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***Annexes - Evaluation of the  
Independent Consultation and  
Investigation Mechanism***

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***Office of Evaluation and Oversight, OVE***

Inter-American Development Bank  
Washington D.C.  
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**ANNEX 1: REFERENCE LIST OF PROJECTS AND SHORT DESCRIPTIONS**

<b>Country</b>	<b>Project name</b>	<b>Project Short name</b>	<b>MICI Issue</b>
Argentina	Neighborhood Upgrading Program II - PROMEBA II	PROMEBA	Protection of a private green space from road route in Corrientes
Argentina	Provincial Agricultural Services II - PROSAP II	PROSAP	Protection of an archeological site from irrigation system in Mendoza
Argentina	Food and Agriculture Health and Quality Management Program	Agrochemicals	Classification of pesticides
Argentina	Multiphase Development Infrastructure: Support Production Entre Rios	Entre Rios	Impact of transmission lines on a property in Parana
Bolivia	Rurrenabaque-San Buenaventura Bridge	Rurrenabaque Bridge	Siting of bridge approaches
Brazil	Mario Covas Rodoanel Project	Rodoanel I	Effect on environment of road construction in Sao Paulo
Brazil	Mario Covas Rodoanel Project	Rodoanel 2	Effect on homes of road construction in Sao Paulo
Brazil	Serra do Mar and Atlantic Forest Mosaics System Socioenvironmental Recovery	Serra do Mar	Expropriation of a home; resettlement of communities
Brazil	Estrada Nova Watershed Sanitation Program - PROMABEN	PROMABEN	Expropriation of a home in Belem
Brazil	Neighborhood Improvement Inhabit Brazil	Habitar	Resettlement of a community
Brazil	Urban Development of São José dos Campos	Sao Jose dos Campos	Resettlement of a community
Colombia	El Dorado International Airport	El Dorado Airport	Socio-environmental impact of the implementation of the expansion of the airport
Colombia	San Francisco-Mocoa Alternate Road Construction Project- Phase 1	Mocoa	Socio-environmental impact of the construction of the alternate Road on the indigenous communities.
Costa Rica	Electric Interconnection System for the Central American Countries (SIEPAC)	SIEPAC	Socio-environmental impact of the construction of the power transmission line
Mexico	Termoelectrica del Golfo Project	Thermoelectric	Socio-environmental impact of the construction and operation of two Thermoelectric Companies
Panama	The Pando-Monte Lirio Hydroelectric Energy Project	Pando- Monte Lirio	Environmental impact of a run-of-river hydroelectric project
Panama	Panama Canal Expansion	Canal Expansion	Seismic and water quality risks of canal expansion
Paraguay	Development of the Industry of Product of the Vegetable Sponge	Vegetable Sponge	Stoppage of disbursements to a small company
Paraguay	Program to Improve Highway Corridors in Paraguay (Ruta 10 - Finca 470)	Highway Corridors	Resettlement and land titling for the Ache people

## ANNEX 2: PERSONS INTERVIEWED<sup>1</sup>

### MICI principals and panelists

Name	Title	Date(s) - 2012
Isabel Lavadenz-Paccieri	Project Ombudsperson	April 30, May 10, July 3, Oct 17, Nov. 12
Victoria Aurora Marquez-Mees	Executive secretary	April 30, May 10, June 19, July 26, Oct 18, Oct 31
Werner Kiene	Chair, Compliance Review Panel	May 2, May 10, July 10, Oct 4, Nov. 12
Gilberto Amaya	Compliance Review Panelist	May 10, July 30
Korinna Horta	Compliance Review Panelist	July 31 (phone)
Mario Epstein	Compliance Review Panelist	Aug 1 (skype), Oct 18
Mary Rose Brusewitz	Compliance Review Panelist	May 10, Aug 6 (phone)
Ana-Mita Betancourt	Former Executive secretary	July 20

### Other MICI staff

Name	Title	Date(s) - 2012
Ana Luisa Gomes Lima	MICI Consultant	July 3, Oct 17
Eduardo Abbott	MICI Consultant	Sept 4
Eva Friederike Magdalene Heiss	MICI Consultant	July 3, Oct 17
Grace Menck De Oliveira Figuerola	MICI Consultant	July 10
Julio Cesar Guity Guevara	MICI Consultant	Aug 22
Sylvia E. Walker	MICI Res Plng & Admin Sr Analyst	June 19, July 26

