



Independent Complaints Mechanism Common Fund for Commodities

MARCH 2021

Preamble

The CFC strives to achieve positive sustainable development outcomes through its investments. We follow a human and environment-centered approach in business. Such business activities cover all segments of the value chain. This includes services and support functions, that help all participants in the process of value generation to improve the economic, social and environmental well-being of its poorest participants at the bottom of the pyramid. At the same time, we recognize that such development also can have negative impacts on local communities and the physical environment within which they live or upon which they depend for their livelihoods.

To facilitate early indication of and prompt remediation of various project-related complaints, we have installed an independent complaints mechanism.

1. Background Information

1.1 Introduction

1.1.1 With this document, the Common Fund for Commodities (CFC) outlines its Independent Complaints Mechanism (the Mechanism) and accompanying procedure. This document describes the structure and governance of the Mechanism, which allows External Parties to file a Complaint concerning a CFC financed project. In this way the CFC strives to implement a robust and independent procedure and to communicate transparently about it to stakeholders.

1.1.2 The Mechanism ensures the right to be heard for Complainants who feel affected by a CFC financed project in order to enable the resolution of disputes and assist the CFC in drawing lessons learned for current and future operations.

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

1.2 Institutional framework

1.2.1 The Mechanism is not a legal enforcement mechanism. It offers an effective avenue for addressing concerns and it promotes a mutually constructive relationship between the CFC and External Parties.

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

1.2.3 The Mechanism consists of an Independent Expert and the Complaints Officer of the CFC.

1.2.4 The Mechanism reports directly to the Managing Director of the CFC.

1.2.5 The Managing Director will report to the Executive Board, once a year, on the complaints received and the outcome of the Mechanism on these complaints.

2. Principles

2.1 Purpose

2.1.1 The Mechanism serves the following functions with respect to Admissible Complaints:

- Attempt, whilst acting as a problem solving function, to resolve concerns raised by the Complainant(s) through a consensual process with the Complainant, Client and other relevant stakeholders (as appropriate);
- Evaluate and report compliance with CFC policies and other applicable standards;
- Provide advice and recommendations to CFC management; and

➤ Follow-up and report on efforts to take corrective actions whenever applicable.

2.1.2 The Mechanism applies to CFC financed projects. The CFC is complying with legal restrictions and safeguards pertaining to disclosure and protection of personal and Client data. This means that the CFC has to treat all Client-related details and documents as confidential, unless the Client has consented to the CFC sharing information with the Panel and with the broader public in relation to (i) any future admissible Complaint, and/or (ii) subsequent reports, findings and/or recommendations following such a Complaint.

2.2 Guiding Principles

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

2.2.2 The CFC Complaint Officer is independent from operational activities and from the services responsible for the activities challenged by the Complainant(s). The Mechanism ensures that each Complaint is dealt with by the highest standards of objectiveness and commitment whilst safeguarding the interest of all the internal and external stakeholders of CFC.

2.2.3 The Mechanism shall be accessible to affected people and/or their representatives, being External Parties, and be effective in responding in a timely manner to concerns expressed by such people being or feeling affected by CFC financed projects.

2.2.4 If the Complaint concerns aspects like fraud, bribery, corruption and/or money laundering, the Mechanism will consult with CFC's Managing Director to determine the appropriate channel(s) for processing the Complaint.

2.3 Applicable Standards

2.3.1 One element of the Mechanism is to review compliance of CFC's financing activities with CFC's policies.

2.3.2 All policies can be found under www.common-fund.org/publications, including all rules and procedures as well as the Agreement Establishing the CFC.

3 Rules of Procedure

3.1 Complaint and admissibility

3.1.1 The Complaint can be submitted in one of the UN languages (Arabic, Chinese, English, French, Spanish or Russian) with preference for the English language, by letter (example Annex I) or e-mail to:

The CFC Complaints Officer

c/o Common Fund for Commodities

P.O. Box 74656

1070 BR Amsterdam

The Netherlands

complaints@common-fund.org

Any communication thereafter will be in English. Complaints submitted in another official UN language may require additional time due to the need for translation. Any complaint in a non-official UN

language cannot be accepted. The CFC Complaints Officer will notify the Complainant of any delays caused by translation in a timely manner.

3.1.2 The External Party who sends a Complaint is requested to submit the following Receipt Items:

- Description of the Complaint and the harm suffered or likely to be suffered;
- Where appropriate, an indication of which CFC policy/policies has/have allegedly been breached;
- A clear description of the CFC financed project and location to which the Complaint is related;
- Name and full address, telephone number and if possible e-mail address;
- Name of CFC employee whom the Complainant had contact with (if applicable);
- A copy of information related to – or relevant for – the Complaint, including an overview of actions (e.g. legal, contacts with the Client) that have already been taken to solve the issue.

