Invest International

Complaints Mechanism Affected People

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Definitions

Admissible Complaint: A Complaint for which the Panel has decided that it fulfils the Admissibility Criteria

Admissibility Criteria: Characteristics of a Complaint as set out in 3.1.4 which have to be met, before a Complaint can be processed.

Client: The entity that is financed by Invest International on the basis of a direct contractual relationship and responsible for carrying out and implementing all or part of the Invest International-Financed Operation.

Complainant: The External Party that is filing the Complaint.

Complaint: A written communication of an External Party addressed to Invest International which claims that it has been or will be affected by an Invest International-Financed Operation. This includes SEAH (Sexual Exploitation Abuse and Harassment) Complaints as may be submitted by organisations that receive funding from Invest International.

Complaints Office: Function performed by Invest International's Corporate Secretary, which registers and acknowledges receipt of Complaints, coordinates adequate fulfilment of the Complaints process and provides practical support to the Expert Panel.

CM: Complaints Mechanism

Complaints Mechanism: Invest International's complaints mechanism for External Parties as presented in this document.

Dispute Resolution: The process to assist in finding a resolution for the issues underlying an Admissible Complaint. This process may include information sharing, fact-finding, dialogue and mediation. A pre-condition for Dispute Resolution is that all relevant parties are willing to participate in such a process.

Expert Panel: the Internal Expert Panel or the Independent Expert Panel.

External Party: Any natural or legal person that is not a party to the financing agreements between Invest International and the Client (non-exhaustive examples: customers of the Client, individual persons or groups, workers, non-governmental organizations representing affected persons).

Independent Expert Panel: A group of persons assessing and handling Complaints, with environmental, social, legal and financial expertise.

Internal Expert Panel: A group of independent staff members assessing and handling Complaints, with environmental, social, legal and financial expertise.

Invest International: Invest International B.V. and its 100% subsidiaries (including but not limited to Invest International Capital B.V., Invest International Public Programmes B.V., Invest Development B.V.

Invest International-Financed Operation: Any activity or any asset of the Client that is or is going to be financed by Invest International funds or from funds administered by Invest International in

whole or in part, regardless of the nature of the financial instrument (loans, equity, project financing, grants, technical cooperation assistance and guarantees).

IFC Performance Standards: The environmental and social performance standards of the International Finance Corporation (IFC) that define the Clients'' responsibilities for managing their environmental and social risks.

Mechanism: Complaints Mechanism

Preliminary Review: The process to assess the relevant information in order to get a good understanding of the issues underlying an Admissible Complaint and determining the most appropriate next step – i.e. a Dispute Resolution process and/or Project Review process – to address the issues underlying the Admissible Complaint.

Project Review: The process to determine whether Invest International has complied with the policies that may be relevant for an Admissible Complaint.

Receipt Items: Information characteristics of a Complaint as set out in paragraph 4.3 have to be met, before a Complaint can be processed.

SEAH: Sexual Exploitation Abuse and Harassment

1. Background information

1.1 Introduction

With this document, Invest International outlines the policy for its Complaints Mechanism and accompanying procedure. This document describes the structure and governance of the Mechanism, which allows External Parties to file a Complaint concerning an Invest International-Financed Operation. In this way, Invest International strives to implement a robust procedure and to communicate transparently about it to stakeholders.

The Mechanism ensures the right to be heard for Complainants who feel affected by an Invest International- Financed Operation in order to enable resolution of disputes and assist Invest International in drawing lessons learned for current and future operations.

The Mechanism aims to align with other Invest International policies and procedures which are based on international standards:

- Invest International is committed to achieving positive impacts through its investments. At the same time, Invest International recognizes that such development can also have a negative impact on local communities and the physical environment within which they live or upon which they depend for their livelihoods. Invest International is committed to ensuring that the costs of economic development do not fall disproportionately on those who are poor or vulnerable, that the environment is not degraded in the process and that natural resources are managed efficiently and sustainably, i.e. are not depleted at the expense of future generations.
- Invest International also recognizes the responsibility of businesses to respect human rights, wherever they operate and willingness to fulfil their human rights obligations. Invest International itself respects human rights and also acknowledges the responsibility of its Clients to respect human rights. Meeting this responsibility also means creating access to an effective mechanism that can facilitate early indication of, and prompt remediation of various related Complaints.

As part of this responsibility Invest International 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 Invest International-Financed Operations.

- Complaints related to Sexual Exploitation, Abuse and Harassment (SEAH) are included in this policy. The political foundation of the Dutch policy on the combat against sexual abuse, exploitation and harassment (SEAH) in the international domain is the letter of the Minister for Foreign Trade and Development to the parliament of 28 April 2018[1]. Proportionality, high trust and also 'zero tolerance for not acting' are the basic principles to ensure that justice is brought to the victims. Invest International requires organizations to report inappropriate behaviour.