### Current and Former Executive Directors

Name	Title	Date(s) - 2012
Hugo Caceres	Senior Counselor	September 15
Cecilia Ramos	Executive Director	May 15
Gustavo Arnavat	Executive Director	May 10
Mattia Adani	Executive Director	May 15
Sergio Savino Portugal	Alternate Executive Director	May 10
Ulrike Metzger	Alternate Executive Director	May 15
Vinita Watson and Carol Nelder-Corvari	Former Executive Director and Senior Counselor	May 10
Marc-Olivier Strauss-Kahn	Former Executive Director	October 4 ( phone )

<sup>1</sup> People were interviewed in person, unless otherwise indicated.

Bank staff in Washington

General topics

<b>Name</b>	<b>Title</b>	<b>Date(s)</b>
Daniel Fuster	HR Sr Spec, HRD/TLM	Aug 3
Estefania Torres Barrera	Ovsgt Audit & Compl Assoc, AUG/AUG	Jul 23
Janine Ferretti	Unit Chief Envirnmnt Safeguards	May 16, Nov 1
Karen Merszei	Consultant to HRD	Aug 15 (phone)
Lucy Ana Shirakawa	Ovsgt Audit & Compl Spec, AUG/AUG	Jul 23
Luis Alberto Jugo Grau	Ovsgt Audit & Compl Sr Assoc, AUG/AUG	Jul 23
Luis Estanislao Echebarria	General Manager & Chief SPD	May 11
Maria Teresa Diaz	HR Lead Spec, HRD/TLM	Aug 3
Martin Guozden	Ovsgt Audit & Compl Lead Spec, AUG/AUG	Jul 23
Tracy A. Betts	Div Chief Strategy Monitoring, SPD/SMO	Aug 15

Cases

<b>Name</b>	<b>Title</b>	<b>Date(s)</b>
Emmanuel Andre Boulet	Environment Lead Spec, VPS/ESG	July 13
Ernani Pilla	Natural Rsrcs Sr Spec, VPS/ESG	Aug 14
Ernesto Monter Flores	Environment Lead Spec, VPS/ESG	July 18
Fiorella Peirano	Consultant, OII/OII	Sep 13
Annette Killmer	Natural Rsrcs Sr Spec, RND/CBR	Aug 16 (phone)
Helena L. de Piaggese	Natural Rsrcs Lead Spec, INE/RND	Aug 14, Nov. 7
Isabel Maritza Contreras	Ovsgt Audit & Compl Sr Spec, OII/OII	Sep 13
Jimena S. Gomez-Merickel	Struct & Corp Fin Spec, SCF/PMU	July 18
Jonathan Charles Renshaw	Social Dev Lead Spec, VPS/ESG	Aug 8
Luis Alfredo Uechi	Transport Lead Spec, INE/TSP	July 19
Maria Elena Castro Munoz	Consultant, VPS/ESG	Aug 9
Maya Stefanie Hennerkes	Communications Sr Assoc, SCF/SMU	July 18
Patricia Goes Bakaj	Urban Dev Sr Spec, FMM/CBR	Aug 28
Rachel Beth Robboy	Unit Chief Portf Mgmt, SCF/PMU	July 18
Vera Lucia Vicentini	Transport Ppal Spec, TSP/CAR	July 19
Vanessa Duran Acosta	Ovsgt Audit & Compl Spec, OII/OII	Sep 13

Others

<b>Name</b>	<b>Affiliation</b>	<b>Dates</b>
Amar Inamdar	WB Dispute Resolution Service	Sept 24
Eduardo Abbott	WB Inspection Panel	Sept 4
Meg Taylor and Henrik Linders	IFC CAO	Sept 11
Natalie Fields	Accountability Counsel	Aug 28 (phone)
Bruce Rich	Environmental Law Institute	Nov 7

Stakeholders Interviewed in the field visits

	<b>Paraguay</b>	<b>Bolivia</b>	<b>Brazil</b>	<b>Total</b>
Requester(s) and/or their Representative(s)	5	5	7	17
Other entities involved, not part of request	5	1	3	9
Government	2	1	5	8
Executing Agency	2	2	4	8
IDB Country Office staff	4	2	3	9
Non-Registered Requesters			4	4
<b>Totals</b>	<b>18</b>	<b>11</b>	<b>26</b>	<b>55</b>

