

# GUIDELINES FOR THE CONSULTATION PHASE

## The Dispute Resolution Process of MICI

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Independent Consultation  
and Investigation Mechanism  
IDB Group

MI-74  
CII/MI-13

This document containing the Guidelines for the Consultation Phase of the Independent Consultation and Investigation Mechanism was prepared by Gastón Aín, María Camila Barriga, Martín Packmann, and Sebastian González, under supervision of Victoria Márquez-Mees.

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For further information, contact:

Independent Consultation and Investigation Mechanism (MICI)

Inter-American Development Bank

1300 New York Avenue, N.W.

Washington, D.C. USA, 20577

E- mail: [mecanismo@iadb.org](mailto:mecanismo@iadb.org)

Phone: +1 (202) 623-3952. Fax: +1 (202) 312-4057

Website: [www.iadb.org/mici](http://www.iadb.org/mici)

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## ABOUT THE MICI

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The Independent Consultation and Investigation Mechanism (MICI) is the accountability mechanism office of the IDB Group (IDB, IDB Invest, and MIF). The MICI's objective is to serve as the mechanism and process independent of Management, for the resolution of disputes and/or the investigation of complaints made by two or more Applicants alleging damage caused by the non-compliance of the IDB Group Pertinent Operational Policies in the framework of the operations financed by it.

The operation and structure of the Mechanism is regulated by two policies according to the institution that originated the operation or the operations subject to a claim: (i) the MICI-IDB Policy was approved by the IDB Board of Executive Directors on December 17, 2014, and reviewed on December 2015. The same applies to all operations financed by the IDB and the MIF. (ii) The MICI-IIC Policy was approved by the IIC Board of Executive Directors on December 15, 2015 and applies to all operations financed by the IIC, which commercial name is IDB Invest. The MICI serves IDB Invest since January of 2016.

The Consultation Phase is regulated in section H of the MICI Policies and in accordance with paragraph 57 that empowers the Director of the MICI to establish guidelines and adopt procedures in accordance with acting Policies, in April 2018, the present guidelines were published after having been consulted with members of civil society.

## ACRONYMS AND ABBREVIATIONS

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<b>Bank or IDB</b>	The Inter-American Development Bank.
<b>Board</b>	The Board of Executive Directors of the IDB, IIC or the Donors Committee of the MIF.
<b>Case Assistant</b>	MICI official responsible for the administrative and logistic activities of a case.
<b>Case Officer</b>	MICI official responsible for daily management of a case.
<b>Coordinator</b>	The MICI staff member responsible for coordinating the Consultation Phase.
<b>CP</b>	MICI Consultation Phase
<b>CRP</b>	MICI Compliance Review Phase
<b>Executing Agency</b>	The entity designated in the relevant legal agreements to execute all or part of an IDB Group-Financed Operation.
<b>Executive Director</b>	A member of the Board of Executive Directors of the IDB, IIC or the Donors Committee of the MIF.
<b>Harm</b>	Any direct, material damage or loss. Harm may be actual or reasonably likely to occur in the future.
<b>IDB Group</b>	The IDB Group is composed by the Inter-American Development Bank, the Inter-American Investment Corporation, and the Multilateral Investment Fund.
<b>IDB Invest</b>	Previously the Inter-American Investment Corporation.
<b>IIC</b>	The Inter-American Investment Corporation.
<b>MICI or Mechanism</b>	The Independent Consultation and Investigation Mechanism.

<b>MICI-IDB Policy</b>	The policy, approved by the IDB Board of Executive Directors in December 2014 and reviewed in December 2015, which governs the function of MICI for Requests related to operations financed and approved by the IDB's Board of Executive Directors or the MIF's Donors Committee (Document MI-47-6).
<b>MICI-IIC Policy</b>	The policy, approved by the IIC Board of Executive Directors on December 15, 2015, which governs the function of MICI for Requests related to operations financed by IDB Invest (Document CII/MI-1-1).
<b>Management</b>	IDB Group Manager or Managers in charge of the relevant Group's financed operation or the staff they may delegate.
<b>MIF</b>	The Multilateral Investment Fund
<b>Parties or Stakeholders</b>	The Requesters, Management, the Borrower, the Client and/or Executing Agency, if applicable.
<b>Policies</b>	The MICI-IDB or MICI-IIC Policies
<b>Request</b>	A communication submitted by the Requesters or their representatives that alleges they have suffered or may suffer Harm due to the failure of the IDB Group to comply with one or more of its relevant Operational Policies within the context of a Group financed operation.
<b>Requesters</b>	Two or more people residing in the country where a Group-financed operation is implemented who have submitted a Request to the MICI.
<b>Roster</b>	A list of technical experts appointed on an ad hoc basis to support the Consultation Phase processes.
<b>SEC</b>	Office of the Secretary of the IDB Group





# 1. INTRODUCTION

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## A. Contents

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- 1.1 This document establishes the guidelines for processing any Request in MICI's Consultation Phase for any of the institutions belonging to the IDB Group. MICI's primary objective is to be a mechanism and a process that operates independently of Management to resolve disputes and/or investigate complaints from Requesters claiming Harm produced by a non-compliance of the IDB Group with the relevant Operational Policies in the context of operations financed by the Group. In the specific case of the CP, MICI operates as an impartial third party that searches for consensual solutions between the Parties involved in a flexible process, to avoid, mitigate and/or remedy Harm allegedly caused or threatened by the operation.

