (iii) lessons learned, and where applicable, and to the extent authorised by the Parties, (iv) Agreement provisions; v) timetable for implementing commitments; and vi) any outstanding issues.

9. Compliance Audit process

Once the Complaint has been declared eligible and a Compliance Audit has been decided upon, the Complaints Office and Ethics Advisor draft a mandate to hire an External Expert to carry out the Compliance Audit. The mandate defines the scope, target timeline, and type of expertise required.

One or more External Experts can be hired to conduct the Compliance Audit.

The objective of the Compliance Audit is to establish whether an AFD action and/or omission related to the Project resulted in a failure to comply with relevant AFD E&S Risk Management Procedures and, if so, to explain how and why and to recommend corrective measures in order to ensure present and/or future compliance.

The External Expert in charge of the Compliance Audit examines the main documents and consults with individuals, groups, and entities concerned by the Project and AFD. The External Expert may also make one or more site visits and use other methods that he/she deems appropriate, such as using other External Experts. The External Expert then prepares a draft report of the Compliance Audit.

If the External Expert finds that AFD complied with its E&S Risk Management Procedures, the Complaints Office submits the draft Compliance Audit report to the relevant AFD departments for feedback and comments within a reasonable timeframe. The External Expert then produces a final Compliance Review report, including an Executive summary of his conclusions. The Complaints Office then closes the Complaint file.

If the External Expert finds that AFD did not comply with its E&S Risk Management Procedures:

- a) the Complaints Office submits the draft Compliance Review report to relevant AFD departments for feedback within a reasonable timeframe. The report specifies a list of the shortcomings, makes recommendations that can be implemented within the framework of the Project.
- b) the External Expert has thirty (30) business days to submit a final version of the Compliance Audit report after receiving comments from the AFD departments. Based on the comments, the External Expert can modify his/her draft recommendations, but not the proven factual findings. Upon completing the report, the External Expert sends the final Compliance Audit report to the Complaints Office, who forwards it to AFD Management.

When a case of non-compliance is found, the final version of the Compliance Audit report includes recommendations namely inviting the AFD to:

- i) Remedy shortcomings in Project implementation;
- ii) Remedy identified shortcomings in the future so similar situations do not reoccur;

The expert also provides a written summary of his conclusions.

Within a reasonable timeframe after receiving the final version of the report, AFD's operational teams draft a document indicating the action plan they intend to take in response to the Compliance Audit report. This document, approved by the Executive Board (general Management), includes, where necessary, the comments of the operational teams on the auditor's conclusions as well as the action plan to be implemented. This action plan does not provide for any compensation from AFD.

The conclusions of the independent expert's and AFD's proposed Action Plan are published on the Mechanism's webpage, with the express prior agreement of the

Beneficiary and the Complainant. The Complaints Office ensures that these documents comply with AFD's publication requirements.

The Secretariat may also publish these documents anonymously, except in cases where the Beneficiary and/or the Complainant have expressed their specific refusal.

The Complaints Office monitors the Action Plan's implementation. Status reports on the implementation of the Compliance Audit are produced until the Complaints Office considers that they are no longer necessary. The Complaints Office sends the Compliance Audit status reports to AFD's General Management for information. The status reports are not published, but summary information about recommended implementation(s) are included in the Mechanism's Annual Report.

10. Role of the Ethics Advisor, Complaints Office, Internal Mediator, and External Expert(s)

The **AFD Ethics Advisor** guarantees the independent review of E&S Complaints concerning AFD funded projects. He/she ensures that the Complaints Office manages the Mechanism in accordance with these Rules. The Ethics Advisor chairs the Steering Committee and the Eligibility Committee and is, in particular, responsible for notifying decisions to the external parties concerned.

