



Donors Committee

For consideration

On or after: 10 August 2005

MIF/AT-670

26 July 2005

Original: English

To: The Donors Committee
From: The Secretary
Subject: Haiti. Nonreimbursable technical-cooperation funding for a program to develop alternative dispute resolution mechanisms

Basic Information: Executing agency Chamber of Commerce and Industry of Haiti
Amount up to US\$712.300
Source Technical Cooperation Facility

Inquiries to: Ms. Sandra Bartels (extension 2600)

Other distribution: IDB Representative in Haiti

**DOCUMENT OF THE INTER-AMERICAN DEVELOPMENT BANK
MULTILATERAL INVESTMENT FUND
NOT FOR PUBLIC USE**

HAITI

PROGRAM TO DEVELOP ALTERNATIVE DISPUTE RESOLUTION MECHANISMS

(HA-M1005)

DONORS MEMORANDUM

This document was prepared by the project team consisting of: Elena Heredero (MIF); Jose Justiniano (RE2/FI2); Antonio Gaspar (MIF); Maristella Aldana (LEG); Robert Collie (COF/HA) and Sandra Bartels (RE2/SC2), Project Team Leader. Leila Sarquis (RE2/SC2) was in charge of document production.

CONTENT

I.	EXECUTIVE SUMMARY	1
II.	BACKGROUND	
III.	PROJECT OBJECTIVES AND COMPONENTS	4
IV.	EXECUTING AGENCY AND EXECUTION MECHANISM	7
V.	COST AND FINANCING.....	9
VI.	PROJECT BENEFITS AND RISKS	9
VII.	MONITORING AND EVALUATION	10
VIII.	ENVIRONMENTAL AND SOCIAL IMPACTS.....	11

ANNEXES

Annex I	Logical Framework
Annex II	Summarized detailed budget
Annex III	Table of similar MIF and Bank projects
Annex IV	Procurement Plan

APPENDICES

Proposed Resolution

INFORMATION AVAILABLE IN THE TECHNICAL FILES

Annex IV	Procurement Plan
Annex V	Chronogram
Annex VI	Operational Manual
Annex VII	Terms of reference for the PEU

Project Performance Monitoring Report (PPMR)

Consultants report

UNCITRAL model law on international commercial arbitration and conciliation

ABBREVIATIONS

ADIH	Association of Industries of Haiti
ADR	Alternative Dispute Resolution
AEA	Association of Entrepreneurs of Artibonite
CAMs	Centers for Arbitration and Mediation
CARICOM	Caribbean Community
CCA	Center for Conciliation and Arbitration
CCI	Chamber of Commerce and Industry of Paris
CCIH	Chamber of Commerce and Industry of Haiti
CCIPN	Chamber of Commerce, Industries and Professions of the North
CCIPSE	Chamber of Commerce, Industries and Professions of South-East
CESI	Committee on Environment and Social Impact
CLED	Centre pour la Libre Entreprise et la Democratie
EU	European Union
ICSID	International Center for Settlement of Investment Disputes
IBRD	International Bank for Reconstruction and Development
ICF	Interim Cooperation Framework
IDB	Inter-American Development Bank
IFES	International Foundation for Election Systems
MIF	Multilateral Investment Fund
MOJ	Ministry of Justice
OVE	Office of Evaluation and Oversight
PEU	Program Executing Unit
RE2/SC2	Region 2 – State and Civil Society 2
SME	Small and Medium-size Enterprise
UN	United Nations
UNCITRAL	United Nations Commission on International Trade Law

**HAITI: PROGRAM TO DEVELOP ALTERNATIVE DISPUTE RESOLUTION
MECHANISMS
(HA-M1005)**

I. EXECUTIVE SUMMARY

Beneficiary and Executing Agency:	Chamber of Commerce and Industry of Haiti (CCIH)
Beneficiaries:	The beneficiaries of the program will be: i) the business community; ii) the CCIH that will be able to offer new ADR services through the Center for Conciliation and Arbitration; iii) professionals who will be trained as arbitrators and conciliators; and iv) two universities that will provide arbitration and conciliation training courses.
Amount and Source:	Modality Non Reimbursable Technical Cooperation– MIF Facility I: US\$ 712,300 Local: <u>US\$ 300,000</u> Total: <u>US\$ 1,012,300</u> Execution Period: 48 months Disbursement Period: 54 months
Objectives and Description:	<p>To improve the business environment for the development of private economic activity by contributing to the creation of a climate of confidence, transparency, efficiency and security in the resolution of commercial disputes. The specific objective is to establish within the Chamber of Commerce and Industry of Haiti, an operational and sustainable Center to provide ADR services.</p> <p>To achieve these objectives the project will have three components: (i) establish a Center for Conciliation and Arbitration; (ii) a training program; and (iii) an awareness and dissemination strategy.</p>
Environmental/Social review:	The Committee on Environment and Social Impact (CESI) reviewed and approved the project abstract at its meeting on April 8, 2005.
Special contractual conditions:	<p>Conditions precedent to the first disbursement of MIF funds:</p> <p>(a) Approval of new decree on arbitration and conciliation by the Cabinet of Ministers.</p> <p>(b) Selection and hiring of the Program Director.</p> <p>(c) Presentation of the Annual Work Plan for the first year of execution.</p> <p>(d) Approval by the CCIH of the Operating Manual previously agreed upon with the Bank.</p> <p>In addition, as a condition prior to the use of resources for the activities comprised in Component II, the CCIH shall enter into agreements with l'Université de l'Etat d'Haïti and with l'Université Quisqueya.</p>

Exceptions to Bank policies None

Relevant initiatives of other international entities: Currently there are no similar projects being financed by other official development institutions. The EU donated 140,000 euros to repair CCIH's new building, where the Center for Conciliation and Arbitration will be located. CCIH's building was inaugurated on April 15, 2005.

