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## **Annex V: Terms of reference of the independent redress mechanism**

### **I. Role and functions**

1. The Governing Instrument mandates the Board to establish “an independent redress mechanism that will report to the Board. The mechanism will receive complaints relating to the operation of the Fund and will evaluate and make recommendations”. The independent redress mechanism (IRM) is not intended to be a court of appeals or a legal mechanism.
2. The IRM is a mechanism within the Fund that will:
  - (a) Address the reconsideration of funding decisions in accordance with paragraphs 6 to 10 of the Arrangements between the Fund and the Conference of the Parties, and
  - (b) Address the grievances and complaints by communities and people who have been directly affected by the adverse impacts through the failure of the project or programme funded by the Fund to implement the Fund’s operational policies and procedures, including environmental and social safeguards.

### **II. Modalities for reconsideration of funding decisions**

3. A request can be filed by a developing country that has been denied funding for a specific project or programme in that country by the Board, even though resources were available. Such a request will need to include a description of the project or programme that has been denied funding, and will need to substantiate the reasons why the developing country believes that the denial was inconsistent with the policies, programme priorities and eligibility criteria of the Fund, including those implementing guidance provided by the Conference of the Parties.
4. When considering such a request, the IRM will:
  - (a) Review the request in an open and transparent manner;
  - (b) Use informal means, in the first instance, for addressing the request to bring about a satisfactory and amicable resolution of the request;
  - (c) If informal means are not successful, determine whether the Fund was inconsistent with its policies, programme priorities and eligibility criteria when denying funding to a specific project or programme;
  - (d) Prepare a report for the Board’s consideration, including recommendation on possible remedial actions.
5. The Board may consider the request in view of the report and take steps to implement the recommendation of the IRM.

### **III. Modalities for redress for affected communities**

6. The IRM will treat all stakeholders in a fair and equitable manner. While ensuring transparency and fairness, the IRM will be cost-effective, efficient and complementary to other supervision, audit, quality control and evaluation systems of the Fund. The IRM will follow international best practices.
7. A grievance or complaint can be filed by a group of persons who have been directly affected by adverse impacts through the failure of the project or programme funded by the Fund

to implement the Fund's operational policies and procedures, including environmental and social safeguards, or the failure of the Fund or its intermediaries and implementing entities to follow such policies. Other kinds of complaints, such as allegations of corruption, misprocurement, will be handled by other units of the Fund, i.e. the Independent Integrity Unit.

8. When considering such a grievance or complaint, the IRM will follow the steps below:
  - (a) Evaluate if a grievance or complaint meets the eligibility criteria set out in paragraph 7;
  - (b) If deemed eligible, address a grievance or complaint from those directly affected by the projects/programmes funded by the Fund;
  - (c) Use informal means for addressing the grievance or complaint such as problem solving and mediation to bring about a satisfactory and amicable redress of the grievance or complaint;
  - (d) Where such informal efforts are not successful, determine if project-affected communities or people encountered impacts because of a failure to follow the Fund's operational policies and procedures, including environmental and social safeguards, and make recommendations to the Board for actions, as appropriate;
  - (e) The IRM may also make recommendations to the Board to make changes to operational policies and procedures;
  - (f) Monitor whether the decisions taken by the Board following IRM recommendations have been implemented; and
  - (g) Prepare and submit periodic progress reports to the Board, as and when required, and an annual report that will also be disseminated to the public.

#### **IV. Governance and management structure**

9. The IRM Unit will have the highest professional and technical standards for its staff and operations and will be headed by a part-time expert with experience in running an accountability mechanism and will comprise two other part-time experts who have relevant background and experience relating to such a mechanism. These persons should enjoy impeccable reputation of honesty and integrity and be widely respected and regarded for their competence and expertise. As and when the workload justifies, the part-time head position could be converted into a full-time position. The Head of the IRM Unit will report to the Board.

10. The Board will be responsible for:
  - (a) Appointing the Head of the IRM Unit, in an open and transparent manner to be decided by the Board;
  - (b) Overseeing the activities of the IRM;
  - (c) Considering and approving the annual budget of the IRM;
  - (d) Taking decisions and authorizing actions on recommendation of the IRM, following the investigations; and
  - (e) Monitoring the implementation of the decisions taken.

11. The tenure of the office of the Head of IRM Unit will be for three years, renewable once. To ensure independence of the office, the incumbent may not be removed from office during his/her term, except for malfeasance or mental incapacitation. His/her terms and conditions of appointment will be decided by the Board. The Head of the IRM Unit shall not be eligible for any type of employment by the Fund within one year after the date of the end of his/her appointment.

12. The IRM Unit will keep a roster of experts with a variety of technical skills who will be selected in an impartial and objective manner. These experts will be invited and assigned the task to carry out compliance appraisals in those cases where screening determines that the complaint meets the eligibility criteria and where mediation has failed. The selection of the candidates will be made carefully to eliminate any possible actual or perceived conflict of interest. These experts will be paid all their expenses, and fees or honorarium on the basis of the work performed.

13. The staff of the IRM Unit will be subject to the Code of Conduct of Staff.

## **V. Guidelines and procedures**

14. The detailed guidelines and procedures governing the work of the IRM will be approved by the Board. The procedures to be followed will be iterative, whereby expeditious and low-cost redress of grievances and resolution of complaints can be facilitated. Only in those cases where such informal resolution of problems is not possible, the subsequent phase of investigation and determination will be invoked.

## **VI. Budget, staffing and reporting**

15. To ensure its financial independence, the Head of IRM Unit will propose a budget for meeting the annual expenses and the Board will consider and approve this budget.

16. For administrative purposes only, the Head of IRM Unit will report to the Executive Director, but for all substantive work, he/she will be responsible to the Board.

17. All staff appointments and terminations of service in the IRM Unit will be the sole responsibility of the Head of IRM Unit and not of the Secretariat.

## **VII. Delineation of roles and responsibilities of the Fund's independent redress mechanism and those of the accountability mechanisms of implementing entities and intermediaries**

18. The Fund's IRM should closely cooperate with the relevant departments or units of implementing entities and intermediaries.

19. The relationship between the IRM and the corresponding body of implementing entities or intermediaries will be covered in agreements which will be entered into by the Fund with these implementing entities or intermediaries which will require these to cooperate with the Fund's IRM, where required.

20. The IIU will share best practices and give guidance that can be helpful for the Fund's readiness activities.

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