## B. Policies

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- 1.2 The guidelines in this document are consistent with and complementary to the MICI-IDB Policy and the MICI-IIC Policy along with other IDB Group policies that may apply.

## 2. OBJECTIVE

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- 2.1 CP guidelines aim at facilitating the effective application of Section H of the MICI-IDB and MICI-IIC Policies and, in particular, Paragraphs 24 to 35 thereof, complementing and operationalizing the rules therein. In this way, they provide MICI officials with a road map for case management within the CP, always considering the specific characteristics for each context and the preferences of the Parties when there is a Consultation Phase process.

### 3. PRINCIPLES FOR MANAGING CASES DURING THE CONSULTATION PHASE

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- 3.1 In accordance with MICI's guiding principles (Section C, Paragraph 6) and in order to ensure ethical, transparent and effective case management, CP officials must observe the following principles:
- 3.2 **Co-design**: CP processes should be designed and prepared using as primary input the methodology, format, cultural and linguistic preferences of the actors to whom they are directed. Co-design in CP processes is aimed at increasing the trust between actors and the sense of ownership of the process in addition to creating the conditions for an effective exchange.
- 3.3 **Do-No-Harm**: CP processes should be designed and implemented with an ethical focus based on the "Do-No-Harm" principle, always avoiding aggravation of pre-existing situations or disputes between the Parties.
- 3.4 **Good Faith**: CP processes will promote honest exchanges based on the interests of the Parties, always avoiding hidden intentions and agendas that do not contribute to a satisfactory solution of existing disputes.
- 3.5 **Sustainability**: CP processes will be oriented toward seeking sustainable and durable solutions, always prioritizing the transformation of relations between the Parties and seeking to build social capital, a central element for economic development and the well-being of people.
- 3.6 **Voluntary Nature**: CP processes are voluntary, and the Parties may withdraw at any moment from them if they wish to do so. MICI officials, as well as professionals acting as expert facilitators in these processes, will pay particular attention to any symptom that shows that the Parties are uncomfortable with the progress of the process. They may exchange information and opinions on these issues and suggest changes to the methodology or the procedure.

**3.7 Attention to Asymmetries:** CP processes should be particularly sensitive to the existence of considerable asymmetries between the Parties so as not to undermine the possibility of reaching satisfactory results. Particular attention is to be paid to asymmetries in availability of the information needed, and in the capacity and ability to participate effectively in these processes. MICI officials may propose capacity building activities and exercises to facilitate the Parties' effective and fruitful participation.

## 4. GENERAL CONSIDERATIONS FOR CASE MANAGEMENT

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- 4.1 A CP process will incorporate the following theoretical and practical considerations in its assessment, design, implementation and monitoring stages:

### A. Theoretical Considerations

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- 4.2 The objective of the CP is to offer the Parties the opportunity to address the subjects included in the Request as part of a flexible and consensual process where the Parties feel comfortable enough to jointly explore possible solutions. To recreate this type of space, it is appropriate to consider several procedural criteria as well as the methods to be used during the process.

#### 1. Basic Design Criteria

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- 4.3 There is no single process format that is suitable for all circumstances and contexts. However, there are a variety of tools and approaches that may be chosen depending on the cultural, social, and political context of each case. The input collected during the Assessment stage will be essential for proposing a design that will be perceived as legitimate and will create a sense of belonging between the Parties. All CP processes should pay attention to three central dimensions aimed at satisfying the interests of the Parties to whom the process is directed.
- a. **Psychological Issues.** All individuals participating in a dispute resolution process have a professional, emotional, or psychological interest in being recognized, respected, and heard. The design process should attempt to satisfy the psychological needs of those involved.
  - b. **Substantive Issues.** The topic or topics to be addressed are central and are to be incorporated in the content and the goals of the process. The design should establish a clear purpose and

address the central issues, considering the interests of the Parties and working toward specific and achievable results.

- c. **Procedural Issues.** Respect for the rules, time frames and formats that the Parties previously agreed to will determine the perception of legitimacy, ownership, and justice that they may have regarding the process. Questions related to potential deadlines, preparation of agendas, who has the floor, frequency, and type of meetings as well as any other procedural aspects are to be considered with due care, paying attention to the interests of the Parties and always within the framework of the MICI Policies.<sup>1</sup>

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## 2. Methods

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- 4.4 During the CP, a variety of methods can be used depending on urgency, type of Harm, corrective actions sought, the likelihood that the process will have positive results, and other factors. Among the methods for analysis and alternative dispute resolution to be used are: situational and conflict analysis, scenario building, structured dialogue, sustained dialogue, mediation, negotiation and facilitation, under different formats. These methods can be used simultaneously or sequentially. To establish an initial minimum level of communication between the Parties, MICI officials will prioritize confidence building measures. In cases where it has not been possible to re-establish a minimum level of trust or where one of the Parties does not want to be exposed in front of the other, and to the extent that they want to continue with the Consultation Phase, MICI will maintain bilateral meetings with each of them to continue with the process.