II. BACKGROUND

- 2.1 **General Context of the Justice System.** The needs of the Haitian justice system are significant. The Haitian Judicial system is hampered by its organization and functioning, which are inadequate to the country's 8.4 million population. In 2003, the Haitian corps of magistrates had only 490 active judges, of which 368 were justices of the peace¹. The corps of magistrates is heterogeneous, insufficiently trained, and lacking in the material resources needed to operate efficiently. Insufficient training, a result of the low levels of university education, also affects the 750 attorneys, 650 court registrars and 1,200 court bailiffs and other justice employees. Also of considerable concern is the state of deterioration of the physical infrastructure, which suffered from the events of February–March 2004. The poor functioning of institutions, the obsolescence of many laws, and the absence of basic guarantees relating to judicial authorities have led to an endemic dysfunction of the system.
- 2.2 In addition, the deficient geographic distribution of courts throughout the country and the insufficiencies due to the poor functioning of public services discourages citizens from seeking to pursue rights through the justice system. This situation reinforces impunity and renders hypothetical the establishment of the Rule of Law. Access to justice is further curtailed by the lack of collaboration between certain administrative entities and the Judiciary. Furthermore, there is virtually no access to reliable legal and judicial information and statistics either for the public or for judges.
- 2.3 The current Haitian context for justice sector reform is still very difficult and unpredictable, but some opportunities exist. The Interim Government has engaged with the UN in forward planning for justice reform. An Interim Cooperative Framework (ICF) was developed in conjunction with the major multilateral donors at the July 2004 Donors Conference, and the Ministry of Justice (MOJ) is committed to working with the international donor community to implement the MOJ's reform plan with significant ownership on its part. In this context, the creation of a legal and regulatory environment favorable to business activity constitutes a priority not only within the ICF, but also for the private sector.

¹ International Foundation for Election Systems (IFES.) Haiti: State of the Judiciary Report 2002-2003

- 2.4 **The problem.** The Haitian private sector does not have access to quick, efficient and transparent methods to solve commercial disputes. Given the deficiencies of the justice system, the time involved in resolving a dispute, the cost, and the uncertainty about the decision, very few businesses choose to present their cases before the courts². For a faster outcome, standard practice in Haiti is for firms to contract the services of lawyers and hope that after indefinite discussions, exchanges of information, communications, etc., a solution will be worked out. For smaller firms, the situation is even more severe given the limited capacity to incur legal expenses.
- 2.5 Law 11 of 1935 authorized the CCIH to create a center of conciliation and commercial arbitration. The Center was instituted in the 1964 regulations of the CCIH but has never been established as an operational Center.
- 2.6 The Republic of Haiti has adhered to the principal international treaties concerning international commerce and investment, such as the New York Convention for International Commercial Arbitration and the International Center for Settlement of Investment Disputes (ICSID)³. Furthermore, a new decree on conciliation and arbitration has been drafted based on United Nations Commission on International Trade Law (UNCITRAL)⁴, with the support of the Chamber of Commerce and Industry of Paris, and is under consideration by the Interim Government. The approval of the decree is a condition prior for first disbursement. **Proposed program.** The Chamber of Commerce and Industry of Haiti has included as one of its priorities the need to provide to its members, the business community in general, and especially smaller enterprises, ADR mechanisms that will assist in the resolution of commercial disputes through the ADR Center's professionals and experts in different fields, who will be able to adjudicate disputes in a more efficient and expeditious manner.
- 2.7 This program is part of the Bank's Transition Strategy for Haiti 2005-2006, designed to frame external assistance on the basis of an identification of the needs and programs covering both short-term and medium-term priorities. The overall objective of the strategy is to consolidate implementation of the ongoing Bank portfolio and support the recovery and transition process under the ICF. A related key objective of the Strategy is to prepare the ground to eventually move from a transition mode to a long-term

² Estimates provided by the CCIH indicate that the average number of commercial cases brought to the first instance courts of Port-au-Prince in the five-year period from 2000 to 2005 was 120 cases and the time to resolve a dispute through the Courts is about five years.

³ The New York Convention constitutes the most important international treaty concerning international commercial arbitration and is considered to be one of the principal factors in the success of arbitration as a means of resolving international commercial disputes. The ICSID was established under the Convention on the Settlement of Investment Disputes between States and Nationals of Other States headquartered at the IBRD. The objective of ICSID is to provide an international forum for the conciliation and arbitration of disputes between member countries and investors who are as nationals of other member countries.

⁴ The United Nations Commission on International Trade Law (UNCITRAL) is the core legal body within the United Nations system in the field of international trade law. UNCITRAL was tasked by the UN General Assembly to further the progressive harmonization and unification of laws of international trade by preparing or promoting the adoption of new international conventions, model laws and uniform laws and promoting the codification and wider acceptance of international trade terms, provisions, customs and practices, in collaboration, where appropriate, with the organizations operating in this field.

development effort in the Bank's approach to Haiti, through preparation of a full country strategy. Consolidating the gains from reconstruction and addressing governance issues will lay the foundation for longer-term growth. This program is included in Pillar 1 of the Transition Strategy: "Strengthening Political Governance and Promoting National Dialogue."

