

**PROGRAM TO STRENGTHEN ALTERNATIVE METHODS
OF SETTLING BUSINESS DISPUTES**

COLOMBIA

DONORS MEMORANDUM

(TC-93-08-11-6)

EXECUTIVE SUMMARY

PROJECT TITLE: Program to strengthen alternative methods of settling business disputes

MIF FACILITY: Technical Cooperation (Facility I)

EXECUTING AGENCY: Bogota Chamber of Commerce

PROJECT AMOUNT:	Modality:	Donation
	MIF:	US\$1,220,000
	Ministry of Justice and Law:	US\$ 150,000
	Regional Chambers of Commerce:	US\$ 438,000
	Total:	US\$1,808,000

BENEFICIARIES: The participants and direct beneficiaries of the program will be: (a) eligible arbitration and conciliation centers (ACCs) from: (i) the country's chambers of commerce; (ii) the universities with business ACCs; and (iii) other entities meeting program requirements. Individuals and institutions concerned with the services included in the program would also benefit; (b) the Ministry of Justice and Law (MJD).

OBJECTIVES: The specific objectives of the program are: (a) to strengthen arbitration and conciliation centers eligible to consolidate their institutional capacity to be in a position to provide a service commensurate with the anticipated demand; (b) to train arbitrators, conciliators and the administrative personnel of eligible ACCs, in order to adjust their technical and administrative capacity to the institutional needs of eligible ACCs; (c) to strengthen the Ministry of Justice and Law and its ability to coordinate the activities of the ACCs and support them in the process of institutional and technical improvement; and (d) to disseminate information on the range and advantages of alternative mechanisms

for settling business disputes, in order to promote more widespread demand in the private sector in the short and medium term.

DESCRIPTION:

The program is divided into three components, as described below: (a) an Institutional Strengthening Component, whose purpose is to consolidate the institutional and technical capacity of eligible ACCs to meet the anticipated demand for services, including the design and implementation of a regional information network providing (i) a statistical data base for use in monitoring execution of the integrated working modules, as well as the continuity of the institutional and technical strengthening required by eligible ACCs; and (ii) a system for handling the flow of information the MJD receives on the activities conducted by the existing ACCs, for the purposes of planning and responding to the needs of ACCs and the beneficiaries of their services; (b) a Training Component, which is designed to provide arbitrators, conciliators and the administrative personnel of eligible ACCs with the technical and administrative capacity necessary to improve the delivery of the services of the ACCs; and (c) a Strategic Extension Component, whose purpose is to generate in the short and medium term sufficient demand for alternative methods for settling business disputes and more effective use of the installed capacity of eligible ACCs.

**TIMETABLE FOR
EXECUTION AND
DISBURSEMENT:**

Eighteen months for execution of the program and 24 months for disbursement of the contribution resources.

**ENVIRONMENTAL
CLASSIFICATION:**

On August 16, 1994, the Environment Committee classified the project as a Category II operation.

PROJECT TEAM:

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I. COUNTRY ELIGIBILITY

- 1.1 On December 3, 1993, the Donors Committee declared Colombia eligible for all financing facilities of the Multilateral Investment Fund (MIF).

II. BACKGROUND

- 2.1 During the 1980s, the Colombian judicial system suffered from delays and an accumulation of the cases daily entering the courts. In 1987, extraordinary powers were granted to the Executive Branch to improve the legislation and establish extrajudicial mechanisms. Administrative reforms of the justice system were subsequently introduced to streamline administrative formalities and establish alternative systems for the settlement of disputes.
- 2.2 In pursuance of these reform measures, the Government followed an intensive policy of establishing alternative mechanisms for the settlement of disputes. Rules were developed to define the scope of these extrajudicial mechanisms, including in particular a law establishing mechanisms for overcoming the backlog of court cases (Law 23/91), whose main objective was to reduce judicial delays. Law 23/91 established: (a) a regulatory framework for the establishment and operation of private arbitration and conciliation centers; (b) the fundamental requirements and procedures for business arbitration, and (c) the application of conciliation and arbitration in other judicial areas.
- 2.3 The promotion of alternative methods for settling disputes, conducted mainly by the conciliation centers of the country's chambers of commerce with the support of the Ministry of Justice and Law (MJD), has led to rising expectations with respect to conciliation and an increase in the number of conciliation centers: from 5 in 1991 to 107 in 1993, with 58 centers providing conciliation services at the current time.
- 2.4 As a result of this process, MJD data indicate that during this period judicial as well as extrajudicial conciliation hearings led to the settlement of many judicial cases. Demand for the extrajudicial conciliation, however, has been low compared with court-ordered settlements, which are binding. This suggests that despite the efforts described, extrajudicial conciliation has not lived up to expectations.
- 2.5 Though the results of extrajudicial conciliation may have been limited in quantitative terms, 90 percent of the cases submitted to conciliation centers in chambers of commerce end in agreement between the parties and that these agreements are implemented voluntarily by the parties. It is also important to note that

settling disputes by means of alternative methods can be of economic benefit by helping to reduce the cost of business transactions subject to dispute.