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<sup>1</sup> Based on the “Satisfaction Triangle”, developed by Christopher Moore, The Mediation Process.

## B. Practical Considerations

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- 4.5 Once the case processing has started, the CP team will identify a series of needs for its proper management based on the economic, social, and cultural context of the place where the project giving rise to the Request is located and/or the location where the process may play out. These needs may include, among others:

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### 1. On-site Missions

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- 4.6 To carry out missions during the Assessment stage, the Consultation Process or the Monitoring, CP officials will follow the IDB Group policies and procedures for the development of this type of activity. Particular attention will be paid to complaints where Requesters have demanded confidentiality and/or have indicated fear of reprisals, and preventive measures were agreed upon before and during the process as well as other specific ones to be observed during on-site missions (See paragraphs 4.16 and 4.17).
- 4.7 Before carrying out a mission, the MICI Director will send an official notification to the Executive Director for the pertaining country and to other interested parties. The notification must include dates, objectives, and activities. It should also specify whether the Requesters have demanded confidentiality for the process. The notification must be sent before undertaking any formal arrangement with other IDB Group departments to set up the mission.
- 4.8 The Case Assistant, with the assistance of the Case Officer and the Coordinator, will be responsible for preparing the logistics of the missions pertaining the CP. To the extent possible, on-site missions will be planned in advance. Concerning logistics, particular attention will be paid to the scheduling and the coordination of flights, hotels, ground transportation, rooms, interpreters, translators, and catering during the events, sessions, or meetings during the mission. While facilitators will manage their own trips, the Case Assistant will keep them informed about logistics done by MICI so that they can, to the extent possible, make their reservations with the same characteristics.

- 4.9 The Case Assistant may ask for the assistance of local counterparts as well as the Country Office of the IDB Group in the country, the Requesters or the Executing Agency/Client to manage critical logistical aspects when planning a mission. Collaboration with the Parties previously mentioned will be beneficial to the extent it does not affect the perception of absolute impartiality of MICI officials or generate reputational risk for the Mechanism.
- 4.10 At least one CP official will always be present at events, sessions, or meetings between the Parties held as part of a CP process. The MICI Director may authorize an exception to this rule due to budgetary or other limitations.

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## **2. Translation and Interpretation Services**

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- 4.11 At the beginning of case processing within the CP, the Coordinator will determine the needs for translation of essential project or technical documents to effectively manage the process. Generally, the cost of these services will be covered by the people holding authorship of the documents, excluding the initial requests submitted to MICI that are not in one of the four official IDB Group languages. Translation of the documents to the language requested by the Parties may require additional time to that established in the Policies as maximum periods for each stage of the Phase. Simultaneous interpretation services during joint sessions between the Parties to a MICI process will be coordinated and defrayed by MICI.

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## **3. Roster of Facilitation Experts**

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- 4.12 To establish a permanent capacity in MICI and to strengthen the management of the CP, a Roster of technical experts in facilitation of dialogue and alternative dispute resolution processes will be set up. The Roster will be used on an ad hoc basis when required by the cases being processed in this Phase. Respecting the principles of impartial and fair treatment of Parties involved in a process, the experts in facilitation must lead and/or assist — as required — the technical and substantial work aimed at design, implementation, facilitation, and systematization of processes within the CP.



**4.13** The individuals making up the roster will execute advisory tasks related to methodological and facilitation matters in close collaboration with the remainder of the CP team under the direct supervision of the Coordinator. In addition to the functions that are strictly process design and facilitation, there may be functions entrusted specifically from the spaces at the request of the Parties. The facilitator may also contribute to a series of tasks tied to convening and setting up sessions, initial meetings, circulating documents, and systematizing learnings that may arise during the process. The Roster's member that best matches the specific characteristics and technical requirements for each CP process will be identified, with prior consultation to the Parties. Before starting tasks associated with case management, the facilitator selected will receive mandatory intensive training related to the Policies' scope, the objective of CP, and the relevant Operational Policies. In addition, he/she will be provided with an initial analysis of the case in question along with the process alternatives agreed upon with the Parties up to that time.

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#### **4. Process Predictability and Comprehension**

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**4.14** At the beginning of the CP, MICI officials must clearly explain to the Parties what the primary objective is, the nature, stages, procedural deadlines, maximum length, possibilities for extension and potential methods to be used during the Consultation Phase.