- 2.8 The **additionality** of this MIF project lies in providing the Haitian private sector with an alternative for settlement of disputes that avoids the uncertain and slow functioning of the courts, and contributes to building a business environment that is conducive to private sector activity and investment. The project will support the establishment of an operational Center for Conciliation and Arbitration (CCA or the "Center") within the Chamber of Commerce and Industry of Haiti, build for awareness of ADR as a way to resolve commercial disputes, develop local capacity through a training program, and promote the establishment of strategic alliances with other private sector institutions and Universities.
- 2.9 As with other MIF-financed ADR projects⁵, the proposed partnership with CCIH could have a catalytic effect in changing business and legal practices in the private sector, contributing to a much needed enhancement of the business environment in Haiti. This project will include strategies to extend the application of ADR tools to the needs of micro, small and medium-sized companies. The design of the project takes into account the lessons learned and recommendations of the OVE evaluation⁶, such as: (i) the need for addressing financial sustainability; (ii) marketing and diagnostic studies are key to identifying demand; (iii) exchanges with other ADR Centers creates synergies and accelerates the adoption of best practices; (iv) working with leading private institutions is the best strategy to promote the use of the services; and (v) the development of indicators and effective evaluations are key to internalizing learning and taking corrective measures to maximize impact.

III. PROJECT OBJECTIVES AND COMPONENTS

- 3.1 The **general objective** of the program is to improve the business environment for the development of private economic activity by contributing to the creation of a climate of confidence, transparency, and predictability in the resolution of commercial disputes. The **specific objective** is to establish within the CCIH an operational and sustainable Center to provide ADR services.

⁵ Since 1994, the MIF has co-financed 18 projects throughout the region to introduce the use of ADR tools. MIF projects generally have focused on the modernization of legislative frameworks and building local capacity through the establishment and strengthening of Centers for Arbitration and Mediation (CAMs). The overall results of the projects were considered overwhelmingly positive by the external evaluation undertaken by the Office of Evaluation and Oversight. MIF/GN-78-2. Evaluation of MIF Projects: Alternative Dispute Resolution Methods. The network of CAMs stretching across the region has dramatically improved the range and availability of ADR services to the private sector.

⁶ MIF/GN-78-2. Evaluation of MIF Projects: Alternative Dispute Resolution Methods.

- 3.2 To achieve these objectives the project will have three components: (i) establish the Center for Conciliation⁷ and Arbitration⁸; (ii) a training program; and (iii) an awareness and dissemination strategy.
- 3.3 **Component I: Establish the Center for Conciliation and Arbitration (MIF US\$145,800; CCIH US\$56,200).** The purpose of this component is to provide the Center with the technical capacity and physical and administrative infrastructure to enable it to offer quality services for the resolution of commercial disputes.
- 3.4 This component will include:
- Design, structure, and organization of the Center, such as establishing the functions, organization structure, job profiles for conciliators and arbitrators, and design of a transparent and objective recruiting system for qualified candidates, and developing manuals for the Center.
 - Design and implementation of a financial plan for the Center including a fee schedule for conciliation and arbitration services that will balance the cost of access to justice and the need for sustainability of the program in the foreseeable future.
 - Development and dissemination of a code of ethics for arbitrators and conciliators.
 - Design and implementation of an information system, including a case management and a monitoring and evaluation system (including establishing indicators to measure performance of the Center) and a basic library with essential legal documentation to ensure effectiveness and efficiency of the Center. This will include the purchase and installation of hardware and software.
- 3.5 The main result of this component will be a fully operational Center with a sound organization and administrative structure that will give the business community access to a private and impartial service for the resolution of commercial disputes and by the end of project execution will be financially sustainable.
- 3.6 **Component II: Training Program: (MIF US\$178,500; CCIH US\$104,000).** This component aims to offer training opportunities for professionals interested in becoming ADR practitioners in order to provide efficient, high quality, and highly specialized services. As a condition prior to the use of resources from the MIF contribution to finance activities comprised in this component, the CCIH must enter into agreements with the Université de l'Etat d'Haiti and the Université Quisqueya to establish the terms and conditions under which these universities will implement a ADR program to be financed

⁷ Conciliation is defined as a technique whereby a third party (conciliator) encourages the parties to reach an agreement to settle a lawsuit, or dispute. The conciliator does not enjoy jurisdictional power to impose a solution.

⁸ Arbitration is the private institution of justice, which removes lawsuits from the jurisdiction of the courts and allows them to be resolved by an alternative authority (arbitrator/arbitrators) that is empowered to judge the matter by agreement of the relevant parties.

by the Program. These agreements with the universities will facilitate the implementation of the training program in Port-au-Prince and other cities identified in the market analysis.

3.7 Training will be given to legal professionals (lawyers, notaries) and other professionals (e.g. auditors, accounting experts, engineers) selected pursuant to the criteria set forth in the Program Operations Manual, and will include the following activities:

- Design and develop a training program for arbitrators and conciliators, that will be carried out by the selected Universities, including the adaptation of training materials, develop a conciliation and arbitration manual that will be distributed to all future conciliators and arbitrators of the CCA as a handbook, and establish a network of local and international trainers to allow for continuous capacity building.
- Training sessions for arbitrators and conciliators. Courses will be offered in: (a) conciliation techniques and conciliator code of ethics; (b) arbitration techniques and the code of ethics for arbitrators; and, (c) specialized training, focusing on international best practices ADR mechanisms, lessons learned, and specialized legal knowledge about business sectors where there is demand for ADR services, like construction, insurance, banking, financial services, environment, etc. The training will draw on existing training modules developed by other ADR centers.
- Training of trainers: three core courses for trainers will be given during the first three years of the program execution. This will create important economies given that will allow the national training centers (Universities) to provide these courses as needed as part of the institutionalization of the Training Program.
- Technical exchanges to two experienced ADR Centers⁹ to learn about conciliation and arbitration techniques as well as proper organization and management methods for the Center.