[1] This letter is available in Dutch only.

In addition to these mechanisms and procedures, the role of administrative and/or legal procedures available in the host country should also be considered by the Complainant. When applicable, an information request or resolution can be sought with the Client. Nonetheless, there may be cases where Complaints from those affected by Invest International-financed business activities are not fully resolved at the business activity level. For these cases, the Complaints Mechanism may be another way to address and resolve the issues.

1.2 Mechanism

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

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.

2. Principles

2.1 Principles

The five principles of the Complaints mechanism are the following:

1. Proportionality: Scaled to risk and adverse impact on affected people
2. Cultural Appropriateness: Designed to take into account culturally appropriate ways of handling community concerns
3. Accessibility: Clear and understandable mechanism that is accessible to all segments of the affected communities at no cost
4. Transparency and Accountability: To all stakeholders
5. Appropriate Protection: A mechanism that prevents retribution and does not impede access to other remedies

The policies of Invest International are based upon relevant laws, principles and guidelines, such as the IFC Performance Standards, the UN Guiding Principles on Business and Human Rights and the OECD Guidelines for Multinational Enterprises. When applicable, we use additional standards and guidelines as a reference, such as WBG Environmental and Social Standards (ESS) (2018 version) (applicable for public-sector investments involving the World Bank); World Bank Environmental Health and Safety (EHS) Guidelines (applicable for private and public-sector clients) and UN Guiding Principles on Foreign Debt and Human Rights (applicable for public-sector loans. In addition to the international guidelines and principles indicated above, clients of Invest International must comply with the national regulations in the countries where their projects would be implemented.

Decisions concerning the investment mandate, its credit policy guidelines or other generic aspects (e.g. Invest International's business model) fall outside the scope of the Mechanism.

2.2 Purpose

The Complaints 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 Invest International policies and other applicable standards;
- Provide advice and recommendations to Invest International management; and
- Follow-up and report on efforts to take corrective actions whenever applicable.

To ensure proper corporate responsibility and accountability of Invest International towards all its stakeholders, the Mechanism offers Project Review by the Expert Panel, Independent Expert Panel and Dispute Resolution (if possible). One element of the Mechanism is to review the compliance of Invest International's financing activities with Invest International policies.

2.3 Transparency

The Complaints Mechanism shall be transparent in its operations and outputs subject to applicable legal constraints. 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 Invest International.

In order to enable the functioning of the CM - Invest International has introduced necessary contractual arrangements into its Client agreements. These arrangements refer to the functioning of the Expert Panel, and persons instructed on their behalf, the enforceability and benefit of the contractual arrangements between Invest International and its Clients, notably those covering access to Clients' information, their premises and senior management.

If a Complaint relates to a case in which the necessary contractual arrangements are missing, the Complainants will be informed and the contractual arrangements have to be agreed upon before the CM can effectively address the Complaint. This will require additional time and, depending on the scope of the actual contractual arrangements, might restrict the functioning of the Mechanism as set out in the CM Policy.

In the event that the Complaint requires an approach, which deviates from the CM Policy, the Complainants will be informed on a regular basis on the approach and the process that will be followed.

3. Rules of Procedure

3.1 Which persons may lodge a Complaint?

The Complaints 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 Invest International-Financed Operations.

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

3.2 Requirements for sending the complaint

The following specific criteria are applicable for admissibility of Complaints:

- The Receipt Items should be made available to Invest International;
- The External Party must be affected or likely to be affected by an Invest International-Financed Operation;
- If an External Party is representing others, it must identify such others and explicit evidence of the representative authority must be provided;
- Invest International must have an active financial relationship, or have had it active in the last 15 months, with the Client;
- There must be an indication of a relationship between the Invest International-Financed Operation and the subject of the Complaint;
- The Complaint must contain allegations of (potentially) substantial direct and adverse impacts or risks;
- If applicable, other actions and consultations with relevant responsible parties to address or solve the Complaint have already taken place. This applicability will be determined by the Expert Panel.

3.3 Formalities

The Complaint should be submitted in the English language by e-mail to the following email address: **grievances@investinternational.nl**

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 which Invest International policies, international norms and standards and/ or national regulations in the applicable countries has/ have allegedly been breached;
- A clear description of the Invest International-Financed Operation and location to which the Complaint is related;
- Name and full address, telephone number and, if possible, e-mail address;
- Name of Invest International employee whom the Complainant had contact with (if applicable);

- Any other 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.

The Complaints 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), clearly frivolous or malicious in nature.

