

PUBLIC

DOCUMENT OF THE INTER-AMERICAN DEVELOPMENT BANK

**REVISION OF THE POLICY OF THE INDEPENDENT CONSULTATION AND
INVESTIGATION MECHANISM**

RESULTS OF THE 2013-2014 PUBLIC CONSULTATION PROCESS

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Independent Consultation and Investigation Mechanism

Revision of the Policy of the Independent Consultation and Investigation Mechanism

Results of the Public Consultation Process

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I. Introduction

- 1.1 In February 2010, the Board of Executive Directors of the Inter-American Development Bank (IDB) approved the Policy Establishing the Independent Consultation and Investigation Mechanism (ICIM) of the Bank and provided for an evaluation of its operations after two years.
- 1.2 The evaluation conducted by the IDB Office of Evaluation and Oversight (OVE) in December 2012 took account of the experience with the Policy from 2010 to that date and identified a number of areas in the ICIM's operations that were in need of improvement. Based on that review, the Board of Executive Directors ordered a restructuring of the ICIM and a revision of its Policy to improve its operation and effectiveness.
- 1.3 As part of this process, the Board of Executive Directors, through an open competitive process, hired an independent consultant to write a Draft Policy for the Mechanism that would reflect the evaluation and incorporate feedback from external and internal stakeholders.
- 1.4 Based on the consultant's draft, the Board of Executive Directors approved the inclusion of a two-part public consultation as part of the process: (a) an initial public consultation phase to receive comments on the ICIM's 2010 Policy, and (b) a second phase of public consultation to receive comments on the Revised Draft Policy.
- 1.5 The first phase was carried out from August to November, 2013, during which time two face-to-face meetings were held (one in Washington, D.C. and another in Cali, Colombia) and attended by more than 120 stakeholders; there were 6 videoconferences with civil society organizations from the region, and face-to-face and teleconference interviews with more than 50 participants. In addition, during this phase written comments were received from 14 civil society organizations and experts on the subject.
- 1.6 The second phase of the public consultation on the ICIM's Revised Draft Policy was from August 1 to September 15, 2014, and yielded 42 written comments from parties outside the Bank. Additionally, during this second phase, the ICIM presented its comments to the draft. Those comments have not been included in the compilation, but can be accessed through the links provided in Annex 3.
- 1.7 At the end of each phase, a compilation of the comments received was submitted to the Board of Executive Directors, as well as access to the complete versions.

The comments from the first phase of the public consultation were used as input for the formulation of the Draft Policy. The comments from the second phase were also used to revise and adjust the draft, resulting in the final version approved by the Board of Executive Directors on December 17, 2014.

- 1.8 This document summarizes the two phases of the public consultation process for the revision of the ICIM Policy and presents a compilation of the comments received, for the information of the general public. In terms of structure, the document contains one section in addition to the introduction: Section II describes the two-phase consultation process undertaken, the main results and a compilation of the comments received in each phase. In addition, there are three annexes that contain the record of written comments received during the first phase with hyperlinks to the comments in their original form (Annex 1); the record of comments received during the second phase, in chronological order and with hyperlinks to the original comments (Annex 2), and the record of ICIM comments with a hyperlink to the original version (Annex 3).
- 1.9 This document does not include assessments or recommendations by the persons responsible for the compilation.

II. Public Consultation Process

- 2.1 On December 19, 2012, the Board of Executive Directors decided to initiate the revision of the ICIM Policy, for which it hired an expert consultant through an open competitive bidding process in May 2013. With a view to ensuring a transparent and inclusive process for the revision of the 2010 Policy, the Board of Executive Directors undertook to involve the stakeholders in the revision process through a public consultation to be conducted in two phases.

A. First Phase of Public Consultation

- 2.2 The objective of the first phase, from August 1 to November 15, 2013, was to receive comments on the 2010 Policy. Table 1 presents the actions taken during the first phase to publicize the process, including the following:
- Request for the electronic submission of written comments on the 2010 Policy from a broad audience, both within and outside the IDB. With this in mind, a specific section was created on the IDB's website (Civil Society Organizations - Public Consultations), as well as on the ICIM website, and invitations were sent by other means.
 - Organization of public meetings, personal interviews, and videoconferences with stakeholders selected from the following groups: NGOs in Washington D.C, civil society organizations, academics, other accountability mechanisms at other multilateral banks, Requesters, IDB offices that are active before the ICIM, and Civil Society Consulting Groups (ConSOCs). The objective was to receive comments from stakeholders based on their experience with the implementation of the 2010 ICIM Policy.

Table 1

Outreach Actions to Promote the First Phase of the Public Consultation

Activity	Time Period/Date	Scope
Access to Announcement on the websites: <u>IDB-Civil Society</u> <u>ICIM</u>	August 1 – September 30, 2013	N/A
Face-to-face meeting in Washington D.C	September 14, 2013	60 participants: Accountability mechanisms; Multilateral financial institutions;

Activity	Time Period/Date	Scope
		NGOs; Academics; ICIM panel and staff; IDB staff
Face-to-face meeting in Cali, Colombia	November 13, 2013	66 participants: Representatives of the ConSOCs from Latin America and the Caribbean
6 Videoconferences organized with the ConSOCs	At different times during the August-November 2013 period	Between 5 and 10 NGO representatives participated in each session of the videoconferences organized with the ConSOCs from Costa Rica, Mexico, Nicaragua, Paraguay, Argentina
Telephone interviews with the IDB	At different times during the July-November 2013 period	6 IDB offices: Argentina, Colombia, Costa Rica, Mexico, Panama, and Bolivia
Telephone interviews with Requesters in cases before the ICIM	At different times during the July-November 2013 period	14 Requesters
Receipt of written comments	At different times during the July-November 2013 period These comments were published on the ICIM website in November 2013	14 comments

2.3 A total of 212 individuals and organizations took part in this initial phase of the public consultation, as detailed in Table 2 below:

Table 2

Participation of individuals and organizations in Phase I of the Public Consultation

Manner of Participation	Number of individuals/organizations
13 comments sent to the ICIM via email	32
14 telephone interviews with Requesters	14
6 videoconferences with members of the ConSOCs: Argentina, Barbados, Costa Rica, Mexico, Nicaragua, and Paraguay	41
1 meeting held in Washington D.C. on September 24, 2013	60
1 meeting held as part of the XII IDB-Civil Society Meeting on November 13, 2013 in Cali, Colombia	65

- 2.4 At the conclusion of this phase a document was drafted for the Board of Executive Directors, analyzing the comments received. Based on these inputs, and during the first quarter of 2014, the consultant worked with the members of the Board on the wording of the Revised Draft Policy.

1. Summary of Key Issues

- 2.5 During the first phase of the public consultation, the comments on the 2010 Policy focused on the following issues: Eligibility and access to the ICIM; Mandate and Independence of the ICIM; Structure and Composition of the ICIM; The Consultation and Compliance Review Phases, Monitoring, and Deadlines; and Outreach and Communication of the ICIM.

a. Comments related to accessibility and eligibility

- 2.6 In general, the Requesters interviewed did not encounter difficulties in presenting a Request. Nevertheless, there was a widespread opinion that the procedures were very complicated, which gave the impression of hindering access to the Mechanism. The long list of exclusions in particular contributed to this

impression. Many suggested that the revised policy should be more flexible in its eligibility requirements. In particular, they were of the opinion that Requesters should not have to offer an explanation of the causality between the harm and the ICIM Policy, given that they were unfamiliar with the operational policies of the IDB.

- 2.7 With respect to the obligation to identify the Requesters, some comments emphasized the need to ensure confidentiality for those Requesters who fear retaliation.
- 2.8 Regarding the exclusions, most of the comments expressed concern over the judicial exclusion (paragraph 37i), on the grounds that the ICIM's mandate to review compliance with Bank policies is unrelated to national or international court systems. In addition, the ICIM review process can be long and complex. It was suggested that the Mechanism should be made more accessible by eliminating exclusion 37i or establishing some limitations thereto. Finally, many of the comments suggested the elimination of the requirement that Requests must be filed within a maximum time period of 24 months after the last disbursement.
- 2.9 A significant number of comments expressed the opinion that the existence of two eligibility processes to access the Phases made the procedure very long and onerous. In addition, the fact that Management had 45 calendar days to handle the case during those phases lengthened the duration of the process even further. It was suggested that it be reduced to a single eligibility stage and that Management should specify from the beginning whether it would need 45 days to resolve the case. It was also suggested that a project site visit be conducted to assist the ICIM in its analysis of whether a case should be investigated, and that this visit should not be subject to the "no objection" of the country in which the project is located.

b. Comments related to the mandate and independence of the ICIM

- 2.10 The general perception is that the ICIM's mandate is unclear. Virtually half of the Requesters did not understand the reason why the ICIM process was subject to the decisions of the Board. Some comments considered that other accountability mechanisms were more independent and their mandate clearer. It was suggested that the Mechanism should have the authority to suspend or alter projects that fail to comply with the Bank's policies, especially in view of significant harm. Additionally, it was considered that the phrase "direct and material harm" was ambiguous because the determination could be subject to different interpretations.
- 2.11 In terms of independence, they considered it important that the Panelists not be allowed to work for the Bank after completing their assignments at the ICIM.

c. Comments related to the structure and composition of the ICIM

- 2.12 With regard to the ICIM's structure, some Requesters expressed their preference for having a single partner during the process rather than three, in order to save time and ensure continuity. They explained that they had experienced problems of coordination and communication among the three ICIM entities, which hampered efficiency and led to time extensions during the process. Therefore, they suggested the creation of a new structure that would clarify the relationship and hierarchy among the duties of the Executive Secretary, Project Ombudsperson, and Panelists.

d. Comments related to the Consultation and Compliance Review Phases, monitoring, and deadlines

- 2.13 There were no comments with respect to the fact that there are two phases. However, it was said that for cases in which the adverse impacts had a specific window of time, having to begin with the Consultation Phase was a burden on communities, especially when a satisfactory solution to the problem had not been identified early on. Therefore, it was generally thought that Requesters should be able to choose the phase and go directly to Compliance Review with the opportunity to be informed of the impact of selecting one or the other in order to facilitate their decision. An initial visit to the project site could support the decision process and would also help the Panel to prepare terms of reference for the investigation. To save time, it was suggested that the ICIM could gather useful information for the terms of reference at that time.
- 2.14 Some were of the opinion that they should be consulted on important decisions such as the selection of experts, the action plan, and the monitoring plan.
- 2.15 It was generally considered that the ICIM process could be shortened by implementing mandatory time limits at each stage. That way, the Requesters would have a better idea at the beginning of the process of how long they would have to wait.
- 2.16 With respect to the action plan and the monitoring of the action plan during the Compliance Review Phase, various commentators objected to the absence of such monitoring. They proposed that local representatives could be selected on an *ad hoc* basis to assume this duty and that the decision to conduct monitoring should be made not by the Board but rather by the ICIM.

e. Comments related to the ICIM's Outreach and Communication

- 2.17 Many of the comments focused on the lack of familiarity with the ICIM and its activities, especially in communities without Internet access. Various suggestions were made, such as including a clause in the loan contract requiring the Executing

Agency to provide information about the ICIM; for the IDB to develop a communication strategy that addresses local communities in different languages and includes information about the ICIM. It was also suggested that systematic information should be generated about the cases in each country and that the ConSOCs should be used to disseminate information about the Mechanism.

- 2.18 The compilation of the main comments received during the first phase is presented below, according to two aspects: (a) by type of commentator; and (b) by issue, as shown in table 3 below.

Table 3
Categorization of Comments

By Type of Commentator	By Issue
Requester: whether individuals or civil society organizations	Clarity of mandate, structure, functions, authority
Civil Society: members of civil society organizations	Accessibility
ConSOCs: members of civil society organizations who are part of the Consulting Groups at IDB Country Offices	Independence
Interested Third Parties: academics, consultants, staff from counterpart bodies, or other individuals interested in the matter	Transparency, effectiveness, efficiency, and response capacity

2. Compilation of Comments – Phase I

- 2.19 Table 4 summarizes the comments received during the first phase of the public consultation on the revision of the ICIM Policy. It is important to note that in cases in which various commentators made the same comment, it was recorded one time only.

Table 4
Compilation of Comments - First Phase

Subject	Comment	Type of Comment Provider
Clarity of mandate, structure, functions, authority		
Authority	ICIM should be able to condition the IDB funding of the project on the resolution of the ICIM case.	Requester
Authority	ICIM should be able to ensure that executive agencies (including governments) comply with the decisions.	Requester
Authority	If the IDB finds non-compliance with its Policies, it should cover the cost of the harm	Third party
Authority	The Panel should have the authority to request and receive facts and data from the Executing agency.	Requester
Authority	ICIM should be able to obtain systematic information from IDB teams and from executive agencies and to secure their collaboration on the cases.	Requester
Disbursement	The IDB should not disburse funds when ICIM confirms that the executing agency has not complied with his commitments.	Requester
Disbursement	The ICIM should act differently when facing an emergency situation, having the possibility to suspend the execution of a project which represents a major threat, or in extreme cases.	Requester
Lessons	Each case should be analyzed in detail by the IDB in order to draw lessons for the future and to prevent similar problems.	Requester
Lessons	The ICIM should disseminate ICIM success stories, IAMs best practices and lessons learned, because it may serve as an incentive for IDB and for future cases.	Requester
Mandate	The ICIM should provide access to information on projects, especially to potentially affected people, with the objective of building confidence in IDB operations	Requester
Mandate	The ICIM mandate should be clear as people do not understand the ICIM mandate.	Requester
Mandate	The ICIM should continue to address cases when IDB loan is canceled, taking into account the damages of the past decisions on the population and because it needs to take a position on past incompletion with IDB policies.	Requester

Mandate	MICI core mandate is to ensure access to effective remedy that implies appropriate redress to complainants, measures to prevent further harm, institutional learning	Civil Society
Mandate	MICI mandate should be limited and clarified including its dual function to which a third should be added: to draw and disseminate lessons to the Bank and stakeholders	Sept 24 Meeting
Mandate	Mandate should include general and specific objectives linked to the functions of the mechanism	Sept 24 Meeting
Mandate	Title 'policy' is inappropriate Specify that MICI provides a last resort recourse. All operational policies should be covered by ICIM, including sector policies ICIM should also apply to IIC projects	Third Party
Mandate	The ICIM mandate should include trans boundary damages and also technical assistance to support requesters.	Requester
Mandate	IDB should ask the executing agencies to be committed to a permanent dialogue with communities.	Requester
Mandate	The ICIM should also verify the archeology impact assessment of IDB projects, even if it is not in IDB policies.	Requester
Structure	Create an advisory group composed of academia, CSO, industry and experts in conflict resolution to assist ICIM in its mandate	Civil Society
Structure	The revised policy should clearly define the oversight role of the Board including the creation of a board committee with well-defined responsibilities	Third Party
Structure	There is no need to maintain three MICI pillars and a clear hierarchy should be established between them	Sept 24 Meeting
Structure	The panel should be reduced from 5 to 3 permanent members chaired by a full time position	Sept 24 Meeting
Structure	The executive secretary should be selected by the ombudsperson and the panel chair, not directly by the board and should report to the panel chair and to the ombudsperson	Third Party
Structure	The Executive Secretary should have the role of manager responsible for the supervision of the overall ICIM employees including panel members	Third Party
Structure	Adapt the current structure to the progressive demand that is arising and that is being promoted by the Bank. It is not adequate and staffing must be reinforced to reduce time and promote timely responses	Nov. 13 Meeting
Structure	Increase and reinforce staff and clarify their functions	Nov. 13 Meeting

Structure	The processes in paper are clear, however it is not clear if the ICIM is an organization, a group or a separate entity or independent of the Bank	Nov. 13 Meeting
Structure	There is a confusion between the two phases, do not understand why two phases and why addressed by two ICIM different people without coordination and communication. One only person should lead the ICIM team	Requester
Structure	A more efficient structure is needed	Requester
Structure	ICIM should have a local correspondent to perform monitoring not Headquarters that is too far from the realities on the ground	Requester
Structure	Increase and reinforce the staff team and clarify their functions	Nov. 13 Meeting
Access		
Confidentiality	Be more accessible to Requesters that fear retaliation and intimidation by preserving confidentiality	Civil Society
Eligibility and exclusion criteria	IDB staff and IDB Board deliberately make a restrictive interpretation of people's right to appeal to ICIM in order to prevent them from questioning IDB projects. It is difficult to formulate a complaint	Requester
Eligibility and exclusion criteria	Requester should indicate clearly if and how national procedures have been exhausted. Requester should specify how IDB policy is not correctly implemented in the project Simplify criteria in parag.56 as it has already been done in paragraph 40	Third Party
Eligibility and exclusion criteria	The MICI should be an open and predictable process, easy to access, transparent including simplified and quick procedures and with limited exclusions;	Sept. 24 Meeting
Eligibility and exclusion criteria	Exclusions to be eliminated include 37 i. as ICIM only opportunity to hold IDB accountable for its policies Consider harm for which IDB is not directly responsible; extend the cut-off date for filling a request to ten years of the last disbursement;	Civil Society
Eligibility and exclusion criteria	Requesters should not be asked to consult the IDB Management before sending a claim.	Requester
Eligibility and exclusion criteria	Requests should be eligible until the end of the reimbursement of the loan	Sept. 24 Meeting
Eligibility and exclusion criteria	Requesters should not be prevented from filing parallel judicial and arbitral demands as the ICIM offers a unique forum to address IDB policy violations	Requester

Eligibility and exclusion criteria	Paragraph 37 i. should be deleted because it is open for arbitrary interpretation and reduces ICIM independence; it is a concern for indigenous communities that need more protection to their rights and need to use the recourse to national courts. If the provision is maintained, this paragraph would need concrete criteria to facilitate its interpretation. The ICIM should make sure that parties, object and legal basis are identical.	Requester
Eligibility and exclusion criteria	Eligibility should only depend on the damages generated or that may be generated by the project	Requester
Outreach	There is a need to organize a massive campaign of information including information on the IDB home page because the ICIM is difficult to find in the IDB web site.	ConSOCs
Outreach	Most requesters were informed about the ICIM through the IDB internet website	Requester
Outreach	There is a need to inform the public in all IDB funded projects at all stages of the project cycle, in particular people and communities at an early stage when projects are planned, and to provide information taking into account the long term environmental impact of specific projects	Requester
Outreach	A special effort is needed to integrate indigenous communities in the ICIM process, taking into account the lack of access to the internet and to information in general and that they are not involved in the IDB decision-making on projects which affect their land and culture.	Requester
Outreach	To implement a massive campaign of Communications and dissemination of this initiative. Produce simple materials and the language of each country so that everyone can understand. Include in the opening page of the Bank website. Improve the website: be friendlier. Have one only complaint window for all Bank units, and from there redirect complaints as relevant.	Nov. 13 Meeting
Outreach	Materials that consider local languages and not only the traditional ones. All printed materials. To have the project web page include a complaint button. Include the regional civil society as the entry point \	Nov. 13 Meeting
Outreach	Bank Policies should be explained to people in order to correct the serious imbalance between the capacity of executing agencies and firms and the capacity of local communities.	Requester

Outreach	There is a need to introduce in all IDB contracts a special provision committing the executive agency to inform stakeholders on the ICIM mandate and to collaborate with ICIM as necessary.	ConSOCs
Outreach	A targeted communication strategy for local communities and indigenous peoples is required including adequate materials and Information that the ConSOCs can disseminate amongst their networks.	ConSOCs
Outreach	ConSOCs should be informed about IDB policy, in particular about ethics, the fight against corruption and fraud, and about ICIM cases in their country. .	ConSOCs
Outreach	The ICIM website is not visible	ConSOCs
Outreach	It is necessary to underscore the importance of access to the ICIM.	ConSOCs
Outreach	The ICIM and IDB offices should regularly inform the ConSOCs networks about cases in their countries and consult with ConSOCs on the context and parties	ConSOCs
Outreach	The ICIM website should indicate clearly its mandate, objectives and results obtained since its inception.	Requester
Outreach	There is no clear will to inform potential requesters about ICIM	ConSOCs
Registration	All Requests should be immediately registered and go to eligibility determination.	Civil Society
Registration	Is registration procedure necessary?	Sept. 24 Meeting
Submit a Request	When filling a complaint, local languages should be permitted and minimum requirements should be the rule	ConSOCs
Submit a Request	The ICIM should listen to and work closely with the requesters (local communities) to understand their concerns, and to accompany them in particular in helping them to fill requests. The ICIM should also provide technical support and all relevant information on its process and policy.	Requester
Submit a Request	Requesters should not be required to explicitly provide evidence on IDB policy violations because it creates an unnecessary and unfair bar for communities.	Requester
Submit a Request	It seems to be easy to submit a complaint to the ICIM, but if you have no information it becomes more complicated and difficult to understand its mandate, routes, steps, timeframe, etc. It is not an issue of simplicity but rather of eligibility of the case	Nov. 13 Meeting