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#### **5. Capacity Strengthening /Preparatory Sessions**

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**4.15** Before starting formal activities associated with a CP process, MICI officials may set up sessions with the Parties aimed at analyzing their process' expectations, and at sharing practical and analytic tools to maximize their participation depending on the method that is being used. To ensure budget efficiency, this type of preparation and strengthening sessions will be carried out before the formal start of sessions or activities between the Parties, taking advantage of the presence of MICI officials on site for these purposes.

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## **6. Confidentiality**

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- 4.16** In line with MICI principles, CP officials will take particular care to preserve the confidentiality of the identity of the Requesters — if required— and of what is discussed as well as the material of deliberative nature used or produced during the CP. The materials, registries, and information obtained as part of a CP process may not be used for purposes other than processing the case at MICI unless the Parties explicitly agree otherwise.

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## **7. Risk of Reprisals**

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- 4.17** If a risk of reprisals is detected during the Assessment stage or prior to it, MICI officials, in coordination with the persons or groups identified, will establish preventive measures to be applied throughout the process. The preventive measures to be adopted may include, but are not restricted to, maintaining the confidentiality of personal information or information about the process throughout, using secure communications and information technologies, not using identifiable photographs or images, not disclosing information about the location of certain Parties, not identifying places where the process will take place, not using voice or video recording devices, entering into confidentiality agreements with drivers and interpreters and reaching agreements on logistical arrangements with the Parties to minimize risk. MICI officials must adhere to the Mechanism guidelines on the risk of reprisals at all times.
- 4.18** If MICI officials detect a risk to the physical safety of any of the Parties, the MICI Director will consider the possibility of suspending the processing of a case. The preventive actions previously mentioned may be applied at any stage of the process, either separately or sequentially.

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## **8. Cultural Appropriateness**

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- 4.19** When the Consultation Phase involves indigenous peoples, CP officials will take particular care to respect local decision-making structures, gender aspects, history and legacy issues, customary practices, ancient traditions, language preferences, existing legislation

on prior consultation, and capacity building needs throughout the case processing.

## **9. Gender Equality**

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**4.20** When the Consultation Phase involves women groups, CP officials will take particular care in identifying gender gaps, and adopting a gender sensitive approach during assessing, designing, facilitating, and monitoring stages within the Consultation Phase. CP officials will make efforts to promote women's active participation in deliberating and decision-making throughout the case processing.

## **10. Other Actors**

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**4.21** Depending on the process and the conclusions of the Assessment Report, MICI officials as well as the Parties may propose to bring in relevant third actors such as, but not limited to, technical experts, universities, Ombudsman offices, and religious organizations that, without having a primary interest in the dispute or conflict that generated the Request, may play a constructive role in resolving it.

## 5. STAGES

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- 5.1 The Consultation Phase will be composed of three (3) sequential stages called Assessment, Consultation Process, and Monitoring.

### A. Assessment

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- 5.2 Unless there is an exceptional extension as indicated in Paragraph 59 of the Policies, MICI officials will attempt to do the following activities within a period of no more than 40 working days after a Request in which the CP option was chosen is declared eligible:
- a. Understand the context of the project or operation related to the Request as well as the central topics that caused concern and motivated the dispute, and that may at some point be addressed by the Parties in a Consultation Process.
  - b. Exchange views with the Requesters, the project team, other Management officials if applicable, the Executing Agency/Client and other parties that may be interested in resolving the dispute to determine whether seeking a solution through the CP methods is feasible.
  - c. Identify the individuals that will play the role of representation for the Parties paying particular attention to the structure of representativeness, and to the existing decision-making mechanisms or those that may be created for the process. Likewise, to explore the methodology and format preferences if conditions for starting a Consultation Process exist.

#### 1. Methodology

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- 5.3 The Assessment will combine the review of official IDB Group documents, the original documentation provided by the Parties, relevant bibliography produced by experts, desk review, personal interviews in the framework of an on-site mission, visits to the project sites, and electronic or telephonic exchanges with the Parties, and other interested third parties that may play a constructive role in resolving the dispute.

## 2. Contents

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5.4 The Assessment will study and compile information about the following items:

- a. The subject(s) generating the Request around which a Consultation Process may be designed. In addition, information about the social, legal and institutional context, background and analysis that may be useful for better understanding of the problem will be incorporated.
- b. The primary and secondary parties as well as any other actor that may play a constructive role in a Consultation Process. Information about the Parties' capacities and abilities to participate in an alternative dispute resolution process will be included. The actor's section will identify local or national capacities to facilitate consultation or dialogue processes that may be used if needed. In addition, other institutions or entities, analysts, community leaders, civil society organizations (CSO), universities or think tanks that have relevant technical knowledge about the subject or topics identified as the reason for the dispute and may therefore play the role of external advisors may be included if necessary.
- c. The existence of a risk of reprisals for the Requesters, or lack thereof, and, if such risk is imminent, the steps suggested to temporarily mitigate it. Particular attention will be paid to risk factors such as characteristics of the context of citizen participation, social and/or environmental activism risks, past episodes of reprisals, presence of formal or informal security forces, vulnerable groups, and digital integrity.
- d. The presence or lack of desire or will of the Parties to resolve the dispute that generated the Request as part of a Consultation Process.
- e. The methodological preferences of the Parties if they decide to start a process with the CP. In particular, inquiries will be carried out about the method to be used, the frequency and number of meetings, the minimum needs for information, the number of people participating, the language, location, presence or lack of observers, press relations, use of social media, use of recesses,

taking the floor, validation of procedural rules, the facilitator's profile, formulas for making decisions, systematization of meetings, confidentiality rules and any other aspects that are central to the preparation of a Consultation Process.