Requesters and non-registered requesters contacted by mail and phone from HQ

	<b>Argentina</b>	<b>Brazil</b>	<b>Colombia</b>	<b>Panama</b>	<b>Venezuela</b>	<b>Total</b>
Requester(s) and/or their Representative(s)	1			1		2
Non-Registered Requesters	2	3	3		1	9
<b>Totals</b>	<b>3</b>	<b>3</b>	<b>3</b>	<b>1</b>	<b>1</b>	<b>11</b>

### ANNEX 3: NON-REGISTERED CASES ANALYSIS

Between September 2010 and June 2012, MICI received 22 requests that, on the basis of the Executive Secretary review, were not registered as MICI cases<sup>2</sup>. These are listed in Table 1.

**Table 1. List of non-registered requests**

Name	Date	Disposition by MICI
Suriname - Desarrollo Sostenible para el Interior	27-Sep-10	Inquiry from management with MICI's support
Brazil - Rodoanel - West	22-Nov-10	Transferred to management to handle it
Venezuela - Kreadanza	18-Feb-11	Transferred to the OII
Panama - Panama Canal Expansion	9-May-11	Transferred to management to handle it
Argentina - National Program 700 Schools	13-May-11	Transferred to the OII
Colombia - Female Heads of Households Training Program	1-Jun-11	Request for information handled by Ex Sec
Bolivia - Rurrenabaque	8-Sep-11	Added to an existing MICI case
Colombia - Fundación Tierras de Bondas	14-Sep-11	Transferred to management to handle it
Brazil - Rodoanel - Requester A	20-Sep-11	No reply to MICI's communication
Brazil - Rodoanel - Requester B	22-Sep-11	No reply to MICI's communication
Brazil - Rodoanel - Requester C	26-Sep-11	No reply to MICI's communication
Costa Rica - Cadaster and Registry Regularization	3-Oct-11	No reply to MICI's communication
Colombia - Strategyc System of Public Transport	7-Oct-11	Transferred to PIC
Dominic.Rep - Boulevard Turistico del Atlantico	21-Oct-11	Transferred from the OII
Argentina - PROSAP III	26-Oct-11	Transferred to management to handle it
Brazil - Rodoanel - Procurement	26-Oct-11	Transferred to procurement
Bolivia - CRIAR PASA	30-Jan-12	Transferred to Ethics
Brazil - PROMABEN	28-Feb-12	No reply to MICI's communication
Trinidad and Tobago - CariSal	28-Feb-12	Transferred to management to handle it
Brazil - Infraestructura Logística de Santa Catarina	13-Apr-12	Transferred to management to handle it
Peru - Esquema Cajamarquilla, Nievería y Cerro Camote	20-May-12	Transferred to management to handle it
Peru - Esquema Cajamarquilla, Nievería y Cerro Camote	10-Jun-12	Request for information handled by Exec Sec

The evaluation team reviewed MICI's handling for each of the 22 non-registered requests and attempted to contact both the requester and, where applicable, the Bank unit to which the case was referred. The reasons for non-registration are summarized below.

#### Requests referred to management

Following MICI Policy paragraph 40.h and 56.h, in order to be eligible for either the Consultation Phase or the Compliance Review, the requester must have taken steps to bring the issue to the attention of Management. In 7 cases, MICI determined that the requester had not done so, and accordingly referred the request or the requester to

<sup>2</sup> MICI's Register includes 23 non-registered requests. However, we identified one case of double counting ("Colombia - Fundación Tierras de Bondas"), where the same requesters wrote twice – in Sep'11 and Jan'12-. The second time the requester asked for the state of their earlier request, and this has not been counted as an extra request.

management. The evaluation team considers that MICI's decision was appropriate in all 7 of these cases. That is, none of these requests should have been registered as a case at that stage. Moreover, as indicated in the Policy, there were no requests registered that should instead have been transferred to management.

While the decisions turned out to be appropriate, MICI's processes for deciding *whether* and *how* to send a case to management were inconsistent over time and not fully transparent.

In deciding *whether* to send a request to management (rather than registering it as a case), in some cases the Executive secretary asked the requester by mail or phone call about previous management contact, while in other cases she did not, and the reasons are not recorded.