Submit a Request	We agree with the minimum requirements set. The requirements should be for projects and not for the people.	Nov 13 meeting
Submit a Request	The process is simple and convenient; it is not difficult to submit a complaint.	Requester
Submit a Request	To send a Request to the ICIM appears to be a simple process. However the same cannot be said of the process in itself, where clearly there is a greater need for Support in each of the steps both to Requesters as well as to other Parties involved	ConSOCs
Independence		
Board Participation	Efficiency and effectiveness are hindered by the intervention of the Board at all stages, interfering and suspending/postponing the process. The Board should not have the possibility to dictate to the panel how to address the matters under review.	Requester
Board Participation	People do not understand ICIM status. ICIM should be fully independent and should not depend on Board decisions only motivated by financial and political considerations.	Requester
Board Participation	The ICIM should function in a truly independent fashion, for example, the site visits should not be subject to the approval of the country authorities.	Sept. 24 Meeting
Board Participation	The Board should not intervene in the operation of the ICIM so as not diminish its credibility.	Sept. 24 Meeting
Independence	The ICIM is too much dependent on IDB, in particular its secretariat	Requester
Independence	ICIM independence must be perceived by all stakeholders.	Sept. 24 Meeting
Independence	Panel members should be permanently banned from working at the Bank.	Civil Society
Independence	People have limited confidence in ICIM because they have limited confidence in IDB operations.	ConSOCs
Independence	The country should be informed but should not have the option to object to a visit.	Third Party
Independence	A truly independent assessment should be promoted	Requester
Nominations	Independence should be reflected in the nomination of ICIM members and Civil society should be involved in the nomination of the Panel and ombudsperson	Requester
Nominations	Panel neutrality is essential. Members of the panel should be selected for their capacity in mediation and for their impartiality. The needed skills include the capacity to build confidence in sensitive contexts in which people feel insecure.	Requester

Transparency, effectiveness, efficiency, and response capacity		
Effectiveness	Efficiency and effectiveness are hindered by the intervention of the board at all stages, interfering and suspending/postponing the process.	Civil Society
Efficiency	It is necessary to compare the cost of the ICIM with that of other mechanisms and adapt the Budget and staff of ICIM according to the number of cases handled. It should have a revolving fund for missions, hiring of experts and other expenses similar to that of the CAO model.	Civil Society
Efficiency	Establish a fund to cover costs and risks incurred by Requesters and retroactively compensate for the actual costs incurred including loss of income.	Third Party
Efficiency	The ICIM Budget should be independent of Management and flexible to changes in caseload.	Third Party
Efficiency	High benefits that management can draw from MICI action need to be balanced with the relatively limited ICIM cost, which must be endowed with sufficient staff and resources to ensure a high quality, timely and efficient process	Third Party
Process	A Terms of Reference should not have to be approved by the IDB Board.	Requester
Process	A detailed Terms of Reference for the compliance phase cannot be drafted before a visit on the ground.	Requester
Process	The borrower should have an opportunity to comment on the request and to review the draft panel report, to contribute to buy-in from government if remedial actions are to be implemented.	Sept. 24 Meeting
Process	The ICIM methodology should include a comprehensive analysis of the case, systematic on site-visit at an early stage followed with other visit and meetings on the ground during the overall process.	Requester
Process	ICIM methodology should include the analysis of all relevant scientific information, when applicable.	Requester
Process	The process should be decentralized and followed more closely on the ground.	ConSOCs
Process	Monitoring the implementation is essential	Requester
Process	In practice there is poor monitoring; there is no evidence that monitoring measures are implemented	Requester
Process	The ICIM should be accountable for what its process, in particular monitoring the implementation of the agreement achieved at the end of the process	Requester

Process	It is necessary to simplify the ICIM Policy, clarify the eligibility criteria of complaints, reduce timeframes and systematize the feedback to Requesters.	ConSOCs
Process	45 days, management should confirm at an early stage if it needs this time;	Sept. 24 Meeting
Process	The action plan should include provisions on the Monitoring including its length and periodicity of reporting on the implementation of the recommendations; Create a	Sept. 24 Meeting
Requester Participation in the process	Requesters should be consulted on the report prepared by the experts mandated by ICIM to investigate the case on the ground	Requester
Requester Participation in the process	The ICIM and requesters should be permitted to comment On Action Plans which address findings of non-compliance	Sept. 24 Meeting
Requester Participation in the process	Sequencing between the two phases should be more flexible, allowing requesters to choose the process they seek to initiate and the order of the two phases;	Requester
Requester Participation in the process	The process should be very inclusive at each stage	Requesters
Requester Participation in the process	Requesters should be consulted on the reports, action plan and monitoring measures	Requester
Requester Participation in the process	Requesters and communities should be involved in the definition of the monitoring phase in the long term.	Requester
Response Capacity	It is very important to clarify expectations at the moment of submitting a Request	Requester
Response Capacity	The ICIM should help people understand what can be expected from the process	Requester
Support to Requester	The ICIM should provide technical assistance and all relevant information on the process and its policy.	Requester
Timeframe	The process should be simplified particularly aiming at reducing the time it takes.	Requester
Timeframe	The duration of the process was acceptable in relation to IDB's big bureaucracy and complexity and taking into consideration procedures that interlocutors need to comply with	Requester
Timeframe	The process was much too long in comparison with the results achieved.	Requester

Timeframe	It took a year for the Panel to begin its job. This allowed the project to progress and to create damage, and for all disbursements to occur. It seems that procedures are aimed at discouraging requesters.	Requester
Timeframe	There is a need to define the length of each step of the procedure and that any postponement should be communicated and justified	Requester
Timeframe	The ICIM should indicate a clear time frame when they start the process	Requester
Timeframe	Phase timeframes should be reduced in general, and especially when cases are urgent or have a high social impact, for example 3 months for Consultation and 6 months for Compliance.	Requester
Timeframe	When addressing complex cases, a longer investigation would be necessary, including several visits	Requester
Timeframe	Investigate and solve complaints in a short timeframe.	Sept. 24 Meeting
Timeframe	Requesters should be informed from the beginning about the time it will take to process their complaint. For example a regular process should not exceed 6 months and 4 months as necessary. It is key to determine the level of risk and social impact of the Projects funded by the IDB Consultation phase should last 3 months and compliance review phase between 6 and 12 months	Sept. 24 Meeting
Timeframe and efficiency	Two eligibility procedures are time consuming and unnecessary.	Requester
Timeframe and Response Capacity	The Consultation phase was satisfactorily conducted, contact was made in due time and efforts were made by the ombudsperson to help identify a solution with the stakeholders.	Requester
Timeframe and Response Capacity	The overall Consultation Phase process was in general too long and unfortunately could not stop the damage because no decision could be taken in due time.	Requester
Transparency	In terms of remedies it is important to identify what Requesters can realistically expect from the ICIM.	Sept. 24 Meeting
Transparency	Procedures should be more explicitly described on the web site, templates should be provided, terms should be explained, e.g. what does “does not comply with operational policies” mean to local communities?	Requester
Transparency	All results should be published	ConSOCs
Transparency	It is necessary to have clear and well define procedures that are understood by all	Sept. 24 Meeting

B. Second Phase of Public Consultation

- 2.20 On June 23, 2014, the Organization, Human Resources, and Board Matters Committee (ORA) (ORA/14/13) gave its approval for the consultant in charge of the revision process to begin the public consultation on the Draft Policy of the ICIM (document XR-9-12). The Committee determined that the second phase would be conducted according to the proposal presented by the outside consultant in June 2013, in which she suggested focusing this phase on the receipt of comments via email for a period of 45 days. In addition, it was considered timely for comments to be received during this second phase from Bank Management, the Office of Evaluation and Oversight (OVE), and the ICIM.
- 2.21 Nevertheless, due to a heavy workload, the consultant stated that she was not available to perform the work needed. Consequently, on July 31, 2014, the ORA Committee (ORA/14/16) ordered the Executive Secretary of the ICIM to assume responsibility for conducting the public consultation process in accordance with the proposal and to prepare the Compilation of Comments for the Committee to take into consideration during the process of making final adjustments to the draft Policy before its approval.
- 2.22 In view of the above, and with the support of the Civil Society Unit of the Office of the Vice President for Countries (VPC) and the External Relations Office (EXR), the ICIM carried out the following outreach actions during the period from August 1 to September 15, 2014, designed to reach as many people as possible with information about the process, as shown in Table 5 below:

Table 5

Outreach Actions to Promote the Second Phase of the Public Consultation

Activity	Time Period/Date	Scope
Access to Announcement on the websites: IDB-Civil Society (www.iadb.org/civilsociety) ICIM (www.iadb.org/ICIM)	August 1 – September 15, 2014	Civil Society web page 638 hits ICIM web page 2,929 hits
Publication of announcement on the institution's Facebook page	August 1, 2014	Not quantified
Twitter messages from the IDB's	August 1, 2014	Not quantified

Activity	Time Period/Date	Scope
account		
Press Release Dissemination of press release	August 1, 2014	Electronic alert system for distribution to 16,000 contacts
Press Release Publication on the homepage of the Bank's website (www.iadb.org)	August 1 – September 15, 2014	Not quantified
Email invitations sent to ICIM and IDB-Civil Society contact databases with weekly reminders	August 1 – September 8, 2014	Database of more than 3,000 contacts
Publication of announcement on Google Ads	August 1 – September 15	138,000 views generated by over 1,500 clicks

- 2.23 In addition, a member of the ICIM staff was designated as the main contact person for the process, and had the ongoing support of other ICIM personnel during the public consultation period and compilation of the comments received.
- 2.24 The comments were received via an account dedicated exclusively to the public consultation (consultaICIM@iadb.org) and, once recorded, were translated into English and/or Spanish and kept in the Bank's records system.
- 2.25 At the conclusion of the second phase of the public consultation, a total of 42 comments had been received from academics, indigenous and neighborhood communities, individuals in their personal capacity, and governmental and non-governmental organizations, in addition to comments from Bank Management, from the Office of Evaluation and Oversight (OVE), and from the ICIM.
- 2.26 The comments presented in this phase included the perspectives of 46 non-governmental organizations, 4 individuals in their personal capacity, 4 universities, 3 indigenous communities, 2 community groups, 2 governmental organizations, 1 public entity, 1 private company, and 1 accountability mechanism, representing 23 countries. Charts 1 and 2 show the distribution of participation in terms of type of commentator and country of origin.

Chart 1
Participation by Commentator Type

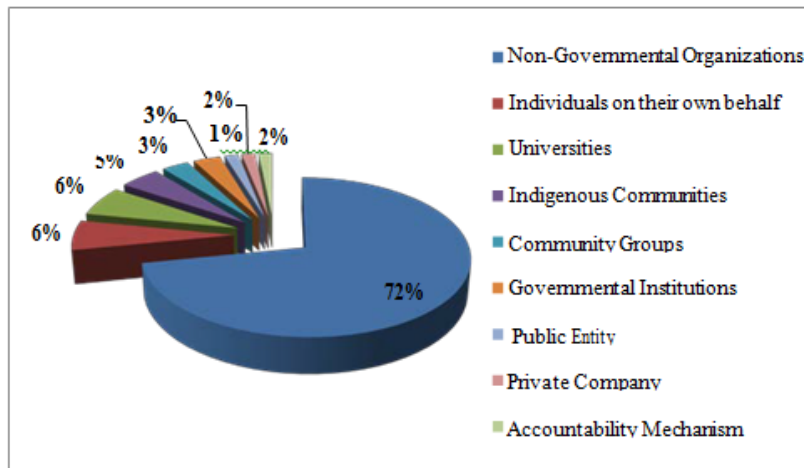
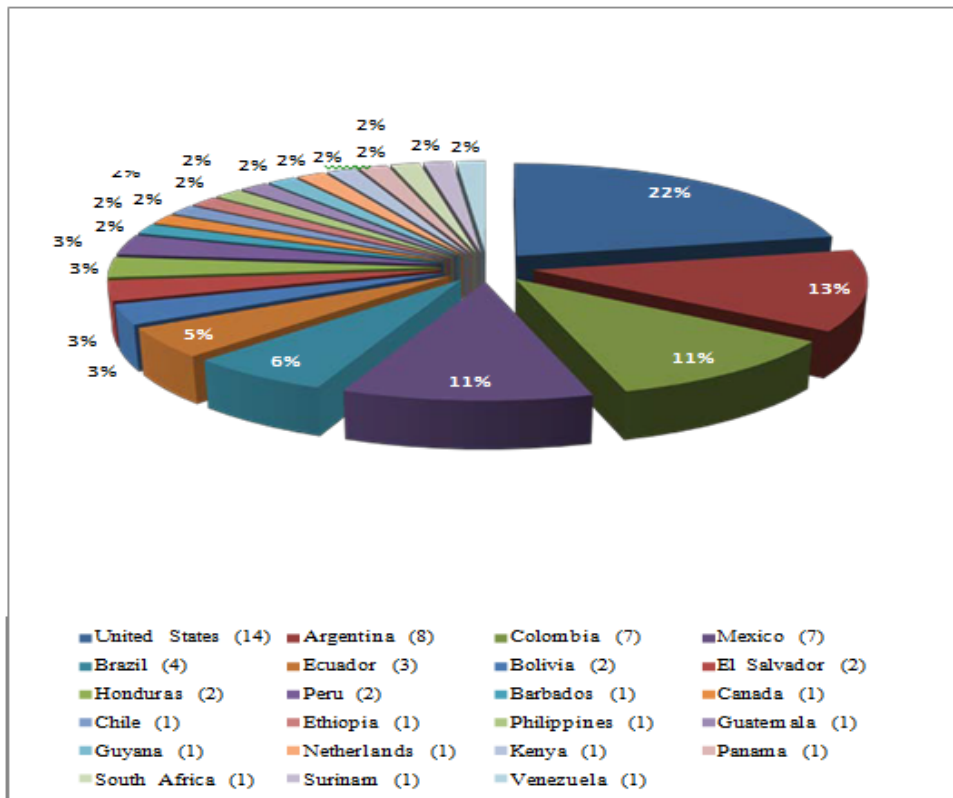


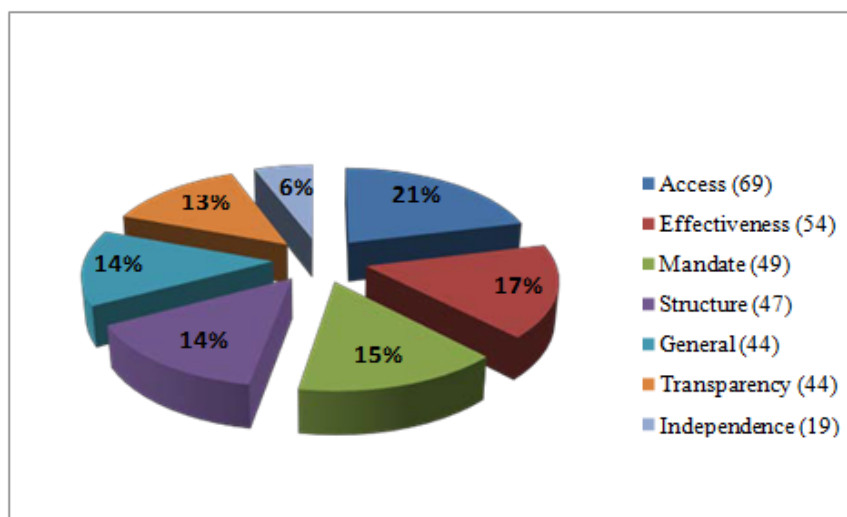
Chart 2
Participation by Country of Origin



1. Summary of Key Issues

- 2.27 Also, for purposes of analysis, the 45 comments received⁵ were reviewed and their content classified in accordance to their thematic axis in 7 categories: General, Mandate, Access, Effectiveness, Structure, Independence and Transparency. Figure 3 shows the percentage distribution by category.

Chart 3
Distribution of Comments by Category
% del total



a. Comments related to the General Topic

- 2.28 In the General category, 44 items were classified; their review leads to conclude that there is a true appreciation for the Bank's commitment to count with an Accountability Mechanism, congratulating the institution for presenting a comprehensive and clear Draft Policy in relation to the 2010 Policy. However, concerns are expressed regarding a possible setback in relation to the 2010 Policy that would limit access, transparency, the ICIM's independence and its general overall effectiveness.
- 2.29 In particular it was suggested to revise the processes in order to avoid excessive bureaucracy and an excessive number of details that could be best presented in guidelines or manuals rather than in a Policy document. A complete revision of the document is also suggested to ensure consistency throughout the document, by introducing additional definitions and redaction adjustments that would assist to better understand the process.

⁵ See Annex 2 for the list of registered comments and access to the original comments

- 2.30 It is recommended to review the Background section as it appears "very dull" and to introduce a paragraph clarifying the way in which adjustments would be made to the document in the future.
- 2.31 As regards the implementation of the policy proposal is made about the introduction of a participatory process of implementation of the policy, once it is approved, with the support of civil society.

b. Comments related to the Mandate Topic

- 2.32 In the Mandate category a total of 49 items focusing on areas of scope, objectives, operating policies and impact were classified under the Mandate category.
- 2.33 In general, the introduction of objectives and principles for the clarification of the mandate was viewed as positive. However, the objectives are considered limiting, as they lack clarity and purpose, and it would seem that they include only the Compliance Review Phase. Therefore, it is suggested to incorporate language regarding the Consultation Phase and for its definition it is recommended to clarify the difference between that Phase and the Compliance Review Phase. It is emphasized that the Consultation Phase should not be linked to policy compliance for its activation. In general suggestion is made to review the objectives and principles and to ensure that they serve to clarify the mandate and scope of work of the ICIM.
- 2.34 In terms of scope, there is widespread concern about the reduction in the scope of the Mechanism as it is established that it could only respond to requests related to approved operations. There seems to be general consensus on the need to maintain the possibility that the ICIM receives requests from the project preparation stage, not only because at that stage there is greater chance to correct the course of action, but also for its harm prevention nature. At this point it is considered that the Draft is regressive and departs from the practices of other Accountability Mechanisms.
- 2.35 Regarding Relevant Operational Policies commenters consider that the definition should include all Operational Policies and eliminate the possibility of waivers by the Board of Executive Directors. Likewise, they also suggest incorporating Sector Strategies within the scope of work of the Mechanism.
- 2.36 In terms of language and definitions there are different suggestions for clarification of terms and processes that are not of easy understanding to

audiences external to the Bank, as well for the inclusion of references to the glossary where appropriate.

c. Comments related to the Access Category

- 2.37 In the Access category 69 items have been classified. Amongst them, recognition is made of positive elements in the proposal, such as the ability to receive Requests in the various languages of the region, as well as the protection of the identity of Requesters, if so they desire, due to fear of reprisals. The detailed description of the registration process was also deemed positive as it adds transparency to the process.
- 2.38 However, there is widespread concern that the Draft Policy represents a setback to access not only with respect to the 2010 Policy, but also in comparison to other Accountability Mechanisms. The reasons given are that contrary to streamlining processes and requirements for the submission of Requests and eligibility criteria, the Draft Policy proposes to complicate the process and to increase the requirements in terms of submission of requests, eligibility criteria and exclusions. Suggestion is made to add greater flexibility in terms of the deadlines granted to Requesters to complete a Request and to reduce the number of requirements.
- 2.39 The requirements for presentation and eligibility criteria with which there is disagreement are mainly the following:
- 2.40 The requirement that at least two Requesters are needed to submit a Request. The participants consider that the 2010 Policy had marked a major improvement in this area and that making this adjustment now reduces access without a clear justification for the change.
- 2.41 There is no acquiescence with the requirement to quote Operational Policies that are considered not to have been observed, as having knowledge about the Bank's Operational Policies should not be an obligation on the part of the Requesters. In contraposition, it is proposed that Requesters describe the situation and the alleged harm in general terms, being the MICI the one to identify the linkage of the potential harm to the relevant operational policies.
- 2.42 They disagree on maintaining the exclusion clause related to judicial proceedings since it is not included in other Mechanisms and presents a major obstacle to the process. As an option it is proposed that the clause applies to the Consultation Phase only.

- 2.43 There is also disagreement concerning the exclusion related to limiting the ability to present a Request if more than 24 months after the last disbursement have elapsed.
- 2.44 Although granting the possibility of confidentiality of the identity of the Requesters is viewed as a positive step, there is no agreement in that it should be limited to only the identity, nor to have to provide a reason for the request.
- 2.45 Some comments are made regarding the role of the representative as well as suggestions on the characteristics that such person should have.
- 2.46 Likewise, it is considered that limiting the ICIM role with regard to directing Requesters creates an additional barrier to access given the complexity of the process.
- 2.47 Some suggestions are made regarding more inclusive language for all types of groups, in consideration to their different capacities.

d. Comments related to the Effectiveness Theme

- 2.48 Under the Effectiveness category 54 items were classified, that focus on the areas of process, deadlines, resources and impact.
- 2.49 In terms of impact, there is general concern regarding the binding nature of the Mechanism and the capacity of Management to implement the results of the processes. It is considered that the results should impact Bank decisions and lead to changes; as well as compensate those damages proven to have been suffered. In that way the Mechanism would be given trustworthiness and effectiveness.
- 2.50 As part of the overall control and accountability scheme, it is suggested to include an appeal's mechanism or monitoring of the ICIM to verify the transparency and adequacy of the process in itself.
- 2.51 It is argued that the document shows inconsistencies in the process; thus, suggestion is made to make a complete revision so as to eliminate them. A number of specific suggestions are also made to positively influence the effectiveness of the Mechanism including the following: (i) ensure an impartial approach where both Management and the Requesters have equal opportunity to participate and provide feedback at various stages; (ii) enable Requesters to access both Phases, simultaneously or in the order that best meets the requirements of the Requesters; (iii) give authority to the Director of ICIM to initiate a Compliance Review even if the Requesters have opted out; (iv) strengthen the Consultation Phase by clarifying its purpose, the definition of essential parties and the scope of that Phase, in addition to establishing

mandatory participation of Management in the process and include a procedure for enforcement of agreements reached within this Phase. It is also suggested to introduce language to address the particular nature of the Consultation Phase processes that may need to be carried out with participation of indigenous peoples.