- 2.6 Despite the enormous potential of the conciliation and arbitration centers, studies show that more than 60 percent of the arbitration and conciliation centers (ACCs) authorized by the MJD lack the appropriate technical knowledge to direct centers in the application of alternative methods for settling business disputes.
- 2.7 Because of disparities in the efficiency of different ACCs, the supply of services by the existing centers must be strengthened and consolidated in order to ensure more efficient service. This process would help to ensure that the ACCs have the institutional and technical capacity necessary to address the potential demand for business conciliation and arbitration methods nationwide.
- 2.8 A common obstacle encountered by the ACCs is limited demand within the private sector and among the citizenry in general. In some cases, the role played by ACCs in settling business disputes by means of alternative methods is not generally known.
- 2.9 For all of these reasons, the Colombian private sector, in coordination with the government, has requested support from the MIF in financing a technical-cooperation operation to be executed over a period of 18 months in order to: (a) strengthen the institutional capacity and technical quality of the eligible ACCs; (b) improve the support capacity of the Ministry of Justice and Law (MJD) to ensure an institutional framework for the settlement of disputes by means of extrajudicial mechanisms and the development of a system providing the quality of services required by the private sector for the settlement of business disputes.

III. THE PROGRAM

A. Concept

- 3.1 In view of the importance for the justice system of consolidating alternate methods for the settlement of business disputes as an appropriate way to relieve congestion of the courts and provide the private sector with an instrument for the settlement of disputes effectively and at less cost per case, the program has been built on four primary pillars, as follows:
 - a. to strengthen the eligible ACCs for the consolidation of their institutional capacity and therewith enable them to meet properly the expected demand for services;

- b. to train the arbitrators, mediators and administrative personnel of the eligible ACCs so that they will have the technical and administrative capabilities to meet the institutional needs of the eligible ACCs;
 - c. to strengthen the MJD so that it will be able to coordinate the work of the ACCs and support them in the process of their own institutional and technical improvement, and
 - d. To provide information on the scope and benefits of alternative arrangements for the settlement of business disputes and thereby generate a massive demand in the private sector in the medium and long run.
- 3.2 In consequence the program would be designed to serve beneficiaries in three primary categories: users, entities, and professionals. The strategy for each of these categories is as follows:
- a. **Users:** to develop a willingness to manage the disputes arising out of their business activities and consolidate a support mechanism with the participation of mediators and arbitrators who can provide effective professional counseling.
 - b. **Entities:** to support the eligible ACCs so that they will administer and operate the system effectively.
 - c. **Professionals:** to train mediators, arbitrators and administrative personnel so that the mechanisms employed will yield optimal results and meet satisfactorily the expectations of the market.
- B. Purposes
- 3.3 The general purpose of the program is to help enhance the efficiency of the system of justice by improving and consolidating the services performed by the ACCs for the settlement of business disputes by alternative or extrajudicial procedures. The program is also intended to provide, directly and effectively, information on the use of alternative procedures for the settlement of disputes and so generate a steady demand for those services.
- 3.4 The specific purposes of the program are:
- a. To strengthen the eligible ACCs by setting up a system for the reduction of differences among them and exchanges of technical, institutional and administrative information in order to improve the operating capacity of those ACCs to provide the services that the private sector may require of them;

- b. to train arbitrators, mediators and administrative personnel of the eligible ACCs in order to increase their technical efficiency and qualifications;
- c. to support the MJD in its consolidation of a flexible and dynamic regulatory framework that will: (i) provide for growing participation by the private sector; (ii) enable the MJD to detect requirements for service in the private sector, and (iii) support the ACCs in meeting those requirements, and
- d. to present information on the use of alternative procedures for the settlement of business disputes by seeking a consensus that: (i) provides for participation by the firms and businessmen associated directly with the country's chambers of commerce, and (ii) introduces the notion and benefits of alternative procedures for the settlement of business disputes to potential arbitrators, mediators and others interested in participating actively in the work of eligible ACCs.