In deciding *how* to transfer a request to management, the Executive secretary has used three different methods: a) referred the requester: In 3 cases MICI sent the requester contact information for the relevant operational staff. Two of these requesters did contact management after that. The third requester apparently did not contact management. b) referred the request: In 2 cases MICI requested and received the requester's authorization to forward the complaint to management. For one case the requester told OVE that he had not heard anything else from MICI or the IDB. In the other case the team leader did contact the requester and gave him information about the project. c) referred both, the requester and the request: In 2 cases MICI both informed the project team leader about the complaint and sent the requester the management contact information. In both these cases, the requester and the project team leader got into contact.

Specific recommendations for cases referred to management:

- The MICI intake process should include a standard question (oral or written, but always registered) along the lines of: What have you done to bring this to management's attention?
- MICI should use a consistent process for referring requests to management (e.g. give the requesters the management contact information and transfer the original request and directly to the project team leader or country office)

**Requests referred to other accountability and information units**

Under MICI policy, procurement decisions (p.37.d.) and ethics or fraud questions (p.37.g.) are not under MICI's jurisdiction. Accordingly, MICI referred 4 non-registered requests to the following departments: the Office of Institutional Integrity (OII) (2 requests), the Office of Ethics (1 request) and the Procurement Unit (1 request). One request was also referred to the IDB Public Information Center (PIC).

After analyzing the 5 requests referred to other accountability and information units and interviewing staff from those units, and requesters where possible, the evaluation team considers that MICI's decision was appropriate in all cases. All requests were related to topics not covered by MICI Policy. With the exception of one requester who could not be reached, requesters have expressed to OVE their opinion about the process followed by MICI. Two requesters were satisfied with the handling of their cases, either because now their situation is being analyzed by other accountability unit or because MICI gave

them more information on the matter. The other two requesters were not satisfied. One of them claims that MICI did not follow his case and the other one that he was referred to the wrong unit.

The process to determine *whether* a request was not under MICI's jurisdiction is not fully transparent. There are no records on the reasons why MICI decided not to register those requests as a case.

MICI's processes for deciding *how* to refer a case differed depending on the unit they decided to transfer the case to:

- **Requests referred the Office of Institutional Integrity (OII):** MICI both transferred the original requests and the supporting information to the OII and sent to the requesters the contact information in that office. Both complaints became OII cases
- **Requests referred the Public Information Center (PIC):** MICI sent the requester the contact information for the PIC. The PIC was copied in MICI's reply to the requester, and contacted him with additional information about the project.
- **Requests referred the Office of Ethics:** MICI both sent the original requests and the supporting information to Ethics and informed the requester about the transfer process. MICI did not send the requester the contact information in that department, but staff from Ethics contacted the requester.
- **Requests referred to Procurement:** MICI sent the requester contact information for the relevant staff in the procurement unit, and the requester contacted them.

Specific recommendations for cases referred to other accountability units:

- A higher level of communication among all the accountability units within the Bank could avoid a potential duplication of efforts, when two or more units are working in the same case at the same time. That also could help to find the adequate accountability unit to deal with each request, for those cases where the same case could be under the jurisdiction of different departments.

**Requests that did not reply to MICI communication**

On 5 occasions the executive secretary decided not to register a complaint because the requesters did not answer MICI's communication. OVE considers that MICI has not been acting consistently in handling these cases. For some of them MICI did not try to contact the requesters after the first attempt, and dismissed the requests. However, in another case, after the requester's non-answer to the MICI communication checking the exclusion criteria, the Executive secretary contacted the requester several time, as well as the IDB's country office. However it must be mentioned that MICI Policy does not consider the situation where a requester does not reply a MICI communication. For that reason there is not an established procedure to follow in that case.

Specific recommendations for cases that did not reply to MICI communication:

- As in the cases referred to other accountability units, a higher level of communication among all the accountability units within the Bank could avoid a potential duplication of efforts, when two or more units are working in the same case at the same time. That also could help to find the adequate accountability



unit to deal with each request, for those cases where the same case could be under the jurisdiction of different departments.

**Request for information handled by Ex Sec:**

In 2 cases, the executive secretary decided to answer the information asked for in the original request without referring the requester to any other Bank unit. One request was related to a Bank-financed operation with a last disbursement date older than twenty-four (24) months at the moment of reception. That implies that it could never have become an actual MICI case, since it would not have met the exclusion criteria establish in the Policy paragraph 37.f.

