

Independent Complaints Mechanism DEG

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DEG – Deutsche Investitions- und Entwicklungsgesellschaft mbH

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1. Background Information

1.1 Introduction

1.1.1 With this document, Deutsche Investitions- und Entwicklungsgesellschaft mbH (DEG) introduces its Independent Complaints Mechanism (hereafter also: the ‘Mechanism’) and accompanying procedure. This document describes the structure and governance of the complaints procedure, which allows External Parties to file a Complaint concerning a DEG-Related Subject. In this way DEG strives to implement a more robust and independent procedure and to communicate transparently about it to stakeholders.

1.1.2 The Mechanism provides stakeholders a tool, enabling alternative and pre-emptive resolution of disputes. At the same time the Mechanism assists DEG in implementing and adhering to its own policies and procedures and, as such, is the Mechanism a learning-by-doing process.

1.1.3 The Mechanism, including the Independent External Panel, is a joint initiative with the Netherlands Development Finance Company (FMO). All information in this document, except for references to DEG policies and procedures, is relevant for FMO also. Both institutions use the same Panel and have a joint approach when complaints for co-financed projects are received.

1.1.3 This Complaints Mechanism is aimed to be in line with other DEG policies and procedures based on international standards:

- The mission of DEG is to promote business initiative in developing and emerging market countries as a contribution to sustainable growth and improved living conditions of the local population. Environmental protection and compliance with social standards are decisive yardsticks for DEG to become involved.
- DEG's selection criteria are the common Environmental and Social Guidelines of the European Development Finance Institutions (EDFI). These encompass the IFC Performance Standards and the stipulations of the Environmental, Health and Safety Sector Guidelines of the World Bank Group in their latest version as well as the conventions of the International Labour Organisation (ILO). The IFC Performance Standards, as revised in 2012, take full account of the UN Guiding Principles on Business and Human Rights.

1.1.4 As part of this responsibility DEG supports its clients in addressing environmental, social and related issues arising from their business activities by requiring them to establish and administer appropriate mechanisms to address project-related complaints from affected communities. In addition to these mechanisms and procedures, the role of administrative and/or legal procedures available in the host country should also be considered. When applicable, an information request or resolution can be sought with the project company. Nonetheless, there may be cases where Complaints from those affected by DEG-supported business activities are not fully resolved at the business activity level.

1.2 Institutional Framework

1.2.1 The DEG Complaints Mechanism is not a legal enforcement mechanism. It offers an effective avenue for addressing concerns and it promotes a mutually constructive relationship between DEG and external parties.

1.2.2. Consequently, this document shall not be deemed to confer any additional rights of access to justice to the persons lodging a Complaint under the procedure set forth therein.

1.2.3 The Complaints Mechanism will be supported in terms of logistics by the department of Corporate Strategy and Development Policy.

1.2.4 DEG ensures that its activities respect national and EU policies and international standards.

2. Principles

2.1 Definitions

Definitions for key items used in this Complaints Mechanism:

2.1.1 External Party:

Any external party submitting a Complaint (non-exhaustive examples: customers, individual persons or groups, workers, Non-Governmental Organizations or trade unions representing affected persons).

2.1.2 DEG-Related Subject:

Any item, which can be subject of a Complaint (non-exhaustive examples: projects, procedures, policies, practices, events, employment).

2.1.3 Complaint:

An expression of dissatisfaction of an External Party which has been or will be affected by a project that has been or will be financed by DEG. Eligibility Criteria have to be met.

2.1.4 Eligibility Criteria:

Criteria as set out in 3.1.4 which have to be met, before a Complaint is processed.

2.1.5 Independent External Panel:

A group of three persons with expertise on environmental, social, legal and financial products and processes. The Independent External Panel (hereafter also: the 'Panel') is fully independent of DEG and performs and is responsible for: determining eligibility, dispute resolution, compliance review and reporting on individual Complaints.

2.1.6 Complaints Office:

Function performed by employees in DEG's Corporate Strategy and Development Policy Department, which registers and acknowledges receipt of Complaints, coordinates adequate fulfilment of the complaints process and provides practical support to the Independent External Panel.

2.2 Guiding Principles

2.2.1 Subject to any applicable legal constraints, the DEG Complaints Mechanism shall be transparent in its operations and outputs.

2.2.2 The DEG Complaints Office shall be independent from operational activities and of the services, which are responsible for the activities challenged by the Complainant(s). The Mechanism ensures that each Complaint is dealt with by the highest standards of objectiveness and commitment whilst safeguarding the interest of all the internal and external stakeholders of DEG.

2.2.3 The DEG Complaints Mechanism shall be accessible to affected people and/or their representatives and be effective in responding in a timely manner to concerns expressed by people being or feeling affected by DEG decisions.

2.2.4 Complaints concerning criminal offences as well as breaches of the German Banking Act (KWG) or similar irregularities do not fall within the scope of this Mechanism. Such complaints are dealt with by DEG Compliance (responsible internal unit) or the confidential whistle-blowing system.