- f. Resources needed for any Consultation Process, depending on the context and the Parties' preferences.
- g. Risks of aggravating the situation or even negatively affecting pre-existing social dynamics caused by starting a Consultation Process with MICI.
- h. Other elements and factors that could aggravate or deepen the dispute between the Parties as well as elements that bond and increase resilience or even work toward an improvement of relations between the Parties.

### 3. Results and Assessment Report

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- 5.5 The results of the Assessment will be presented in an Assessment Report. The report must be sent to the Parties and the Board of Executive Directors. Once it has been distributed, it will be published in the Public Registry of MICI. Prior to final publication and circulation, the CP may circulate a draft version among Management, the Requesters, and, if it is considered necessary, the Executing Agency/ Client, to get comments or clarifications that may, or may not, be incorporated into the final version at MICI's discretion.
- 5.6 All assessment reports will have the same format and will in all cases include an executive summary, background, geographic and social context, a description of the relevant IDB Group institution's operation, the primary aspects of the Request, details of the MICI process to date, the perspectives of the Parties and an argument about the feasibility of continuing or not with the Consultation Process. If MICI believes that the conditions for continuing this process exist, the report must contain a rationale, a proposed methodology, a schedule and estimated resources for implementing it. If the conditions for reaching a consensual solution do not exist and the Requesters opted at the beginning of the process for the Compliance Review Phase, the report will provide the details and will note the transfer to CRP.

Otherwise, the case will be declared as concluded and a statement to that effect will be placed in the Assessment Report.

## **B. Consultation Process**

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- 5.7** Unless there is an exceptional extension as indicated in Paragraph 59 of the Policies, MICI officials will attempt to undertake the following activities within a period of no more than twelve calendar months after publication of the Assessment Report in the Public Registry:
- a. Conceive and propose to the Parties a process design that to the extent possible includes their methodology and format preferences, helping them to promote productive, flexible, and voluntary exchange.
  - b. Set up and facilitate meetings, sessions, activities and any other initiatives in which the Parties jointly acquire information, exchange, reflect, or explore solutions to the dispute that generated the Request, using any of the methods mentioned in Paragraph 4.4.
  - c. Assist the Parties in reaching agreements drawn upon novel and creative proposals associated with the Consultation Process or even with problems deep in the Request.
  - d. Systematize and record the exchanges between the Parties during their meetings in order to make available any minutes, memos, and other supporting materials essential to the process. The necessary precautions will be taken if a risk of reprisals has been detected or if there is a confidentiality requirement during the Assessment stage.
  - e. Ensure that agreements made by the Parties are not in violation of current IDB policies, the national legislation of the relevant country, or international law.

## 1. Methodology

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- 5.8 To design, prepare and implement a Consultation Process, MICI officials must, independently of the alternative dispute resolution methods used in each case:
- a. Prepare the design proposal using a dialogic approach. A design prepared unilaterally reduces the ownership level of the Parties for which it is conceived and hardly incorporates the various perspectives. The joint development or preparation of the characteristics of a dispute resolution process is commonly called “co-design,” to indicate that it should be done among the Parties, individuals or institutions participating in it.<sup>2</sup>
  - b. Include in the design proposal an agenda, a sequence of topics, a meeting format, estimated time, participants, possible events in the framework of the process, venue for meetings, sessions or deliberations, language, approaches to the relation with media, the use of social media as well as other communication and information technologies, the instrument for registering or systematizing partial conclusions, the formula for making decisions and profiles of potential facilitators. The Parties might choose to reserve one or more of these topics for further discussion during the dialogue process itself.
  - c. Identify a potential facilitator, preferably local, to be validated by the Parties once they approve the proposal and before starting the sessions, events, or meetings. As a general rule, the expert mentioned will come from the Roster (See paragraphs 4.12 and 4.13). MICI officials may perform facilitation or co-facilitation tasks while following the processes in their capacity as representatives of the Mechanism.
  - d. Promote the use of appropriate facilitation techniques, which may include *World Cafe*, the Imaginary Line, plenary meetings, paired dialogues, storytelling, the use of artifacts, maps and cross-section scale models and learning seminars, among others.

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2 Practical Guide on Democratic Dialogue, UNDP-OAS 2013.