C. Components of the program

3.5 The program is designed in three components as follows:

1. Institutional strengthening

- 3.6 The purpose of the institutional strengthening component is to consolidate the operational and technical capabilities of the eligible ACCs so that they will be able to perform services that meet the expected demand.
- 3.7 The component provides for the preparation and implementation of packages of services designed to suit the relative development of the ACCs, and includes: (a) the provision of manuals on administrative procedure; (b) arrangements for internships, tutoring, and evaluation; (c) the design of software for the administrative management of the eligible ACCs, and (d) the establishment of a scheme for ongoing strengthening in each region to enable the most highly developed ACCs to monitor and service the eligible ACCs in their geographic areas of influence.
- 3.8 The packages of services for the strengthening of the eligible ACCs will be designed and implemented in accordance with the capability of each of them to provide services. The resulting service packages for three levels of relative development would have the following purposes:
 - a. to ensure that the different products are provided to each Center in keeping with its development needs and the anticipated demand in its area of operations;

- b. to set up a system for the rating of centers to motivate outstanding performance in implementing the program and upgrade those producing such performance;
 - c. to devise a mechanism for the reduction of differences between the operations of ACCs by ensuring a smooth exchange of information among them and their appropriate distribution throughout the country.
- 3.9 The component for the institutional strengthening of the ACCs will be carried out by means of integral modules comprising: (a) training for directors and personnel, including counseling in the issuance of internal regulations, the design of administrative processes and procedures, and the technical and legal management of business mediation and arbitration; (b) support and tutoring in the performance of administrative and operational functions of ACCs, and (c) monitoring and evaluation of the services provided and proper utilization of the alternative methods for the settlement of business disputes.
- 3.10 The institutional strengthening component also includes the design and implementation of a regionwide information network for the purposes of: (a) building a statistical data base with which to monitor the work of the integral working modules and ensure the continuity of institutional and technical strengthening the eligible ACCs may require, and (b) systematizing the flow to the MJD of information on the operations of the existing ACCs for use in improving the MJD's planning and capacity to respond to the requirements of the ACCs and beneficiaries of the services performed.
- 3.11 The regional information network connects the MJD with the regional chambers of commerce of the central, Atlantic, northwestern, southwestern and eastern areas. This configuration will allow the regional chambers of commerce of those areas to serve as centers for the collection of qualitative and quantitative information generated by the eligible ACCs in the conduct of their operations. The ACCs will feed to the regional chambers of commerce and the MJD information for: (a) the monitoring and evaluation of the program; (b) the corrective measures needed to improve the institutional, administrative and technical capacity of the eligible ACCs, and (c) planning in the use of alternative methods for the settlement of business disputes and of the services offered by the ACCs.
- 3.12 As an incentive to improvement of the eligible ACCs, the regional information network will progressively admit as members up to ten additional ACCs as their level of development rises during execution of the program in response to the need for expansion of the system. The first five of those ten eligible ACCs will receive from the program resources financing for the installation of all, and the remaining five ACCs financing for up to 50%, of the computer equipment needed for direct connection to the regional

information network. The final technical design of the regional information network will be produced by a consulting firm in accordance with the aforementioned basic parameters.

- 3.13 Proper execution of the institutional strengthening component will require the engagement of: (a) consulting firms experienced in information processing systems, and (b) individual consulting experts in: (i) operations analysis; (ii) module configuration, and (iii) programming.

2. Training component

- 3.14 The purpose of the training component is to give the arbitrators, mediators and administrative personnel currently associated with the eligible ACCs the technical and administrative capacities they need to improve the services provided by the ACCs.
- 3.15 The training will be given in four separate modules, each at a different level: (a) in the first module, technical elements of mediation will impart basic notions of the alternative procedures for the settlement of business disputes, and of their different modalities and uses; (b) in the second module, training for mediators, arbitrators and tribunal secretaries that will give them the tools needed to improve the performance of their various functions; (c) in the third module, training for multiplier personnel who have completed the training at the two preceding levels, to provide for continuity of the training and institutional strengthening programs to be implemented at the regional level as a result of the program, and (d) in the fourth module, institutional training to give the regional chambers of commerce the instruments needed to set up ongoing regional training and institutional strengthening programs to support the relatively less developed eligible ACCs.
- 3.16 In addition to the benefits that will accrue to the ACCs from execution of the training component, it is important to note the particular benefits of the latter modules. In training multiplier personnel, the third training module would produce professionals accredited nationwide with the technical capacity to assist eligible ACCs in the correcting of technical and institutional deficiencies detected during and after execution of the program. Complementarily, the fourth module would consolidate the institutional capacity of the regional chambers of commerce and so enable them to design and execute, with the technical support of the multipliers, programs of continuing institutional, administrative and technical training for the relatively less developed eligible ACCs operating within the geographic areas of influence of those chambers.
- 3.17 In the training component it is expected: (a) to design and conduct 77 training workshops nationwide; (b) to train 50 multipliers, who in the initial stage of execution of the program

will consolidate their operating and technical knowledge and during execution of the program will guide the training workshops, and (c) to train, at the three first training levels, 3,850 technicians and administrative employees of the ACCs in the different regions of the country.