2.3 Purpose

2.3.1 The DEG Complaints Mechanism serves the following functions:

- Evaluate and report for each eligible Complaint the compliance with DEG policies and other applicable standards;
- Attempt, whilst acting as a problem solving function, to promote resolution of concerns raised by the complainant(s) through a consensual process;
- Provide advice and recommendations to the DEG Management and;
- Follow-up and report on efforts to take corrective actions whenever applicable.

2.3.2 In order to ensure proper corporate responsibility and accountability of DEG towards all its stakeholders, the Mechanism offers dispute resolution (if possible) and compliance review.

2.3.3 The Mechanism applies to all projects financed by DEG. However, decisions concerning the investment mandate, its credit policy guidelines or other generic aspects (e.g. DEG's business model) fall outside the scope of the Mechanism.

2.4 Applicable Standards

2.4.1 One element of the Complaints Mechanism is to review compliance of DEG's activities with the following standards / principles / guidelines:

- a. DEG Guideline for Environmental and Social Sustainability;
- b. Environmental and Social Principles of KfW Banking Group;
- c. Environmental and Social Guidelines of the European Development Finance Institutions (EDFI);
- d. IFC Performance Standards and Guidance Notes.

3. Rules of Procedure

3.1 Complaint and Eligibility

3.1.1 The communication by letter and/or e-mail should be written in English or in an official language of the country of the project. The response by letter and/or e-mail will be in English with – if applicable - a translation in the local language.

3.1.2 The External Party who sends a Complaint is requested to submit the following information (the “Receipt Items”), which determines the course of and time for providing a response:

- description of the Complaint, if applicable with an indication which of DEG’s policies has allegedly been breached;
- a clear description of the project and location to which the Complaint is related;
- name and full address, telephone number and if possible e-mail address;
- name of DEG employee whom the complainant had contact with (if applicable);
- a copy of information related to - or relevant for - the Complaint, including an overview of actions (e.g. legal, contacts with project sponsors) that have already been taken to solve the issue.

3.1.3 Any person or group, including civil society organizations, which is shown to be representing affected people, may lodge a Complaint.

3.1.4 The following specific criteria are applicable for eligibility of Complaints:

- The “Receipt Items” (as defined above) should be made available to DEG;
- The External Party must be affected or likely to be affected by an DEG-supported project;
- If an External Party is representing others, it must identify the people it represents and explicit evidence of the representative authority must be provided;
- DEG must have an active financial relationship with the project;
- There must be an indication of a relationship between the project and the alleged impacts;
- The Complaint must contain allegations with substantial, (in)direct and adverse impacts or risks;
- If applicable, other actions and consultations with relevant parties have already taken place. This applicability will be determined by the Independent External Panel.

3.1.5 The DEG Complaints Mechanism cannot entertain:

- Complaints with the objective of gaining a competitive economic advantage or that are excessive, repetitive (i.e. covering the same aspects of a project), clearly frivolous or malicious in nature;
- Identical Complaints aimed at dispute resolution that already have been lodged with other high standard administrative or judicial review mechanisms or which have been settled by the latter;
- Complaints concerning criminal offences as well as breaches of the German Banking Act (KWG) or similar irregularities. Such complaints are dealt with by DEG Compliance (responsible internal unit) or the confidential whistle-blowing system.

3.1.6 Anonymous Complaints are not accepted. Nevertheless, without prejudice a complainant has the right of confidential treatment of the Complaint. Once a Complaint has been deemed eligible, other affected stakeholders typically will be notified about the Complaint. The Mechanism will strictly

respect and safeguard a party's request for confidentiality (if applicable), including confidentiality of entities. The Mechanism will indicate publicly when it has restricted disclosure of information in response to such a request from an External Party.

3.1.7 Complaints must be lodged within one year from the date on which the facts upon which the allegation is grounded could be reasonably known by the complainant(s). The reasonability will be determined by the Independent External Panel.

3.2 Description of the Procedure

3.2.1 After receipt of a Complaint, the DEG Complaints Office will ensure that an acknowledgement of receipt is sent to the complainant(s) within five working days. The acknowledgement informs the complainant(s) of the date by which the Mechanism's official reply to the complainant can be expected.

3.2.2 The Complaint is forwarded to the Independent External Panel by the DEG Complaints Office. Based on criteria, as defined in paragraph 3.1, the Independent External Panel decides on eligibility of the Complaint. During this phase, the Panel can request further information from the complainant and DEG to clarify the complaint. In case of partial or total ineligibility of the Complaint, the Panel will endeavour to provide, if possible, the complainant with an advice on which measures could be taken and/or to which institution the concerns may be addressed.

3.2.3 Once a Complaint has been declared eligible, the Independent External Panel will launch a preliminary review into the issue(s) raised by the complainant; it will review the relevant documentation and records; ensure coordination of the different DEG services involved and whenever deemed necessary will hold meetings with the appropriate internal and external stakeholders in order to gather the required information.