- e. Provide the Parties, for their consideration, a draft of the procedural rules before the first session or meeting. The rules should facilitate a respectful, fast, and effective exchange for approaching the proposed agenda. These procedural rules will include clauses on taking the floor, the use of physical space, the use of time-outs, the relation between the space and the media, the use of social media, the presentation of technical subjects, the temporary suspension of a topic in discussion in the absence of an apparent solution, the formulas for adopting decisions, and the role of participants, advisors and observers, among other subjects of interest to the Parties.
- f. Work with the Parties to produce any other document in preparation for the process or to systematize it. This may include: draft agendas, session minutes, joint working documents, or presentations containing summaries of what was discussed or agreed upon in previous sessions.

## **2. Result and Report of the Consultation Process**

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- 5.9 The results of the Consultation Process will be included in a CP report to be sent to the relevant Board of Executive Directors for a non-objection. The report will be circulated to Management for information. Once it has been considered by the relevant Board of Executive Directors, the report will be made available to the Parties and published in the Public Registry of MICI. If the Parties agree that the report is confidential, MICI will only publish a summary of it. Prior to its final circulation, the CP may circulate a draft version among Management, the Requesters, and the Executing Agency/Client for comments or clarifications that may, or may not, be incorporated into the final version.
- 5.10 Consultation Phase reports will all have the same format and will, in all cases, include an executive summary, background, actions taken during the Consultation Process, agreements reached if any, an estimated timeline, the monitoring mechanisms agreed upon, and an estimated budget for the monitoring activities for which MICI is responsible.

- 5.11** If no agreements are reached between the Parties during the process and if the Requesters had opted for CRP at the beginning of the process, the report will list the actions taken during the process and notify that the process has been transferred to CRP. Otherwise, the case will be declared ended.

## **C. Monitoring**

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- 5.12** If the Consultation Process ends with an agreement between the Parties and effective compliance requires one or more activities, MICI officials will support the Parties in elaborating a plan and timeline for monitoring the commitments reached during the process. The monitoring plan may also include adoption of measures allowing a determination of whether the agreements have been duly respected. If the Parties have agreed upon confidentiality, the monitoring plan will incorporate provisions on the issue. The monitoring plan, as part of the Consultation Phase report, will be provided for consideration to the Board of Executive Directors of the corresponding entity under Short Procedure. The duration of said plan will be stipulated in the agreements reached but may not exceed 5 years from the date of its signature.
- 5.13** An objection by the Board of Executive Directors to the monitoring plan agreed upon by the Parties will not invalidate the agreements reached, but may impede the participation of MICI in the Monitoring, either in whole or in part. If there are suggestions or observations about MICI participation in the agreed monitoring plan, the Parties will be informed of them and monitoring alternatives compatible with this decision will be sought jointly.

### **1. Methodology**

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- 5.14** Obligations or agreements entered by the Parties may be monitored using one or more of the following activities, either sequentially or simultaneously:
- a.** Carry out tasks of facilitation and technical secretariat in joint spaces already constituted or to be created by the Parties charged with doing a frequent monitoring. An example of this type of

space are monitoring committees composed of representatives of the Parties, who will meet regularly to analyze the progress in complying with the agreements.

- b. Conduct telephone interviews with the Parties and other actors involved in the Consultation Process to find out the level of satisfaction of the compliance with the agreements, and to maintain periodic contact with the Parties and stimulate communication between them.
- c. Periodically review the press as well as portals and other electronic platforms containing relevant information to the progress of compliance with the agreements.
- d. Convene the Parties to specific meetings if there are disagreements, disputes or growing discontent with the level of compliance with the agreements. This task may be done making use of the knowledge and *rappport* built by the local facilitator during the Consultation Process.
- e. Carry out on-site missions to personally interview the Parties and assess the compliance with the agreements as well as a simple prospective scenario building exercise to assist in writing the Annual Monitoring Report (See paragraph 5.15).
- f. Work on the construction of communication platforms, using the latest information technologies through which the Parties can report in real time events or situations that put compliance with the agreements in danger, thus enabling the adoption of preventive measures.
- g. Develop any other monitoring task jointly requested by the Parties, but always within the framework of the Policies.

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## 2. Annual Monitoring Report

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- 5.15 The state of compliance with the agreements or commitments entered into during the Consultation Process will be incorporated into an annual report to be sent to the Board of Executive Directors for information. The report will also be sent to the Parties for information and published in the Public Registry of MICI. If it contains confidential information, MICI will publish a redacted version of it.

Annual monitoring reports must include a description of the level of compliance with the agreements and monitoring activities done by the Mechanism. Prior to its final circulation, the CP may circulate a draft version among Management, the Requesters, and the Executing Agency/Client for comments or clarifications that may, or may not, be incorporated into the final version.