- 2.52 In addition, various contributions to the process of each of the Phases are presented, aimed at increasing their level of effectiveness.
- 2.53 As regards to deadlines, the Bank is in general congratulated for the introduction of strict deadlines for each of the stages as it is considered they will help to improve the effectiveness of the Mechanism. Without prejudice to this, it is suggested to remove the maximum term of five years for the monitoring stage in the two Phases, given that in this case the deadlines should meet the requirements of the agreement reached in the Consultation Phase and of the action plan for the Compliance Review Phase respectively. Also, it is suggested that in accordance to the Policy, deadlines for consideration by the Executive Board of Executive Directors of the Compliance Review Reports are established. The Draft had eliminated the deadline established in the 2010 Policy, which had been considered a major development in relation to the operation of the ICIM's predecessor.
- 2.54 Regarding the process of eligibility, the Bank is congratulated for the elimination of multiple determinations and for the introduction of site visits during this stage, which as commented can lead to greater transparency and effectiveness of the Mechanism. Also welcomed is the fact that the Requesters can explain the reasons why it may have not been possible to contact Management.
- 2.55 It is considered important to review the registration process in order to avoid duplication with respect to the eligibility process.
- 2.56 There is opposition in terms of Management's ability to unilaterally suspend the process for determination of eligibility.
- 2.57 In terms of resources, the importance of having adequate resources (financial, human and other resources not specified) to operate in an effective and timely manner is reiterated.

e. Comments related to the Structure Topic

- 2.58 In the Structure category 47 items have been classified, focusing on the areas of authority and responsibility, effectiveness, independence, accountability, roster

and terms of reference. Additionally, some suggestions are made regarding definitions and use of precise language.

- 2.59 In matters related to structure it is considered that changes in this area will contribute to greater independence, effectiveness and response capacity. Particularly positive is the introduction of provisions requiring the Director of ICIM and Coordinators not to have worked for the Bank for three years and that they cannot be employed by the Bank thereafter; this ensures independence from Management. Some clarifications in regards to language are suggested to ensure compliance with this provision.
- 2.60 However, there is concern over the concentration of authority in the Director of ICIM and it is suggested to clarify the responsibilities of each staff member and their scope of action in order to avoid situations such as the ones observed in the old Mechanism. In particular, it is considered that the responsibilities of the staff of the Consultation Phase are unclear.
- 2.61 In terms of effectiveness there is disagreement with the language indicating that the grade to be assigned to the Director shall be determined by the Board in consultation with Human Resources following the appointment of the Director of ICIM. It is considered that the position should be of sufficient level to render his/her operational effectiveness and be in line with the practices of other Accountability Mechanisms.
- 2.62 There is general concern about the provision that allows for the firing of the Director of the ICIM without legitimate and just cause. This is interpreted as a limitation on the independence of the Mechanism and the incorporation of this language departs from the practices of other Mechanisms.
- 2.63 On the other hand, it is mentioned that the fact that the Director of the ICIM reports to the Board of Executive Directors as a whole is not operationally practical and that it would be advisable to appoint one of its members as the direct supervisor.
- 2.64 As for the roster of experts serving as members of the Panel, it is considered that this may be a more appropriate scheme than the current one as it allows to best respond to the particular characteristics of the case. It is suggested to define terms of reference that provide detail on the skills, responsibilities and conditions to be met by these experts, and that the contractual terms include the same restrictive provision as regards employment with Management as that foreseen for the Director and Coordinators to ensure their independence.
- 2.65 It is also suggested that the selection processes be conducted in a transparent and explicit manner and that the selection panels for these positions are composed of a

diverse group of people including members of civil society, experts and academics.

- 2.66 Finally, regarding the terms of reference included in the annexes, several suggestions are made regarding language, consistency with the language of the Policy and review of qualifications so as to improve them.

f. Comments related to the Independence Topic

- 2.67 In the Independence category 19 items were classified, which are particularly focused on what is considered as excessive involvement of the Executive Directors and Management at different stages of the process. Specific topics indicated the following: (i) it is considered that the ICIM should have the authority to initiate investigations without the approval of the Board of Executive Directors; (ii) in all cases a plan of action should be presented following a compliance review and this should not be a decision of the Board; (iii) extensions should not require the non-objection of the Board; (iv) the report of the Consultation Phase and decisions to carry out monitoring should not be submitted to the Board for consideration.
- 2.68 Neither understand the need to consult with the Office of External Relations for the issuance of press releases is not understood nor the reason for the proposed interactions of the ICIM with other sections of the Bank, which seem to reduce the independence of the Mechanism.
- 2.69 It is considered positive that the Mechanism may consult with external legal counsel and it is stated that the ICIM should be responsible for the interpretation of the Policies and not require the interpretation by the Legal Department.
- 2.70 In general it is considered that the independence of the Mechanism is vital for its success and that an excessive involvement of the Board and Management in the substantive decisions of the Mechanism can diminish credibility and effectiveness.

g. Comments related to the Transparency Topic

- 2.71 In general, the 44 items presented coincide in considering that the Draft presents important innovations in terms of transparency by clarifying the documents to be disclosed in the Public Registry including Requests received. To strengthen this area, it is requested to incorporate language regarding disclosure obligations at each stage of all relevant documents, including

Management's Responses, and the immediate release of the recommendations of suspension of operations when presented by the Director of ICIM to the Board of Executive Directors.

- 2.72 Several comments focus on the importance of ensuring transparency of processes, for example, suggesting that Requesters are notified immediately when Management asks for the temporary suspension of eligibility and the release of the proposed plans.
- 2.73 It is also requested that the Terms of Reference for a Compliance Review as well as Management's Response be released at the time they are presented, and the subsequent objections by the Board to them, if any and not just the approved final version as proposed in the text.
- 2.74 In addition it is suggested to clarify the way in which decision-making is carried out throughout the process, particularly in relation to the Investigation Panel, given that the 2010 Policy described the process and the Draft does not.
- 2.75 In terms of dissemination, the need have the Mechanism and its processes known is emphasized. It is suggested to make use of the Civil Society Consulting Groups (ConSOCs) for outreach activities. The importance of conducting outreach activities aimed specifically at indigenous communities already facing major challenges of access than other groups is also indicated.
- 2.76 In the interests of greater transparency and understanding revision and/or introduction of some definitions that are not terms commonly used outside the Bank is suggested.

2. Compilation of Comments – Phase II

- 2.77 Table 6 presents the summary of comments received during the second stage of the public consultation on the revision of the ICIM Policy.

Table 6

Compilation of Comments Received during Phase II by Thematic Category

	Thematic Axis	Subtheme	Proposals/Comments	Country
1.	General	Background	The explanation of the Bank in Article 1 is very lackluster. I suggest using the following pertinent part of the Bank's Charter: " The purpose of the Bank shall be to contribute to the acceleration of the process of economic and social development of the regional developing member countries, individually and collectively," or the statement that appears on the Bank's website: " Established in 1959, we are the leading source of development financing for Latin America and the Caribbean, with a strong commitment to achieve measurable results, increased <u>integrity</u> , <u>transparency</u> , and <u>accountability</u> ."	U.S.A.
2.	General	General Content	In anticipation of the future need for ICIM to review IADB activities relating to a wide range of health issues that substantively fall under these operational rubrics, I suggest that the final draft policy explicitly incorporate references to health.	U.S.A.
3.	General	General Content	The document covers the key aspects to be considered.	Honduras
4.	General	General Content	It is a relevant policy at the current time and in the context in which Bolivia is conducting its activities.	Bolivia
5.	General	General Content	The steps, tasks, flows, and procedures are consistent.	Bolivia
6.	General	General Content	It is an excellent document.	Mexico
7.	General	General Content	In general, it seems very complete and appropriate.	Argentina
8.	General	General Content	In general terms, its revision is quite complete.	Venezuela
9.	General	General Content	We agree with the draft.	Suriname
10.	General	General Content	Thinks all of the items seem good, and has no objections.	Argentina
11.	General	General Content	The content of the document is pertinent, so it has no comments.	Bolivia
12.	General	General Content	We find the draft appropriate to support the projects backed by your Institution, and we have no additional considerations.	Brazil
13.	General	General Content	Each one of its paragraphs is very relevant and appropriate.	Guatemala
14.	General	General Content	Agree with the document.	Argentina

	Thematic Axis	Subtheme	Proposals/Comments	Country
15.	General	General Content	Major concern over the enormous step backward proposed with respect to the strengthening of the ICIM, which above all evidences a deliberate weakening that seriously jeopardizes all of the progress made in the past four and a half years since the Mechanism began operating.	Argentina, Brazil, Canada, Chile, Colombia, Ethiopia, Mexico, Netherlands, Peru, South Africa U.S.A.
16.	General	General Content	The entire consultation process is very well detailed in cases of observations to Bank-related processes in any country in view of a proposal or concern in the legal or ethical procedures relating to the execution of projects, funds, and activities that have to do with the Bank.	El Salvador
17.	General	General Content	The ICIM's proposal is very clear and objective with respect to its structure and operation, case filing process, requesters, and investigation authority, and with respect to the monitoring and closure of cases. Accordingly, we have no comments or remarks to be included.	Argentina
18.	General	General Content	The content of the document goes beyond a policy. It includes details typical of manuals on organization, functions, and procedures.	U.S.A.
19.	General	General Content	Formatting correction: Clauses "b" and "c" in paragraph 5 should begin with capital letters.	Ecuador
20.	General	General Content	The Revised Policy reflects progress in some respects. But, there are still some key issues that have not been clearly addressed, such as accessibility and independence. A clear approach to these issues is a decisive factor in order for the Bank to ensure that the Mechanism's slogan " <i>We want to hear your voice!</i> " is a reality.	U.S.A.
21.	General	General Content	It is a relevant mechanism that will allow for the Bank's increased transparency.	Mexico

	Thematic Axis	Subtheme	Proposals/Comments	Country
22.	General	General Content	It should be stated that the CONSOC is the local civil society authority that hears and monitors the requests, and therefore it is important for it to be included in the ICIM Mechanism.	Honduras
23.	General	General Content	I commend you for the inclusion of the final flow chart, which provides a more practical idea of the procedures and time periods to be followed to obtain the final results of any observation made by groups of people in a country.	El Salvador
24.	General	General Content	The current process is highly time-consuming and ineffective, in which requesters are automatically considered "outsiders" at best. A sense of obstruction, as opposed to facilitation, has permeated our overall experience. Preserving the status quo appeared to be a clear objective along with hindering of the review process. At present the mechanism provides, at best, a "fell-good" mechanism for politicians and citizens, i.e. for those not involved in trying to use it, and no real recourse today for those who do.	Panama
25.	General	General Content	The existence of this mechanism is very good practice and a good decision.	Ecuador
26.	General	General Content	It is a strengthened mechanism that reflect[s] current practice with respect to independent accountability mechanisms and input from the public.	Bolivia
27.	General	General Content	We have a favorable opinion of independent mechanisms and/or tools for the administration of International Financial Institutions, whose purpose is to investigate complaints identifying harm caused by the noncompliance of institutions with their Operational Policies, thus contributing to the transparency of resource management and use.	Argentina
28.	General	General Content	The Bank must know that it is co-responsible for the direct and indirect effects of the implementation of the projects it finances. As a public international body, it must undertake to comply with national and international human rights laws, and it has the obligation to have accountability instruments to safeguard rights that could be jeopardized throughout the life cycle of the Bank-financed project.	Argentina, Brazil, Canada, Chile, Colombia, Ethiopia, Mexico, Netherlands, Peru, South Africa U.S.A.

	Thematic Axis	Subtheme	Proposals/Comments	Country
29.	General	General Content	Creating an authority that is quasi-autonomous from the Bank and its Projects gives it the necessary qualitative value.	Bolivia
30.	General	General Content	It is a good step for ensuring the processes of transparency that the Bank is undertaking.	Ecuador
31.	General	Definitions	The Compliance Review Phase should include the following aspect provided for in the Consultation Phase: Article 24, “There is no guarantee that the Consultation will resolve all the problems to the satisfaction of the parties.”	U.S.A.
32.	General	Definitions	It is suggested that the duties of the Donors Committee be described.	Mexico
33.	General	Implementation	It should be a priority for the Bank to establish a participatory and inclusive process for the implementation of changes introduced in the revision that includes the participation of civil society.	Argentina, Brazil, Canada, Chile, Colombia, Ethiopia, Mexico, Netherlands, Peru, South Africa U.S.A.
34.	General	Omissions	The issue of accountability is a pending task. The issue of public consultation is a pending task. The issue of ENFORCEABILITY is a pending task.	Guyana
35.	General	Omissions	The Revised Policy has gaps regarding matters that affect decisions made or to be made at both the Consultation Phase and the Compliance Review Phase. For example, there is no article regulating how the bodies of the Mechanism should address supervening events following the filing of a Request, such as the relocation of a Project with the consent of the Bank’s Management. An article should be added that provides for the potential effects of supervening events on the work of the Mechanism’s bodies in a Project where a Request has already been filed. Under no circumstances should such an Article impose and additional burden on the Requesters.	U.S.A.

	Thematic Axis	Subtheme	Proposals/Comments	Country
36.	General	Draft vs. Current Policy	It follows from the OVE evaluation that substantial changes must be made at the ICIM in order for it to become an effective remedy for the requesters and for it to provide lessons that lead to improvements in the Bank's operations. Unfortunately, the draft under consultation does not appear to meet those purposes.	U.S.A.
37.	General	Draft vs. Current Policy	Also the usage of a background, objectives and guiding principles helps in setting the platform upon which the policy is seeking to build. Additionally the introduction of tighter timelines with a customer charter concept can only improve timeliness and efficiency once monitored closely.	Barbados
38.	General	Draft vs. Current Policy	With this revision, the Bank has the opportunity to create an ICIM that is more effective, accessible, transparent, and has the capacity to respond. Unfortunately, this Draft ICIM Policy fails to meet these standards at various instances.	U.S.A.
39.	General	Draft vs. Current Policy	The Revised Policy weakens and departs from not only the Mechanism that is still in force, but also the other accountability mechanisms at other institutions similar to the Bank.	Argentina, Brazil, Canada, Chile, Colombia, Ethiopia, Mexico, Netherlands, Peru, South Africa U.S.A.
40.	General	Revision and adjustments	Clarify in the text the powers to approve and amend the policy and the process to be used to make the final instrument functional.	U.S.A.
41.	General	Simplification	Paragraph 22 is redundant with respect to paragraphs 13 and 14. Reference should be made to the applicable sections.	U.S.A.
42.	General	Simplification	The procedures should be shortened if possible, as they seem a bit bureaucratizing.	Mexico
43.	General	Simplification	Simplify some steps to make it less bureaucratic.	Argentina
44.	General	Simplification	Add an element of simplicity.	Honduras

	Thematic Axis	Subtheme	Proposals/Comments	Country
45.	Mandate	Scope	“The scope of work of the ICIM covers all Bank-financed operations, as of the date they are approved by the Board of Executive Directors, the Donors Committee or the President, as the case may be.” This limitation runs counter to the trend of most of the accountability mechanisms at other institutions, and is a step backwards from the current ICIM Policy that allows for a Request to be filed prior to the approval of the project.	Argentina, Brazil, Canada, Chile, Colombia, Ethiopia, Mexico, Netherlands, Peru, South Africa U.S.A.
46.	Mandate	Scope	Include within the compliance review process actions designed to ensure that in the projects in which it is involved, the Bank not only expects to receive complaints, but also conducts random inspections to ensure that projects do not adversely affect the living conditions of their beneficiaries.	El Salvador
47.	Mandate	Purview	The ICIM should evaluate the cumulative impact of Bank-financed operations in sacred Territories that are environmentally, socially, and culturally very fragile and sensitive.	Colombia
48.	Mandate	Purview	The ICIM’s policy should be expanded to allow communities to lodge complaints to prevent irreparable harms to “Batsana Mama” [Mother Earth], and not just to evaluate cases where the harm already exists.	Colombia
49.	Mandate	Purview	Consideration should be given to the reincorporation of the part establishing that “Requests may be filed with respect to operations not yet approved by the Board (a) after the signing of the mandate letter, for non-sovereign guaranteed operations, or (b) after the project number has been issued, for sovereign guaranteed operations and MIF operations.” This promotes fairness, because if projects have been allowed to proceed based on the “signing of the mandate letter” or the “issuance of the project number” and the recipients have concerns, then it should be considered [as] if it had been approved by the Board of Directors or the Donors Committee, given that the action can be considered the beginning of the contractual relationship.	Barbados

	Thematic Axis	Subtheme	Proposals/Comments	Country
50.	Mandate	Purview	The definition of “Project” should be broader: Its definition as “A specific project or technical assistance operation, in support of which a Bank-Financed Operation, or MIF funding, as appropriate” prevents the filing of requests at phases prior to the approval of the project, a limiting factor that should be revised by the Bank.	Argentina, Brazil, Canada, Chile, Colombia, Ethiopia, Mexico, Netherlands, Peru, South Africa U.S.A.
51.	Mandate	Purview	The ICIM’s policy should be expanded to allow for the inclusion of cases that are not yet at the execution stage, based on the notion of precaution; communities should be allowed to lodge complaints in order to prevent irreparable harm to “Batsana Mama” [Mother Earth], and not just have cases evaluated where the harm already exists.	Colombia
52.	Mandate	Purview	Paragraph 11 does not mention Cultural Heritage. It might be a good idea for this point to be explicitly included on the list, although the ICIM does provide for it in Environment and Safeguards Compliance (OP-703).	Argentina
53.	Mandate	Purview	The ICIM should be open to receiving requests concerning projects that have not been approved, but are being considered by the Bank. The opportunity to file a request at that time could help the Bank be able to prevent any harm or noncompliance with its policies before they occur.	U.S.A.
54.	Mandate	Purview	The Draft limits the accessibility of the MICI by not allowing complaints about projects that have not yet been approved. The Mechanism must be available at all phases of the project life cycle, including after its completion. The Draft limits the ability to guarantee the proper accessibility and effectiveness of the Mechanism.	Argentina, Brazil, Canada, Chile, Colombia, Ethiopia, Mexico, Netherlands, Peru, South Africa U.S.A.

	Thematic Axis	Subtheme	Proposals/Comments	Country
55.	Mandate	Purview	The proposed changes limit the accessibility of the MICI by not permitting complaints about projects which have not yet been approved.	U.S.A.
56.	Mandate	Purview	This is a step back from the previous policy, which allowed for Requests to be filed related to “operations not yet approved”. It is important for Requesters to submit Requests prior to project approval because policies, such as the requirement to consult, can be violated during the planning phase. Indeed many of the most important policies that protect affected communities and the environment relate to project preparation and it is in all Parties’ best interest that concerns with their implementation be raised as soon as possible, including before approval of the project (particularly given the draft policy’s presumption against delaying projects while a Request is being processed). The exclusion in Paragraph 19(e) should be deleted.	U.S.A.
57.	Mandate	Purview	We commend the IDB for allowing for persons submitting complaints when they “anticipate being affected” (paragraph 13(a)). Given that projects can almost immediately cause irreversible harm, it is important that potentially affected communities have the right to bring a complaint before the harm occurs.	U.S.A.
58.	Mandate	Purview	Under ICIM policy, the claim can be made for a Bank-financed operation which “is or will be implemented” (para. 30) but the revised draft ICIM policy, the claim can only be when the Bank-financed operation “is implemented” (para. 13.a). In other accountability mechanisms at various international financial institutions such as the World Bank and the Asian Development Bank (ADB), the claim can be made for the proposed projects.	Philippines
59.	Mandate	Purview	MICI’s role should be linked to the pre-approval process. To be able to correct faults and avert damage where possible should continue to be an achievable objective. Nonetheless, it is difficult when the fault is inherent in the planning of the project and one that should have been caught and corrected before a project received approval.	Panama

	Thematic Axis	Subtheme	Proposals/Comments	Country
60.	Mandate	Purview	<p>The need for an independent inspection or verification mechanism that led to the creation of what is now the ICIM still remains, but our experience has also underscored the need for a mechanism at the top of the decision-making processes whereby the Board of Executive Directors, the Donors Committee, or the President, as the case may be, approve projects for funding. A shift in the purview of the ICIM could help address this need and would help improve the effectiveness and quality of the projects and positively influence the Bank's image.</p> <p>In the event that this change in purview does not occur, the Board of Governors might consider creating a visibly independent, complementary mechanism to work in close cooperation with the ICIM before and after the approval of projects.</p> <p>In addition, there should be a way for the ICIM to make internal changes to the processes that precede the approval of financing. The outcomes of the development work financed by the Bank would improve, along with the quality of the projects it backs, with an internal feedback loop that enables the ICIM to initiate internal corrective actions rapidly when it finds evidence of a problem.</p>	Panama
61.	Mandate	Definitions	I suggest providing a better explanation of the meaning of "perform the Mechanism's work efficiently and effectively" in the context of Article 8.	U.S.A.
62.	Mandate	Definitions	Article 6(b): The terms efficient and effective always "sound good" and traditionally have a material, economic, or managerial explanation. What do they mean in the context of this Draft Policy?	U.S.A.
63.	Mandate	Phases	<p>The revised draft ICIM policy refers to the assessment including "the best process for addressing any policy noncompliance" in the consultation phase (para. 27). The consultation phase (problem-solving) and compliance review phase (investigation) are dual approaches commonly adopted by many other IFIs including ADB, African Development Bank, EBRD, and EIB but these functions are distinct and separate. One is focused on problem-solving and the other is focused on investigation to determine compliance or noncompliance, with each function handled by separate persons with specific expertise. To stipulate the best process for addressing any policy noncompliance may confuse and complicate the operation of the mechanism</p>	Philippines
64.	Mandate	Impact	In the event of noncompliance where harm has been caused to the requesters, what corrective actions or measures will be imposed against the Bank?	Ecuador

	Thematic Axis	Subtheme	Proposals/Comments	Country
65.	Mandate	Objective - phases	The topics considered in the Consultation Phase ought not to be limited to those directly linked to a violation of policy. On the contrary, this Phase should be open for considering any damage produced by a project financed by the IADB.	U.S.A.
66.	Mandate	Objective - phases	The Consultation Phase does not necessarily involve a review of the possible noncompliance with these policies; rather it is a process for reaching agreements in view of the potential harm that a Bank-financed project may be causing.	U.S.A.
67.	Mandate	Objective - phases	<p>The topics addressed at the Consultation Phase should not be limited to those directly linked to a policy violation. On the contrary, this Phase should be open to addressing any harm caused by a Bank-financed project.</p> <p>It should not matter whether the issue is covered by the Policy. At the same time, there will be no specific analysis of the violations of the Policy until a complete investigation has been conducted—something that, because of the sequencing requirement established in the Draft, will never be possible during the Consultation Phase.</p>	Argentina, Brazil, Canada, Chile, Colombia, Ethiopia, Mexico, Netherlands, Peru, South Africa U.S.A.
68.	Mandate	Objective – phases	<p>The description of the Consultation Phase is unclear. Its objective and modalities are unclear.</p> <p>Paragraph 7(d) does not clearly explain what this phase consists of, or what its purpose is. It is impossible to discern whether this phase seeks to reach agreements with the parties regarding potential conflicts, or what its objective is. This phase should be defined in the clearest possible terms to enable requesters to evaluate whether it is in their interest to make use of this phase. Stating that this phase provides an opportunity for the parties to address the issues raised in the Request in a flexible, collaborative manner does not provide sufficient information about it. This could cause people who are not interested in this phase to go into it with unrealistic expectations about the potential outcomes.</p>	U.S.A.