Anonymous Complaints are not accepted. Nevertheless, without prejudice, a Complainant has the right to request for confidential treatment of the Complaint.

Invest International is fully committed to complying with the General Data Protection Regulation (GDPR) and to safeguarding the privacy of all data subjects. Personal information is handled with the utmost care, and no data will ever be made public without the explicit consent of the individual concerned. For detailed information on how personal data is processed and protected, please refer to the Privacy Statement available on the Invest International website.

3.4 Co- financing

If the Invest International-Financed operation at issue in the Complaint is co-financed by another institution, Expert Panel 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.

The CM will assess on a case-by-case approach the admissibility of identical Complaints that already are being handled, or which have been settled by other high standard administrative mechanisms (being member of the network of Independent Accountability Mechanisms) or judicial review mechanisms, in order not to duplicate work already done or hinder ongoing procedures.

4. Panel

In principle the Internal Expert Panel will be responsible for the proceedings as described in the Complaints Mechanism, unless:

1. the Internal Expert Panel decides that this role should be fulfilled by an Independent Expert Panel; or
2. the Complainant(s) has good reasons to argue that the Independent Expert Panel should be responsible and the Internal Expert Panel has agreed with this in writing.

5. Description of the procedure

After receipt of a Complaint, Invest International will ensure that an acknowledgement of receipt is sent to the Complainant(s) within 5 (five) working days. The acknowledgement informs the Complainant(s) of the date by which the Mechanism's official reply regarding the admissibility of the Complainant can be expected.

Based on requirements, as defined in paragraphs 4.2 and 4.3, the Expert Panel decides within 30 (thirty) working days on the admissibility of the Complaint. During this phase, the Panel can request further information from the Complainant and internal with Invest International to clarify the Complaint. In case of partial or total inadmissibility of the Complaint, the Expert Panel will endeavour to provide, if possible, the Complainant with 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.

Once a Complaint has been declared admissible, the Expert Panel will launch a Preliminary Review into the issue(s) raised by the Complainant. The Expert Panel will aim to finish the Preliminary Review within 50 (fifty) 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.

Based on the Preliminary Review and in consultation with any External Party, the Expert Panel will either close the complaint, conduct a Project Review or, when all parties are willing to participate in such a process, facilitate a Dispute Resolution process. These activities are the core phases of the Complaints Mechanism.

6. Project Review and/ or dispute resolution

The Complaints Mechanism offers the flexibility of conducting a Project Review after the Dispute Resolution and vice versa. Refer to the scheme in Annex 1.

6.1 Project Review

Once a Complaint has been declared admissible for Project Review, the Expert Panel will launch a full inquiry into the issue(s) raised by the Complainant; it will review the relevant documentation and records, ensure coordination of the different Invest International services involved and whenever deemed necessary will hold meetings with the appropriate internal and external stakeholders and make an in-country visit in order to gather all the required information.

The Expert Panel will aim to finish the Project Review within 50 working days unless the Complaint is more complex. In such a case the Project Review will be finished within a reasonable timeframe. The number of days to finish Project Review will depend on the complexity of the case and will be communicated to all parties involved after the Preliminary Review has been completed.

The Expert Panel will prepare a first draft of the Project Review Report which should include the content of the Complaint as well as the findings and conclusions of the Expert Panel. The report may also contain recommendations for the specific case and/or recommendations for Invest International on how to improve existing policies and/or procedures.

The Expert Panel sends the draft report to the Invest International services concerned, to check facts (to be received within 20 working days).

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

The Expert Panel will prepare a final report for disclosure to the Management Board and Supervisory Board of Invest International within 10 working days.

The Invest International Management Board will provide a management response to the final report within 5 working days.

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

Methods of Inquiry

The Expert Panel 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, affected people, Client, government officials and other
- authorities in the country where the Invest International-Financed Operation 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, affected people, Client, independent experts, government or other officials, Invest International staff, or local or international non-governmental organizations; and
- Hiring independent experts to facilitate mediation or to research specific issues relating to the Complaint.

The CM 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 CM will inform the Complainant duly within the predefined timelines.

6.2 Dispute Resolution process

In the Dispute Resolution phase, a Complaint may be handled by the Expert Panel or mediators selected by the External Panel, as long as all parties agree on the selected mediator. Activities of this Dispute Resolution process can include information sharing, fact-finding, dialogue and mediation.

The Dispute Resolution process can continue as long as needed and all participants in the process are committed to moving the process forward.

After the Dispute Resolution phase, the Panel prepares a draft report on the outcome of the process. The Expert Panel sends the draft report to the parties involved in the Dispute Resolution for comments regarding facts and sensitivities (to be received within 15 working days).