3.2.4 Based on the preliminary review and in consultation with the External Parties the Independent External Panel decides on conducting dispute resolution or a compliance review. These activities are the core phases of DEG's Complaints Mechanism.

3.2.5 DEG's Complaints Mechanism offers the flexibility to conduct a compliance review after the dispute resolution phase and vice versa. It is the Independent External Panel that decides upon this. See scheme in Annex 1.

3.2.6 In the dispute resolution phase, a Complaint will be handled by the Independent External Panel. Activities of this dispute resolution process can include information sharing, fact-finding, dialogue and mediation.

3.2.7 Once a Complaint has been declared admissible for compliance review, the Independent External Panel will launch an inquiry into the issue(s) raised by the complainant; it will review the relevant documentation and records; ensure coordination of the different DEG services involved and whenever deemed necessary will hold meetings with the appropriate internal and external stakeholders in order to gather all the required information.

3.2.8 After the dispute resolution phase and/or the compliance review is closed, the Panel prepares a draft report that includes the allegations, findings, conclusions and recommendations if any, and sends it to the concerned DEG services for opinion and comments for factual checks (to be received within 10 working days). Nonetheless, it is up to the Independent Expert Panel to decide upon the final text.

3.2.9 The report may contain recommendations, such as operational corrective actions and / or improvements to existing policies and/or procedures. Agreed corrective actions must include an implementation plan as well as a detailed timeframe.

3.2.10 Subsequently, the Panel sends the draft report also to the complainant for opinion and comments for factual checks (to be received within 15 working days). Nonetheless, it is up to the Independent Expert Panel to decide upon the final text.

3.2.11 For each Complaint the Panel will prepare a final conclusions report to the attention of the DEG Management Board.

3.2.12 The Panel sends the final conclusions report to the complainant(s).

3.2.13 Effective and timely implementation of corrective actions will be strictly monitored by DEG's Complaints Office. This follow-up on proposed corrective actions and recommendations will be conducted within 12 months after issuing the Conclusions Report.

3.3 Methods of Inquiry

3.3.1 The Independent Expert Panel may, taking into account the nature of the particular Complaint, use a variety of additional investigatory methods, including but not limited to:

- Contacts with the complainant, affected people, government officials and project authorities of the country where the project is located, promoters of DEG financed projects and representatives of local and international non-governmental organizations;
- Visiting project sites;
- Requesting written or oral submissions on specific issues from the complainant, affected people, independent experts, government or project officials, promoters of DEG financed projects, DEG staff, or local or international non-governmental organizations; and
- Hiring independent experts to facilitate dispute resolution or to research specific issues relating to the Complaint.

3.3.2 The Panel will ensure that imposed and/or agreed delays and notices are respected.

3.3.3 In cases of dispute resolution deadlines may be extended in consultation with the complainants in order to allow for comprehensive stakeholder engagement and to manage expectations.

3.3.4 DEG strives to conduct all phases within predefined time frames. The response time can however be extended if the case is complex or the workload on the process is extensive. In those cases, DEG will inform the External Party duly within the predefined timelines. The following time frames apply:

- An acknowledgement of receipt by DEG should be sent within five (5) working days after receipt of the Complaint;

- DEG strives to decide on eligibility within 25 working days after acknowledgement of receipt;
- There is no time constraint on the response for the dispute resolution phase;
- DEG strives to finalize the compliance review phase 75 working days after the complainant has been notified that the Panel is undertaking a compliance review.

3.4 Resources

3.4.1 Adequate budgetary support will be provided to the Mechanism so that it can be effective and independent in carrying out various activities in a timely manner.

3.4.2 The composition and appointment of members of the Panel is the responsibility of DEG's Chief Executive Officer after consultation with DEG's Supervisory Board. The members have diverse expertise (e.g. environmental, social, legal and financial). The members of the Panel must be independent.

3.4.3 The Panel will consist of three members and will be appointed for two years with an optional prolongation period of two years. It is intended to plan successive appointments in such a way, that adequate composition is continuously safeguarded.

3.4.4 The Panel is available for questions, information and advice. If needed, the Independent External Panel is authorized to hire experts. The Independent External Panel decides about the Complaint and responds to DEG and the External Party.

3.5 Reporting & Transparency

3.5.1 It is important for DEG to communicate effectively about the Mechanism. An introduction and description of the procedure will be provided on DEG's website.

3.5.2 DEG will publish a register of Complaints with statuses and outcomes (including follow-up on actions and recommendations) on DEG's website, taking into account privacy and confidentiality regulations.

3.5.3 The Independent External Panel (assisted by the Complaints Office) will report annually to DEG's Supervisory Board on the Complaints. This report will be published on DEG's website.

3.6 Evaluation

3.6.1 This Complaints Mechanism will be reviewed in case of e.g., new (international) laws, regulations or DEG policies and may be updated accordingly in due course. It will be revised immediately when needed and at least be evaluated once every four years.

Annex 1: Process Flow Complaints Mechanism