3.8 The main results of this component will include agreements with two Universities¹⁰ that will offer training on ADR methods, development of specialized arbitration and conciliation courses, training of 25 arbitrators and 50 conciliators, at least 6 trainers trained, and at least two technical exchanges.

3.9 **Component III Awareness and Dissemination Strategy. (MIF US\$94,000; CCIH US\$81,000).** The purpose of this component is to generate demand for the service. It will include the following activities:

- Preparation of a market analysis to gather quantitative and qualitative data on marketing potential and target population. It will include: client surveys and focus group exercises to identify perceived needs, analysis of socio-economic and cultural

⁹ At least one technical exchange must take place in an experienced MIF-financed ADR project.

¹⁰ The “Universite D’Etat D’Haiti: Faculte de Droit et des Sciences Economiques” and the “Universite Quisqueya” have already sent to the CCIH letters supporting the initiative and their interest in signing agreements with the CCIH for the execution of Component II.

factors that favor or discourage the use of ADRs and the designing of workshops for each client segment.

- Preparation and implementation of a dissemination and awareness campaign that will include workshops tailored to each differentiated market segment: larger companies, SMEs, judicial personnel, trade and professional organizations, attorneys, and community leaders. The campaign will focus on establishing strategic alliances with enterprises and/or trade associations from Haiti and with Association from other Caribbean Community (CARICOM) members for the ongoing provision of ADR-related services.
 - Design and production of promotional material including webpage design, brochures with information on objectives and advantages of conciliation and arbitration, on the organization and operation of the Center, on the conditions under which one can have recourse to ADRs and the sequence of its procedures, and publication of articles on best practices on ADRs. These materials will be used in seminars to be organized by the Center.
- 3.10 One of the main results of this component will be the establishment of alliances with at least 6 associations such as: the Franco-Haitian Chamber of Commerce, the Haitian-American Chamber of Commerce, the Chamber of Commerce, Industries and Professions of the South –East, the Chamber of Commerce, Industries and Professions of the North, as well as the principal organizations representing Haitian businesses such as: Association of Entrepreneurs of Artibonite, and Association of Industries of Haiti, among others. In addition, the CCA will have developed relations through the CARICOM and other regional trade and ADR associations to facilitate harmonization that enable the Center to offer services in the regional arena.

IV. EXECUTING AGENCY AND EXECUTION MECHANISM

- 4.1 **Executing Agency.** CCIH is an apolitical, non-sectarian, not for profit association, created in 1895. The CCIH is a member of the Center for freedom of enterprise and Democracy (CLED) created in 1993 by Presidential Decree. The CLED is a private sector consultative group created to promote economic and social policies in order to improve the climate for private sector development. The CCIH as a member of the CLED plays an important role in the conceptualization of policies oriented towards the development of the private sector. The CCIH has a new building with enough space for the Center activities, which was repaired through a European Union donation¹¹ and inaugurated on April 15, 2005.
- 4.2 **Execution mechanism.** The executing agency will delegate to a **Program Executing Unit** (PEU) the day-to-day operations and financial reporting for project management. The PEU will operate from CCIH's Port-au-Prince office. It will consist of a Program Director a Financial/Administrative Officer and a Legal Specialist. The functions of the PEU and the terms of reference for its members are specified in the Operating

¹¹ The EU donated 140,000 euros to repair the new CCIH building.

Regulations. The PEU will operate on the basis of a Program Operations Manual, which approval will be a condition prior to the first disbursement, and an annual work plan that it will present to the Bank for approval within the last 60 days of each year. The presentation of the first annual work plan will also be a condition prior to the first disbursement. The plan will contain, among others, a chronogram and sequence of activities, which shall reflect that the first activity to be carried out will be the market analysis.

- 4.3 The Program Director will be selected and hired as a condition prior to the first disbursement. The Program Director will be responsible for the daily management of operations. The Program Director will report to the President of the CCIH and will serve as the focal point for communication between the CCIH and the Bank. The Program Director will be responsible for coordinating program actions, managing and controlling program activities and budget. The Financial/Administrative Officer will provide support to the Program Director in the administration and financial management of the operation. The PEU will have the support of a Legal Specialist for the implementation of all program activities and will work closely with the consultants to assure continuity after the end of the project.
- 4.4 The PEU will have the following responsibilities: (i) conduct the project in accordance with the annual work plan, and in accordance with the Operating Regulations; (ii) develop an annual implementation plan based on the Log frame, revise it semiannually, and develop a corresponding annual budget; (iii) supervise consultants contracted for the Project; (iv) operate the Project in accordance with the Bank's procedures and regulations; (v) prepare financial, administrative, and technical reports for submission to the Bank; (vi) monitor Project targets; and (vii) coordinate with stakeholders.
- 4.5 An Advisory Committee has been created, composed of seven members chosen among members of the CCIH on the basis of their expertise in conciliation and arbitration matters, the President of the CCIH, and the CCIH Executive Director. This Committee, will meet every two months and will undertake the following responsibilities: (i) nominate, designate, remove or replace the arbitrators and conciliators that will be part of the Center's roster, (ii) establish and adjust the conciliation and arbitration fees, (iii) rule on objections against the arbitrators when a case is presented, and, (iv) approve and oversee the execution of the annual work plan.
- 4.6 **Execution and disbursement periods.** Execution and disbursement periods of 48 and 54 months, respectively as of the signing of the Letter of Agreement, are anticipated. A revolving fund will be set up for 10% of the MIF contribution, which will be disbursed and managed in a separate account. The Executing Agency will submit semi-annual financial reports on the status of the revolving fund to the Bank.
- 4.7 **Procurement.** The procurement of goods and the selection and contracting of consultants will be governed by the Bank's Policies for the Procurement of Goods and Works and for the Selection and Contracting of Consultants, in Documents GN-2349-4 and GN-2350-4.
- 4.8 **Status of project preparation** The terms of reference for members of the PEU have already been prepared, and the project Operating Regulations have been drafted.