After receiving the comments, the Panel will update the report as it deems appropriate and will make the report final within 10 working days.

The Panel will send the final report to the Complaints Office for distribution and publication. The Complaints Office ensures that the final report is distributed to all parties involved in the Dispute Resolution within 5 working days after receiving the final report.

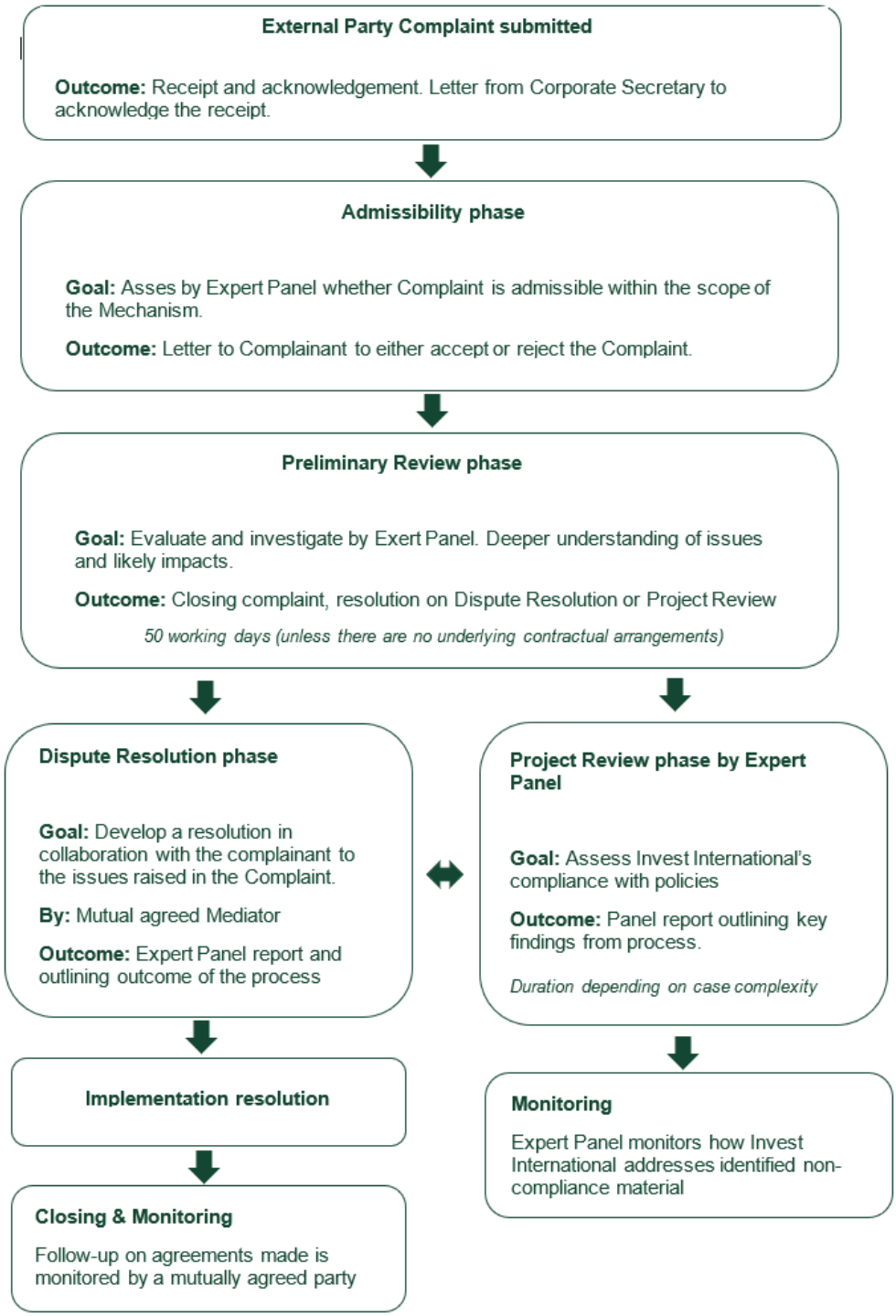
The monitoring role in Dispute Resolution is determined on a case-by-case basis. Any agreements reached by the parties involved in the Dispute Resolution will usually contain a mutually agreed program with timelines for implementation as well as roles and responsibilities to monitor the progress made. On the basis of the monitoring agreements made, the CM will publicly disclose the outcomes on the Invest International website.

6.3 Reporting & Transparency

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

The Complaints Mechanism will be reviewed in case of e.g. new (international) laws, regulations or Invest International policies and may be updated accordingly in due course. It will be revised immediately when needed and will at least be evaluated once every three years.

7. Process flow of the Complaints Mechanism



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