- 3.18 Proper execution of the training component will require the engagement of: (a) consulting firms experienced in (i) negotiation techniques and; (ii) audiovisual systems, and (b) individual consulting experts in: (i) arbitration techniques, (ii) negotiation techniques, (iii) mediation techniques, (iv) teaching methods, (v) conflict theory, and (vi) tribunal secretariats.

3. Strategic information component

- 3.19 The purpose of the strategic information component is to generate in the short and medium run enough effective demand to make better use of the alternative methods for the settlement of business disputes and the installed capacity of the eligible ACCs.
- 3.20 The strategic information component is to be directed at: (a) entrepreneurs and institutions with associated with the chambers of commerce, and (b) entrepreneurs, universities and professionals with connections to universities having eligible ACCs.
- 3.21 The purpose of this component will be essentially to promote the use of the alternative methods for the settlement of business disputes by enterprises associated with the chambers of commerce. The strategy will be aimed at specific professional and entrepreneurial sectors and call for the holding of workshops and working meetings in which to demonstrate the scope of these methods and the benefits they yield. These workshops will be similar in content to the first module provided in the training component so as to provide an introduction to the different alternative methods for the settlement of business disputes.
- 3.22 The strategic dispensing of information will begin with a market analysis of the target population. When the sectors and trade associations to which this information is to be provided have been identified, 12 working meetings will be held in each of the geographic areas in which the ACCs are distributed, for a total of 60 working meetings of groups averaging 15 entrepreneurs each. In these meetings the availability and institutional and technical capabilities of the eligible ACCs will be explained in controlled interaction situations in which the participating entrepreneurs will be shown and enabled to make use of their advantages.
- 3.23 The workshops and working meetings under the program will be coordinated by the regional chambers of commerce and involve as active participants the multipliers trained in the program's training component, who will make use of a practical manual of

business mediation designed to provide the instruments needed to make use of the alternative methods for the settlement of business disputes.

- 3.24 In addition, a seminar will be held at the national level to promote the use of the alternative procedures for the settlement of business disputes that emerge with the performance of public services by private enterprises under the system for the performance of household public services in effect in Colombia. This seminar will promote participation by the private sector in the settlement of disputes that could arise between the public and private sectors with the execution of infrastructure projects.
- 3.25 Moreover, the strategic information scheme is intended to impart directly to lawyers, university people and professionals associated with the law schools that have eligible ACCs, basic notions of the alternative procedures for the settlement of business disputes so that individuals interested in developing a technical capacity for serving as mediators and arbitrators may be identified, and to promote the gradual incorporation of those individuals into ACCs that may need their services.
- 3.26 Another part of the strategic information scheme is the direct participation of universities having eligible ACCs, so that use will be made of the installed capacity of those universities to disseminate on a greater scale the use of alternative methods for the settlement of business disputes and generate a steady output of potential technicians and administrators who could join eligible ACCs in the middle run. Universities with eligible ACCs will hold complementary information workshops as a counterpart to their participation in the program, and make use of the material used in developing the basic level of the training modules.
- 3.27 Proper execution of the strategic information component will require the engagement of: (a) consulting firms experienced in strategic information, and (b) individual consulting experts in the out-of-court settlement of disputes in projects for infrastructures that permit the provision of public services.

D. Benefits of and participants in the program

- 3.28 The requested strengthening will improve the administration of justice in the country by: (a) reducing the number of business disputes requiring action by the judicial branch; (b) speeding up the processing of cases; (c) improving the quality of judgments and the efficiency with which they are arrived at, and (d) reducing the costs of the disputes that arise. Moreover, executing the program will consolidate the system for the settlement of business disputes by alternative means by improving the capacity of ACCs to perform services and generating a level of effective demand suited to the country's business capacity.

- 3.29 This program will be good for both the public and the private sector, as the strengthening, training and information components will all benefit business in the country and society at large. The direct participants in and beneficiaries of the program will be: (a) the eligible ACCs in: (i) the country's chambers of commerce, (ii) the universities that have ACCs for business disputes, and (iii) other entities that meet the requirements of the program, and (b) the MJD. Additional beneficiaries will be individuals and institutions that, by virtue of their professional and business activities, become associated with the services envisaged under the program.