The **Complaints Office** manages the Mechanism's operations, in particular:

- Recording Complaint reception and updating the E&S Complaints-Management Mechanism register;
- Preparing the preliminary Admissibility Check analysis, after discussion with relevant AFD departments, Project team, and Parties, for the Admissibility Committee's Admissibility Review;
- Serving as the interface between all individuals, groups, entities, and AFD departments concerned by the Complaint;
- Preparing and following-up on the meetings of the Steering Committee
- Preparing and following-up on the Eligibility Committee meetings;
- Monitoring the processing of Complaints - Conciliation and/or Compliance Audit - and the dissemination of the summary reports;
- Monitoring implementation of the Parties' Agreement and/or the Action Plan;
- Preparing and managing the Mechanism's budget;
- Procuring, hiring, and mobilizing External Experts;
- Writing, publishing, and disseminating Mechanism-related information internally and externally;
- Writing an annual activity report for the Mechanism;
- Managing Mechanism relations with co-financing institution(s) accountability mechanisms and with other third-parties involved with a Complaint;

- Representing AFD within the Independent Accountability Mechanisms Network (IAMnet).

The Mechanism's operation, the processing of any Complaint and the disclosure of any information by AFD in this context shall be carried out in compliance with the legal and regulatory obligations to which AFD is subject, in particular with regard to banking secrecy and data protection, as well as with AFD's policy and procedures on confidentiality and the publication of information.

The AFD **Internal Mediator can** intervene in Conciliations according to the founding principles of mediation, which include voluntary participation, ample room for listening and speaking, and the Parties' accountability, while maintaining confidentiality, independence, impartiality, and neutrality.

The Complaints Office hires **External Experts** to intervene during several Mechanism Complaint-treatment phases. An External Expert may help with the Admissibility Check by conducting desk research and/or interviews with individuals, groups and/or entities related to the Complaint and the Project. An External Expert in mediation may lead a Conciliation process or assist the Internal Mediator in his/her functions. The Complaints Office systematically hires an External Expert to conduct Compliance Reviews. The Complaints Office may delegate Agreement and/or Action Plan implementation-monitoring and reporting tasks to an External Expert. The Complaints Office also hires **External Experts for supporting roles**, such as interpreters, translators and/or other types of technical consultants. Experts are bound by strict confidentiality.

External Experts are selected and hired according to AFD's transparent public procurement rules for consultants on the basis of their (i) experience, particularly in legal, social, environmental and related fields; (ii) ability to interpret E&S procedures and, in the case of Conciliators, resolve disputes in a fair, comprehensive, and equitable manner; (iii) demonstrated integrity and independence; iv) ability to interact effectively with the Parties and civil society, and v) knowledge of AFD and similar institutions.

The Complaints Office hires External Experts individually and may revoke an Expert's mandate for cause.

11. Communications, evaluation and accountability

Internal and external communications and outreach. The Complaints Office creates and disseminates information in multiple media to inform – as effectively as possible – AFD financial and technical partners, civil society organizations, and populations in AFD operating countries about the Mechanism's purpose and use. It also periodically produces Mechanism-related informational and awareness-raising campaigns for AFD personnel working at headquarters and in field offices. The Complaints Office also

expands cooperation with other institutions' accountability mechanisms through the IAMnet network. Communication and outreach campaigns, as well as information sessions, can be carried out jointly with other accountability mechanisms in Foreign Countries and/or regions.

Public guide to the Mechanism. The Complaints Office creates and publishes an information leaflet that explains how to submit a Complaint and how the Mechanism works; it is targeted to civil society organizations and populations in AFD operating countries. The leaflet is publically available in French and in English on the AFD website, at AFD Headquarters in Paris, and in AFD field offices. The Complaints Office can translate the leaflet into other languages, if necessary or upon stakeholder request.

Publication of information and documents relating to an E&S Claim: When AFD receives an eligible Complaint, it publishes the following information and documents on its website: (i) the date on which the Complaint was submitted; (ii) a short description of the Complaint; (iii) the status of the Complaint; (iv) the summary of the eligibility assessment, if applicable; (v) the conclusions of the Compliance Audit, if applicable, recalling the main conclusions and presenting the expert's recommendations, if any (vi) the document detailing the follow-up actions that AFD intends to give to the audit, if any (possible comments by the operational teams on the auditor's conclusions and action plan); (vii) if applicable, the summary of the stipulations of the Parties' Agreement which the Parties authorise to be disclosed at the end of the Conciliation. These documents are published provided the Beneficiary and the Complainant or his/her Representative have given their express consent. Except in cases where the Beneficiary and/or the Complainant have expressed their express refusal, the Complaints Office may publish these documents anonymously. Finally, the Complaints Office ensures that these documents comply with AFD's publication requirements. The Mechanism's Annual Report is also published on the AFD website.