	Thematic Axis	Subtheme	Proposals/Comments	Country									
69.	Mandate	Objective – phases	<p>In Paragraph 24, the Draft Policy is unclear on the objective of the Consultation Phase.</p> <p>The objective of the Consultation Phase should be for the Parties to address the harm caused by the project and provide a flexible method to address these harms and <i>should not be explicitly tied to compliance with the Relevant Operational Policies</i>. Determining violation of the IDB policies is the task of the compliance phase. In the consultation phase, parties should work to address the harm being caused by the project.</p>	U.S.A.									
70.	Mandate	Objectives	<p>The statement (related to the purpose of the Compliance Review) implies causality between non-compliance with policies and harm. There are actually four possible relationships between harm and compliance as shown in this matrix.</p> <table><tr><td></td><td>No Harm</td><td>Harm</td></tr><tr><td>Compliance</td><td></td><td></td></tr><tr><td>Non-compliance</td><td></td><td></td></tr></table> <p>It would be helpful to clarify whether the purpose of Compliance Review incorporates determinations regarding all of these possible scenarios.</p>		No Harm	Harm	Compliance			Non-compliance			U.S.A.
	No Harm	Harm											
Compliance													
Non-compliance													
71.	Mandate	Objectives	As community leaders and observers of a process, we see that the ICIM’s policies state part of what they do, but do not really tell the requesters that it is not always the COMMUNITY AFFECTED by an issue that they are going to protect and assist in seeking a real and advantageous conciliation for the parties.	Colombia									
72.	Mandate	Objectives	Also the usage of a background, objectives and guiding principles helps in setting the platform upon which the policy is seeking to build.	Barbados									
73.	Mandate	Objectives	As an affected and participatory community, we see that in fact neither the Bank, much less the ICIM, demonstrate that their stated proposals are a reality.	Colombia									

	Thematic Axis	Subtheme	Proposals/Comments	Country
74.	Mandate	Objectives	<p>In academic theory, none of the three “objectives” stated in Article 5 complies with the concepts that every good objective should embody. The most “salvageable” would be 5(a), observing that the definition of harm that appears in the Glossary is used. “Objectives” 5(b) and 5(c) are more like Guiding Principles than objectives.</p> <p>It is notable that none of the “objectives” contains the criteria of the Mandate that was granted by the Board of Governors in 1994 for the establishment of an independent inspection mechanism to increase the transparency, accountability, and effectiveness of the Bank.</p>	U.S.A.
75.	Mandate	Objectives	It is important to make the objectives of the ICIM clearer – an investigation cannot be a final objective; rather, it is <u>what will be done</u> based on the outcome of the investigation.	Brazil
76.	Mandate	Objectives	Unnecessarily limited objectives. The Draft Policy retains the error of failing to state clear and positive objectives (as indicated by the OVE in its evaluation), failing to clearly specify the purpose of the ICIM and the benefits it seeks to attain. Similar Mechanisms at other banks, such as the World Bank Inspection Panel, clearly describe their objectives.	U.S.A.
77.	Mandate	Objectives	The mandate and objectives of the MICI should be precisely defined and identified.	U.S.A.
78.	Mandate	Objectives	The narrow and technical statement of the objectives in paragraph 5 should be revised to include a broader statement of the objective, for example “to improve development effectiveness by ensuring that relevant policies are met and that local communities do not carry an unwarranted burden from IDB-financed projects.”	U.S.A.
79.	Mandate	Objectives	<p>The mandate and objectives of the ICIM are imprecise and incomplete. They should be specified, as they fail to include—for example—the function of providing effective solutions to the affected parties (Consultation Phase), or even that of investigating the Institution’s violation of its policies.</p> <p>Accountability and access to effective solutions should be at the heart of the ICIM’s Mandate, as they are a key factor in its external credibility.</p>	Argentina, Brazil, Canada, Chile, Colombia, Ethiopia, Mexico, Netherlands, Peru, South Africa U.S.A.

	Thematic Axis	Subtheme	Proposals/Comments	Country
80.	Mandate	Objectives	<p>Paragraph 27 of the Draft states, “Immediately after the Request is declared eligible for the Consultation Phase, the ICIM will start the assessment stage with the objective of [...] determining whether the parties would agree to seek a resolution using consultation methods, and if so, <u>the best process for addressing any policy noncompliance.</u>” This last sentence should read, “the best process for resolving any harm,” since that is the essential objective of the Consultation Phase. The policy noncompliance must be addressed at the Compliance Review Phase.</p>	Argentina, Brazil, Canada, Chile, Colombia, Ethiopia, Mexico, Netherlands, Peru, South Africa U.S.A.
81.	Mandate	Objectives	<p>Paragraph 37 states that the Compliance Review process is not designed to establish guilt or innocence, or to adjudicate fault or apportion blame among the parties. If this is true, what will be done if it is confirmed that a policy has indeed been violated? Will the Bank help the borrowers remedy the problem? Is the harm not redressed?</p> <p>I think the consequences of the process have to be clearer for the internal audience (Management) and the outside audience (borrowers and potential requesters). I think the Policy continues to fail to clearly define those objectives and the limits to its action.</p>	Brazil
82.	Mandate	Operational Policies	<p>We ask that the Bank’s social and environmental safeguard policies and the ICIM’s operational policy include NON-INTERVENTION IN HIGHLY FRAGILE CULTURAL, ENVIRONMENTAL, AND SOCIAL AREAS as a fundamental principle. In addition, the Bank should encourage countries to enact domestic policies that include the protection of areas where there are mining and energy interests in order to prevent the poverty of our people. We know that the essential purpose of the Bank’s creation was the eradication of poverty, and it should be understood that when we are not acknowledged as a people, the policies of the Bank run counter to that principle of poverty eradication, upsetting our life in relation to the natural environment.</p>	Colombia

	Thematic Axis	Subtheme	Proposals/Comments	Country
83.	Mandate	Operational Policies	Any waiver of the application of a specific operational policy in a particular project should be called into question by those potentially affected by the project. The way in which the text is drafted does not stipulate the conditions under which the application of Operational Policies could be waived, paving the way for a wide margin of discretion and the weakening of the regulatory content of the Bank's own Operational Policies.	Brazil
84.	Mandate	Operational Policies	The definition of "Relevant Operational Policies" should be inclusive and not provide for the possible granting of waivers by the Board of Executive Directors.	Argentina, Brazil, Canada, Chile, Colombia, Ethiopia, Mexico, Netherlands, Peru, South Africa U.S.A.
85.	Mandate	Operational Policies	The purview of the ICIM should expressly include all of the Bank's Operational Policies, as well as other relevant instruments such as the Sectoral Strategies.	Argentina, Brazil, Canada, Chile, Colombia, Ethiopia, Mexico, Netherlands, Peru, South Africa U.S.A.
86.	Mandate	Operational Policies	There is no Relevant Operational Policy that refers to accessibility, universal design, and social inclusion in Bank-financed operations. If it exists, it should be mentioned, as it might be a point of reference that could give rise to complaints if not implemented. If it does not exist, it would be worthwhile to move forward on the issue.	Colombia

	Thematic Axis	Subtheme	Proposals/Comments	Country
87.	Mandate	Operational Policies	<p>The Mechanism should be able to review any policy of the Bank. Paragraph 11(e) of the Policy could lend itself to confusion. It is not clear whether the ICIM can only review the policies included in that paragraph, or whether it can review other policies.</p> <p>It would be important for the Mechanism to be able to review other policies that may also be very relevant to specific projects.</p> <p>Extending the Mechanism to any Bank policy is a step consistent with the original rules and objectives of this mechanism. The OVE Evaluation states that the ICIM was initially created to examine only some of the Operational Policies, but that the objective was to extend the purview of the Mechanism to all relevant operational policies within a period of three years. This time period has elapsed, and it would be advisable to meet that objective.</p>	U.S.A.
88.	Mandate	Operational Policies	<p>The Mechanism should not depend on the discretionary power of the Board of Directors to be able to address noncompliance with a new policy of the Bank. (Policy para. 12). Ideally, it would be able to examine compliance with any policy, which is the objective that was established at the time of the Mechanism's creation.</p>	U.S.A.
89.	Mandate	Operational Policies	<p>Out of respect for the life of Mother Earth and her indigenous and rural peoples, the ICIM should encourage and evaluate the Bank with respect to its information policy. This policy should be broad and based on the cultural customs of our peoples, in order for the owners of the Territory who are the traditional experts on the workings of nature, its sacred places, and the importance of each area, to be included in the decisions on the feasibility of a project.</p>	Colombia
90.	Mandate	Principles	<p>The intent of the Bank is not clearly understood when it states that one of the guiding principles is: "Work in a cost-effective manner and avoid duplication with other Bank independent offices." The possible implications of this point are very risky and uncertain, as it ties the work of the Mechanism directly to the cost of activities and to not overlapping with other offices of the Bank.</p>	Argentina, Brazil, Canada, Chile, Colombia, Ethiopia, Mexico, Netherlands, Peru, South Africa U.S.A.
91.	Mandate	Principles	<p>Article 6(d): What are the other Bank independent offices? Could a footnote be inserted to mention them?</p>	U.S.A.

	Thematic Axis	Subtheme	Proposals/Comments	Country
92.	Mandate	Principles	Article 6(e) is about “reflecting” or “meeting” standards. And only the “highest” ones. One would think that all of the Bank’s professional and technical standards should be met without distinction, regardless of whether they are high standards.	U.S.A.
93.	Mandate	Principles	<p>The text does not mention the international human rights protection system. This is mentioned because the Bank’s Operational Policies, in spite of reiterating the minimum consensus of the Western world regarding respect for fundamental rights in some areas (resettlement, gender, environment, etc.), leave no room for the broader interpretation in the case of Bank-financed projects, programs, or policies that, regardless of the limits in the Operational Policies, visibly conflict with the international system for the protection of human rights.</p> <p>Proposal:</p> <p>e. Reflect the highest professional and technical standards of the Bank and of the international human rights system.</p>	Brazil
94.	Access	Eligibility Criteria	<p>Asking that at least two groups or persons file the request is a good change. Requests filed by more than two persons are stronger than individual requests, as experience tells us that individual requests create more administrative costs and in the end can fall by the wayside in processing.</p>	Peru
95.	Access	Eligibility Criteria	<p>There is a growing trend to allow individuals to file claims with the CAO of the IFC and MIGA, as well as before the Project Complaint Mechanism of the EBRD. The change [requiring at least 2 Requesters] is a step backwards.</p>	Philippines
96.	Access	Eligibility Criteria	<p>The Policy restricts access in terms of the number of requesters to the Mechanism. This is a step backward in terms of who can file a request. The current Policy allows for a request to be filed by a single individual, while the draft policy stipulates that the request must be filed by two or more people. The reason for restricting the filing of a request in this way is unclear.</p>	U.S.A.

	Thematic Axis	Subtheme	Proposals/Comments	Country
97.	Access	Eligibility Criteria	Requests should be able to be filed by individuals, organizations, associations, or other entities, and by those affected by the cross-border effects of a project. Draft paragraph 13 is inconsistent with the statements of the Bank itself, which on numerous occasions has underscored that the Policy approved in 2010 was cutting-edge because it established the second-ever mechanism that would allow claims by individuals.	Argentina, Brazil, Canada, Chile, Colombia, Ethiopia, Mexico, Netherlands, Peru, South Africa U.S.A.
98.	Access	Eligibility Criteria	The ICIM Draft Policy unnecessarily restricts who can file a complaint by requiring a Request to be filed by at least two persons. Instead, the ICIM should only require one or more persons because not doing so diminishes accessibility. Further, the 2010 ICIM policy only required one Requester and that did not have a negative effect on the operations of the ICIM. There is no reason for the ICIM to change its policy to require two or more persons especially given that the majority of the complaints filed are filed by more than one person.	U.S.A.
99.	Access	Eligibility Criteria	The ICIM process should accept requests where IDB-financed operation has caused indirect harm, even if the Government is the directly responsible party.	U.S.A.
100.	Access	Eligibility Criteria	Any actor residing in another place who is aware of noncompliance with a policy should be able to be a requester, without the need for a power of attorney. This will help improve the management quality and transparency of the Bank.	Ecuador

	Thematic Axis	Subtheme	Proposals/Comments	Country
101.	Access	Eligibility Criteria	The exclusions should be fewer in number and less restrictive; and they should be defined in less ambiguous terms.	Argentina, Brazil, Canada, Chile, Colombia, Ethiopia, Mexico, Netherlands, Peru, South Africa U.S.A.
102.	Access	Eligibility Criteria	Paragraph 19(b) is ambiguous and it is unclear what “Request ... on its face is without substance” means and this could lead to the unnecessary exclusion of Requests.	U.S.A.
103.	Access	Eligibility Criteria	<i>Exclusion</i> [is] ambiguous because it does not make clear when a Request “on its face is without substance” and when it is not.	Argentina, Brazil, Canada, Chile, Colombia, Ethiopia, Mexico, Netherlands, Peru, South Africa U.S.A.
104.	Access	Eligibility Criteria	The claim period should be increased to more than two years.	Ecuador

	Thematic Axis	Subtheme	Proposals/Comments	Country
105.	Access	Eligibility Criteria	Our Suriname petition (MICI-SU-2013-068) shows that there are long-term adverse impacts that only became apparent more than two years after projects were discontinued. The delayed onset of harm should not have foreclosed our request. It took several years and outside assistance for the Wayana people to learn that the IDB was involved in a project that was harming them and that they could file a complaint with the ICIM. In this case, the two-year cut-off date is inappropriate. In order to address the long-term health and environmental impacts of IDB financed projects like SU-L1001 and SU-T1026, and for the difficulty that the Wayana people have had in gaining access to information related to the IDB's involvement, the ICIM should consider requests filed even a decade after the last disbursement.	U.S.A.
106.	Access	Eligibility Criteria	This exclusion currently applies to both Consultation and Compliance Review. I believe that a distinction should be made between the two. A Compliance Review could generate useful lessons for future IADB projects, even if more than 24 months have elapsed since the last disbursement, whereas Consultation is unlikely to be relevant at that point.	U.S.A.
107.	Access	Eligibility Criteria	This should be eliminated or extended (for example, to five years) as the environmental harm caused by IDB financed projects may not be detectable during disbursement or in the 2 years after the final disbursement. Limiting the time period undermines one of the goals of the ICIM, addressing harm to the Requesters.	U.S.A.
108.	Access	Eligibility Criteria	The time period is short and overly restrictive. In many cases, the negative social and environmental effects of a project can arise or be detected after a lengthy period of time has elapsed. The opportunity to file a Request should be available even for a time after the Bank has concluded its involvement in the project (for example, five years after the finalization of the Bank's relationship with the project).	Argentina, Brazil, Canada, Chile, Colombia, Ethiopia, Mexico, Netherlands, Peru, South Africa U.S.A.
109.	Access	Eligibility Criteria	It is clear that requests must identify the requester. But what would happen to requests that are anonymous but also well-founded? Is there even a remote possibility that they might be considered?	Guatemala

	Thematic Axis	Subtheme	Proposals/Comments	Country
110.	Access	Eligibility Criteria	<p>Overly restrictive exclusion that should be revised.</p> <p>[Exclusion due to Legal Issues] The OVE Evaluation describes the major difficulties that arise in determining whether a matter raised in a request is under arbitral or judicial review. The evaluation concluded that this requirement presents 5 obstacles to the ICIM's effectiveness. For all practical purposes, these five obstacles are still present in the Policy, and the draft does not address any of these issues, nor does it make any effort to try to resolve them. Perhaps the sole point that becomes less problematic is the high cost of a duplicate eligibility process at the Compliance Review Phase, since eligibility is now a single process.</p> <p>The most concerning obstacle presented by this reason for exclusion is that requesters are forced to choose between the legitimate defense of their rights through the legal means available to them in a country, and availing themselves of the MICI—especially because the purposes of both options are completely different.</p> <p>The major difference between the ICIM process and the determination of obligations in a judicial or arbitral proceeding is even acknowledged in the Policy itself. The Policy clearly states that the Compliance Review Phase does not involve the examination of the potential obligations of the parties involved in a project, but rather serves to determine whether the Bank observed its own policies.</p>	U.S.A.
111.	Access	Eligibility Criteria	<p>The IDB has placed a major impediment with this exclusion, which is not found in other accountability mechanisms and has the potential to bar many claims. The ICIM is not a judicial process and it is only concerned with the Bank's compliance with its own policies—which will never be the subject of a judicial proceeding. The provision is so broad however that arguably any judicial proceeding involving the same project could bar the Request, regardless of whether the IDB or the Requesters are a party to the judicial proceeding.</p> <p>The provision should be stricken completely or at least rewritten to apply to “judicial or arbitral proceedings brought by the Requesters or brought against the IDB.”</p>	U.S.A.
112.	Access	Eligibility Criteria	<p>The exclusion of requests which put forward topics which are being considered in arbitration or judicial processes should be eliminated, or at least be limited to the Consultation Phase.</p>	U.S.A.

	Thematic Axis	Subtheme	Proposals/Comments	Country
113.	Access	Eligibility Criteria	The exclusion of Requests that raise issues or matters that are under arbitral or judicial review should be eliminated or at least limited to the Consultation Phase.	Argentina, Brazil, Canada, Chile, Colombia, Ethiopia, Mexico, Netherlands, Peru, South Africa U.S.A.
114.	Access	Eligibility Criteria	<p>We hope that the ICIM is strengthened in order to address and bring attention to our just claims regardless of any court cases brought at the national level; the job of the Mechanism is to evaluate Bank policies, and therefore it should receive the cases in which our peoples lodge complaints.</p> <p>The ICIM should have a general policy of handling requests regardless of whether there are court proceedings pending in the national courts, given that the domestic legal proceedings are inherent to each country in the strengthening of their legal systems. They are also subject to delays and political manipulation, and not a sure guarantee that rights will be enforced (as in some of our cases in Colombia).</p>	Colombia
115.	Access	Eligibility Criteria	<p>The judicial clause should be removed from the Revised Policy. The experience the Mechanism has gained by examining Requests in light of this clause suggests that it is irrelevant and vaguely worded, and that the bodies of the Mechanism will require criteria for its application in the event that it remains in effect. These factors have serious potential to deprive communities affected by Bank-financed projects access to the benefits that internal accountability provides—the ultimate object and purpose of the Mechanism.</p> <p>Notwithstanding the above, it bears noting that the new language on the judicial clause is an improvement over the one in the previous Policy.</p> <p>However, it does not eliminate the ongoing vagueness regarding the court cases to which it refers. This matter requires extensive debate, and the Bank should provide clear explanations of the reasons for this exclusion.</p>	U.S.A.