E. Cost and financing of the program

- 3.30 The total cost of the program is estimated at US\$1,808,000, of which it is requested that US\$1,220,000 be financed with non-reimbursable resources of the MIF. The government and the regional chambers of commerce will make counterpart contributions of US\$150,000 and US\$438,000, respectively.
- 3.31 In addition, for execution of the program the participating ACCs will provide the logistical support, which will include, among other things, the supplies, publications, bulletins and other promotional expenses needed for their participation in the program.
- 3.32 Following is a summary of the estimated budget, an itemized version of which may be found in Annex II.

ESTIMATED BUDGET, BY COMPONENT (Equivalents in US\$)				
Components of the program	MIF	MJD	Chambers of Commerce	TOTAL
I. Institutional Strengthening	319,285	122,248	34,200	475,733
II. Training	536,900	11,500	158,060	706,460
III. Strategic information	100,000	10,000	111,388	221,388
- Coordination	93,600		119,692	213,292
- Ex post evaluation	30,000			30,000
Subtotal	1,079,785	143,748	423,340	1,646,873
- Contingencies (approx. 10%)	140,215	6,252	14,660	161,127
TOTALS	1,220,000	150,000	438,000	1,808,000
Percentages	67.5%	8.3%	24.2%	100%

F. Disbursements

- 3.33 Disbursement of the MIF resources will be contingent on the executing agency's presenting evidence of having: (a) established

the program executing unit and designated its members; (b) presented the agreement it is to sign with the MJD and the regional chambers of commerce for execution and coordination the program; (c) presented the plan for the individual components and a timetable for execution of the program, which will include: (i) a semiannual schedule of activities, (ii) the final terms of reference for all the consultants participating in the program and the counterpart technicians, (iii) the timetable for engagement of the counterpart personnel; (d) set up the committee for control and coordination of the program, and (e) put into effect the operating regulations of the program. The executing agency has complied with most of these conditions ahead of schedule, and it is therefore expected that disbursements may begin upon signature of the contract.

- 3.34 The term for execution of the program will be 18 months and the term for final disbursement will be 24 months, in both cases running from the effective date of the agreement.
- 3.35 The resources of the operation will be disbursed in accordance with the Bank's procedures and the eligibility standards of MIF. Disbursements will be administered by the CCB. For these purposes a revolving funds in an amount equivalent to 15% of the grant will be established on request.

G. Procurement of goods and engagement of consulting services

- 3.36 In the execution of the program the Bank's procedures for the procurement of goods and consulting services will be followed.
- 3.37 The resources of the Bank's contribution will be used to acquire the following equipment: (a) a network server (PC 486 DX/2, 16 MB RAM, 1 GB hard disk, tape drive, SVGA monitor, network card, DOS 6.1, and Windows 3.1); (b) a communications server; (c) 14 modems; (d) 11 fax machines; (e) 11 workstations (PC 486 DX/2 with 8 MB RAM, 500 MB hard disk, SVGA monitor, DOS 6.1 and Windows 3.1); (f) 11 laser printers; (g) computer programs, and (h) required supporting equipment.
- 3.38 The Bank will administer directly the resources of the Contingencies component of its contribution.

H. Organization and execution

1. The Control and Coordination Committee (CCC)

- 3.39 This Committee will support the executing agency in supervising the activities of the operation. Its characteristics would be as follows: (a) Permanent members: one representative each of the MJD, the Chamber of Commerce of Bogota, CONFECAMARAS, and the several regional chambers, and the National Coordinator, who will act as Secretary; (b) Functions: to coordinate implementation of

the technical and administrative decisions of the operation; to approve the organization and design of the initial plan and detailed working timetables and revisions thereof, including the guidelines and recommendations of the consulting firms and individual consultants; to evaluate periodically the development of the activities; to be informed on difficulties identified in the way of attaining the set goals and frame recommendations for concrete measures that will contribute to coordination and articulation of the activities, and (c) Meetings: The CCC will meet every month.

- 3.40 In its first meeting the CCC must approve the plan and timetable for execution of the program. In its last meeting it will review the activities and their results and offer recommendations for their consolidation.

2. Technical Executing Unit (TEU)

- 3.41 The program will be carried out by a Technical Executing Unit (TEU) to be set up in the Arbitration and Mediation center of the CCB. This Unit will bear technical and administrative-financial responsibility for the program. It will consist of: (a) the National Coordinator of the program, who will be its head; (b) the regional coordinators; (c) the Academic Coordinator, and (d) the Program Administrator. In addition, the TEU will have the support of the consulting firms and individual consulting experts participating in the program, and the technicians and counterpart administrative personnel.
- 3.42 The National Coordinator, in coordination with the regional coordinators, will be responsible for the day-to-day execution of the plans of work, and in so doing will coordinate with the consulting firms and consultants of the program. He must also serve as Secretary of the Control and Coordination Committee (CCC). Directly under this National Coordinator will be the individual consultants, the technicians, and the counterpart administrative personnel. He will be answerable directly to the Director of the ACC of the CCB.