For the second case, MICI forwarded the requester the information given by the team leader to another requester regarding the same project. The evaluation team considers that MICI should have referred that request directly to the team leader or had given him management contact as well as the information provided.

Specific recommendations for request for information:

Requests for information are not specifically considered by MICI Policy, which in paragraph 27 defines any communication relating to the Policy from a requester as a request. Hence MICI is not required to refer those communications to the specific units which could handle them. MICI should have a procedure to follow in cases where a requester approaches MICI just looking for information.

In some cases is it difficult to differentiate when a requester is just asking for information or when he wants to make a complaint. For that reason is it important for MICI to handle requests for information carefully, since they can easily become actual requests. In that sense, MICI should have a way to let the requesters that they can fill out a complaint in case they were not satisfy with the information provided by management or other information units.

**Other non-registered requests:**

The other three requests received by MICI which, on the basis of the Exec Sec's review, were not registered as cases, were related to different topics. In the first case MICI received an inquiry from management to support them on the investigation of a case received directly by the country office. Another request was added to a previous MICI case after the Project Ombudsperson met the requester and considered that the reasons to complain were the same. The third request was received by the OII, and MICI did not register it after considering the requester did not meet the exclusion criteria established by the Policy.

These cases reflect situations not foreseen by the Policy, where the requests are handled by MICI on an *ad hoc* basis. Since new requests relating existing cases had been received by MICI in more than one occasion, and they have been treated differently, a procedure to add requester should be established. The fact that a request is received from people other than the requester (i.e., other Bank units or the Ombudsperson) is not considered in the Policy. In paragraph 30 it is established that a request may be presented through a representative located in the project host country or elsewhere.

The investigation of the 22 non-registered requests, as well as the contacts established with MICI, management and the requesters, allows the evaluation team to analyze more general issues and establish recommendations on how handle the requests not registered as MICI cases.

### **Transparency**

#### **The request:**

MICI is not-systematically applying a procedure to deal with those communications which on the basis of the Exec Sec's view, should not been registered as MICI cases. As has been detailed in the preceding sections, the evaluation team considers that MICI's handling of the non-registered cases were mostly appropriate in light of the information provided. However, the MICI's disposition of the requests could be questionable in some cases. A clear process to receive requests, with a standard procedure to check the exclusion criteria and a systematic registration of all the communications, would ensure transparency and fairness into MICI system. In order to guarantee the accessibility to MICI, communications between MICI and the requesters should be addressed in the language in which the original request was written<sup>3</sup>. That recommendation also applies to the language in which MICI sends the Policy to the requesters.

#### **The Registry:**

MICI Policy paragraph 36 states that "the Executive secretary shall keep track of the number and nature of eligible and ineligible Requests and report on the same in the ICIM's annual report and via the Registry". The Policy is not considering the registration of all requests received by MICI, just the ones registered as cases to be considered for their eligibility. The Executive secretary has been keeping track of the non-registered requests and the reasons why they were not registered. For some requests the Executive secretary even included a General Data Sheet or a Summary on the original request and the actions and communications taken by MICI. Following the Executive Secretary's initiative, the evaluation team considers that a Registry which includes all requests received would make MICI more transparent and credible. Information about cases referred to management or other Bank units should be included in the Registry and MICI's annual public report. Keeping track of registered and non-registered requests would also help MICI to deal with new requests regarding existing cases, or requesters from non-registered cases that return to MICI to fill out an actual request.

#### **Verification of the exclusion criteria:**

The process to check the exclusion criteria made by the Executive secretary is not consistent over time. The reason why some non-registered requests were referred to other units responds to different considerations made by MICI. After a request arrives, MICI is not systematically asking the requesters about the exclusion criteria established by the Policy (p. 37). In just 9 cases the evaluation team has been able to verify that the Executive secretary checked some of the exclusion criteria with the requesters by mail or phone call. The lack of a systematic registration of the phone calls between the Executive

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<sup>3</sup> The evaluation team has identified three cases where the Executive Secretary replied to the requests in a different language than that used by the requesters.

secretary and the requesters makes not possible for OVE to consider all those communications in that indicator.