	Thematic Axis	Subtheme	Proposals/Comments	Country
116.	Access	Eligibility Criteria	[The exclusion of matters previously reviewed by ICIM] is partially restrictive, since requesters should be afforded the possibility of going before the Mechanism again in the case that they initially opted for one of the Phases and, later in time, decided to avail themselves of the other Phase.	Argentina, Brazil, Canada, Chile, Colombia, Ethiopia, Mexico, Netherlands, Peru, South Africa U.S.A.
117.	Access	Eligibility Criteria	The ICIM Draft Policy unnecessarily restricts who can file a complaint by requiring a Request to be filed by someone who resides in the country. It reduces ICIM's accessibility and does not take into consideration the fact that the operations may lead to trans boundary environmental harm and, in that instance, those persons should be able to file a Request with ICIM.	U.S.A.
118.	Access	Inclusive language	Include "Peoples and nations registered in the member countries" in the section on " <i>Indigenous Peoples</i> " (The following are recognized in the Ecuadorian Constitution: Indigenous People, Afro-Descendants, and Montubios; the three groups have been excluded throughout history, have special laws, and make up 20% of the population. Art. 56); our country has consultancies on disability issues in order to change the legal framework in Bolivia and Peru.	Ecuador
119.	Access	Inclusive language	Expand paragraph 11 to include persons with special needs and senior citizens.	Ecuador
120.	Access	Filing of Requests	Allow for the possibility that the Civil Society Consulting Groups (CONSOCs) might be representatives.	Honduras

	Thematic Axis	Subtheme	Proposals/Comments	Country
121.	Access	Filing of Requests	While most of the mechanisms of those institutions tend to facilitate and promote access, the Bank is attempting to do the opposite by establishing a mechanism that is not very accessible, not very independent, and therefore not very reliable and effective.	Argentina, Brazil, Canada, Chile, Colombia, Ethiopia, Mexico, Netherlands, Peru, South Africa U.S.A.
122.	Access	Filing of Requests	The ICIM must be more accessible to the requesters, given that the geographic and economic conditions make it difficult to understand and interpret the protocols for filing requests and to understand the terminology of the policies shown to our peoples; in some cases people are unaware of them.	Colombia
123.	Access	Filing of Request	It appears that the Intake Phase of the ICIM process does permit ICIM investigators to conduct a discovery process and force petitioners to deliver documents relevant to a potential human rights case. As a consequence of their declining health and wellbeing, indigenous people in Suriname are filing a series of human rights petitions to various United Nations Special Rapporteurs and the UN Committee on the Elimination of Racial Discrimination (UNOG-OHCHR)	U.S.A.
124.	Access	Filing of Requests	Accessibility is a key element in having an effective IAM that helps affected persons and communities and ensures the Bank's compliance with environmental and social policies. The ability for Requesters to ask that their identities be kept confidential is a positive and crucial aspect that enhances the accessibility of the mechanism to affected communities.	U.S.A.
125.	Access	Filing of Requests	Include in clause "a" the identity document number or any unique registration number for the requester in his or her country.	Ecuador
126.	Access	Filing of Requests	The possibility should be considered that the interests of a group of people (duly identified, of course) could be represented by an institution, NGO, or social movement, rather than by a single individual.	Brazil

	Thematic Axis	Subtheme	Proposals/Comments	Country
127.	Access	Filing of Requests	The requirements that a request must meet place a disproportionate burden on the requesters. The Policy is a step backward in terms of the information that must be furnished in a request, since it demands a large amount of complex information from the requesters. This can especially affect persons who lack experience filing requests before the ICIM and cannot even manage to get a request registered because of the complex and subjective requirements.	U.S.A.
128.	Access	Filing of Requests	The ICIM Draft Policy puts unnecessary restrictions on filing a Request and makes the process more complex for potential Requesters. Filing Requests should be facilitated and made easier, not made more restrictive and complex.	U.S.A.
129.	Access	Filing of Requests	Paragraph 14 [content and form of a request] establishes several complex requirements that the Request must meet in terms of form and content in order for it to be considered. These requirements restrict access to the Mechanism in large measure.	Argentina, Brazil, Canada, Chile, Colombia, Ethiopia, Mexico, Netherlands, Peru, South Africa U.S.A.
130.	Access	Filing of Requests	Para. 14 (e) and (f) presume that the Requesters have sufficient understanding of relevant operational policies to be able to appropriately reference them in the request. A request might be considered sufficient even if this understanding is not present.	U.S.A.
131.	Access	Filing of Requests	The requirement in paragraph 14(e) should be eliminated because it is an aspect that the average person should not be required to know [Bank Operational Policies]. Many complaints are based on a common or natural perception. Likewise, in point 2 of the model form letter for requesters, substitute “the following relevant policies (cite the operational policy or policies deemed not to have been complied with by the Bank)” with: policies that avoid causing social, environmental, cultural, health, economic, and heritage-related harm; that is, general policies, as it is impossible for ordinary people to be familiar with the Operational Policies of the Bank.	Honduras

	Thematic Axis	Subtheme	Proposals/Comments	Country
132.	Access	Filing of Requests	This [Paragraph 14(e)] is an unnecessary barrier to Requesters who may not know the relevant policy only that they are being harmed by the project. This is a step backwards from the 2010 ICIM policy which did not require a particular format. Instead paragraph 14 should indicate that information about the policies violated will be helpful to include in the Request, but that none of it is required for the Request to be processed	U.S.A.
133.	Access	Filing of Requests	<p>The draft states that the request “must” include an “allegation that the Bank failed to correctly apply one or more of its Relevant Operational Policies” (para. 14). This Mandatory requirement creates an impediment for claimants who may not understand these Bank’s policies or have access to them, and runs counter to “providing meaningful recourse” to users of the Mechanism.</p> <p>It is for the Panel to determine, based on the harm complained, the range of the operational policies that can be covered, rather than requiring the claimants to allege failure of specific policy/policies. The model form letter for requester in Annex I also contains the explicit requirement that the requester has to cite the “operational policy or policies deemed not to have been complied with by the Bank”. The mechanism should provide easy accessibility by the affected persons in voicing and addressing their concerns rather than imposing these onerous requirements.</p>	Philippines
134.	Access	Filing of Requests	Requirement (e) (“allegation that the Bank failed to correctly apply one or more of its Relevant Operational Policies”) is unclear, has no understandable objective, and does not exist in the Current Policy. It is unclear whether it means simply that requesters should add the heading described in that paragraph or whether, on the contrary, they should state which policies have been violated. The former interpretation would mean that the requirement is merely a formality that should be eliminated; the latter interpretation would be an additional burden on the requesters. Not everyone who avails him or herself of the ICIM will be in a position to comply with this point. If the request contains a description of the problems a person is experiencing in relation to a Bank project, the ICIM should have every ability to identify it itself if that situation involves a violation of one or more Bank policies.	U.S.A.

	Thematic Axis	Subtheme	Proposals/Comments	Country
135.	Access	Filing of Requests	<p>Requesters should not be required to clearly explain the alleged harm and its relation to noncompliance with the Relevant Operational Policies. It may be difficult for Requesters to be able to provide this information, and that could result in the unwarranted dismissal of Requests.</p> <p>In order for the Mechanism to be effective, it should be sufficient to simply state that the Bank is causing or may cause a harm, in order for a Request to be taken into consideration.</p>	Argentina, Brazil, Canada, Chile, Colombia, Ethiopia, Mexico, Netherlands, Peru, South Africa U.S.A.
136.	Access	Filing of Requests	It is not essential to establish the relationship to the relevant Policies, as in most cases the complainants are unfamiliar with them. Therefore, it is necessary to simplify the process so that ordinary people can file complaints.	Honduras
137.	Access	Filing of Requests	This requirement is of particular concern. It does not exist in the Current Policy, and it places an unnecessary burden on the requesters. Requiring a “clear explanation” of the alleged harm and its relation to Bank policies is a complex task that will prevent many people from availing themselves of the mechanism.	U.S.A.
138.	Access	Filing of Requests	[With respect to paragraph 14(f)] It should be a general description.	Honduras
139.	Access	Filing of Requests	The requirement that the Request “clearly identifies a Bank-Financed Operation” and that it describes the “harm and its relationship with the noncompliance with one or more Relevant Operational Policies”, diminishes accessibility as many persons may not know the details of the project nor the relevant IDB policies in a way that they could reference them. Instead, Requesters should be able to merely identify the harm caused by the project and that should be enough for the ICIM to consider accepting their Request.	U.S.A.
140.	Access	Filing of Requests	It is not essential [to describe the measures to solve the problem with Management].	Honduras
141.	Access	Filing of Requests	Requirement (g) [describe the measures to solve the problem with Management] asks the requesters to provide more information about the process before they go before the ICIM. The Current Policy only asks them to report whether contact has been established with Management. Now they are being asked what steps have been taken and what the results have been. This requirement could be misinterpreted and prevent people from using the mechanism.	U.S.A.

	Thematic Axis	Subtheme	Proposals/Comments	Country
142.	Access	Filing of Requests	The word “available” [in paragraph 14(e)] should be replaced with “not included.” Add examples of reasons to facilitate the requesters’ arguments.	Honduras
143.	Access	Filing of Requests	Include sign language, Braille, or any other alternative means of communication to paragraph 16.	Colombia
144.	Access	Filing of Requests	Provide the format of the ICIM’s mailing address for user-friendliness, since each country has different formats.	Brazil
145.	Access	Filing of Requests	[Request] It should be sent immediately without remarks or explanatory notes from the Country Office.	Honduras
146.	Access	Filing of Requests	It is assumed that all potential Requesters will have the necessary educational background to meet the procedural requirements and the means to interact via Internet or communicate with the Bank’s headquarters in Washington (there are communities in Latin America and the Caribbean that do not have those means). Some local mechanism should be established to provide guidance, for example, by the Bank staff responsible for interacting with the country’s civil society through the CONSOCs.	Honduras
147.	Access	Filing of Requests	Restrictions on the type of help that the ICIM staff can provide are particularly unworkable and unnecessary and appear to be aimed at restricting access to the ICIM by communities that do not have access to sophisticated representation or counsel. This provision limits the ability of the ICIM to counsel and advise Requesters and to help them navigate the cumbersome and complex requirements of filing a Request. The ICIM should be able to provide aide to Requesters when needed to ensure that they are not barred from access to the ICIM due to lack of thorough understanding.	U.S.A.
148.	Access	Filing of Requests	It is highly prescriptive to pronounce that “[...] <i>The ICIM cannot advise on the substantive aspects of a Request.</i> ” The Bank is going against the international trends: While most of the accountability mechanisms of the different Financial Institutions seek to facilitate the filing of Requests and assist Requesters in conducting the process appropriately, the Bank complicates the procedure and the necessary requirements, limiting the support that the ICIM could and should provide to Requesters.	Argentina, Brazil, Canada, Chile, Colombia, Ethiopia, Mexico, Netherlands, Peru, South Africa U.S.A.

	Thematic Axis	Subtheme	Proposals/Comments	Country
149.	Access	Filing of Requests	In the event that the Requesters need to maintain their identity confidential due to fears of retaliation, it could be difficult for the Request to include a description of measures taken by the Requesters to solve the problem per 14(g). Perhaps this situation calls for a waiver of 14(g), although it could be covered under 14(i).	U.S.A.
150.	Access	Filing of Requests	<p>[With respect to paragraph 15 about Confidentiality] This requirement is problematic. The previous Policy stated only that confidentiality could be maintained; it is not clear whether adding “identity” pursues any specific aim. It could be interpreted to mean that the only information that can be kept confidential is the personal information of the individual who files a request. This restriction could be excessive, since the requester may wish for other information to be kept confidential. In addition to being an excessive restriction, this provision is inconsistent with the provisions contained in the same policy which state that the ICIM will maintain the confidentiality of any information submitted as such to the mechanism, and will not be able to disclose it without the express consent of the person who provides it. The terms used in the requirements for the content of a request are more restrictive and should be brought into line with the general clause on the issue in order to ensure the consistency of the Policy and prevent conflicts of interpretation.</p>	U.S.A.
151.	Access	Filing of Requests	<p>[With respect to paragraph 15 about Confidentiality] This requirement is problematic. The Policy appears to indicate that fear of retaliation is the only reason for which the requester can ask for his or her identity to be kept confidential. Persons who use this mechanism could have other, equally valid reasons for requesting that their identities be kept secret. The purpose of restricting the freedom of the requester to act in a confidential manner to this degree is unclear.</p>	U.S.A.
152.	Access	Filing of Requests	<p>[With respect to paragraph 15 about Confidentiality] Requesters should not have to provide any explanation for why they want confidentiality. If they fear retaliation, it is enough. No reason should have to be given and the ICIM should not evaluate the reasons for wanting confidentiality.</p>	U.S.A.

	Thematic Axis	Subtheme	Proposals/Comments	Country
153.	Access	Filing of Requests	<p>What happens if a Requester asks only for the Consultation Phase because he or she hopes to resolve everything at that phase, but that does not happen? Will he or she have to file another request to go to the Compliance Review Phase? Or is there an opportunity to choose that route without having to file a new request?</p> <p>The Draft needs to make clear (perhaps in another paragraph) what happens if the Requester opts only for the Consultation Phase and it concludes without a resolution.</p> <p>The model form letter (Annex I) gives the Requester the alternative of requesting additional information if he or she does not know which phase to select. Standardize the information.</p>	Brazil
154.	Access	Request Presentation	<p>Description of the harm and its relation to noncompliance with Operational Policies/ Response by Management to the request This is a clear obstacle to accessibility.</p>	Argentina, Brazil, Canada, Chile, Colombia, Ethiopia, Mexico, Netherlands, Peru , South Africa U.S.A.

	Thematic Axis	Subtheme	Proposals/Comments	Country
155.	Access	Registration Process	<p>The request registration process is unnecessarily complex. The regulation of the request registration process is a positive development. The OVE Evaluation clearly describes how the absence of this regulation has caused various complications in the workings of the Mechanism. Nevertheless, the regulation chosen is overly complex. The Policy lists 9 requirements that must be met just for a request to be registered. Those requirements contain a mixture of objective and subjective elements. The OVE Evaluation describes how the existence of highly subjective criteria has been a problem for the processing of a request at the eligibility phase.</p> <p>The registration of a request should be a clear and easy task, based solely on a review of the minimum requirements needed for a request to warrant a response or examination by the ICIM. In other words, it should only try to identify those requests that clearly bear no relation to the ICIM or lack the minimum information they are supposed to contain.</p> <p>The OVE Evaluation stated that the ICIM has a problem with delays and inconsistencies in the request registration process. The registration process in the Draft Policy provides for more complex requirements than those currently in place for the registration of a request.</p>	U.S.A.
156.	Access	Registration Process	<p>We welcome certain provisions introduced in the Policy with respect to Registration that may result in the increased transparency and effectiveness of the Mechanism. Thus, for example, the Request Registration process mentioned in paragraph 20 of the Draft is more structured and transparent than the one contained in the Policy, as it clearly explains the factors that are taken into account during this phase.</p>	Argentina, Brazil, Canada, Chile, Colombia, Ethiopia, Mexico, Netherlands, Peru, South Africa U.S.A.

	Thematic Axis	Subtheme	Proposals/Comments	Country
157.	Access	Registration Process	The registration of the Requests should entail verifying only the information required, not the existence of exclusions. What is usually done in the case of other similar mechanisms is the simple determination of whether the Request contains the requisite information, as the determination of whether any of the exclusions are applicable to the Request is generally a complex process that cannot be handled effectively within a period of just 5 business days. Therefore, that decision must be made exclusively during the Determination of Eligibility phase.	Argentina, Brazil, Canada, Chile, Colombia, Ethiopia, Mexico, Netherlands, Peru, South Africa U.S.A.
158.	Access	Registration Process	Allowing requesters to either complete a request within a specific period of time or opt to re-file the request lends flexibility and openness to the process.	Peru
159.	Access	Registration Process	While it is helpful to allow the Requesters 10 business days to address the missing information, it may not be a long enough time. The Requesters should have greater flexibility in timing because, depending on the Requester, 10 business days may be insufficient to amend the Request with the information ICIM wants.	U.S.A.
160.	Access	Registration Process	There should be greater flexibility in the deadlines and conditions given to Requesters for the submission of additional information, as established in the [sic], since 10 business days may not be enough time to obtain certain information.	Argentina, Brazil, Canada, Chile, Colombia, Ethiopia, Mexico, Netherlands, Peru, South Africa U.S.A.
161.	Access	Registration Process	The process is restrictive, highly subjective, and places a disproportionate burden on requesters. The eligibility analysis entails ensuring that there are no grounds for exclusion and the eligibility requirements in paragraphs 22(b) and 22(c) repeat themes regarding the content of a request.	U.S.A.

	Thematic Axis	Subtheme	Proposals/Comments	Country
162.	Access	Registration Process	<p>The eligibility process continues to be complex and restrictive. The OVE Evaluation describes the problems caused by having a complex eligibility system. Although the Draft Policy allows for an on-site visit to be conducted during the eligibility process, the process continues to be legalistic in nature and involves a long series of requirements.</p> <p>The Policy maintains a two-fold system with respect to the examination of eligibility. It is necessary to review five eligibility requirements, in addition to six grounds for exclusion. This is in addition to the fact that nine elements had to be reviewed previously in order to register a request. This means that in order for a request to be considered eligible, the staff of the Mechanism must review three different sets of requirements, which in total add up to twenty.</p>	U.S.A.
163.	Effectiveness	Impact	<p>Bearing in mind the ambiguous and restrictive way in which most of the exclusions are set forth, consideration should be given to the creation of an independent appeal mechanism that enables Requesters to appeal the ICIM's decision to exclude the request if they think it was unwarranted. This might be an appeals mechanism similar to the one that exists in the case of the Access to Information Policy, for example.</p>	Argentina, Brazil, Canada, Chile, Colombia, Ethiopia, Mexico, Netherlands, Peru, South Africa U.S.A.
164.	Effectiveness	Impact	<p>It is important to strengthen the ICIM in order for it to continue operating vigorously—as its name indicates—as an Independent Consultation and Investigation Mechanism. Its outcomes must extend to:</p> <ul style="list-style-type: none"> • the internal decisions of the Bank, in order to prevent irreparable harm; and • the external decisions regarding the recipient countries that lead to changes when there are violations of the human, environmental, social, and cultural rights of our peoples. In this way, the Mechanism will be reliable and effective. 	Colombia

	Thematic Axis	Subtheme	Proposals/Comments	Country
165.	Effectiveness	Impact	The "binding" force of this Mechanism is of concern. That is, the guarantee that the results of the ICIM can be implemented by the Bank. Although the section entitled "Monitoring" stipulates that Management will cooperate with the ICIM, it is not clear that it is required to do so.	Mexico
166.	Effectiveness	Impact	How is the harm compensated in the event that it is proven?	Honduras
167.	Effectiveness	Impact	Oversight and accountability provisions should be established in case one of the Parties fails to comply with the agreement reached at the Consultation Phase. One of the concerns that arose previously [among] ICIM and Bank staff is absence in the Policy of procedures to be followed in the event the Parties fail to comply with the provisions of the agreement—a problem that must be addressed in this revision, with the creation of oversight and accountability procedures and mechanisms for those agreements. For example, noncompliance of this type should be considered a violation of the Policy (of the ICIM).	Argentina, Brazil, Canada, Chile, Colombia, Ethiopia, Mexico, Netherlands, Peru, South Africa U.S.A.
168.	Effectiveness	Impact	Is there an appeals mechanism, and are the decisions of the investigation panel subject to appeal? It is theoretically possible for the results of an investigation to be inadequate. In that case, a person should be appointed to “investigate the investigator” and verify that the process is transparent and appropriate, and that the results are in keeping with best investigation practices.	Ecuador
169.	Effectiveness	Impact	There should be cause for halting the process, particularly in cases involving the harm or degradation of the environment. The proposed system does not have this feature, and could therefore create irreversible damage. We propose procedural blocks and extensive processes that will guarantee that a process will be halted when it is in question or there is a demonstrated harm in progress, mainly with respect to environmental issues.	Mexico
170.	Effectiveness	Time periods	The introduction of stricter time limits on the premise of customer service can only improve timeliness and efficiency if it is closely monitored.	Barbados

	Thematic Axis	Subtheme	Proposals/Comments	Country
171.	Effectiveness	Time periods	The shortening of all of the response time periods will improve the flow of the process, since the parties will know whether the request is proper and whether it can be amended to be eligible under ICIM procedures. It is hoped that the new proposed time periods can be met; otherwise it is better to extend them to the real response time according to the statistics under this category.	Peru
172.	Effectiveness	Time periods	The introduction of “a term of up to 21 business days as of the date of receipt of the Response by Management to determine the Request’s eligibility” extends the deadlines for the process even further. Bearing in mind the numerous critiques offered during the first public consultation phase by communities that used the Mechanism with respect to the delays and lengthy time periods required at each phase, the deadlines and time periods for the ICIM to determine eligibility should be shortened, and not extended.	Argentina, Brazil, Canada, Chile, Colombia, Ethiopia, Mexico, Netherlands, Peru, South Africa U.S.A.
173.	Effectiveness	Time periods	The Board or the Donors Committee should have to consider the compliance review report within a specified time period (i.e. 21 days) and not just in a “timely manner”. All other parts of the process have time limits and by the time the compliance report gets to the Board or Donors Committee it is approximately 9 months to 2 years after the Request was submitted depending on whether the Requesters opted to first go to the Consultation Phase. Thus, in order to ensure efficiency and to reduce time (and likely harm), there should be a time limit at this stage.	U.S.A.
174.	Effectiveness	Time periods	We are pleased that six months is the target maximum time period for the Panel to issue its draft report and that the TOR must explicitly indicate the Panel’s target timeline for completion, whether it is six months or another proposed time period based on the situation.	U.S.A.
175.	Effectiveness	Time periods	The monitoring should not be limited to five years as stated in paragraph 35(c). There should not be an arbitrary limit as it may be necessary to monitor the situation for longer to ensure that all the necessary actions have been taken.	U.S.A.
176.	Effectiveness	Time periods	The time period [for monitoring an agreement] should be consistent with the duration of the operation.	Honduras

	Thematic Axis	Subtheme	Proposals/Comments	Country
177.	Effectiveness	Time periods	The monitoring should not be limited to five years. There should not be an arbitrary limit on the monitoring because in some instances, it may be necessary to monitor the situation for longer to ensure that all the necessary actions have been taken.	U.S.A.
178.	Effectiveness	Time periods	A time limit should not be imposed for the monitoring of an agreement reached at the Consultation Phase. Monitoring should continue until the agreement has been effectively implemented, regardless of how long it takes.	Argentina, Brazil, Canada, Chile, Colombia, Ethiopia, Mexico, Netherlands, Peru, South Africa U.S.A.
179.	Effectiveness	Time Periods	Monitoring should not be limited to 5 years because in some instances the monitoring will need to continue beyond that period. Thus, the ICIM should be able to set the duration of its monitoring on a case-by-case basis.	U.S.A.
180.	Effectiveness	Time Periods	The monitoring period in the revised draft ICIM policy appears restrictive. It would be best to leave this monitoring period to the decision of the monitor to determine that monitoring is no longer needed, as is the case in the CAO Office at IFC and MIGA, and in EBRD's Project Complaint Mechanism. Such a period is consistent with the purpose of independent monitoring to ensure that effective steps are taken following agreements or action plans in place.	Philippines
181.	Effectiveness	Process	To meet its objectives, the ICIM needs to be effective and to handle the complaints submitted by the Requesters. As it is currently written, the Draft ICIM Policy presents several inconsistencies and shortcomings at the consultation and compliance review phases, as well as inconsistencies and shortcomings in its general policies.	U.S.A.
182.	Effectiveness	Process	It is important to make clear what should be done in the event that a representative decides to withdraw from a process.	Brazil

	Thematic Axis	Subtheme	Proposals/Comments	Country
183.	Effectiveness	Process	<p>The Bank's Management should not have the discretionary authority to temporarily suspend the eligibility determination process.</p> <p>Management has a period of 21 business days as of the date of notice of registration to issue a response to the Request; this response could include a controversial request to temporarily suspend the eligibility process. Bearing in mind that this suspension will be for a period of 45 business days as of the date of receipt of the Response by Management, the provision—which is not usually included in other similar accountability mechanisms—would clearly delay the entire process, and would be inconsistent with the intent of the ICIM's revision to make it more effective and efficient.</p> <p>Therefore, this authority of Management to suspend eligibility is unacceptable and should be deleted from the Draft, or should at least require the consent of the requesters to the Plan that Management suggests implementing.</p>	Argentina, Brazil, Canada, Chile, Colombia, Ethiopia, Mexico, Netherlands, Peru, South Africa U.S.A.
184.	Effectiveness	Process	<p>In developing the action plan Management should consult both the ICIM and the Requesters, and a draft action plan should be provided to Requesters for comments. Requesters' comments on the action plan also should be made available to the Board.</p>	U.S.A.
185.	Effectiveness	Process	<p>The comments of the Requesters should be taken into account when carrying out the Action Plan.</p>	Argentina, Brazil, Canada, Chile, Colombia, Ethiopia, Mexico, Netherlands, Peru, South Africa U.S.A.

