

**MULTILATERAL INVESTMENT FUND
PROJECT ABSTRACT**

I. BASIC PROJECT DATA

HAITI

MARCH 31, 2005

Project name:	Program to develop Alternative Dispute Resolution Mechanisms		
Project number:	HA- M1005		
Country	Haiti.		
Executing agency:	Chamber of Commerce in Port-au-Prince		
Beneficiaries:	Private Business Community and the Chamber of Commerce		
Project Team:	Sandra Bartels (RE2), team leader; Elena Heredero (MIF); Antonio Gaspar (MIF); Anna Cecilia Macinnis COF/CHA; and Robert Collie COF/CHA		
Financing plan:	MIF — Facility III-A:	US\$	800.000
	Counterpart:	US\$	240.000
	Total:	US\$	1.040.000
Tentative dates:	CRG – February/March 2005		
	Donors Committee – June 2005		

II. BACKGROUND AND PROBLEM STATEMENT

A. The Haitian Situation and the Justice System

- 2.1 Over the past fifteen years, Haiti has been struggling to emerge from a cycle of internal conflicts and poor governance that has devastated its economy and inflicted severe hardship on its population. It has suffered mainly from poor political governance, in particular through a strong political use of public institutions, which has contributed to weakening the rule of law and undermining its credibility. Weaknesses in respect for the law and basic liberties have led to corruption, insecurity and have discouraged productive investments by the private sector.
- 2.2 Justice is currently a basic demand of the Haitian people. The judicial branch is hampered by its organization and functioning, which are inadequate to the country's needs. There are several areas that need to be improved and can be summarized as follows: deficient access to justice, inefficacy of the system, lack of independence of the judiciary, cumbersome judicial proceeding, inadequate judicial inquiries, non procedural time limits, and arbitrary sentences. The poor functioning of institutions, the obsolescence of many laws, and the absence of basic guarantees relating to judicial authorities have led to a widespread dysfunction of the institution.
- 2.3 The existing justice system is not functional to serve the needs of the Haitian society in general and the business community in particular. This situation creates a climate not favorable for private economic activity. In this context it is imperative to create out of court options to resolve commercial disputes.
- 2.4 The events of February and March of last year have deteriorated the situation even more. In order to deal with the political, economic and social crisis after the resignation of President Aristide, the

new government and the donor's community prepared a need assessment to provide the basis for a coordinated national reconstruction and development strategy.

- 2.5 The IDB Country Strategy for Haiti in its Pillar I --Strengthen Political Governance and Promote National Dialogue—aims to improve access to justice, through the promotion of a participatory “front line justice”. This technical cooperation is in line with promoting a participatory front line justice that entails the establishment of Circles of justice within local associations, training judicial and extra judicial mediators for rapid resolution of conflicts. Besides, the Strategy also aims to support the recovery of the private sector and the small and medium-sized enterprises and industries, considering the importance of the Haitian private sector as the main provider of productive employment.

B. Proposed program

- 2.6 This program is part of the Bank's Transition Strategy with 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 aim of this program is to develop an out of the court conflict resolution mechanism for settlement of commercial disputes and helping to establish a climate conducive to private investment. In this context, the project will support the strengthening of the Center for Commercial Dispute Resolution in the Chamber of Commerce of Port-au-Prince. This project seeks to respond to the absence of a functioning rule of law institutions and mechanisms for management and resolution of commercial disputes by providing the private sector with a non-litigious approach for settlement of disputes.
- 2.7 Since 1994 to 2000, the MIF has co-financed 18 projects throughout the region to introduce the use of ADR as a new way to resolve commercial disputes. MIF projects generally have focused on the modernization of legislative frameworks and building local capacity through the establishment and strengthening of Centers of 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 Oversight¹. The network of CAMs stretching across the region has dramatically improved the range and availability of ADR services to the private sector.
- 2.8 As with other MIF projects, the proposed partnership with CCIH could have a catalytic effect in changing business and legal practices in the private sector, contributing to the much needed enhancement of the business environment in Haiti. Especially, this project would focus on the application of ADR tools to the needs of micro, small and medium-sized companies – a focus that was missing in previous MIF projects². During the analysis, the project team will take into account the lessons learned and recommendations to inform the design and execution of the project.

III. PROGRAM OBJECTIVE AND COMPONENTS

- 3.1 The general objective of the program is to improve the business environment for the development of private economic activity by creating a climate of confidence, transparency, and security in the resolution of commercial disputes. The specific objective is to establish a sustainable mechanism of providing ADR services in the Port-au-Prince Chamber of Commerce.
- 3.2 To achieve these objectives the project will have four components: (i) consolidation of the legal and regulatory framework; (ii) strengthening the Alternative Dispute Resolution Center in the Port-au-Prince Chamber of Commerce; (iii) training ; and (iv) an information strategy aim to disseminate information on the range and advantages of ADR mechanisms for settling business disputes.

¹ See document MIF/GN-78-2, Evaluation of MIF Projects: Alternative Dispute Resolution Methods.

² Idem.