3. Executing agency

- 3.43 The executing agency for this operation, and ultimately responsible for carrying it out, will be the Bogota Chamber of Commerce (CCB) acting through its Center for Arbitration and Mediation, with the participation of the regional chambers of commerce of Bucaramanga, Cali, Cartagena and Medellín. Each of these coordinating chambers will appoint a regional coordinator to be responsible for execution of the program in its area of influence and will provide the advisory services and support required by the participating ACCs assigned to its area of influence. The CCB will also have the institutional support of the MJD, which will provide the regulatory

legal framework. The executing agency will oversee the activities under the program through a Technical Executing Unit and Operating Regulations.

- 3.44 The CCB is a private nonprofit entity legally responsible for the public function of carrying the register of business concerns. The CCB is regarded in the business community and by the general citizenry as an efficient, serious organization possessing strong moral authority, all of which would facilitate its role in this operation. The experience of its Center for Arbitration and Mediation, established in 1983, in the management of alternative procedures for the settlement of business disputes enables it to support the implementation and monitoring of the training, institutional development and strategic information activities called for under the program.
- 3.45 The Counterpart Technical Group, consisting of professional staff members of the CCB and the regional chambers, will participate in all scheduled activities. Its function will be to work with the experts and consultants during execution of the project in order to receive the technology to be transferred in it.

I. Continuity of the program

- 3.46 In addition to the counterpart resources committed by the regional chambers of commerce for execution of the program, the eligible ACCs that are to benefit from the program resources will set up, with funds of their own, a revolving reserve fund from which to provide the complementary training and strengthening they may require after execution of the program has ended. This fund will be in the equivalent of ten percent (10%) of the program resources utilized by each ACC. It will be established as a condition precedent to participation in the program by each eligible ACC and will be administered individually by the participating ACCs during execution of the program and for an additional period of at least two years following the last disbursement of the resources of the Bank's contribution, depending on each participating ACC's needs for complementary strengthening and training.

J. Financial reports

- 3.47 Within 90 days following the end of each year during execution of the project and within 90 days after the date of the last disbursement, the executing agency will present to the Bank a financial report on the use made of the Bank's contribution and the local counterpart contribution. These financial reports must be certified by a firm of independent auditors satisfactory to the Bank.

IV. FEASIBILITY AND RISKS

A. Feasibility

- 4.1 The institutional commitment of the MJD to policies and measures for the strengthening of alternative methods for the settlement of disputes has consolidated the regulatory framework needed for execution of the program. In addition, the active participation of the regional chambers of commerce guarantees adequate coverage of the program and publicity for the benefits to be obtained. Moreover, the experience, technical capacity and prestige of the Bogota Chamber of Commerce ensures the participation of the country's chambers of commerce and their respective ACCs in the program.
- 4.2 The program's strategic information component is aimed at generating an effective demand and measures to promote demand in the medium and long run for the services offered by the ACCs for the settlement of business disputes. The capability for the performance of services would be assured by the allocation of internal funds which the participating ACCs would assign to ensure the continuity of their own technical and institutional strengthening in the terms set forth in paragraph 3.47, above.

B. Risks

- 4.3 The principal risks of the program are (a) that the demand generated would not be commensurate with the installed capacity to be developed by the program, a risk that would be mitigated by the active participation of the regional chambers of commerce and proper execution of the information component; (b) lack of continuity of the institutional and technical consolidation effort would compromise the program's continuity after its execution had ended. It is for this reason that the program provides for the establishment by the participating ACCs, with resources of their own in the terms described in paragraph 3.47, above, of reserve funds to ensure the continuity of the efforts needed to consolidate the use of alternative methods for the settlement of disputes.

V. COMPLIANCE WITH THE PROGRAM'S ELIGIBILITY CRITERIA

A. General criteria for eligibility of the program

- 5.1 The MIF financing for execution of the program for the strengthening of alternative procedures for the settlement of business disputes in Colombia is entirely compatible with the general purpose of MIF, which is to increase investment by and activity in

the private sector in order to speed up socioeconomic growth and development and reduce the costs that would be generated if business disputes are not settled by out-of-court procedures.