	Thematic Axis	Subtheme	Proposals/Comments	Country
186.	Effectiveness	Process - phases	While it is a positive step that Requesters can choose either compliance or consultation or both (and not first go to the consultation phase as previously required), the Requesters should be able to determine the sequencing of the consultation and compliance phases and the policy should not restrict the sequencing to put consultation first. This requirement appears to be in contrast with paragraph 7, which says that the “ICIM’s objectives are fulfilled through the following two phases to be selected by the Requesters, allowing the selection of the approach that best addresses the Requests.” If the Requesters believe that Compliance would best address their Request, then they should be able to go to that stage first and not be precluded from the Consultation phase after that, particularly given that the Consultation Phase requires all Parties to agree to participate in any event. The IFC/MIGA CAO office, for example, would permit a case to go to compliance first if that were the Requesters’ informed choice.	U.S.A.
187.	Effectiveness	Process - phases	In the event that the Requesters opt to go to both Phases of the Mechanism, it should not be mandatory to go first to the Consultation Phase and then to the Compliance Review Phase. On the contrary, they should have the opportunity to initiate both Phases simultaneously.	Argentina, Brazil, Canada, Chile, Colombia, Ethiopia, Mexico, Netherlands, Peru, South Africa U.S.A.

	Thematic Axis	Subtheme	Proposals/Comments	Country
188.	Effectiveness	Process - phases	<p>The Draft Policy lacks clarity as to whether the ICIM Director can call for a compliance review. In paragraph 17(c), it states that the ICIM Director has to assess the relevance of continuing the Compliance Review Phase if the Requesters opt out after consultation. The flow chart in Annex V also suggests the ICIM Director can move forward with a compliance review after the Requesters opt out. In paragraph 29(b), on the other hand, it indicates that if the consultation phase ends without resolution and the Requesters have not opted to pursue compliance, then the process will be concluded. This does not appear in line with paragraph 17(c) or the flow chart. Similarly, paragraph 38 states that the compliance review will be undertaken, provided it is eligible, if the Requesters opt for compliance only or if they opt for both consultation and compliance. However, it says nothing about the ICIM Director being able to call for a compliance review. The ICIM Director <i>should</i> be able to trigger a compliance review even if the Requesters opt out.</p>	U.S.A.
189.	Effectiveness	Process - phases	<p>We appreciate the desire of the ICIM to have a consultation phase that helps to address harm caused by an IDB funded project. The consultation phase is valuable in that it can help the project-affected persons get a remedy that works best for them. To be of value, each ICIM phase must also represent the values of accessibility, independence, and effectiveness.</p>	U.S.A.
190.	Effectiveness	Process - phases	<p>The way in which this Phase is explained and presented seems irrelevant. It is an action that could be carried out perfectly well between the Requesters (representatives of the “adversely affected parties”) and Management with the support of a mediator who could be hired by the ICIM.</p>	U.S.A.
191.	Effectiveness	Process - phases	<p>I think the idea here was to specify that some issues stated in the Request can be resolved, and others cannot. In this case, if the Requesters so decide, unresolved matters should go to the investigation phase at the same time the agreement reached at the Consultation Phase is being monitored. It is better to place [sic] it is more clear than just stating that there is no guarantee of an agreement... the fact of the matter is that there is no guarantee of any outcome.</p>	Brazil
192.	Effectiveness	Process - phases	<p>I think it is good to make clear that the Bank (Management) can be called to be a Party to the process (in which case I think it should not be voluntary).</p>	Brazil

	Thematic Axis	Subtheme	Proposals/Comments	Country
193.	Effectiveness	Process - phases	We agree that in order for the Consultation Phase to reach a successful outcome, the process needs to have the consent of all Parties and they need to be willing to engage in the process. However, paragraph 25 should explicitly define the Requesters as participants who are “essential for the process” and the Phase should not be allowed to continue if the Requesters withdraw.	U.S.A.
194.	Effectiveness	Process - phases	It should be expressly stated that the Requester is an “essential participant” in the Consultation Phase. According to paragraph 26 of the Draft, as participation in the Consultation Phase is voluntary and requires the consent of all of the Parties, any of them may unilaterally withdraw at any time during this Phase. It then establishes that “If the ICIM Director determines that this participant is essential for the process, the Consultation Phase will be considered concluded.” It should be expressly stated that the Requester is an “essential participant” whose withdrawal from the process must necessarily result in the conclusion of the Phase.	Argentina, Brazil, Canada, Chile, Colombia, Ethiopia, Mexico, Netherlands, Peru, South Africa U.S.A.
195.	Effectiveness	Process - phases	Agreements resulting from the Consultation Phase should also be respectful of the positive and customary law of the indigenous peoples located in the Project area. It bears noting that, just like the Project Proponent, the indigenous peoples or communities affected by the Project are <i>parties</i> to the Consultation Phase, not third parties. There is no reason to discriminate against that source of law and exclude it from consideration in the agreements that result from dialogue among the parties. The Bank’s own Operational Policy on Indigenous Peoples requires its borrowers to respect the rights of indigenous peoples. <i>A fortiori</i> , the Bank should also ensure that the agreements resulting from the Consultation Phase of its Mechanism respect those rights.	U.S.A.
196.	Effectiveness	Process - phases	The Consultation Phase should consider and include an additional clause, as a safeguard for indigenous peoples, that develops more appropriate procedures and mechanisms to conduct free, prior, and informed consultation, in good faith, before any project is carried out and executed, and to obtain their consent in the process.	Ecuador
197.	Effectiveness	Process - phases	The MICI should carry out the Verification of Observance even when the requesters renounce it and even when a positive result is arrived at in the Consultation Phase.	U.S.A.

	Thematic Axis	Subtheme	Proposals/Comments	Country
198.	Effectiveness	Process - phases	The ICIM should carry out the Compliance Review even when the Requesters waive it and even when a positive outcome is reached at the Consultation Phase.	Argentina, Brazil, Canada, Chile, Colombia, Ethiopia, Mexico, Netherlands, Peru, South Africa U.S.A.
199.	Effectiveness	Process - phases	<p>The Terms of Reference for the investigation should not have to be sent to Management for comments, or they at least have to be sent to the requesters as well.</p> <p>In general terms, in any circumstance in which Management is allowed to make comments with respect to a particular point, the Requesters should be allowed to do the same. In this respect, the Draft takes a step backward from the current Policy, which does afford the Requesters the opportunity to comment on the TOR.</p>	Argentina, Brazil, Canada, Chile, Colombia, Ethiopia, Mexico, Netherlands, Peru, South Africa U.S.A.
200.	Effectiveness	Process - phases	<p>There is no reason for there to be comments from Management, and they should be eliminated. It is ironic that it is now being proposed that only Management should provide additional comments on the version of the Terms of Reference to be presented to the Board of Executive Directors or the Donors Committee, and not the Requesters. This proposal—which did not exist in the prior version of the Mechanism’s Policy—contradicts its slogan “<i>We want to hear your voice!</i>”</p> <p>Needless to say, what this article proposes is not only unheard-of, but it also repudiates the most basic principles of fairness in any proceeding. Rather than allowing the voice of the Requesters to be heard in the context of decisions that will affect their Requests, this article aims to do the complete opposite.</p>	U.S.A.
201.	Effectiveness	Process - phases	[On the TORs for a Compliance Review] The Requesters should be given the TOR and the same opportunity to comment on the final version as Management, which is given 10 days.	U.S.A.

	Thematic Axis	Subtheme	Proposals/Comments	Country
202.	Effectiveness	Process – phases	<p>In the event that an agreement is reached, ICIM should be required to develop a monitoring plan to ensure that all Parties comply with the agreement. Therefore, paragraph 35 should be changed to say that a monitoring plan and time frame will be established when an agreement is reached rather than saying “when applicable.”</p> <p>The monitoring plan should be created based on the situation.</p> <p>Furthermore, the monitoring should not be limited to five years as stated in paragraph 35(c). There should not be an arbitrary limit as it may be necessary to monitor the situation for longer to ensure that all the necessary actions have been taken.</p>	U.S.A.
203.	Effectiveness	Process - phases	<p>The ICIM should be able to determine how it monitors whether the noncompliance is resolved and should not be limited to only be able to monitor this for five years.</p> <p>According to paragraph 49, the ICIM will only monitor “any action plans or remedial or corrective actions agreed upon as a result of a Compliance Review.” This is too limiting and may not address the issues of non-compliance depending on the quality of Management’s Action Plan. Instead the ICIM should focus its monitoring on whether the issues of noncompliance are being addressed.</p>	U.S.A.
204.	Effectiveness	Process – phases	<p>The follow-up and monitoring conducted by the ICIM upon the conclusion of the Compliance Review Phase should be conducted based on whether the Policy noncompliance is resolved (and not based on the action plan drafted by Management).</p>	<p>Argentina, Brazil, Canada, Chile, Colombia, Ethiopia, Mexico, Netherlands, Peru, South Africa U.S.A.</p>

	Thematic Axis	Subtheme	Proposals/Comments	Country
205.	Effectiveness	Process - Reports	<p>[Assessment] The content requirements for the Report are unnecessarily prescriptive for a process such as the Consultation Phase that is supposed to be dynamic as well as complex. In many cases, it can take the Parties a significant length of time to reach agreements on each one of those aspects. Because the time period for this phase is only 40 business days, such a prescriptive requirement should not be established.</p>	Argentina, Brazil, Canada, Chile, Colombia, Ethiopia, Mexico, Netherlands, Peru, South Africa U.S.A.
206.	Effectiveness	Eligibility process	<p>The admissibility criteria are very much focused on the “form” in which a Request is filed, and not on the assessment of the case. Since the criteria focus exclusively on the request, I do not see the relevance of requesting a Response by Management at this phase... this could be done in the Analysis. If [it is] to consider the Response by Management, that should be provided for in the admissibility criteria.</p>	Brazil
207.	Effectiveness	Eligibility process	<p>If the information provided by Management proves unequivocally that there was no harm, how can it be admitted? It does not seem proper to examine only the request. If this is the case, it would not be necessary to request a Response by Management.</p> <p>One of the criteria would be for the ICIM team to evaluate whether there is in fact evidence that harm has been or could be caused based on the information furnished by the requesters and the Response by Management.</p>	Brazil

	Thematic Axis	Subtheme	Proposals/Comments	Country
208.	Effectiveness	Eligibility process	We welcome certain provisions introduced in the Policy with respect to Eligibility that may result in the increased transparency and effectiveness of the Mechanism. Thus, for example, the unification of the eligibility processes into a single process conducted by the ICIM Director, as well as the ability to conduct on-site visits to the country where the project is being executed (paragraph 23 of the Draft), may make the Mechanism more effective. The fact that Requesters can state in the Request the reason why it was not possible to contact Management in advance, without there being an express obligation to do so in all cases (paragraph 22(d) of the Draft), is also a sign of progress in the Policy that should be welcomed.	Argentina, Brazil, Canada, Chile, Colombia, Ethiopia, Mexico, Netherlands, Peru, South Africa U.S.A.
209.	Effectiveness	Eligibility process	Although the policy appears to solve the problem of the duplicate eligibility process, it repeats it in the context of registration and eligibility. One problem identified in the OVE Evaluation was the repetition of the eligibility process for a request at the Consultation and Compliance Review stage (OVE Evaluation p. 18). Although the Policy seems to propose a single system of eligibility under the responsibility of the Director of the Mechanism, the problem of duplicating efforts and the existence of divergent criteria remain in the Policy. This is due to the fact that the content review that must be performed to register a request includes analyzing subjective issues that will also be reviewed in the eligibility process.	U.S.A.
210.	Effectiveness	Eligibility process	Who handles admissibility? Consultation or investigation phase (if the Requester opts for both phases)? Is the Compliance Review Phase held only subsequent to the Consultation Phase?	Brazil
211.	Effectiveness	Eligibility process	We commend the IDB on eliminating the multiple eligibility determinations required by the previous policy, under which the ICIM determined eligibility at both the consultation and compliance phases. Having one eligibility phase to determine whether the Request is eligible for either phase or both, as described in paragraph 23(a), and limiting that phase to 21 days will decrease the length of time for processing the Request and will contribute to a more efficient ICIM.	U.S.A.
212.	Effectiveness	Eligibility process	The Administration of the Bank should not have the discretionary authority to temporarily suspend the process of determination of eligibility.	U.S.A.

	Thematic Axis	Subtheme	Proposals/Comments	Country
213.	Effectiveness	Eligibility process	Management should not be allowed to temporarily and unilaterally suspend the eligibility process, particularly given that under the eligibility criteria Requesters must already show that Management has been given an opportunity (and failed) to address the concerns. Forty-five more days of delay puts affected communities at increased risk of irreversible harm, particularly given that under this policy as drafted (i) Requests can only be filed after approval of the project and (ii) that the project is not automatically stayed pending resolution of the Request. If Management wants to propose a specific response to the Request they should certainly be encouraged to do so, but the Requesters should be informed and the Requesters (not the ICIM) should be the ones who make the decision whether to put the Request temporarily on hold pending Management's effort to resolve the issue. Accordingly paragraph 23(c) should be revised to require that (i) Requesters agree to the temporary delay in processing the Request and (ii) that the project implementation be postponed during this delay in processing the Request.	U.S.A.
214.	Effectiveness	Resources	The ICIM must have the budget, staff, and resources necessary to carry out its activities effectively.	U.S.A.
215.	Effectiveness	Resources	It is necessary to ensure that the ICIM has the budget, staff, and resources needed to conduct its activities effectively.	Argentina, Brazil, Canada, Chile, Colombia, Ethiopia, Mexico, Netherlands, Peru, South Africa U.S.A.
216.	Effectiveness	Resources	At this phase [assessment – Consultation Phase], the budget of the Consultation Phase should also be specified, with the allocation of resources necessary for the various missions to be carried out during the process.	Brazil
217.	Structure	Authority and responsibility	Authority is heavily concentrated in the person of the Director. For example, the decision to continue with the Compliance Review Phase when the requesting party withdraws falls completely to the Director. It would be advisable for the Coordinator of that Phase to make this decision or at least take part in it. This would be applicable to other tasks such as:	U.S.A.

	Thematic Axis	Subtheme	Proposals/Comments	Country
			<p>The Director will decide for him or herself whether it is appropriate to request a suspension with regard to a potential disbursement on the grounds that the project could cause serious and irreparable harm.</p> <p>The eligibility of a new case depends on the Director of the ICIM. The Policy specifies that, unlike the Director's other responsibilities, this decision will be made in consultation with the Coordinators of each Phase (para. 23(c)). Although the non-repetition of an eligibility process for each phase is a positive development (See OVE Evaluation p. 18), it is one more power concentrated in the person of the Director. The phrase "in consultation" does not specify how this decision will be made. The communication of eligibility is also incumbent upon the Director.</p> <p>The Director will decide whether it is proper to conclude the Consultation Phase if he or she finds that a party essential to the process has decided to withdraw from it (Policy, para. 26). This process does not at any time involve the respective Phase Coordinator, who would have the most immediate knowledge of this process and of the need for it to be concluded or not.</p> <p>The Director of the ICIM has the authority to decide to extend the time period for the Consultation Phase if deemed appropriate, or to conclude it. The Consultation Phase Coordinator has no role as far as this authority is concerned.</p> <p>The Director has the authority to hire the other two individuals who, together with the Compliance Review Phase Coordinator, will make up the Panel for that phase.</p> <p>The Director has the authority to decide whether he or she wished to consult with the Bank's Legal Department regarding the interpretation of the Bank policies and the ICIM Policy itself (this authority is called into question below).</p> <ul style="list-style-type: none"> • The Director is the person who decides to recommend to the Board of Directors that an investigation be conducted at the Compliance Review Phase. 	

	Thematic Axis	Subtheme	Proposals/Comments	Country
218.	Structure	Authority and responsibility	<p>The authority of the Consultation Phase staff is unclear.</p> <p>The duties of the Phase Coordinator are not described anywhere.</p> <p>It might be assumed that the Coordinator of this phase would be the person in charge of this process. However, the Policy does not describe a single duty of that Coordinator. The Policy does, on the other hand, describe some powers of the ICIM Director at this phase (conclusion of the consultation process) (Policy para. 26).</p> <p>The Policy abstractly states that various duties will be the responsibility of “the ICIM,” without specifying whether those activities are the responsibility of the Director, the Phase Coordinator, or some other person (See, for example, paras. 26 and 27 of the Policy). It is therefore unclear who would be the person within the ICIM in charge of these activities, which could lead to different interpretations on the part of ICIM staff. It might be thought that the activities described in paragraphs 26 and 27 are the responsibility of the Phase Coordinator, or that some are incumbent upon the Director, or that the Coordinator should seek approval for some of these activities. It would be advisable for the duties of the Phase Coordinator to be described specifically.</p> <p>The OVE Evaluation identifies the problems that have arisen in the operation of the Mechanism due to the absence of a clear division of duties or in view of articles that lend themselves to various interpretations. See, for example, the description in the Evaluation of how the lack of certainty in the interpretation of the terms of the Policy has given rise to extensive debate, few agreements, and delays in the usual activities of the ICIM (OVE Evaluation p. 12).</p>	U.S.A.
219.	Structure	Authority and responsibility	The Phase Coordinator should be the person in charge of determining an extension of the deadline, not the Director of the ICIM.	Argentina, Brazil, Canada, Chile, Colombia, Ethiopia, Mexico, Netherlands, Peru, South Africa U.S.A.
220.	Structure	Definitions	Article 52(c) mentions “junior operational staff.” What positions are these?	U.S.A.

	Thematic Axis	Subtheme	Proposals/Comments	Country
221.	Structure	Effectiveness	<p>The effectiveness of the Consultation Phase will largely be based on how it is conducted and can be helped by hiring effective mediators and facilitators where necessary.</p> <p>The ICIM should work to develop a network of mediators or facilitators and, to the extent possible, maintain a roster of these people. More importantly, when hiring a mediator or facilitator, the ICIM should consult with the relevant stakeholders, including the Requesters involved, to ensure that the mediator is acceptable to all participants.</p>	U.S.A.
222.	Structure	Effectiveness	<p>Not only does the time period determine the success or failure of the Consultation Phase, but so does the intensity of the ICIM's participation in the process. It is thus necessary for missions to be conducted frequently (a monthly minimum). It is clear that progress is more dynamic when an ICIM team is present (and not only via telephone contacts). Accordingly, it is necessary to ensure that missions are carried out quite frequently to ensure that the process moves forward. This will be reflected in the composition of the ICIM team, which should be adjusted according to the number of active cases.</p>	Brazil
223.	Structure	Effectiveness	<p>The redefinition of the ICIM structure as a separate function under the Bank's Management is more advantageous than retaining its function as an independent office. It reduces costs and internal communication gaps, facilitates the reduction of response times, and provides greater consistency as a single and articulate front for responding to requesters.</p>	Peru
224.	Structure	Effectiveness	<p>Paragraph 53(c): The ICIM Director should be at a "staff grade" that is sufficiently high within the structure, for example, the head of the CAO at the IFC/MIGA is a Vice-President. This will ensure that the ICIM Director has the ability to be effective and not marginalized within the IDB. This should not be determined by the Board in consultation with Human Resources following the appointment of the ICIM Director.</p>	U.S.A.