In some cases the Executive secretary calls the requester after receiving his first communication. While OVE considers the phone call as an appropriate way to approach the requesters, all communications between MICI and the requester should be recorded in the Registry.

That verification of the exclusion criteria is particularly relevant in those requests referred to management. In some cases where requesters specifically indicated they could not identify anyone to complain to and in others MICI contacted the requesters by phone to check that. But there were other situations where MICI just assumed the requesters had not contacted management before, deemed the request a "request of information" or, having a project which the loan proposal was still on preparation, decided to transfer the request to the project team leader or the Country Office.

That situation introduces a high degree of subjectivity in the MICI's decision of transferring a case to other units, reducing transparency and accessibility to the process.

#### Reasons for non-registration:

The reasons why a request is not registered as a MICI case should be also included in the Registry for clarification and transparency. MICI has followed different procedures to deal with similar requests, which implies a non-systematic use of processes. The evaluation team has identified different areas where MICI should define a clear strategy to handle the requests:

- *Requests for information:* Since MICI does not have a specific form to fill out a complaint, is not easy to differentiate between requests for information and actual complaints. MICI Policy does not differentiate between those situations. MICI could refer the requesters who are just looking for information to those units created to respond citizens' doubts about the Bank-financed operations (i.e., the PIC or operational units within the Bank). *Projects that are still on an initial stage:* Among the 22 non-registered requests received by MICI, 8 were related to projects still not approved by the Bank and 2 to projects in their first months after approval. MICI policy does not specify that MICI cases should refer only to projects already approved. For that reason MICI should handle that kind of cases as the other ones, just referring the case to management if the requesters have not contacted them before.
- *Connection with Bank-financed operation:* 3 of the requests received by MICI and not registered as cases were not associated to any specific project. In some occasions MICI used the argument that if there is not an IDB operation linked to that request, MICI process is not activated. MICI Policy paragraph 37.c states that actions or activities that do not relate to a Bank-Finances Operations will not be considered as a case. However, that not necessary implies that the request must be related to an IDB project, but it must have some kind of relationship with IDB programs in the country. MICI should not use the fact that a project is still on design to reject a case, following the same procedure as in the other requests.

### **Elapsed times**

Paragraph 34 of MICI Policy states that the Executive secretary shall acknowledge receipt of a request within five business days. Considering the 20 cases where the requesters directly contacted MICI<sup>4</sup>, the average number of calendar days that took the Executive secretary to acknowledge the receipt by mail was 8 calendar days. In some cases the Executive secretary had a phone conversation with the requester before or after MICI's answer by mail but the lack of a systematic registration of those phone calls prevents OVE including them in the elapsed time calculation. Although the value for the acknowledge receipt of the requests conforms to the Policy, it is also important to analyze the time that took MICI to answer the requester regarding the specific request beyond acknowledging its reception. Also, excluding a case where the Exec Sec answered the requester by phone call, the number of calendar days for an answer to the requester was 12. That value exceeds the time determined by the Policy to transfer the requests to the Consultation Phase for its eligibility analysis<sup>5</sup>.

### **Requesters' satisfaction and Follow up**

As one component of the analysis the evaluation team tried to contact all the requesters for the non-registered requests. The requesters were asked about the response they received from MICI as well as the current situation of the question the request was about. After attempts by mail, phone and personal interviews, the evaluation team was able to contact 13 of the 22 requesters. Six of them considered their request was correctly managed by MICI.

Seven requesters said they were not satisfied with how MICI handled their request. Of these, five said they were dissatisfied because neither MICI nor any other Bank unit contacted them. For instance, after referring the request to management MICI did not follow up in any case what happened or if the requesters were contacted by someone from the IDB. It is, of course, not MICI's responsibility to follow up on requests that it has appropriately passed to other units. However, the lack of transparency in MICI's procedures have confused some requesters about what to do after receiving the indication that management must be contacted before to activate MICI process. That affects requesters' accessibility to MICI process.

Regarding the current situation of the question the request was about, in four cases the requesters have expressed OVE that nothing has changed since they contacted MICI in the first time. Some of them also declared to be frustrated after the lack of answer from MICI and the IDB, so they decided to give up on their complaints.