## 6. INFORMATION MANAGEMENT

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### A. Hard Copy

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- 6.1 CP officials must complete the case's hard copy and electronic files with the information on the activities carried out within the Phase. The Case Officer will be the person primarily responsible for compiling and registering the documents received throughout the process, and along with the Case Assistant must keep the hard copy file and the working file up to date with information that is strictly relevant and necessary. These will always include all the official documents produced by the Phase. Confidential hard copy material must have a stamp indicating its confidential nature on the first page and a note with the name of the author of the pertaining document.

### B. Electronic

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- 6.2 CP officials who send or receive e-mails, documents, and information relevant to the efficient management of the case must save a copy of this material in MICI's electronic management and archival systems. The Case Officer must update the electronic case file with any information that might affect the development of the case. It will also include any relevant interaction with the Parties and interested actors.
- 6.3 Confidential material must be saved with the name of the document and an indication of its confidential nature. For disclosure purposes, public documents containing confidential information must be redacted.

### C. Public Registry

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- 6.4 The Case Officer must make all documents produced by the CP during the Assessment, Consultation Process and Monitoring available to the officials in charge of the Public Registry on a timely

basis so that it can be updated. Additionally, briefing notes must be produced for use in the various communication vehicles of the Mechanism. The Case Officer will be responsible for using written notifications aimed at keeping the Parties up to date on the results of the MICI process.

## **D. Board of Executive Directors**

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- 6.5** If the MICI Director so requests, CP officials will produce, compile, and facilitate any information sought about case processing and will make it available to the Board of Executive Directors of the IDB/IIC and/or the Donors Committee of the MIF.

## 7. CONCLUSION OF THE CONSULTATION PHASE

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### A. Reasons for Ending the Consultation Phase

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- 7.1 When the Parties have been unable to reach an agreement after the twelve (12) months established as the maximum period for the CP, plus any extensions approved by relevant the Board of Executive Directors or Donors Committee. The file will be transferred to CRP if the Requesters have indicated their desire to use the two phases. If the Requesters only opted for the Consultation Phase, MICI will close the case. If that happens, MICI will prepare a report describing the actions taken and, once the report is disclosed, will finalize the processing of the case.
- 7.2 If the Parties have reached an agreement or a series of obligations during the CP to be performed immediately or almost immediately and do not require a monitoring plan. Once compliance has been confirmed in a meeting between the Parties and facilitated by MICI, the CP will be considered finalized. If that happens, MICI will note in the Consultation Phase Report the agreement reached, the actions undertaken and those yet to be undertaken. The report will be disclosed, which will then finalize the processing of the case.
- 7.3 If the Parties have reached an agreement or a series of obligations during the CP, including a monitoring plan and an associated timeline with a duration of no more than five (5) years in accordance with Paragraph 35 of the MICI-IDB and MICI-IIC Policies, and, at the completion of that deadline, compliance with these obligations has been verified with the agreement of the Parties. If this happens, MICI will prepare a final monitoring report showing that the agreements have been fully complied with and, once the report is disclosed, will finalize the processing of the case.
- 7.4 If the Parties have reached an agreement or a series of obligations during the CP, including a monitoring plan and an associated timeline with a duration of no more than five (5) years in accordance with

Paragraph 35 of the MICI-IDB and MICI-IIC Policies, and, at the end of this period, partial compliance with these agreements or obligations has been recorded. If this happens, MICI will prepare a final monitoring report detailing the partial compliance and, once the report is disclosed, will finalize the processing of the case.

- 7.5 If the Parties have reached an agreement or a series of obligations during the CP, including a monitoring plan and an associated timeline with a duration of no more than five (5) years in accordance with Paragraph 35 of the MICI-IDB and MICI-IIC Policies and there is persistent non-compliance with the timeline stipulated in these agreements. If this happens, MICI will prepare a final monitoring report detailing the non-compliance with the agreements reached and will transfer the file to CRP if the Requesters have indicated their desire to handle their Request in two phases. Otherwise, once the report has been disclosed, the processing of the case will be finalized.
- 7.6 If one of the Parties decides unilaterally to withdraw from the CP and, as indicated in Paragraph 26 of the MICI-IDB and MICI-IIC Policies, the MICI Director believes that the participation of this Party is essential for the continuity of the process, the CP will be considered finalized. If this happens, MICI will prepare a report to that effect indicating the actions accomplished in the framework of the CP, the decision adopted by one of the Parties and, if the Requesters have indicated their desire to handle their Request in the two phases, the file will be transferred to CRP. Otherwise, once the report has been disclosed, the processing of the case will be finalized.
- 7.7 When the Director of MICI believes that the participation of the Mechanism does not provide added value during the Monitoring stage. If that happens, MICI will inform the Parties of its decision, prepare a final monitoring report showing the state of compliance with the agreements and, once the report is disclosed, will finalize the processing of the case.