	Thematic Axis	Subtheme	Proposals/Comments	Country
225.	Structure	Effectiveness	The staff grade of the ICIM Director, which according to the Draft “ <i>shall be determined by the Board of Executive Directors,</i> ” should be high enough within the Bank’s institutional structure (at the level of a Vice President, as is the case with similar positions in other mechanisms) to ensure his or her capacity for action.	Argentina, Brazil, Canada, Chile, Colombia, Ethiopia, Mexico, Netherlands, Peru, South Africa U.S.A.
226.	Structure	Independence	Is there any restriction for consultants? (para.. 52(c))	Brazil
227.	Structure	Independence	We applaud the Bank for the steps it has taken to ensure the ICIM’s independence from Management, including the fact that the ICIM reports to the Board of Executive Directors (paragraph 50) and that the Director of the ICIM and the two Phase Coordinators are barred from working at the Bank after their service (paragraph 52(c)).	U.S.A.
228.	Structure	Independence	In order to be independent, the ICIM staff must be separate from the Bank’s Management. It is critical for the ICIM to be independent from the Bank’s Management. This independence must be ensured through the ICIM staff hiring process, through the report to the Board of Directors, and through the physical separation of the ICIM from the rest of the Bank, for example, by being located in offices that are accessible only to members of the ICIM staff.	U.S.A.
229.	Structure	Independence	Who is in charge of the ICIM? The Board of Executive Directors or the appointed staff person?	Brazil
230.	Structure	Independence	The permanent bar from employment at the Bank for the Director, and both Coordinators is a positive development and improvement from the current policy.	Philippines
231.	Structure	Independence	The provisions requiring that the ICIM Director not have worked for the IDB for three years and that they cannot work for the IDB subsequent to their role as ICIM Director are important and commendable decisions. These provisions should be explicitly included in the terms of reference for the ICIM Director (Annex II). Similar comment applies to the terms of references for the Consultation and Compliance Phase Coordinators	U.S.A.

	Thematic Axis	Subtheme	Proposals/Comments	Country
232.	Structure	Independence	Paragraph 52(a): Eliminate the caveat of “in general” and make it so that the ICIM Director, Compliance Review Phase Coordinator, and Consultation Phase Coordinator will be chosen from outside the Bank (unless they come from within the ICIM).	U.S.A.
233.	Structure	Independence	The independence and capability of the Director of the MICI should be assured, through a selection process that is participative, transparent, and inclusive. It is unacceptable that the Director of the MICI may be fired by the Directorate without a justified and legitimate cause.	U.S.A.
234.	Structure	Independence	The removal of the ICIM Director should only be for <i>legitimate cause</i> . Allowing the Board of Directors to remove the ICIM Director without cause severely undermines independence because it could result in a situation where the Board retaliates against the ICIM Director for an investigation. This compromises the ICIM Director’s ability to do his or her job effectively and independently. “Or without cause” should be removed from this paragraph. This is also a significant step back from the other accountability mechanisms, which overall require cause for removal from their position.	U.S.A.
235.	Structure	Independence	<p>It is unacceptable for the Director of the ICIM to be subject to removal by the Board of Directors without a justified and legitimate reason.</p> <p>This provision is a departure from the practices of other accountability mechanisms, such as the Project Complaint Mechanism (PCM) of the European Bank for Reconstruction and Development (EBRD), which establishes that “<i>The PCM Officer (a figure similar to the Director of the ICIM) may be removed for cause with the approval of the President.</i>”</p>	Argentina, Brazil, Canada, Chile, Colombia, Ethiopia, Mexico, Netherlands, Peru, South Africa U.S.A.
236.	Structure	Independence	The Director of this Mechanism must be independent and effective with respect to impartiality. Removal from this position should not be without reason or justification; on the contrary, to the extent that he or she is efficient and effective with good reason for the protection of the populations affected by the Bank’s decisions, the Director should be supported in his or her position.	Colombia

	Thematic Axis	Subtheme	Proposals/Comments	Country
237.	Structure	Independence	According to Article 59, should it be understood that all the time periods mentioned in the Draft Policy that are extended must submitted to the Board of Executive Directors for prior approval? Does the Director of the ICIM not have any delegated authority to extend those time periods up to a certain limit? Is this efficient and effective according to the spirit of this Draft Policy?	U.S.A.
238.	Structure	Language	Add the following to paragraph 52(b): “with the exception of the Director and coordinators.”	Brazil
239.	Structure	Accountability	Articles 9 and 50 state that the Director of the ICIM is accountable to the Bank’s Board of Executive Directors. This might “sound” good; however, it has little functional meaning and is contrary to every organizational principle, since the Board of Executive Directors is a body that is comprised by many individuals. The functional thing would be for the Board of Executive Directors to appoint one of its members to be the interlocutor and direct supervisor of the ICIM, as “timidly” insinuated in Annex II - Terms of Reference for the Director, in point four of his or her responsibilities , which mentions the relevant Board Committee Chair. If this Draft Policy seeks to clarify this issue, it should be revised carefully. The current wording could even be interpreted to mean that the Director of the ICIM reports directly to the Chairman of the Board of Executive Directors, since he or she is the highest authority of that body.	U.S.A.
240.	Structure	Accountability	It is stated that several activities will be conducted by “the ICIM” in general. The Policy contains different examples that specify the person responsible for certain duties. Nevertheless, it contains other provisions simply stating that “the ICIM” will conduct certain matters. It is not clear who has this responsibility. This should be clarified in order to prevent decisions on this point from being arbitrary.	U.S.A.
241.	Structure	Roster	A pre-approved list or roster of experts should be established and drafted in a participatory and inclusive manner for establishing the panel of Verification of Observance.	U.S.A.

	Thematic Axis	Subtheme	Proposals/Comments	Country
242.	Structure	Roster	The two additional members, to work with the Compliance Review Phase Coordinator in the panel, are to be selected "based on the experience required in each case" (para. 42 of the revised draft ICIM policy). This is not clear and may give the impression that this panel member is a "technical consultant" . Panel members are more than technical consultants. They are called upon to arrive at sound judgments in relating the facts on the ground to the policies of the Bank. It is also not clear if there is any permanent post- employment ban for these panel members to ensure independence.	Philippines
243.	Structure	Roster	A pre-approved List/Roster of Experts should be established and drafted in a participatory and inclusive manner for establishing the Compliance Review Panel.	Argentina, Brazil, Canada, Chile, Colombia, Ethiopia, Mexico, Netherlands, Peru, South Africa U.S.A.
244.	Structure	Roster	The change to an adaptable panel comprised by a Phase Coordinator and two independent experts is more appropriate than having a permanent panel. The requests filed involve a diversity of cases that reflect the social, environmental, and cultural disputes arising in each country and region from which the requests are filed. This makes it necessary to have experts with different skills and experiences to tackle and examine the requests and arrive at appropriate responses, thus avoiding the potential risk of a permanent panel issuing generic responses.	Peru
245.	Structure	Roster	It is not clear if [the two additional members, to work with the Compliance Review Phase Coordinator in the panel] there is any permanent post-employment ban for these panel members to ensure independence.	Philippines
246.	Structure	Roster	There is no indication of how the experts [of the Compliance Panel] will be chosen. While it would be best to have a roster of experts from which the Panel can be chosen, at a minimum, the Requesters should be involved in the Panel selection process. They should have a say in who the proposed experts for the Panel are and should be able to indicate any problems with the proposed experts and why they should not be part of the Panel.	U.S.A.

	Thematic Axis	Subtheme	Proposals/Comments	Country
247.	Structure	Roster	<p>The independence of the experts comprising the Compliance Review Panel must be ensured.</p> <p>The Draft should also prohibit [experts] from having worked for the Bank previously, or doing so subsequent to the performance of their duties, with the objective of ensuring its independence.</p>	Argentina, Brazil, Canada, Chile, Colombia, Ethiopia, Mexico, Netherlands, Peru, South Africa U.S.A.
248.	Structure	Roster	<p>The competencies, responsibilities, and hiring conditions for the experts comprising the Compliance Review Panel should be detailed.</p> <p>Some TORs similar to the ones that appear at the end of the Draft for the ICIM Director and the Phase Coordinators should be included.</p>	Argentina, Brazil, Canada, Chile, Colombia, Ethiopia, Mexico, Netherlands, Peru, South Africa U.S.A.
249.	Structure	Roster	The independence of the experts who are members of the Panel of Verification of Observance should be assured, and their competencies, responsibilities and contract conditions should be detailed and stated.	U.S.A.
250.	Structure	Roster	The Panel is assisted by the ICIM's operational and administrative team, as well as by additional consultants. Is it also assisted by the CONSOC?	Honduras
251.	Structure	Selection	<p>Paragraph 53(a): The ICIM Draft Policy states that the ICIM Director will be appointed by the Board based on a list of eligible candidates presented to it by a selection panel designated by the Board. The policy should require that the selection panel be comprised of a diverse group of people, including civil society members, experts, academics, and other stakeholders. This would be consistent with the selection process at the IFC/MIGA and EBRD accountability mechanisms, and will help to ensure a more independent and less political selection process.</p>	U.S.A.

	Thematic Axis	Subtheme	Proposals/Comments	Country
252.	Structure	Selection	<p>The independence and suitability of the ICIM Director should be ensured, and he or she should be appointed through a participatory, transparent, and inclusive process.</p> <p>The Director of the ICIM has a predominant role (the most important and central) as the head of the office and of all its staff (including the Phase Coordinators). He or she is responsible for a large part of the most relevant activities involved in its operation. Accordingly, the Bank must ensure the Director's independence and capacity for action, in addition to certifying the suitability of the person appointed to occupy the position. Therefore, the following is proposed:</p> <p>*a selection process that is participatory and inclusive of the Director that provides for the creation of a committee made up of different relevant actors from the region (including civil society, academics, specialists, and other stakeholders).</p> <p>*ensure that the fact that he or she is <i>a full-time employee of the Bank appointed for a period of 5 years, with the possibility of a single renewal term</i> neither jeopardizes nor places conditions on his or her independence.</p>	<p>Argentina, Brazil, Canada, Chile, Colombia, Ethiopia, Mexico, Netherlands, Peru, South Africa U.S.A.</p>

	Thematic Axis	Subtheme	Proposals/Comments	Country
253.	Structure	Selection	<p>The procedure for appointing the Director and the coordinators must be conducted in an explicit and transparent manner. The selection of an appointment procedure will make the Mechanism more “independent” by discouraging improper influences and nepotism on the part of the Board of Executive Directors. Therefore, an explicit procedure for the appointment of candidates will enable the Mechanism to conduct its activities in a more objective and impartial manner.</p> <p>The appointment of a Director of the Mechanism by the Bank’s Board of Executive Directors is a particularly sensitive matter. The Director supervises the Mechanism and is assisted by the Phase Coordinators, who are appointed by him or her. Due to the comprehensive nature of the Director’s responsibility and influence over the Mechanism as a whole, it is essential for the Bank to develop an appointment procedure similar to the one adopted by the European Bank for Reconstruction and Development for its project complaint procedure.</p> <p>The procedure for the three positions should include both a clear nomination procedure and a list of criteria, which should address the ideal candidate profile for the position and his or her selection by the Board of Executive Directors. Knowledge and experience with issues concerning indigenous peoples should be a criterion to be considered for the appointment. The Bank operates in a region where indigenous peoples are not only a significant part of the population in the borrower countries but also the poorest of the poor.</p>	U.S.A.
254.	Structure	Terms of Reference	<p>Insert the following text after <i>indigenous peoples</i> (regarding the responsibility of the Director to consult with the Department of Human Resources to compile a roster of experts on, among other things, indigenous peoples): “...Montubios and Afro-descendants and other special or vulnerable groups recognized in the member countries.”</p>	Ecuador
255.	Structure	Terms of Reference	<p>“Strategic communication” should be included among the competencies for the position of Director.</p>	Venezuela
256.	Structure	Terms of Reference	<p>“Systemic approach to the field” should be included among the competencies for the position of Coordinator.</p>	Venezuela
257.	Structure	Terms of Reference	<p>I suggest naming public health in this list [of areas of study]. The broad skill set and in-depth experience that many graduates in public health possess make them imminently qualified to lead work on international development..</p>	U.S.A.

	Thematic Axis	Subtheme	Proposals/Comments	Country
258.	Structure	Terms of Reference	The TORs state that educational qualifications include an “Advanced degree...in a relevant discipline” (Annex II, page 2 of 3). The text lists several specific areas of study; it is unclear whether ...there is in any particular order..., are listed in order of preference?	U.S.A.
259.	Structure	Terms of Reference	<p>The TORs for the position of Director do not reflect his or her responsibilities according to the Policy.</p> <p>Several important duties described in the Policy do not appear in the TORs.</p> <p>The experience specified in the TORs is inconsistent with the duties that the person will have, since he or she is not only a manager but also takes part in fundamental decisions about the Mechanism.</p> <p>The inconsistencies in the TORs need to be brought into line with the processes set forth in the Policy.</p>	U.S.A.
260.	Structure	Terms of Reference	<p><i>The Terms of Reference for the position of ICIM Director must be redefined to be consistent with the position and the particular duties of the Director.</i> Some of the points contained in the TOR for the position of Director are inconsistent with the nature and objectives of the ICIM. They are oriented more toward the scope of the Bank’s business, undermine the nature of the ICIM, and disregard the Mechanism’s necessary intent to monitor compliance with the Bank’s Operational Policies. We consider it essential, based on the functions of the ICIM, that the person who heads it should have extensive experience and knowledge in the field of human rights, civil society, working with communities, sustainability, public consultations, mediation, negotiation, accountability, and the review of compliance with safeguard policies.</p>	Argentina, Brazil, Canada, Chile, Colombia, Ethiopia, Mexico, Netherlands, Peru, South Africa U.S.A.
261.	Structure	Terms of Reference	<p>The TORs state that candidate qualifications will include the “ability and willingness to travel... including rural areas and difficult environments”The text’s phrasing here may inadvertently distinguish between rural and difficult areas, or imply by omission that urban environments are not difficult. Within Latin America many urban environments are among the most difficult in which to safely and effectively work. For the sake of specificity, I suggest a minor rewording of this section, as follows: “ability and willingness to travel...including rural and urban areas and difficult environments.”</p>	U.S.A.

	Thematic Axis	Subtheme	Proposals/Comments	Country
262.	Structure	Terms of Reference	The terms of reference for the (Coordinators) provided in Annex III and Annex IV are useful. It is not clear why the Competencies include an express provision on having negotiation skills to "manage conflicts in a timely and constructive manner ... " is also expressly required in the TOR for the Compliance Review Phase Coordinator as this person's role is not that of a negotiator, and is not to negotiate compromises	Philippines
263.	Structure	Terms of Reference	I suggest specifically naming anthropology as a relevant educational qualification for these positions [of Coordinators].	U.S.A.
264.	Independence	General Content	The independence of the Mechanism is vital to its success. In order to be effective, accountability mechanisms must appear to be, and in fact be, independent so as to gain the trust of the affected communities. There are serious problems with the Draft ICIM Policy that undermine the independence of the Mechanism.	U.S.A.
265.	Independence	Board of Directors	The policy grants too much participation to the Board of Directors and to the Bank's Management, drastically reducing the independence of the ICIM. The OVE evaluation does not appear to give any indication that Board of Directors or Management should be involved in the ICIM's substantive decision-making processes. Nevertheless, the draft contains numerous instances in which the Board of Directors and/or Management are involved in substantive operations of the Mechanism that should be decided exclusively by the Mechanism.	U.S.A.
266.	Independence	Board of Directors	It is difficult to believe in the "independence" of an <i>internal</i> mechanism of the Bank, which is subject—clearly—to the decision of its Board of Executive Directors. Notably, this body is the one that approves Projects for financing, decides whether a Project is to be investigated—regardless of the recommendation of the Compliance Review Panel—and decides on any potential corrective actions proposed by that Panel. In sum, it is always the same decision-making body of the Bank that acts as both judge and jury before, during, and after the activation of the Mechanism.	U.S.A.
267.	Independence	Board of Directors	The Executive Directorate of the IADB should not have the authority to object to an investigation of Verification of Observance	U.S.A.

	Thematic Axis	Subtheme	Proposals/Comments	Country
268.	Independence	Board of Directors	The Bank's Board of Executive Directors should not have the authority to object to a Compliance Review investigation. Given the example of other similar accountability mechanisms, such as the CAO, the participation of the Board of Directors at this point is unwarranted, and it should not have the authority to object to the investigation.	Argentina, Brazil, Canada, Chile, Colombia, Ethiopia, Mexico, Netherlands, Peru, South Africa U.S.A.
269.	Independence	Board of Directors	The carrying out of the Plan of Action cannot be canceled at the discretion of the Directorate, but rather should be done for each one of the investigations in which failure to comply with the Policies on the part of the IADB has been detected, taking into consideration also the comments of the requesters.	U.S.A.
270.	Independence	Board of Directors	The implementation of the Action Plan cannot be subject to the discretion of the Board of Directors; rather, it must be implemented for each one of the investigations in which the Bank has been found to be noncompliant with its Policies. In addition, the comments of the Requesters should be taken into account.	Argentina, Brazil, Canada, Chile, Colombia, Ethiopia, Mexico, Netherlands, Peru, South Africa U.S.A.
271.	Independence	Board of Directors	[In relation to the action plan resulting from a compliance review report] If the ICIM finds that the IDB did not comply with its policies, then an action plan should be <i>required</i> (and not optional) to address the noncompliance.	U.S.A.
272.	Independence	Board of Directors	To ensure independence, the Board or the Donors Committee should not have to approve the Compliance Review investigation before it can go forward, as stated in paragraph 41. The ICIM should be able to determine whether to do an investigation and should not be hindered from doing it by the Board or the Donors Committee.	U.S.A.

	Thematic Axis	Subtheme	Proposals/Comments	Country
273.	Independence	Board of Directors	The extension of time to complete an investigation should not be “subject to the Board’s no objection” as indicated in paragraph 43(c).	U.S.A.
274.	Independence	Board of Directors	The Executive Directorate of the IADB should not have the power to impose a time limit for the follow-up of the agreement reached in the Consultation Phase	U.S.A.
275.	Independence	Board of Directors	The duration of the follow-up and monitoring conducted by the ICIM upon the conclusion of the Compliance Review Phase should not be determined by the Board of Directors. The Board of Directors should not have the authority to determine the duration of the follow-up, let alone should it set a specific deadline for it. Monitoring should continue until all of the necessary actions have been taken to correct the Policy noncompliance.	Argentina, Brazil, Canada, Chile, Colombia, Ethiopia, Mexico, Netherlands, Peru, South Africa U.S.A.
276.	Independence	Board of Directors	<i>The Consultation Phase Report should not have to be submitted to the Board of Directors for consideration:</i> This provision diminishes the independence of the ICIM, and should therefore be deleted from the Draft. Otherwise, it should at least give the Parties the opportunity to review the Report before it is forwarded to the Board of Directors.	Argentina, Brazil, Canada, Chile, Colombia, Ethiopia, Mexico, Netherlands, Peru, South Africa U.S.A.

	Thematic Axis	Subtheme	Proposals/Comments	Country
277.	Independence	Board of Directors	The Bank's Board of Executive Directors should not have the authority to object to the monitoring of the agreement reached at the Consultation Phase. The possible objection of the Board diminishes the independence and effectiveness of the ICIM's work, and could even undermine its credibility.	Argentina, Brazil, Canada, Chile, Colombia, Ethiopia, Mexico, Netherlands, Peru, South Africa U.S.A.
278.	Independence	Process – Legal advice	The enabling provision that the ICIM Director may at any time seek external legal advice on request-related issues is a positive development and improvement from the current policy.	Philippines
279.	Independence	Process – Legal advice	The Draft proposes a kind of interaction of the Mechanism with other divisions of the Bank (in addition to the Board of Directors and Management) that seems inappropriate and diminishes the independence of the Mechanism. The Policy states that the ICIM Director may request the support of the Bank's Legal Department in the interpretation of Bank policies and of the ICIM Policy itself. There is no good reason for this situation, and it only diminishes the independence of the Mechanism. The ICIM must necessarily have the ability to understand and interpret Bank policies, in order to be able to make decisions on the existence of harm or policy noncompliance. In the event that a very technical issue arises with respect to a policy, which clearly cannot be resolved by the staff of the Mechanism, the ideal thing would be to turn to outside experts.	U.S.A.
280.	Independence	Process – Contact with the Press	The Policy states that [the ICIM] must give prior notice to the Bank's Office of External Relations of any press releases it may issue. The reason for taking this action, and what might happen if it is not done, is unclear. It is advisable to clarify this situation so as not to jeopardize the independence of the Mechanism.	U.S.A.
281.	Independence	Resources	The ICIM must be truly independent and autonomous in order to be totally impartial. In addition, it must have sufficient resources to act in favor of human, environmental, social, and cultural rights, adhering to national and international standards and agreements when making decisions on Bank-financed projects and the projects in its portfolio.	Colombia

	Thematic Axis	Subtheme	Proposals/Comments	Country
282.	Independence	Relevance	The Mechanism is an important tool for accountability and the evaluation of the Bank's safeguard policies. Nevertheless, its mere existence does not mean that it is effective in fulfilling its purpose. Therefore, the ICIM must be highly autonomous in its investigations and decisions, in order for there to be real and effective assessments of the implementation of the safeguard policies in relation to the comprehensive and fundamental collective rights of our peoples.	Colombia
283.	Transparency	Definitions	The Draft ICIM Policy consistently mentions that matters will be submitted to the Board of Directors for consideration by "short procedure." The policy should define the meaning of "short procedure" and specify its duration. Otherwise, the Requesters do not know how long the process will take, and that could further delay a decision at critical phases.	U.S.A.
284.	Transparency	Definitions	The clear definition included in the glossary should be stated specifically in each one of the articles of the policy that mention the harm factor (5(a), 7(b), 14(f), 22 (c), 36, and Annex I. 3).	U.S.A.
285.	Transparency	Definitions	The specific definition of "harm" should be clarified, because as it appears currently it is ambiguous and could lend itself to the unwarranted rejection of requests.	U.S.A.
286.	Transparency	Definitions	A specific definition of "harm" should be avoided in the policy; otherwise, it should be clarified because as it appears currently it is ambiguous and could lend itself to the unwarranted rejection of requests.	Argentina, Brazil, Canada, Chile, Colombia, Ethiopia, Mexico, Netherlands, Peru, South Africa U.S.A.
287.	Transparency	Definitions	In order for this definition to be consistent with what is stated in the policy, it should be clarified that they are "...as of the date they are approved by the Board of Executive Directors..." (Article 10).	U.S.A.