B. Project eligibility criteria of the facility

- 5.2 According to Article III, Section 2, of the Agreement Establishing MIF, the proposed program is likewise compatible with the Criteria for the Eligibility of Projects for Financing Facility I. The measures under the program are directed at promoting participation by the private sector in the settlement of business disputes by facilitating access to justice through alternative out-of-court procedures.

VI. COMPATIBILITY WITH THE BANK'S PROGRAM FOR THE COUNTRY

- 6.1 The proposed program is compatible with the Bank's strategy for Colombia. The measures to be undertaken in this operation will complement the program for modernization of the government and strengthening the administration of the justice sector, now being processed by the Bank (CO-0036).

VII. AVAILABILITY OF MIF RESOURCES

- 7.1 **Financing modality.** The program would be financed by a grant as established in paragraph 1.1.

VIII. EVALUATION

- 8.1 For the monitoring and evaluation of the program the following have been provided:

A. Semiannual reports

- 8.2 Within 30 days after the close of each semester, the executing agency will present a summary of the activities carried out during that period, which will include information on the activities executed, the extent to which the purposes of the operation have been accomplished, particularly the progress of the training and institutional consolidation activities. It shall also report any difficulties found and adjustments in and reorientations proposed in the work. The report shall also include a projection of the work to be done in the following semester.

B. Intermediate evaluation

- 8.3 In the ninth month of execution of the program the executing agency, in coordination with the MJD and the Bank, will make an evaluation of the conduct of the activities under the program based on the criteria agreed upon with the Bank. On this occasion the executing agency, with the collaboration of the MJD and the Bank's technicians assigned to the program, will establish the basic guidelines for the ex post evaluation.

C. Ex post evaluation

- 8.4 Given the nature of the program and the need to ensure its continuity over time, the project team and executing agency have decided it is necessary to make an ex post evaluation of the program and its coverage. Accordingly, upon the completion of one year following the end of activities under the program, the CCB, the MJD and the Bank will make an independent ex post evaluation of the performance after implementation of the proposed program. This evaluation must show: (a) the scope and results of the strategic information component; (b) the impact of the institutional strengthening and the effects of the training provided on the settlement of business disputes by alternative methods; (c) the volume of cases pending settlement by alternative procedures; (d) the processing time of cases, and (e) the specific measures taken to ensure the continuity of activities under the program. The CCB, MJD and Bank will engage external consulting services to perform this evaluation. The responsible units of the Bank will participate in both the design of the methodology for this independent evaluation and the preparation of the terms of reference of the consultants and their selection.

SUMMARY OF THE PROGRAM

<p style="text-align: center;">MIF FACILITY AND COLOMBIA: PROGRAM FOR THE STRENGTHENING OF ALTERNATIVE PROCEDURES FOR THE SETTLEMENT OF BUSINESS DISPUTES</p>		
<p>General purpose of the program: Development and publicizing of alternative methods for the settlement of business disputes.</p>		
<p>Specific purposes of the program: (a) to strengthen the ACCs by implementing a system for the reduction of differences in performance; (b) the design and implementation of a regional information system; (c) the training of mediators, arbitrators and administrative personnel, and (d) training for the entrepreneurial and business sector in the use of the alternative methods.</p>		
Component	Activities	Results
I. Institutional strengthening	Engagement of consultants to prepare packages of services designed to suit the relative development of the ACCs, including manuals of administrative procedure, arrangements for internships, tutoring and evaluation; and design of administrative software.	Packages of services to strengthen administrative and technical capacity of ACCs, prepared in 3 months and implemented in 58 centers in about 18 months.
	Engagement of consultants to design and implement a regionwide information network for the creation of a statistical data base to (a) systematize the flow of information to the MJD on the work of the ACCs, and (b) increase the capacity of the ACCs to evaluate their own efficiency. Financing of equipment needed for the regional information network.	Physical and technical designs of the information network, prepared in 3 months.
II. Training	Engagement of consultants to organize and implement training activities at 4 different levels of specialization: (a) first module - technical elements of mediation for basic notions of the different alternative methods for settlement of business disputes, their various modalities and scope; (b) second module - training of mediators, arbitrators and tribunal secretaries, to provide tools needed to improve the performance of their functions; (c) third module - training of multipliers who have completed the requirements of the preceding levels, to ensure proper continuity of training and ongoing institutional strengthening programs to be implemented at the regional level as a result of execution of the program, and (d) fourth module - institutional training, to give the regional chambers of commerce the tools needed to set up training and ongoing institutional strengthening programs at the regional level to support the relatively less developed eligible ACCs. Financing of costs of implementing the 4 modules, including preparation of materials, monitoring activities, and transportation and subsistence of participants.	Basic training of 3,000 persons. Training of business mediators and education of 50 multipliers. Ongoing national training program.
III. Strategic information	Engagement of consultants for the design and implement of a scheme of strategic information to raise the demand for the alternative methods for the settlement of business disputes (MACCC) among enterprises and professionals associated with chambers of commerce. Conduct of strategic information workshops. Conduct of a MACCC seminar for infrastructure projects.	Generation of a level of effective demand consonant with the technical and institutional capacities of the ACCs.

