

**Second MICI External Advisory Group (EAG) Meeting - Second Generation**

**Minutes**

<b>Date</b>	<b>May 3 and 4, 2023</b>
<b>Attendees</b>	<u>EAG Members</u> <ul style="list-style-type: none"> <li>• César Gamboa</li> <li>• Henrik Linders</li> <li>• Joseph Milewski</li> <li>• Jimena Psathakis</li> <li>• Anita Ramasastry</li> <li>• Paula Torres Holguín (online)</li> </ul> <u>MICI Staff</u> <ul style="list-style-type: none"> <li>• Gastón Aín</li> <li>• Katty Araya</li> <li>• Maria Camila Barriga</li> <li>• Amanda Beaujon</li> <li>• Sara Ureña</li> <li>• Camila Luz</li> <li>• María Elisa Dugo</li> <li>• Marcos Favero</li> <li>• Rebeca García</li> <li>• Andrea Guevara</li> <li>• Martin Packmann</li> <li>• Andrea Repetto</li> <li>• Esteve Sala</li> <li>• Esteban Tovar</li> <li>• Julio Vázquez</li> </ul>
<b>Type of Meeting</b>	Primarily a face-to-face meeting for EAG members and MICI staff (two 8-hour-long sessions)

**A. Meeting Summary**

The second EAG meeting was held face-to-face with some participating online in May 2023 at the MICI's offices in Washington, D.C.

The general goal was to create an open space for discussion that would encourage the exchange of specialized knowledge brought to the MICI by each EAG expert.

The event consisted of five sessions whose topics and the exchange of ideas generated were centered on addressing current issues relevant to the Mechanism and on the world of environmental and social accountability. In general, some of the aspects addressed were repairs and the discussions going on in the world of International Financial Institutions (IFIs); lessons in the management of cases closed by both MICI Process phases (Consultation Phase and Compliance Review Phase); better practices in the management of complaints that can be applied

in the future; and finally, the application of the United Nations' Guiding Principles on Business and Human Rights.

It is worth mentioning that to prepare for this session, EAG members met online with part of the MICI team in April of this year to provide clarification on the MICI process, exchange ideas and perspectives, and provide advance reading material on the topics to be discussed.

The activities of the sessions are summarized below (also see Annex I with the event's Schedule).

## **B. The 5 Sessions**

### Session 1. Opening.

The MICI presented an overview of its operations and work and also went over the goals of the meeting.

The MICI's mission and key aspects were addressed and there was a thorough explanation of its independence and the nature of its relationship and operations involving the IDB Group's Board of Executive Directors and Management.

### Session 2. Repair: A Discussion of the Past, Present, and Future.

The session was opened with a presentation by the MICI and free interactions with the participants, where the following topics were addressed:

- **Where did the repair conversation start?** The presentation was focused on clarifying how the IFIs started developing accountability mechanisms (IAMs) in the mid-nineties and how today virtually all multilateral banks have offices like as the MICI.
- **General vision of MICI Policy.** It consisted of a description of the distinctive features of each Phase. On the one hand, the description how the Consultation Phase (CP) and the dispute resolution processes can organically repair the environmental and social issues presented in the complaints without focusing on determining the existence of the harm or non-compliance with environmental and social safeguards. On the other hand, the description how the Compliance Review Phase (CRP) focuses on investigating to determine whether non-compliance with the identified environmental and social standards has generated or could generate the harm alleged by complainants.
- **The repair discussion in other institutions.** Among the main issues discussed were:
  - The identification of the so-called “remediation gap” and how the discussion can create change in the context of environmental and social safeguards or even in future IAM policies.
  - The scope of repair and how IAMs currently only have a procedural approach and few actual ways to implement repair measures, particularly from their compliance review procedures.
  - The challenges and possibilities for IAMs to justify or prove harm, examples of IFI inaction and its impact, policy-level limitations of the mechanisms, and fears of legal liability at the institutional level.
- **How is the repair discussion going at the IDB Group?** The recent assessment of the Mechanism conducted by the Group's Office of Evaluation and Oversight (OVE) was discussed, in which the possibility of the MICI promoting corrective and remedial

measures through accountability was discussed. However, it was clarified that the Group's Management and the Executing Agencies-Clients would be the ones in charge of implementing the recommendations coming from the CRP's reports and that these are processed through Action Plans. With that in mind, it was recalled that it was OVE that requested an analysis of the obstacles to the implementation of these Action Plans.