## **B. Transfer to the Compliance Review Phase**

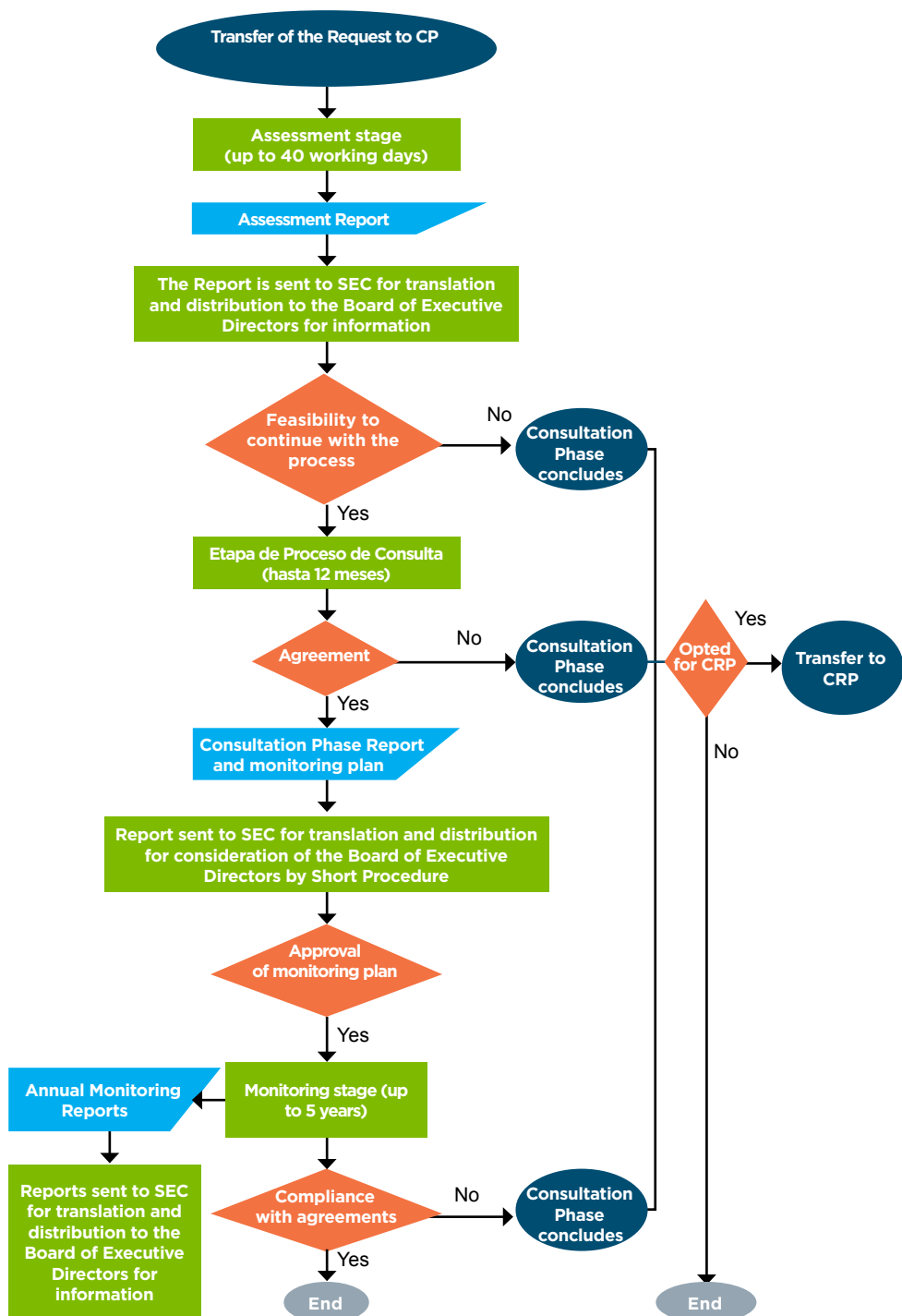
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- 7.8** All documents, testimony and material obtained through official channels belong to MICI and therefore will be available to CRP officials. There will be no obligation to transfer information or testimony received in confidence through personal conversations with the Parties.
- 7.9** Once the CP is over, the CP and CRP teams will have a briefing about the main elements of the case and its status at the time of the transfer. The case file will also be transferred.

## 7. FLOW CHART

### EXPLANATORY NOTES

- Public documents generated by MICI are distributed to the Parties, the relevant Board of Executive Directors and to the public through the MICI Registry.
- When a public document of MCI contains confidential information, this information will be redacted.
- The MICI Director may extend the periods indicated for the various stages of the Consultation Phase provided that there is no objection from the Board of Executive Directors.
- **SEC:** Any document that needs to be presented to the Board of Executive Directors must be sent to the Office of the Secretary of the IDB Group, where it is translated and distributed to the members of the Board.
- **FOR INFORMATION:** A procedure under which a document is sent to the Board of Executive Directors only for information.
- **SHORT PROCEDURE:** A procedure under which a document is presented to the IDB Board of Executive Directors for its no objection. The Executive Directors may ask that the document be considered in committee for the purposes of making a decision.





[www.iadb.org/mici](http://www.iadb.org/mici)