- 3.3 **Component I: Consolidation of the legal and regulatory framework.** The purpose of this component is review the regulatory framework of the arbitration and conciliation law to strengthen the legal and ethical framework for the application of ADRs. It will include the following activities: (1) review the regulatory framework of the arbitration and conciliation 2). review the Book IX of the Code of Civil Procedure; and (3) drafting, discussion, and dissemination of a code of ethics for arbitrators and mediators.
- 3.4 **Component II: Strengthening the Alternative Dispute Resolution Center.** The purpose of this component is to strengthen the ADR Center within the Port-au-Prince Chamber of Commerce. This component seeks to strengthen the Center operating capacity and physical and administrative infrastructure, to enable it to provide quality services for commercial dispute resolutions. It will include the following activities: (1) design, structure, and organization of the Center; (2) infrastructure, equipment, and information systems to administer dispute settlement; and (3) mediators and arbitration roster. The first activity includes: (a) determination and design of the functions, organization, job profiles and tasks, recruitment of staff, draft regulations, and other aspects required for the organizational, functional, ethical, and administrative structure of the Center; (b) establishment of the profiles for mediators and arbitrators, and design of a transparent and objective recruiting system for qualified candidates; (c) design of a fee schedule for mediation and arbitration services that will balance the principle of access to justice against the need for sustainability of the system; and (d) establishment of indicators to measure the success or performance of the system and the personnel involved, as well as a mechanism for permanent evaluation. The second activity will provide the minimum requirements with regard to infrastructure and equipment, and procuring software for the conciliation, mediation and arbitration Center, as well as for the administrative office. In the third activity, it will be explored the possibility of signing a contract with the Université Quisqueya in order to facilitate the creation of a roster of arbitrators and mediators, that include selected senior students.
- 3.5 **Component III: Training.** This component aims to give ADR system operators the technical skills to provide efficient, high-quality, and highly specialized service. It will include initial training for a group of 20 arbitrators and 15 mediators. Courses will be offered in: (a) mediation training and mediator ethics; (b) arbitration training and the code of ethics for arbitrators; (c) specialized and ongoing training, focusing on international progress in ADR, lessons learned, and specialized knowledge about business sectors where there is demand for ADR services; and (d) training for trainers, focusing on adult training skills and training at the local level. The training will be draw on existing training modules developed by other ADR centers.
- 3.6 **Component IV: Information Strategy: Dissemination of the advantages of using ADRs.** The purpose of this component is to disseminate the concepts and advantages of ADR mechanisms. This component will also promote the Center as a provider of quality services and furnish information on accessing those services. It will include the following activities: (a) preparing a market analysis of the target population; including a strategy to increase the CCIH membership; (b) based on that study, preparing a dissemination and marketing campaign that will include distribution materials, a web page, an advertising campaign, articles in journals, and workshops and conferences for entrepreneurs and their advisors, members of the bar association, and judges; (c) providing advisory services on the inclusion of ADR in university curricula; (d) establishing strategic alliances with enterprises and/or trade associations for the ongoing provision of ADR-related services.
- 3.7 The beneficiaries of the program will be the private business community specially the medium and small enterprises and the judicial branch, which will enjoy the various benefits of a more expeditious, less costly and more effective dispute resolution system. There will also be indirect benefits to the society at large from improved business relationships and a more reliable environment for investment and risk taking.

IV. COST, FINANCING AND EXECUTION TIME

- 4.1 The total project cost is expected to be US\$ 1,040,000, of which MIF would contribute US\$ 800,000 in non-reimbursable funds through The Technical Assistance Facility, and the remainder of US\$240,000 would be expected from counterpart resources. CIDA will contribute 50% of the counterpart resources in cash. The project would be implemented over a 36-month period of time with a disbursement period of 42 months.

V. EXECUTING AGENCY AND EXECUTING MECHANISM

- 5.1 The “Chambre de Commerce et d’Industrie d’Haiti “(CCIH) was created in 1885 as the representative of all businesses and professionals in Haiti and will be the executing agency for this project. The CCIH is a private nonprofit organization whose mission is to protect and defend its members, to foster their economic development, to promote trade and industrial activities in Haiti and to be a strong advocate for the economic and social well being of the people of Haiti. The Chamber is managed by a board of directors elected every two years by the members. In May 2004, a new board was elected and represented a departure from the past as many elected members of the board were new in the management of the Chamber and represented the younger generation of business people in Haiti, eager to promote the modernization of the country.
- 5.2 In terms of oversight of the projects COF/HA and RE2/SC2 will be responsible for the supervision of its implementation.

VI. ENVIRONMENTAL AND SOCIAL IMPACTS AND PROPOSED ACTIONS

- 6.1 Given the nature of the proposed program, adverse environmental impacts are not expected. The program expects to have positive economic and social impacts by assisting small and medium enterprise to resolve their commercial disputes.

VII. MAJOR ISSUES

- 7.1 The following aspects warrant further consideration during the design and preparation of this proposed project: (i) confirm sufficient demand exists to justify the amount and size of the program; (ii) explore how the proposed program can create connections with national and regional organizations; and (iii) further define the institutional/organizational structure for the Center.

VIII. ACTION PLAN

- 8.1 If the project were determined eligible by the POC, the project team would continue forward with the design and preparation of the program, which is expected to take at least four months followed by submission to the MIF Donor Committee for approval.