3.1.3 Any person or group, including civil society organizations representing affected people, being an External Party, may lodge a Complaint.

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

- The Receipt Items should be made available to the CFC;
- The External Party must be affected or likely to be affected by a CFC financed project;
- If an External Party is representing others, it must identify such others and explicit evidence of the representative authority must be provided;
- CFC should have an active financial and/or operational relationship with the Client;
- The Complainant must identify her/himself and the organization being represented if any, by name, address and e-mail to be able to communicate with her/him and agree to publication in the context of the complaint submitted, if applicable.
- There must be a clear relationship between the CFC financed project and the subject of the Complaint;
- The Complaint must contain allegations of (potentially) substantial (in)direct and adverse impacts or risks;
- If applicable, details of other actions and consultations with relevant responsible parties to address or solve the Complaint that have already taken place. This applicability will be determined by the Independent Expert.

3.1.5 If the CFC financed project at issue in the Complaint is co-financed by another institution, the Complaints Officer may notify the complaints mechanism(s) of the co-financing institution(s) of the receipt of the Complaint and may communicate and cooperate with the complaints mechanism(s) of such institution(s) so as to avoid duplication of efforts and/or disruption or disturbance to common parties, provided that this is in compliance with all relevant legal and contractual requirements. Where appropriate, a cooperation agreement, addressing issues such as confidentiality and sharing of information, with the complaints mechanism(s) of the respective co-financing institution(s) will be established.

3.1.6 The Mechanism does not apply to Complaints with the objective of gaining a competitive economic advantage or that are excessive, repetitive (i.e. covering the same aspects), frivolous or malicious in nature.

3.1.7 Anonymous Complaints are not accepted. Nevertheless, without prejudice, a Complainant has the right to request for confidential treatment of the Complaint. With regard to personal data, the Mechanism will ask for consent of the Complainant for the processing and disclosure of its relevant personal data per format document after receipt of the Complaint. Once a Complaint has been deemed admissible, other affected stakeholders typically will be notified about the Complaint. The Mechanism will strictly respect and safeguard the absence of explicit consent by a Complainant, and refrain in such cases from disclosing the Complainant's identity to internal and external parties. The Mechanism will indicate publicly when it has restricted disclosure of identity, in the absence of explicit consent or when confidential treatment was requested.

3.2 Description of the procedure

3.2.1 After receipt of a Complaint, the Complaints Officer will ensure that an acknowledgement of receipt is sent to the Complainant(s) within five working days. Complaints submitted in another language may require additional time for translation. The acknowledgement informs the Complainant(s) of the date by which the Mechanism's official reply regarding the admissibility of the Complaint can be expected.

3.2.2 The Complaint is forwarded to the Independent Expert by the Complaints Officer. Based on criteria, as defined in paragraph 3.1.4, the Independent Expert decides within 25 working days on the admissibility of the Complaint. During this phase, the Independent Expert can request further information from the Complainant and the CFC to clarify the Complaint. In case of partial or total inadmissibility of the Complaint, the Independent Expert will endeavor to provide, if possible, the Complainant with an advice on which measures could be taken and/or to which institution the concerns may be addressed. In case the Complaint is admissible, the Complainant(s) receives an admissibility notice with information on the next steps.

3.2.3 Once a Complaint has been declared admissible, the Independent Expert will launch a Preliminary Review into the issue(s) raised by the Complainant(s). The Independent Expert will aim to finish the Preliminary Review within 30 working days. However, the number of days to finish the Preliminary Review will depend on the complexity of the case and deviations will be communicated to all parties involved. After the Preliminary Review has been completed, all parties relevant to the Complaint will be informed of the next steps and an indication of the timelines of the process.

3.2.4 Based on the Preliminary Review and in consultation with any External Party, the Independent Expert will then conduct a Compliance Review.

Compliance Review process

3.2.5 Once a Complaint has been declared admissible for Compliance Review, the Independent Expert will launch a full inquiry into the issue(s) raised by the Complainant(s). The Independent Expert will use all means to gather all the required information.

3.2.6 The Independent Expert will aim to finish the Compliance Review within a reasonable timeframe. The number of days to finish the Compliance Review will depend on the complexity of the case and will be communicated to all parties involved after the Preliminary Review has been completed.

3.2.7 The Independent Expert will prepare a first draft of the Compliance Review Report which should include the content of the Complaint as well as the findings and conclusions of the Independent Expert.

The report may also contain recommendations for the specific case and/or recommendations for CFC on how to improve existing policies and/or procedures.