The following is a summary list of the issues and questions that arose and were addressed in the discussion during the session:

- What is the MICI's role in repair issues when IDB Group has not caused or contributed to the creation of the harm? And where does the repair discussion lead to in the future?
- The importance of acknowledging that repair is not always synonymous with economic compensation.
- How are complainants' expectations managed upon completion of a Management's Compliance Review Report and Action Plans to address recommendations?
- The importance of Action Plans and the reason why they were not required for certain cases in the past.
- The current opportunity for the IDB Group and the MICI to set a different standard in IAMs while performing the work in both Phases - for both the public and private sectors.
- How much influence is the World Bank Group's International Finance Corporation (IFC) review expected to have on other IFIs in setting a standard for remediation? Furthermore, it was encouraged to continue to take advantage of the discussion at the IFC to bring the issue to the table with the rest of the IDB Group.
- What can be understood by the concept of harm and who would bear the responsibility in terms of repair? And who attributes responsibility, especially to prevent and mitigate?
- How the MICI has the opportunity to act within its current Policies (even with the present limitations) using the momentum gained through direct relations with the Parties.
- The importance of having a direct dialogue with the Clients and Executing Agencies and making the role of the Mechanism clear.
- It was discussed how in the Office of the Compliance Advisor Ombudsman (CAO) there was a change in policy to amend the phrasing from "approved projects" to "projects under consideration" to allow more preventive work to be carried out.
- The importance of, within the MICI's public relations, introducing the private sector to what the Mechanism is as well as the benefits of resolving issues through the MICI process, and how the relationship can be used in the future for preventive measures.

### Session 3. Consultation Phase (CP) Case Analysis.

2 cases were presented, one from the public sector and the other from the private sector, wherein management through the Phase has already finished. Specifically, the achievements, challenges, and opportunities in the case [MICI-BID-AR-2019-0144](#) (Bariloche, Argentina), regarding the "Productive and Tourism Infrastructure Program for the Province of Rio Negro" and in the case [MICI-CII-CO-2019-0152](#) (Santander, Colombia) of the "Ruta del Cacao 4G Toll Road Project" were presented.

For both examples, the harms alleged in the complaints, the type of project, how interaction with the Parties took place, the challenges, and the results of the dialogue process were shared, as well as the experiences during the site visits.

Afterward, there was a presentation on a hypothetical case in the CP, which generated an exchange of perspectives on the risk to the Bank's reputation.

The session discussion was directed by using the following questions, as well as the issues discussed in the brainstorming session, which are shared below:

**What should the MICI have done differently?**

- It was addressed as a potential discussion with stakeholders in a dispute resolution process to learn what would keep them in the process and what would cause them to automatically drop out.
- How to deal with the situation where the MICI has to determine that there are no conditions for dialogue, even if the Parties want it.
- Take into account management times and local contexts, especially if it should be considered that the CP must end before a local legal procedure begins.
- Explore why the Parties occasionally ask for economic compensation. We discussed whether this happens because of distrust — because they usually think that no one will do anything to solve the problem — or to be in control of the process.
- Identify red lines more systematically to avoid conflict escalation.
- The stakeholder mapping challenge in private sector cases.
- Long-term sustainability of MICI agreements: how much of a remedy the financial compensation generates and how to prevent complainants from finding themselves in the same state afterwards.

**How can the MICI best influence the institution to play a role in the repair gap with respect to the Executing Body or Client's role?**

- Reorientation of the idea of compliance toward practical solutions.
- What is the best way to use leverage (formal and informal) within IDB Group to show the positive results obtained by the Mechanism and the solutions achieved. Proposal to carry out internal and external public relations exercises to talk about the added value of the Mechanism.
- The MICI will not cease to be impartial or to do its work to foster better relations within and outside the IDB Group.

**Session 4. Compliance Review Phase (CRP) Case Analysis.**

Similarly to the previous session, 2 cases were presented, one from the public sector and the other from the private sector, which were managed through the Phases. The cases [MICI-BID-PR-2016-0101](#) (Asunción, Paraguay) of the “Metrobus Project” and [MICI-CII-GU-2018-0136](#) (Ixquisis, Guatemala) of the “Generadora San Andrés y San Mateo Projects” were presented.

For these two cases, the Mechanism presented the context with the allegations made, the investigative process, the challenges faced when the project is about to be completed or the

institution leaves the project, the recommendations issued in Review Reports, and the implementations of Action Plans.

Likewise, a hypothetical case that the CRP would be managing was presented and an exchange of perspectives on how to address the challenges occurred.

During the session discussion, various issues were discussed and they are summarized below:

- The importance of creating spaces of constructive dialogue with the Management groups during the investigative processes.
- Recognize both the contributions and limitations that the Executing Agencies and the Clients might have in implementing recommendations or actions from the Action Plans.
- How important it is for the MICI to be able to identify skills in Project Teams, Executing Agencies, and Clients for the implementation of environmental safeguards. Likewise, how to analyze the differences in knowledge and experience that exist between the public and private sectors for the analysis, identification, and management of environmental and social risks.
- Once again, the participants' contributions focused on discussing how to include the issue of repair in the MICI investigative process.
- In relation to the Action Plans, ideas were discussed regarding how to share the information with all Parties to avoid potential exhaustion and frustration, as well as to have a greater probability of success in their implementation.
- On the other hand, the importance of respecting at all times the MICI-Executing Agency/Client relationship spaces without the presence of the Management was emphasized, but the fact that the latter has a fundamental role in the process and its own relationship with the Executing Agencies and Clients was not ignored.