V. COST AND FINANCING

- 5.1 **Cost and financing.** The cost of the project is estimated at US\$ 1,012,300. The MIF will provide non-reimbursable financing for US\$ 712,300 and the CCIH will contribute local counterpart of US\$300,000, of which 50% will be in cash.

ACTIVITIES	MIF	CCIH	TOTAL
Component 1	145,800	56,200	202,000
Component 2	178,500	104,000	282,500
Component 3	94,000	81,000	175,000
Administration	216,000	58,800	274,800
Evaluations	50,000		50,000
Audits	28,000		28,000
TOTAL	712,300	300,000	1,012,300
Percentage	70%	30%	100%

- 5.2 **Sustainability.** In regard to the operational sustainability of the Center, it is expected that the fees collected by the CCA for the provision of ADR services will increase gradually and eventually cover 100% of its operating costs by the end of the project. In terms of institutional sustainability, once the MIF intervention has concluded, it is expected that the Program Executing Unit and the Legal Specialist will become the Management Unit of the CCA, with the CCIH assuming full responsibility for administering the Center. Furthermore, to reinforce the sustainability goal, a special workshop will be held with representatives of the Bank, the executing agency, participating universities and business or professional associations, three years after the start of the execution of the TC agreement, or when 75% of the resources have been disbursed, whichever happens first, with a view to ensuring the continuity and self-sustaining management of the CCA once MIF supports ends.

VI. PROJECT BENEFITS AND RISKS

- 6.1 **Benefits.** Use of ADR methods allow for greater speed, flexibility, confidentiality, impartiality, and specialization in the resolution of conflicts. Both arbitration and conciliation methods will help improve the opportunities for long-term commercial relationships, increase the legal security of transactions and lower investment risks. This is especially relevant in an international context, where businesses are less familiar with the local "rules of the game."
- 6.2 **Beneficiaries.** The beneficiaries of the program will be: i) the business community; ii) the CCIH that will be able to offer new ADR services through the Center for Conciliation and Arbitration; iii) professionals who will be trained as arbitrators and conciliators; and iv) two universities that will provide arbitration and conciliation training courses.
- 6.3 **Risks.** (i) Interest and demand for the services may be less than expected. This will depend in large part on how efficiently ADR methods are marketed to the groups

concerned, and the way these groups are approached as clients. *Mitigant:* Through Component III, the program includes resources for raising awareness and promoting this program among possible users. (ii) The institutional capacity of the executing agency to oversee the program. *Mitigant:* The program will have a Program Director and a Financial/Administrative Officer to manage the program as well as a Legal Specialist to support the implementation of all the activities proposed. Moreover, there will be annual evaluations in order to monitor the effectiveness and efficiency of program implementation, including any issues of weakness in the executing agency, so that measures may be taken to correct deficiencies.

VII. MONITORING AND EVALUATION

- 7.1 **Monitoring.** The Bank's Country Office in Haiti will be in charge of monitoring and supervising this project. The executing agency will prepare and submit to the Bank Country Office, an annual work plan within two month of project approval to be discussed during the Start-up workshop. Furthermore, each year, the CCIH will present an annual work program to be approved by the Bank. Based on the annual work plans the CCIH will present to the Bank project progress reports within sixty (60) days after the completion of each semester and a final report within 60 days from the final disbursement. These reports will follow the format previously agreed with the Country Office (COF/HA) and will address project activities and finances, as well as results measured in terms of the indicators and benchmarks identified in the project's logical framework. The Bank will utilize these reports to monitor project implementation progress and to prepare a Project Completion Report within three months of the last disbursement.
- 7.2 **Evaluations and Audits.** Given that the CCIH is implementing for the first time a project with the Bank and has limited experience managing donor funds, annual evaluations and financial audits will be undertaken. The annual evaluations will be done by external consultants to be contracted directly by the Bank with project funds to detect and correct problems during program execution. The first evaluation will be prepared 12 months after the signing of the technical cooperation Letter of Agreement or when 25% of the resources have been disbursed. A final evaluation will be conducted three months after the end of project execution or when 95% of the Bank's contribution has been disbursed. For the final evaluation, the consultant will take into account: (i) the development results achieved by the program; (ii) sustainability aspects (including institutional sustainability and capacity-building), (iii) lessons learned, as well as, (iv) project performance. During the project's execution, the executing agency will compile information and monitor progress through agreed indicators. These indicators are set forth in the Logical Framework (see Annex I) and will be used by the Bank and the CCIH to gauge the overall impact and to assess the results. The CCIH will provide access to all the information and documentation needed to conduct the evaluations of this project.