3.2.8 The Independent Expert sends the draft report to the CFC to check facts (to be received within 15 working days).

3.2.9 After receiving the comments regarding factual checks, the Independent Expert will update the draft report as it deems appropriate within 10 working days.

3.2.10 Subsequently the Independent Expert sends the updated (i/a) draft report to the Complainant(s) and to the Client for comments regarding factual checks (to be received within 15 working days). Nonetheless, it is up to the Independent Expert to decide upon the final text.

3.2.11 The Independent Expert will prepare a final report for disclosure to the Managing Director and Executive Board within 15 working days.

3.2.12 The Managing Director will provide a Management response to the final report within 10 working days.

3.2.13 The Complaints Officer sends the final Compliance Review report to the Complainant(s) and informs the Complainant(s) about the CFC Management response.

3.2.14 The Complaints Officer ensures that the final report and Management response are published on the CFC's website.

3.2.15 In cases where material non-compliances are identified, the Mechanism will monitor the situation until actions taken by the CFC assure the Mechanism that the CFC is addressing the material non-compliance(s).

3.3 Methods of Inquiry

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

- Contacts with the Complainant(s), affected people, Client, government officials and other authorities in the country where the CFC financed project is located, and representatives of local and international non-governmental organizations;
- Visiting project sites;
- Requesting written or oral submissions on specific issues from the Complainant(s), affected people, Client, independent experts, government or other officials, CFC staff, or local and international non-governmental organizations; and
- Hiring independent experts to facilitate mediation or to research specific issues relating to the Complaint.

3.3.2 The Mechanism strives to conduct all phases within predefined time constraints. The response time can however be extended if the case is complex or the workload on the process is extensive. In those cases, the Mechanism will inform the Complainant duly within the predefined timelines.

3.4 Resources

3.4.1 Adequate budgetary support will be provided to the Mechanism so that it can be effective and independent in carrying out various activities in a timely manner. Budgetary limits are to be decided by the Governing Bodies of the CFC.

3.4.2 The Independent Expert will have expertise on e.g. environmental, social, legal and financial matters. Any vacancy for the Independent Expert will be published online, to which candidates can apply. The appointment of the Independent Expert will be approved by the Managing Director.

3.4.3 The Independent Expert will be appointed for two years with an optional prolongation period of two years.

3.4.4 The Independent Expert must be independent, i.e. he/she should not have had any involvement in activities related to CFC financed projects for at least a period of two consecutive years.

3.4.5 The Independent Expert is available for questions, information and advice. If needed, the Independent Expert is authorized to hire consultants after consultation with and approval of the CFC. The Independent Expert decides about the Complaint and responds to the CFC and the Complainant(s).

3.5 Reporting & Transparency

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

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

3.5.3 The Independent Expert (assisted by the Complaints Officer) will report annually to the Executive Board of the CFC, through the Managing Director, on the Complaints. This report will be published on the CFC's website.

3.6 Evaluation

3.6.1 The Mechanism will be reviewed in case of e.g. new regulations or CFC policies and may be updated accordingly in due course. It will be revised immediately when needed and will be evaluated at least once every four years.

ANNEX I

To:.

The CFC Complaints Officer
c/o Common Fund for Commodities
P.O. Box 74656
1070 BR Amsterdam
The Netherlands

complaints@common-fund.org

Date: *insert date*

I / We, *insert full name*, lodge a complaint concerning *insert project name*, located in *insert country / region / city*.

I am / We are filing this claim on behalf of directly affected people Yes (include proof of authority)
 No

I am / We are requesting CFC to treat the complaint confidentially Yes
 No

I / We have been or are likely to be affected by the project in the following ways:

- Clearly describe your complaint and if possible state which of its policies the CFC has allegedly breached. Information on the CFC's policies can be found on the website: <http://www.common-fund.org/publications> including all rules and procedures as well as the Agreement Establishing the CFC.

- Indicate when the problem occurred

- Describe how you or the people you are representing are directly affected

- Describe the actions that have been taken so far to address adverse impact

- Please name the CFC employee with whom you have had contact

I understand that for proper complaint handling, it is necessary that the CFC processes the provided personal information

Yes

I hereby authorise the CFC to process my personal data, and contact me if necessary for the purpose of handling the complaint.

I / We can be contacted through the following contact details:

Name: Mr / Mrs / Ms Full name

Company name: insert company name only if applicable

Address:

Street number addition

Postal code City

Country

E-mail address: *insert e-mail address*

Telephone number: *insert telephone number*

Attachments:

Please include all documents related to or relevant for the current complaint. If applicable, include an overview of actions that have already been taken (for example, legal contact with project sponsors) or proof of authority if you are representing.