General information about the process. All Mechanism activities are implemented as quickly as possible without compromising the integrity or intelligibility of the process. The Complaints Office takes into consideration the views of the Complainant, Beneficiary, AFD personnel, and any other interested parties who may have relevant information

Access to AFD personnel and confidential information. The various participants in the Mechanism Complaints Office, Ethics Advisor, Internal Mediator and External Expert(s), may call upon all AFD departments, and in particular the Legal Department, for the proper fulfilment of their missions for the proper fulfilment of their work on Eligibility Assessments, Conciliation or Compliance Audits. They may contact AFD personnel on any subject relating to their mission and have access to the necessary staff information and relevant files. The Complaints Office ensures that interviews and requests for information are properly set up. AFD personnel are required to fully cooperate with the Mechanism. The information collected by the Complaints Office, Internal Mediator and External Expert(s) in the course of their activities can be used and disclosed in

compliance with the French Monetary and Financial Code, AFD's Transparency Policy, and any other applicable confidentiality requirements to preserve the confidentiality of sensitive information. AFD is subject to European Union General Data Protection Regulation and the French Data Protection Act (No. 78-17 of 6 January 1978, as amended) which guarantee privacy, personal-data protection, and other rights, as stated in Section 4.f.

No Mechanism employee, agent, or External Expert, including consultants, researchers, interpreters, or translators, hired by the Mechanism may disseminate any document in whole or in part without the express written consent of AFD and the party providing the information.

Annual activity report. The Complaints Office prepares an annual report describing the Mechanism's activities over the previous year. This report is presented to and approved by the Internal Control Committee and the AFD Board of Directors, before it is made public via the AFD website as soon as possible.

The report is first presented to the AFD Internal Control Committee and the AFD Board of Directors, and then made public as soon as possible via the AFD website.

Accountability of the Mechanism. The activities and operations of the Mechanism are presented to the Board of Directors of AFD as required and at least every three (3) years.

Mechanism Evaluation. The Mechanism may be subject to internal audits. An external assessment of the Mechanism may also be decided by its Steering Committee. The results of the evaluation are presented internally and externally. They may lead to an amendment to the Rules in line with the procedures set out in the section below entitled "Amendment and effect of the Rules".

12. Miscellaneous provisions

Amendment and impact of Rules. The Rules may be amended by the Chief Executive Officer of the AFD, who reports thereon to the Board of Directors. In the event of any inconsistency between the Rules and any other AFD document and unless otherwise expressly stipulated, the Rules shall prevail.

Code of Practice. External Experts working for the Mechanism commit to following a Code of Practice by signing a contractual document. AFD employees and agents working for the Mechanism are subject to the provisions of AFD's Code of Ethics⁷ and its rules and provisions regarding conflicts of interest and confidentiality.

⁷ [Ethics Charter - AFD Group | AFD - Agence Française de Développement](#)

IAMnet. AFD is a member of the Independent Accountability Mechanisms Network (IAMnet), an international network of nearly twenty bi- and multi-lateral development bank accountability mechanisms. IAMnet provides a framework for cooperation and experience sharing.

Language regime. The Rules, originally written in French, are translated into English and Spanish. If there is a discrepancy between the French version and any other version, the French version will prevail.

Mechanism budget. AFD provides the Complaints Office with sufficient financial resources to complete all activities authorized by these Rules. The Complaints Office prepares and manages the Mechanism budget.

Report languages. All reports prepared by the Complaints Office or External Expert(s) are published in French. If necessary, they can be translated into English or the official language of the country where the Complaint arose. The Mechanism's Annual Activity Report is published in French and English.

Amendment and impact of Rules. The Rules may be amended by the Chief Executive Officer of the AFD, who reports thereon to the Board of Directors. In the event of any inconsistency between the Rules and any other AFD document and unless otherwise expressly stipulated, the Rules shall prevail.