Some interviewees from management stated that they were unsure of what to do when MICI referred a case directly to them. For example, one requester indicated that, after authorizing MICI to transfer his case, he never knew if someone from IDB management had received his complaint. He decided not to contact any other IDB unit, after expressing his lack of trust on IDB accountability systems. The failure to respond to external complaints reduces transparency, fairness and efficiency of the IDB as a whole.

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<sup>4</sup> Requests referred from other units are not included in the indicator.

<sup>5</sup> Paragraph 39 of the Policy states that the Executive Secretary shall forward all Requests to the Project Ombudsperson no later than five (5) business days following receipt.

# **ANNEX 4: MICI ELIGIBILITY AND EXCLUSION CRITERIA ANALYSIS AND COMPARISON WITH OTHER IAMs**

## Eligibility and Exclusion criterion

Exclusions (Section 37)	Eligibility Criteria (Section 40)
a. Actions that are the responsibility of parties other than the Bank, such as a borrower/recipient, technical cooperation beneficiary, or executing agency, and that do not involve any action or omission on the part of the Bank;	a) the names and contact information for the Requester if available;
b. Requests related exclusively to the laws, policies, and regulations of the host country(ies), borrower/recipient or the executing agency;	b) the names and contact information for the Representative, if any, and proof of the authorization are available;
c. Actions or activities that do not relate to a Bank-Financed Operation or that are not subject to the Bank's Relevant Operational Policies;	c) the Bank-Financed Operation(s) at issue has been identified;
d. Procurement decisions or processes (in which case the Executive secretary shall redirect the Request to the appropriate office within the Bank);	d) the Requester resides in the country where the relevant Bank-Financed Operation is or will be implemented (or a qualified Representative has been appointed);
e. A particular matter or matters that have already been reviewed pursuant to the Mechanism, or its predecessor, unless justified by new evidence or circumstances not available at the time of the initial Request;	e) none of the exclusions set forth in Section 37 applies;
f. Requests dealing with a Bank-Financed Operation that are filed after twenty-four (24) months of the last disbursement.	f) the Requester has reasonably asserted that it has been or could be expected to be directly, materially adversely affected by an action or omission of the IDB in violation of a Relevant Operational Policy in a Bank-Financed Operation and has described in at least general terms the direct and material harm caused or likely to be caused by such action or omission in the Bank-Financed Operation;
g. Ethics or fraud questions, specific actions of Bank employees, non-operational matters such as internal finance or administration, allegations of corrupt practices, or other matters subject to review by other bodies established by the President (in which case the Executive secretary shall redirect the Request to the appropriate office within the Bank);	g) the parties are amenable to a Consultation Phase exercise, and, with respect to an issue raised in the Request, a Consultation Phase exercise, may assist in addressing a concern or resolving a dispute or is likely to have a positive result; and
h. Any Request that on its face (i) is without substance, or (ii) has been submitted to gain a competitive business advantage; and	h) The Requester has taken steps to bring the issue to the attention of Management. The Project Ombudsperson shall allow forty-five (45) calendar days from the date of acknowledgment by the Executive secretary of the Request before it is registered pursuant to Section 39.
i. Requests that raise issues under arbitral or judicial review by national, supra national or similar bodies.	