VIII. ENVIRONMENTAL AND SOCIAL IMPACTS

- 8.1 Given the nature of the proposed program, adverse social and environmental impacts are not expected. The program expects to have positive impacts by improving the investment climate.
- 8.2 The Committee on Environment and Social Impact (CESI) reviewed and approved this project document in its meeting (14-05) held on April 8, 2005.

DEVELOPMENT OF ALTERNATIVE DISPUTE RESOLUTION MECHANISMS (HA-M1005)

LOGICAL FRAMEWORK

Narrative summary	Indicators	Means of verification	Assumptions
GOAL			
Improve the business environment for the development of private economic activity by contributing to the creation of a climate of confidence, transparency, efficiency and security in the resolution of commercial disputes.	Two years after project completion: Center for Conciliation and Commercial Arbitration in operation and financially sustainable. At least 20% increase in the number of cases resolved per year by the Center after project completion	PCR CCIH records World Economic Forum Indicators	Political and macroeconomic stability are maintained. A new Law on arbitration and conciliation based on the UNCITRAL model is implemented
PURPOSE			
Establish a sustainable and operational Center within the CCIH to provide ADR services.	At the end of the project: - Center for Conciliation and Commercial Arbitration (CCA) in operation and functioning with fee revenues that cover 100% of its operating costs. - The average length of time for disposal of a dispute by arbitration ranges between six and twelve months. - At least 80% of CCA clients very satisfied with the ADR services of the Center.	Annual Evaluation Reports by external consultants PCR PPMR Progress Reports by CCIH Registry of resolved cases Financial statements of the Center Baseline records from the beginning of the program. Client Survey	The Center has the institutional capacity to manage ADR cases in an efficient and effective manner. There exists sufficient interest from stakeholders to continue using ADR services.

Narrative summary	Indicators	Means of verification	Assumptions
COMPONENTS			
<p>I. Establishing an operational Center for Conciliation and Arbitration</p>	<p>12 months after the first disbursement:</p> <ul style="list-style-type: none"> - Center for Conciliation and Commercial Arbitration (CCA) established within CCIH with a sound organizational, functional, ethical and administrative structure. - Financial plan for CCA implemented. - Monitoring and evaluation system implemented. <p>24 months after the first disbursement:</p> <ul style="list-style-type: none"> - CCA in operation with at least 40% of its costs covered by the center's own revenues. - Information system in place and client database functioning properly. <p>48 months after the first disbursement:</p> <ul style="list-style-type: none"> - At least 60% of the arbitration cases presented by the end of the third year of project's execution are resolved. - At least 80% of the conciliation cases presented by the end of the third year of project's execution are resolved. 	<p>Annual Evaluation Reports by External Consultants.</p> <p>PCR</p> <p>PPMR</p> <p>Progress Reports by CCIH. Registry of resolutions awarded</p> <p>Center's report on cases processed</p> <p>PCR and Evaluation Reports</p>	<p>The Chamber is committed to provide the Center with the physical infrastructure necessary for an effective functioning.</p> <p>The Center has adopted mechanisms and procedures necessary for its effective functioning.</p> <p>The Chamber appoints a Program Executing Unit with the skills necessary to conduct program activities.</p>

Narrative summary	Indicators	Means of verification	Assumptions
<p>II. Training program</p>	<p>24 months after the first disbursement:</p> <ul style="list-style-type: none"> - 25 arbitrators and at least 50 conciliators trained in ADR-related services. -At least 80% of training course participants acquire the skills necessary for offering quality ADR services. <p>36 months after the first disbursement:</p> <ul style="list-style-type: none"> At least 6 trainers trained in ADR-related services. At least two universities provide arbitration and conciliation courses by the end of the project. 	<p>Annual Evaluation Reports by External Consultants.</p> <p>PCR</p> <p>PPMR</p> <p>Progress Reports by CCIH.</p> <p>Certificates issued by the Universities</p> <p>Number of arbitrators listed on the Center roster</p> <p>Users survey</p>	<p>There are Universities with the institutional capacity and interest in providing training in ADR.</p> <p>There are professionals interested in ADR training.</p>
<p>III. Awareness and dissemination strategy</p>	<p>12 months after the first disbursement:</p> <p>Client segments identified.</p> <p>24 months after the first disbursement:</p> <ul style="list-style-type: none"> - CCA webpage in operation. - At least 350 potential ADR service users attended the Awareness and Dissemination seminars. <p>By the end of the project:</p> <ul style="list-style-type: none"> - 800 people participated in the Awareness and Dissemination Sensibilization seminars. - 6 institutions and/or trade 	<p>Annual Evaluation Reports by External Consultants.</p> <p>PCR</p> <p>PPMR</p> <p>Progress Reports by CCIH.</p> <p>Market Analysis conducted</p> <p>Survey conducted after seminars</p> <p>Registration lists of participants for the seminars</p> <p>Signed agreements with institutions</p>	<p>Public and private sector representatives are willing to participate in the Awareness and Dissemination seminars.</p> <p>The Chamber has the capacity to promote effectively the ADR services.</p>