#### Session 5. Knowledge Exchange.

As part of the first EAG session agreements in 2022, it was established that training would be given to the MICI's staff during group face-to-face meetings by one of the members in their fields of expertise.

On this occasion, Anita Ramasastry was asked to present on the topic of companies and human rights and the related application of the United Nations' governing principles.

The main discussion during the training was the main challenges for the private sector when obtaining funds from IFIs. Among the common challenges identified and the topics of interest:

- The importance of identifying similarities and differences between environmental and social safeguards vs. human rights due diligence. Moreover, the last one (human rights) needs to be mandatory.
- Broader access to repair within IFI actions and how the misperception that their involvement cannot be linked to possible human rights violations.
- Establish how human rights due diligence needs to apply to the financial system too.
- Information on how human rights due diligence is emerging globally and how countries are adapting the governing principles and turning them into laws. Likewise, the fact that

the private sector will have increasingly more responsibility over development projects was mentioned.

- The relevance for companies to proactively address the issue of reprisal and risks for human rights defenders.
- The great forgotten topic, according to the above, would still be in the area of repair. The greatest challenge for institutions will be to discuss what it means for the institution to contribute to harm and what would happen in terms of responsibility when the Executing Agency/Client does not want to take responsibility for it, as well as the way the IFIs would react to a situation like this.
- Finally, there were comments on how the governing principles speak directly about contribution. In this sense, if other parties do not offer repair, the best strategy would be to take action and provide repair in some way.

### **C. Agreements and next session**

After the sessions, agreements to maintain long-term dialogue and reflect upon the topics of interest were established. Below we present the main topics:

- The next session will be carried out virtually in November. This meeting will specifically focus on the issue of reprisal and its management.
- In the face-to-face sessions, which are planned to be held at least once every calendar year, the MICI will seek to continue presenting completed or hypothetical cases so that EAG members can offer their perspective and analysis from their area of expertise. For such purposes, the Mechanism will share the information with EAG members in advance.
- The MICI and EAG will continue talking about repair and its evolution in IFIs in the next sessions.

In the end, the members expressed their satisfaction with the way in which the conversation spaces were generated and that it had exceeded their expectations. Constructive dialogue was highlighted.

Annex

Schedule for the face-to-face meeting on May 3 and 4

Wednesday, May 3, 2023	
8:30 a. m. to 9:00 a. m.	<b>Registry</b> <b>Place:</b> Inter-American Development Bank, Room FH3 (IDB's Hall), 1300 New York Ave., NW, Washington DC 20577
9:00 a. m. to 9:45 a. m.	<b>Session 1 - Opening</b> MICI overview and goals for the EAG meeting <i>MICI team</i>
9:45 a. m. to 10:45 a. m.	<b>Session 2</b> Repair: A Discussion of the Past, Present, and Future <i>MICI initial presentation and open discussion</i>
10:45 a. m. to 11:00 a. m.	<b>Coffee Break</b>
11:00 a. m. to 12:00 p. m.	<b>Session 2 - Continued</b> Repair: A Discussion of the Past, Present, and Future <i>MICI initial presentation and open discussion</i>
12:00 p. m. to 1:30 p. m.	<b>Lunch</b>
1:30 p. m. to 3:30 p. m.	<b>Session 3</b> Consultation Phase Case Analysis <i>MICI initial presentation and open discussion</i>
3:30 p. m. to 4:00 p. m.	<b>Coffee Break / Possible Group Photo</b>
4:00 p. m. to 5:30 p. m.	<b>Session 3 - Continued</b> Consultation Phase Case Analysis <i>Open discussion</i>
6:30 p. m. to 8:00 p. m.	<b>EAG and MICI Dinner</b> <b>Place:</b> China Chilcano by José Andrés 418 7th St NW, Washington, DC 20004
End of First Day's Activities	

Thursday, May 4, 2023	
8:30 a. m. to 9:00 a. m.	<b>Breakfast</b>
9:00 a. m. to 10:30 a. m.	<b>Session 4</b> Review Phase Case Analysis <i>MICI initial presentation and open discussion</i>
10:30 a. m. to 10:45 a. m.	<b>Coffee Break</b>
10:45 a. m. to 12:30 p. m.	<b>Session 4 - Continued</b> Review Phase Case Analysis <i>MICI initial presentation and open discussion</i>
12:30 p. m. to 2:00 p. m.	<b>Lunch</b>
2:00 p. m. to 3:00 p. m.	<b>Session 5</b> Knowledge Exchange <i>EAG member</i>
3:00 p. m. to 3:30 p. m.	<b>Coffee Break</b>
3:30 p. m. to 5:00 p. m.	<b>Session 6 - Closure</b> Final comments and next session <i>MICI team</i>
End of Second Day's Activities	