### Comparison of Eligibility Exclusion Criteria

EBRD – Project Complaint Mechanism	EIB – Complaints Mechanism	World Bank – Inspection Panel	IFC/MIGA – Office of the Compliance Advisor / Ombudsman (CAO)
6 Exclusions	5 Exclusions	4 Exclusions	3 Exclusions
<p>24(a) – it was filed fraudulently or for a frivolous or malicious purpose;</p> <p>24(b) – its primary purpose is to seek competitive advantage through the disclosure of information or through delaying the Project;</p> <p>24(c) – it raises allegations of fraud or relates to procurement matters (in which case the Complaint will be redirected to the appropriate office within the Bank);</p> <p>24(d) – it relates to Article 1 of the Agreement Establishing the Bank, the Portfolio Ratio Policy or any other specified policy as may be identified by the Board from time to time;</p> <p>24(e) – it relates to the adequacy or suitability of EBRD policies;</p> <p>24(f) - It relates to matters in retards to which a Complaint has already been processed by the PCM or its predecessor or, in the case of a request for a Problem-solving Initiative, the subject matter of the Complaint has been dealt with by the accountability mechanism of any parallel co-financing institution and the PCM is satisfied that the complaint was adequately considered by such accountability mechanism, unless there is new evidence or circumstances not known at the time of the previous complaint.</p>	<p>2.3 - The EIB Complaints Mechanism Division is not competent to investigate complaints concerning International organizations, Community institutions, and bodies, national, regional, or local authorities.</p> <p>2.4 - The EIB Complaints Mechanism cannot investigate complaints concerning the working relations between the Group and its staff.</p> <p>2.5 - The EIB Complaints Mechanism cannot deal with complaints which have already been lodged with other administrative or judicial review mechanisms or which have already been settled by the latter.</p> <p>2.6 - Complaints from anonymous parties are inadmissible.</p> <p>2.7 - Complaints with the objective to gain a competitive economic advantage or that are excessive, repetitive, clearly frivolous or malicious in nature are inadmissible.</p>	<p>14(a) – Complaints with respect to actions which are the responsibility of other parties, such as a borrower, or potential borrower, and which do not involve any action or omission on the part of the Bank.</p> <p>14(b) – Complaints against procurement decision by Bank borrowers from suppliers of goods and services financed or expected to be financed by the Bank under a loan agreement, or from losing tenderers for the supply of any such goods and services, which will continue to be addressed by staff under existing procedures.</p> <p>14(c) – Requests filed after the Closing Date of the loan financing the project with respect to which the request is filed or after the loan financing the project has been substantially disbursed. (&gt;95%)</p> <p>14(d) – Requests related to a particular matter or matters over which the Panel has already made its recommendation upon having received a prior request, unless justified by new evidence or circumstances not known at the time of the prior request.</p>	<p>2.3.1 - Complaints that are malicious or trivial or that have been generated to gain competitive advantage.</p> <p>2.3.1 - Complaint includes allegations of fraud and/or corruption, the CAO will refer those allegations to the World Bank Office of Institutional Integrity.</p> <p>2.3.1 - Complaints relating to procurement decision of IFC and/or MIGA are not accepted.</p>

**ANNEX 5: CASES WHERE 37(i) IS A FACTOR**

Brazil-- Serra Do Mar  Both consultation and compliance	Requester has initiated a series of legal actions that are currently under review by the Brazilian judiciary.	Exclusion 37(i) applied
Paraguay -- Highway Corridors	PO accepted Requesters' argument that Requesters' concerns revolve around the original unsatisfied loan conditions and not the Internal Notice of SEAM 2010 (land splitting), which is currently the subject of a lawsuit.	Exclusion 37(i) NOT applied
Argentina -- PROMEBA	Requester abandoned a legal environmental relief process initiated as a precautionary measure.	Exclusion 37(i) NOT applied
Costa Rica -- SIEPAC	While a judicial process focused on the validity of the administrative act of granting an Environmental Permit is currently underway, the Request centers on the alleged harm caused by violations of OP-703 during site selection.	Exclusion 37(i) NOT applied
Colombia -- Mocoa	Requester engaged in class action against Executing Agency and 3 government departments challenging Project's environmental license. Requesters argue Request is aimed at Project's deficiency in obtaining prior informed consent while class action seeks to appeal an administrative act.	Exclusion 37(i) NOT applied

# **ANNEX 6: CHRONOLOGY OF MICI PRINCIPALS**

<b>Period</b>	<b>Position</b>	<b>Persons holding the position</b>
Sept. 9-20, 2010	First Executive Secretary	Ana Mita Betancourt
Sept. 1 <sup>st</sup> , 2010 to present	Project Ombudsperson	Isabel Lavadenz-Paccieri
Sept. 21 – Oct. 17, 2010	Acting Executive Secretary *	Isabel Lavadenz-Paccieri
Oct. 2010 to present	Panel Chair and Members	Werner Kiene (panel chair); Gilberto Amaya, Mary Rose Brusewitz, Mario Epstein and Korinna Horta
Oct. 18, 2010 to Jan. 31, 2011	Acting Executive Secretary *	Renato Puch
Feb. 1 – Mar. 31, 2011	Acting Executive Secretary *	Isabel Lavadenz-Paccieri
Apr. 2011 to present	Second Executive Secretary	Victoria Marquez-Mees

\* German Quintana, Secretary of the Bank, had legal and financial authorization powers.



## ANNEX 7: REFERENCES

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