Narrative summary	Indicators	Means of verification	Assumptions
	<p>associations establish alliances for the provision of ADR-related services by the Center.</p> <p>- At least 50% of participants that attend the seminars use the Center services.</p>		
ACTIVITIES			
I.1 Design, structure, and organization of the Center	<p>Regulations of the Center and organizational structure approved by the CCIH Board and implemented within the first four months of project disbursement.</p> <p>Internal regulations and operating manual (that includes the profile of arbitrators and conciliation) of the center by month 12 of project disbursement.</p>	<p>Regulations and organigram</p> <p>Minutes of the Board meeting</p> <p>The Center Manual</p>	The ability of the CCIH to recruit and maintain qualified personnel for the Program Executing Unit.
I.2 Drafting, discussion, and dissemination of a code of ethics for arbitrators and conciliators.	<p>New Code of ethics adopted by month 12 of project disbursement.</p> <p>500 copies of the ethic code published and disseminated by month 12 of project disbursement.</p>	<p>Ethics code</p> <p>Publication of the Code of Ethics in the CCIH webpage</p>	The Center has the right procedures and systems to function effectively
I.3 Design financial plan for the Center	<p>Fee schedule implemented by month 12 of project disbursement.</p> <p>Financial administration system implemented after month six of project disbursement.</p>	<p>Progress reports</p> <p>Financial reports</p>	
I.4 Infrastructure, equipment, and information systems to administer dispute settlement	Center's software, hardware and furnishings installed by the month 12 of project disbursement.	<p>Physical observation of equipment installed</p> <p>Progress report</p>	

Narrative summary	Indicators	Means of verification	Assumptions
I.5 Design and implementation of an information system, including a case management and monitoring and evaluation system	Case management system implemented by month 12 of project disbursement. Monitoring and evaluation system designed and implemented after month 12 of project disbursement.	Physical observation Progress report	
II.1 Organization of technical exchanges	Two technical exchanges conducted to visit experienced ADR Centers by month 18 of project disbursement.	Progress report Aide Memoire of the exchanges	
II.2 Development of ADRs modules for the Universities training courses	1 arbitration course developed for lawyers and 1 arbitration course developed for non lawyers by the end of second year of project disbursement. 1 conciliation course developed by the end of second year of project disbursement.	Progress report Course marterials published	
II.3 Implemmenttion of Training modules	4 arbitration courses implemented by the second year of project disbursement 5 conciliation courses implemented by the second year of project disbursement 2 refreshing courses during the last two years of the project	Courses registration and evaluation Course Certificates Progress report	
II.4 Training of trainers	3 training course for trainers of ADR mechanisms by the third year of project disbursement	Courses registration and evaluation	

Narrative summary	Indicators	Means of verification	Assumptions
III.1 Market analysis	<p>Market analysis presented to the Center Consultative by the end of first year of project disbursement</p> <p>20,000 people that are on business in the formal sector participate in the client survey by the end of second year of project disbursement</p> <p>100 people from the formal sector participate in focus groups by the end of second year of project disbursement</p> <p>Update the market analysis yearly by the end of the project</p>	<p>List of participants in the study</p> <p>Membership database</p> <p>Progress report</p>	
III. 2 Awareness and Dissemination campaign.	<p>At least 12 awareness seminars conducted by the Center for entrepreneurs and their advisors, members of the bar association, and judges by the end of the project.</p> <p>Webpage functioning by the second year of project disbursement.</p>	<p>List of participants</p> <p>Progress reports</p> <p>Webpage</p>	
III.3 Design Bulletin with CCA general information and services provided and Articles about ADR in journals.	<p>2000 copies of the CCA Bulletins published and distributed by the end of the project.</p> <p>At least 8 articles about ADR mechanisms published in different journals by the end of the project.</p>	<p>Publication of bulletin and articles in journals</p> <p>Progress reports</p>	

**DEVELOPMENT OF ALTERNATIVE DISPUTE RESOLUTION MECHANISMS (HA-M1005)
BUDGET**

Item	FOMIN US\$	Local Contribution US\$	TOTAL US\$
Program Executing Unit (total)	\$216,000	\$58,800	\$274,800
Personnel	\$216,000	\$54,000	\$270,000
<i>Program Coordinator</i>	\$216,000		
<i>Financial/Administrative Officer</i>		\$54,000	\$54,000
Logistics	\$0	\$4,800	\$4,800
<i>Communications</i>		\$4,800	\$4,800
Component 1: Establish the Center for Conciliation and Arbitration	\$145,800	\$56,200	\$202,000
<i>1.1 Development of code of ethics and dissemination of code and new law</i>	\$2,000	\$5,000	\$7,000
<i>1.2 Design, structure, and organization of the Center</i>	\$45,000	\$10,000	\$55,000
<i>1.3 Infrastructure, equipment, and information systems</i>	\$78,800	\$21,200	\$100,000
<i>1.4 Legal Specialist (prorated)</i>	\$20,000	\$20,000	\$40,000
Component 2: Training Program	\$178,500	\$104,000	\$282,500
<i>2.1 Development of ADR training courses and training of trainers</i>	\$113,000	\$52,000	\$165,000
<i>2.2 Training of arbitrators and conciliators</i>	\$40,500	\$22,000	\$62,500
<i>2.3 Technical exchanges with experienced ADR Centers</i>	\$5,000	\$10,000	\$15,000
<i>2.4 Legal Specialist (prorated)</i>	\$20,000	\$20,000	\$40,000
Component 3: Awareness and dissemination strategy	\$94,000	\$81,000	\$175,000
<i>3.1 Market analysis</i>	\$50,000	\$6,000	\$56,000
<i>3.2 Preparation and implementation of an awareness and dissemination campaign</i>	\$24,000	\$55,000	\$79,000
<i>3.3 Legal Specialist (prorated)</i>	\$20,000	\$20,000	\$40,000
SUB-TOTAL	\$634,300	\$300,000	\$934,300
Evaluations	\$50,000		\$50,000
Audits	\$28,000		\$28,000
TOTAL	\$712,300	\$300,000	\$1,012,300
Percentages	70%	30%	100%