	Thematic Axis	Subtheme	Proposals/Comments	Country
288.	Transparency	Definitions	The definition [of Project] places emphasis on “A specific project or technical assistance operation.” According to different rules of the Bank, it can finance specific operations and another wide variety of operations such as global credit operations, multiple works operations, sector operations, etc. If the intent is to cover all Bank-financed operations, it would be best to avoid defining the projects, in this case, as specific . It would be worthwhile to consult with the Legal Department on this point.	U.S.A.
289.	Transparency	Definitions	Who is the “client”? Client was not defined in the Glossary.	Brazil
290.	Transparency	Definitions	Requesters could possibly come before Request in the Glossary. This is mainly because you will get a requester before a request and also seeing that in defining <i>requesters</i> , <i>request</i> is used, it causes the reader to break the sentence by going back to the definition of ' <i>request</i> .' Placed afterwards however, readers are more incline to complete the sentence and therefore capture the full thought being expressed, and then look forward to the defining of <i>request</i> , in a sequentially manner.	Barbados
291.	Transparency	Definitions	The draft text does not provide for the threat of harm, leading to the assumption that claims may be made only after the harm has occurred.	Brazil
292.	Transparency	Definitions	Article 14(f) should be complemented by the definition of harm from the Glossary , emphasizing any direct, material damage or loss.	U.S.A.
293.	Transparency	Definitions	Some drafting issues that I personally did not understand should be clarified, such as: What type of representative does clause 13(F) refer to? In my case, this is the first time I have read anything on this topic, so for someone who is not familiar with the terminology, there could be doubt as to what representative it is referring to—the Bank’s? That of the community or organization affected by the action?	Guatemala
294.	Transparency	Definitions	The description of harm in Article 22(c) should mention or include “any direct, material damage or loss.”	U.S.A.
295.	Transparency	Definitions	The text “seeking to reach an agreement or resolution of the problem” should be included at the end of the description of the Phase in paragraph 7(a).	Brazil

	Thematic Axis	Subtheme	Proposals/Comments	Country
296.	Transparency	Definitions	The following aspect, which is provided for at the Consultation Phase, should also be part of the Compliance Review Phase: Article 32, “The Consultation Phase will not support agreements that are contrary to Bank policies or its code of ethics, or that would violate domestic laws of the parties, or international law. The Consultation Phase itself does not result in award of compensation or similar benefits.”	U.S.A.
297.	Transparency	Definitions	Paragraph 32 of the Draft states that “The Consultation Phase itself does not result in award of compensation or similar benefits,” which gives rise to a certain degree of confusion: a process of mediation, negotiation, or any other method used at the Consultation Phase can (or should be able to) result in an agreement between the parties that entails some type of compensation or benefit for one of them, with the objective of resolving the dispute and the negative impact it caused. If the intent of this sentence is to affirm that the ICIM neither has the authority to impose such compensation, nor should be in charge of granting it, the text should be rewritten to avoid such confusion. One option is, for example, to repeat the clarification that appears in paragraph 50 of the Policy .	Argentina, Brazil, Canada, Chile, Colombia, Ethiopia, Mexico, Netherlands, Peru, South Africa U.S.A.
298.	Transparency	Definitions	Article 35(c) states that the monitoring plan will be “subject to the Board’s no objection.” Will this no objection be processed under the short procedure? Or by informal consultation?	U.S.A.
299.	Transparency	Definitions	“When applicable, the ICIM will [...] prepare a monitoring plan and timeline [...] in consultation with [the Parties].” However, it is not clear what “applicable” means, and when a case may or may not be “applicable.” These kinds of ambiguous terms that lead to confusion should be avoided.	Argentina, Brazil, Canada, Chile, Colombia, Ethiopia, Mexico, Netherlands, Peru, South Africa U.S.A.
300.	Transparency	Dissemination	It will need to be disseminated and promoted among government authorities, public and private institutions, and the social sector, where it will certainly be well-received.	Bolivia

	Thematic Axis	Subtheme	Proposals/Comments	Country
301.	Transparency	Dissemination	Raise awareness of the actions taken to amend some actions that may be cause for complaint.	Honduras
302.	Transparency	Dissemination	Every Bank-financed program should include a mandatory requirement that the beneficiary community or population be made aware which “Bank policies” this project meets, and to set up the respective monitoring bodies.	Ecuador
303.	Transparency	Dissemination	Posting general quantitative information about some outcomes on the website could show follow-up, importance.	Bolivia
304.	Transparency	Dissemination	Greater public awareness about mechanisms to safeguard the integrity to development financing coming from the Bank	Guyana
305.	Transparency	Dissemination	More specifics should be provided with regard to the communication and dissemination of the process and its outcome at each one of the phases. Although emphasis is placed on documenting each one of the processes at its different consultation and investigation phases, it does not refer to any informational bodies that can provide information and close the communication gaps among the parties.	Venezuela
306.	Transparency	Dissemination	When a project is financed with funds from the Bank, the beneficiaries and the community where the financed actions are carried out need to have extensive knowledge of this mechanism, as sometimes only the executing agencies do.	Guatemala
307.	Transparency	Dissemination	What are outreach activities? Do they include disclosure?	Brazil
308.	Transparency	Dissemination	The opportunity that the Policy provides for the ICIM to include reference to lessons learned, trends, and systemic aspects in its annual report, and to make recommendations to prevent noncompliance with Policies, is very significant.	Brazil
309.	Transparency	Dissemination	Make clear reference to the CONSOCs and their participation in the local ICIM processes.	Honduras
310.	Transparency	Dissemination	There should be a different dissemination process with respect to indigenous peoples, since our culture has its own language and customs that are very different from those of the Bank and the ICIM. Accordingly, in the territories likely to be affected by Bank projects, the ICIM should introduce itself initially to inform people of its role, the policies on which it operates, and the processes for lodging complaints.	Colombia
311.	Transparency	Process	Article 18 is notable in that this action to potentially recommend suspending the execution of an operation is taken without the participation or knowledge of Management.	U.S.A.

	Thematic Axis	Subtheme	Proposals/Comments	Country
312.	Transparency	Process	To ensure transparency the ICIM Director's decision to recommend to the Board or the Donors Committee to suspend the project, and their subsequent decision on that recommendation, should be disclosed immediately.	U.S.A.
313.	Transparency	Process	To ensure transparency Management's request for a temporary suspension and their specific plan to address the request should be made available for the public. Further, both should be released to the Requesters as soon as Management makes the request and not after the ICIM decides to grant the suspension as currently stated in the ICIM Draft Policy.	U.S.A.
314.	Transparency	Process - Reports	Given the importance of the Requesters in the Consultation Phase processes, the Report should be distributed to the Requesters in addition to the Board or Donors Committee and it should all be done simultaneously. Currently, paragraph 33 of the ICIM Draft Policy indicates that the Board and Donors Committee will receive the report for consideration and that Management will as well, and that it is only after consideration by the Board and Donors Committee that the Requesters and the public will receive it. This should be changed so that the ICIM gives the draft report to the Requesters at the same time it is given to Management and the Board or Donors Committee rather than receiving it at the same time it is released to the general public.	U.S.A.
315.	Transparency	Process - Panel	The manner in which the members of the Panel will make decisions should be clarified. The Current Policy stipulates that they do so by consensus, but nothing is made clear in the Draft.	Argentina, Brazil, Canada, Chile, Colombia, Ethiopia, Mexico, Netherlands, Peru, South Africa U.S.A.
316.	Transparency	Public Registry	The registration of all claims or complaints should be clearly documented on the web, in summary format, specifying the conclusions.	Ecuador

	Thematic Axis	Subtheme	Proposals/Comments	Country
317.	Transparency	Public Registry	We are pleased that the ICIM is committed to registering all Requests and the decisions made on whether they are moving forward in the ICIM or being terminated (paragraph 20), as transparency is key to ICIM being effective, and that decisions about registration will be made within 5 days.	U.S.A.
318.	Transparency	Public Registry	An internal record should be kept of the cases that fall under paragraph 19(a) in order to measure the effectiveness of audits; they could serve as inputs.	Ecuador
319.	Transparency	Public Registry	The documents related to the eligibility determination should be made public in addition to noting the result in the Public Registry.	U.S.A.
320.	Transparency	Public Registry	To ensure transparency the Response by Management following ICIM's registration of the Request should be made available for the public.	U.S.A.
321.	Transparency	Public Registry	ICIM's Terms of Reference should be disclosed publicly [for a Compliance Review].	U.S.A.
322.	Transparency	Public Registry	The Terms of Reference drafted in consultation with the Requesters and Management should be public, not confidential, in the interest of credibility. According to Articles 40 and 41, the Requesters can only access said document once it is approved by the Bank's Board of Executive Directors or the Donors Committee. That is, the proposed procedure intends: (1) for the Requesters to provide comments on a draft of the document, which in theory are taken into account for its presentation to the Board of Executive Directors or Donors Committee; and (2) for them to be informed only of the version of that document that is approved as the final version. This Mechanism is depriving the Requesters and the general public of all knowledge not only of the version of the Terms of Reference that is submitted for approval but also of the potential objections that were made with respect thereto.	U.S.A.
323.	Transparency	Public Registry	Management's response to the ICIM recommendation about the Compliance Review should be made available to the public	U.S.A.

	Thematic Axis	Subtheme	Proposals/Comments	Country
324.	Transparency	Public Registry	Objections to the recommendation and to the Terms of Reference should also be public. Article 41 is silent on the public disclosure of such objections. In the interest of transparency in decision-making with respect to Compliance Review, those objections as well as the respective decisions made by the Board of Executive Directors or the Donors Committee should also be public. The Bank operates on the basis of public contributions from member countries, which is a determining factor in favor of the public scrutiny of the decisions made within the framework of the Mechanism, especially with regard to all matters concerning the “independent investigation” of Projects that affect people and the environment.	U.S.A.
325.	Transparency	Public Registry	The final decision of the Board or Donors Committee should be released. Further, the action plan (which the Requesters should comment on before approval) should be released publicly.	U.S.A.
326.	Transparency	Public Registry	It is vital that the TOR indicate this timeline so that the Requesters and the public know. Additionally, the Panel should have to report publicly and periodically if they need more time than specified in the TOR.	U.S.A.

Annex 1

Record of Written Comments Received– Phase I

Below is the record of written comments received during the first phase of public consultation. Click on the following link to access the comments in their original language: ([Written comments received during phase 1](#)).

Number	Name of Organization or Individual	Country	Classification
2013/001	Graciela Gómez	Argentina	Individual
2013/002	FOBOMADE	Bolivia	non-governmental organization
2013/003	Mauro Victor	Brazil	Individual
2013/004	Comunidades Unidas	Colombia	non-governmental organization
2013/005	Agustín Atmetlla	Costa Rica	Individual
2013/006	Leila Shelton	Panama	Non-governmental organization
2013/007	Magdalena Hurtado	United States	Academic
2013/008	Mara Tignino	Switzerland	Academic
2013/009	Renato L. Puch	United States	Individual
2013/010	Anne Deruyttere	United States	Individual
2013/011	ANCON	Panama	Non-governmental organization
2013/012	Indian Law Resource Center	United States	Non-governmental organization
2013/013	Accountability Counsel Asociación Ambiente y Sociedad Asociación Interamericana para la Defensa del Ambiente	United States Colombia Mexico	Non-governmental organization
2013/014	Request to keep identity and comment confidential	Brazil	Individual

Annex 2

Chronological Record of Comments Received – Phase II

Number	Date of Receipt	Name of Institution or Individual	Country	Classification	Original Language	Link to Comment in English
2014/001	8/11/2014	Cruz Roja Hondureña	Honduras	Non-governmental organization	Spanish	IDBDOCS-#39191440-2014-001 Comment English
2014/002	8/11/2014	Renato L. Puch	United States	Individual	Spanish	IDBDOCS-#39191441-2014-002 Comment English
2014/003	8/13/2014	FUNDAR Galapagos	Ecuador	Non-governmental organization	Spanish	IDBDOCS-#39191443-2014-003 Comment English
2014/004	8/15/2014	Asociación de Trabajadores Agrícolas Autónomos	Ecuador	Non-governmental organization	Spanish	IDBDOCS-#39191445-2014-004 Comment English
2014/005	8/22/2014	Centro de Investigación, Educación y Servicios (CIES)	Bolivia	Non-governmental organization	Spanish	IDBDOCS-#39191446-2014-005 Comment English
2014/006	8/22/2014	Habitat for Humanity	Guyana	Non-governmental organization	English	IDBDOCS-#39191447-2014-006 Comment English
2014/007	8/24/2014	BioRenaces, Energías Renovables	Mexico	Private enterprise	Spanish	IDBDOCS-#39191448-2014-007 Comment English
2014/008	8/25/2014	Consejo Nacional de Investigaciones Científicas y Técnicas CONICET	Argentina	Government Agency	Spanish	IDBDOCS-#39191449-2014-008 Comment English
2014/009	9/1/2014	Universidad Corporativa SIGO	Venezuela	University	Spanish	IDBDOCS-#39191450-2014-009 Comment English
2014/010	9/1/2014	Fundación Saldarriaga Concha	Colombia	Non-governmental organization	Spanish	IDBDOCS-#39191451-2014-010 Comment English
2014/011	9/1/2014	Suresh Nanwani	Philippines	Individual	English	IDBDOCS-#39191452-2014-011 Comment English
2014/012	9/1/2014	STAS Caribe Foundation	Suriname	Non-governmental organization	English	IDBDOCS-#39191453-2014-012 Comment English
2014/013	9/1/2014	Fundación NOBIS	Ecuador	Non-governmental organization	Spanish	IDBDOCS-#39191454-2014-013 Comment English
2014/014	9/4/2014	Fundación Dr. Hugo Gauna	Argentina	Non-governmental organization	Spanish	IDBDOCS-#39191455-2014-014 Comment English
2014/015	9/8/2014	Fundación Unir Bolivia	Bolivia	Non-governmental organization	Spanish	IDBDOCS-#39191456-2014-015 Comment English
2014/016	9/8/2014	Suriname Indigenous Health Fund	United States	Non-governmental organization	English	IDBDOCS-#39191457-2014-016 Comment English
2014/017	9/9/2014	Parceiros Voluntários	Brazil	Non-governmental organization	Portuguese	IDBDOCS-#39191459-2014-017 Comment English

Number	Date of Receipt	Name of Institution or Individual	Country	Classification	Original Language	Link to Comment in English
2014/018	9/10/2014	Acortar Distancias A.C.	Mexico	Non-governmental organization	Spanish	IDBDOCS-#39191460-2014-018 Comment English
2014/019	9/10/2014	Instituto de Cooperación Social	Guatemala	Non-governmental organization	Spanish	IDBDOCS-#39191461-2014-019 Comment English
2014/020	9/10/2014	Office of Accountability, Overseas Private Investment Corporation	United States	Independent Accountability Mechanism	English	IDBDOCS-#39191464-2014-020 Comment English
2014/021	9/10/2014	Fundación Seraphim	El Salvador	Non-governmental organization	Spanish	IDBDOCS-#39191466-2014-021 Comment English
2014/022	9/11/2014	Instituto Movilizador de Fondos Cooperativos	Argentina	Non-governmental organization	Spanish	IDBDOCS-#39191467-2014-022 Comment English
2014/023	9/11/2014	Columbia University	United States	University	English	IDBDOCS-#39191469-2014-023 Comment English
2014/024	9/11/2014	Rafael Renderos	El Salvador	Individual	Spanish	IDBDOCS-#39191470-2014-024 Comment English
2014/025	9/11/2014	Grupo GEA	Peru	Non-governmental organization	Spanish	IDBDOCS-#39191473-2014-025 Comment English
2014/026	9/11/2014	Unidad Para el Cambio Rural (UCAR), Ministerio de Agricultura, Ganadería y Pesca	Argentina	Government Agency	Spanish	IDBDOCS-#39191474-2014-026 Comment English
2014/027	9/12/2014	Fundación Pescar Argentina	Argentina	Non-governmental organization	Spanish	IDBDOCS-#39191476-2014-027 Comment English
2014/028	9/14/2014	Ione Novoa Jezler	Brazil	Individual	Portuguese	IDBDOCS-#39191478-2014-028 Comment English
2014/029	9/14/2014	Defensoria Pública do Estado de São Paulo	Brazil	Public Entity	Portuguese	IDBDOCS-#39191479-2014-029 Comment English
2014/030	9/14/2014	Foro Social de la Deuda Externa y Desarrollo de Honduras (FOSDEH)	Honduras	Non-governmental organization	Spanish	IDBDOCS-#39191480-2014-030 Comment English
2014/031	9/15/2014	Mesa de Trabajo Aeropuerto Fontibón	Colombia	Community Group	Spanish	IDBDOCS-#39191482-2014-031 Comment English
2014/032	9/15/2014	Environmental Law Alliance Worldwide (ELAW)	United States	Non-governmental organization	Spanish	IDBDOCS-#39191484-2014-032 Comment English
2014/033	9/15/2014	Colombia Support Network	United States	Non-governmental organization	English	IDBDOCS-#39191485-2014-033 Comment English
2014/034	9/15/2014	American University Washington College of Law	United States	University	English	IDBDOCS-#39191486-2014-034 Comment English
2014/035	9/15/2014	Comunidades Unidas	Colombia	Community Group	Spanish	IDBDOCS-#39191487-2014-035 Comment English
2014/036	9/15/2014	Alianza ProPanamá	Panama	Non-governmental	English	IDBDOCS-#39192241-2014-036

Number	Date of Receipt	Name of Institution or Individual	Country	Classification	Original Language	Link to Comment in English
				organization		Comment English
2014/037	9/15/2014	Fundación para el Desarrollo Sustentable A.C.	Mexico	Non-governmental organization	Spanish	IDBDOCS-#39191489-2014-037 Comment English
2014/038	9/15/2014	Fundación Ambiente y Recursos Naturales (FARN)	Argentina	Non-governmental organization	Spanish-English	IDBDOCS-#39191491-2014-038 Comment English
		Foro Ciudadano de Participación por la Justicia y los Derechos Humanos (FOCO)	Argentina			
		Fundación para el Desarrollo de Políticas Sustentables (FUNDEPS)	Argentina			
		Ecologia e Ação (ECOIA)	Brazil			
		Social Justice Connection	Canada			
		Fiscalía del Medio Ambiente (FIMA)	Chile			
		Asociación Ambiente y Sociedad	Colombia			
		Comisión de Justicia y Paz	Colombia			
		Comunidades Unidas	Colombia			
		Accountability Counsel	United States			
		Center for International Environmental Law (ELAW)	United States			
		Earth Rights International	United States			
		Human Rights Clinic at the University of Texas at Austin, School of Law	United States			
		Project on Organizing, Development, Education and Research (PODER)	United States			
		Yansa Foundation	United States			
		Human Rights Council - Ethiopia	Ethiopia			
		Centre for Research on Multinational Organizations (SOMO)	Netherlands			
		Jamaa Resources Initiatives	Kenya			
		Corporativa Fundaciones AC	Mexico			
		FUNDAR, Centro de Análisis e Investigación, A.C.	Mexico			
		Asociación Interamericana para la Defensa del Ambiente (AIDA)	Mexico			
		Derecho Ambiente y Recursos Naturales (DAR)	Peru			
		Natural Justice	South Africa			

Number	Date of Receipt	Name of Institution or Individual	Country	Classification	Original Language	Link to Comment in English
2014/039	9/15/2014	Indian Law Resource Center	United States	Non-governmental organization	Spanish	IDBDOCS-#39191492-2014-039 Comment English
		Asamblea de Pueblos Indígenas del Istmo de Tehuantepec en Defensa de la Tierra y el Territorio	Mexico	Indigenous Community		
2014/040	9/15/2014	Municipio de Sibundoy	Colombia	Indigenous Community	Spanish	IDBDOCS-#39191493-2014-040 Comment English
2014/041	9/16/2014	Agape in Action Community Connections Inc.	Barbados	Non-governmental organization	English	IDBDOCS-#39191494-2014-041 Comment English
2014/042	9/15/2014	Organizaciones Indígenas de la Cuenca Amazónica COICA	Ecuador	Indigenous Community	Spanish	IDBDOCS-#39192242-2014-042 Comment English

Annex 3

ICIM Comments

Number	Unit	Original Language	Link to Comment in English
2014/043	ICIM	Spanish	IDBDOCS-#39192240-2014-045 Comment English