HAITI
PROGRAM TO DEVELOP ALTERNATIVE DISPUTE RESOLUTION MECHANISMS
HA-M1005

A. Similar or related MIF projects in Haiti.

None

B. Similar or related IDB projects in Haiti.

None

C. MIF projects related to the same sector or beneficiaries in Haiti.

None

D. Cluster Projects

NA

E. MIF Portfolio in Haiti

No.	Memo #	Project #	ATN #	Name	Exec. Agency	FAC	Approval	Status	MIF Amount	% Disb
1	MIF/AT-67	TC9505449	ATN/MT-5078-HA	Secured Transactions Reform	CPMCE	I	29-Nov-95	Completed	501,832	100.00
2	MIF/AT-87	TC9509136	ATN/MT-5334-HA	Energy Sector Reform	PMO	I	11-Sep-96	Completed	998,961	100.00
3	MIF/AT-192	TC9708465	ATN/MT-6097-HA	Program to Support the Potable Water and Sanitation Sector Reform and the Establishment of the Regulatory Agency	MTPTC	I	12-Aug-98	In execution	965,000	5.18
4	MIF/AT-222	TC9810020	ATN/ME-6341-HA	Institutional Strengthening of SOGEBANK	SOGEBANK	IIa	4-Jan-99	Completed	300,000	100.00
5	MIF/AT-251	TC9903024	ATC/MT-6502-HA	Promotion of private participation in the electricity sector	CMEP	I	13-May-99	Completed	47,727	100.00
6	MIF/AT-278	TC9901031	ATN/ME-6646-HA	Strengthening of markets and competitiveness of small and microenterprise in the Haitian garment subsector	INDEPCO	IIa	13-Sep-99	In execution	370,000	91.47
7	MIF/AT-291	TC9708259	ATN/MH-6696-HA	Private Training Market Initiative	FUNDIH	II	13-Oct-99	In execution	2,000,000	64.78
8	MIF/AT-520	TC0206035	ATN/ME-8131-HA	Institutional Strengthening of Microcredit National S.A.	MICROCREDIT	IIa	6-Dec-02	In execution	300,000	10.00
9	MIF/AT-539	TC0302007	ATN/ME-8408-HA	Institutional Strengthening of Acme	ACME	IIa	26-Aug-03	In execution	175,000	8.57
10	MIF/AT-573	HA-M1001	ATN/ME-8586-HA	On-Line Networks for Culture, Tourism and Commerce in Haiti	PEOPLINK	IIa	18-Dec-03	In execution	470,400	20.00
11	MIF/AT-629	HA-M1003	ATN/ME-8982-HA	Deepening of Financial Services to Microenterprise in Haiti	XCAPPPB	IIa	6-Dec-04	Approved	220,000	0.00
12	MIF/AT-636	HA-M1002	ATN/ME-9006-HA	Microfinance strengthening to the Caisse Populaires	DID	IIa	10-Dec-04	Approved	400,000	0.00
Total MIF Amount									5,248,127	

**Development of Alternative Dispute Resolution Mechanisms
(HA-M1005)**

Procurement Plan: Consulting services over US\$50,000*

N°	Description of activities	ACTIVITY COST 18 Months			SELECTION METHOD	BANK REVIEW
		TOTAL	BANK	LOCAL		
1	Program Director	216,000	216,000		FBS	Prior
2	Legal Specialist	120,000	60,000	60,000	QCBS	Prior
3	Experienced arbitration team to develop arbitration training courses	85,000	65,000	20,000	QCBS	Prior
4	Experienced firm to develop and implement a marketing plan	50,000	50,000		QCBS	Prior
	Total Consulting Services	471,000	391,000	80,000		
		Método de selección				
		QCBS: Quality- and Cost-Based Selection				
		QBS: Quality-Based Selection				
		FBS: Selection Under a Fixed Budget				
		LCS: Least Cost Selection				
		CQS: Selection Based on Consultants' Qualifications				
		SSS: Single-Source Selection				

* There are three consulting services over US\$ 50.000; the most important ones are indicated.

DOCUMENT OF THE INTER-AMERICAN DEVELOPMENT BANK
MULTILATERAL INVESTMENT FUND

PROPOSED RESOLUTION MIF/DE-___/05

Haiti. Nonreimbursable Technical Cooperation ATN/MT-___-HA for the
Program to Develop Alternative Dispute Resolution Mechanisms

The Donors Committee of the Multilateral Investment Fund

RESOLVES:

1. That the President of the Inter-American Development Bank, or such representative as he shall designate, is authorized, in the name and on behalf of the Bank, as Administrator of the Multilateral Investment Fund, to enter into such agreements as may be necessary with the Chamber of Commerce and Industry of Haiti, and to take such additional measures as may be pertinent for the execution of the project proposal contained in document MIF/AT-___ with respect to nonreimbursable technical cooperation for the development of alternative dispute resolution mechanisms.

2. That up to the amount of US\$712,300, or its equivalent in other convertible currencies, shall be authorized for the purpose of this resolution, chargeable to the resources of the Technical Cooperation Facility of the Multilateral Investment Fund.

3. That the above-mentioned sum is to be provided on a nonreimbursable basis.

(Adopted on ___ 200_)