ESTIMATED BUDGET, BY COMPONENTS (Equivalents in US\$)				
Components of the program	MIF	MJD	Chamber of Commerce	TOTAL
I. INSTITUTIONAL STRENGTHENING	<u>319,285</u>	<u>122,248</u>	<u>34,200</u>	<u>475,733</u>
Expert instruction modules 12 mos./\$2,000	24,000			24,000
Module preparation and monitoring	33,560	11,200		44,760
Internships		11,048		11,048
Consultancy information network 28 mos./\$2,570 ¹	98,000	100,000		198,000
Equipment for information network	163,725			163,725
Network computer operat. 5x18 mos. x 380			34,200	34,200
II. TRAINING	<u>36,900</u>	<u>11,500</u>	<u>158,060</u>	<u>706,460</u>
Individual consultants in:				
Arbitration 4 mos. x 3,000	12,000			12,000
Negotiation 18 mos. x \$3,000	54,000			54,000
Legal mediator (3) 3 x 4 mos. x \$2,000	24,000			24,000
Teaching methods 4 mos. x \$2,000	8,000			8,000
Conflict theory 4 mos. x \$2,000	8,000			8,000
Arbitral tribunal secretaries 4 mos. x \$3,000	12,000			12,000
Mediation techniques (2) 2 x 18 mos. x \$2,000	44,000			44,000
Workshop coordinator 12 mos. x \$1,000	12,000			12,000
Academic coordinator 12 mos. x \$3,000	36,000			36,000
Negotiation techniques/Consulting firm	24,570			24,570
Video/Consulting firm	25,000		30,000	55,000
Preparation and execution of: ²				
Basic module	60,500	11,500	50,615	122,615
Intermediate module	75,000		35,353	110,353
Advanced module	56,000		42,092	98,092
Institutional module	85,830			85,830

ESTIMATED BUDGET, BY COMPONENTS (Equivalents in US\$)				
Components of the program	MIF	MJD	Chamber of Commerce	TOTAL
III. STRATEGIC INFORMATION	<u>100,000</u>	<u>10,000</u>	<u>111,388</u>	<u>221,388</u>
Fees 6 x \$3,300	19,800			19,800
General expenses 100% of fees			19,800	19,800
Marketing expert 3 mos. x \$5,000	15,000			15,000
Local moderators			27,800	27,800
Intern. speakers seminar 10 x \$2,000	10,000		10,000	20,000
Simultaneous interpreter 3 x \$4,000	12,000			12,000
Prep. & admins. seminar on infrastructure	10,000	10,000		20,000
Seminar	8,200		9,620	17,820
Strategic development	25,000		44,168	69,168
- <u>Coordination</u>	<u>93,600</u>		<u>119,692</u>	<u>213,292</u>
General coordinator 18 mos. x \$3,200	57,600			57,600
Administrative accountant 18 mos. x \$2,000	36,000			36,000
Technical execution unit			35,000	35,000
Regional coordinators 5 x 18 mos. x \$700			63,000	63,000
Complementary support			21,692	21,692
- <u>Ex post evaluation</u>	<u>30,000</u>			<u>30,000</u>
<u>Subtotal</u>	<u>1,079,785</u>	<u>143,748</u>	<u>423,340</u>	<u>1,646,873</u>
- <u>Contingencies</u> (approx. 10%)	140,215	6,252	14,660	<u>161,127</u>
<u>TOTALS</u>	<u>1,220,000</u>	<u>150,000</u>	<u>438,000</u>	<u>1,808,00</u>
<u>Percentages</u>	<u>67.5%</u>	<u>8.3%</u>	<u>24.2%</u>	<u>100%</u>
1 Weighted average fee based on the number of consultant-months.				
2 Preparation and execution of the training modules includes teaching materials, coordination of workshops, leasing of premises, travel and subsistence.				

PROPOSED RESOLUTION

COLOMBIA. NON REIMBURSABLE TECHNICAL COOPERATION FOR A PROGRAM
FOR THE STRENGTHENING OF ALTERNATIVE METHODS OF COMMERCIAL DISPUTE RESOLUTION

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 Multilateral Investment Fund, to enter into such agreements as may be necessary with the Chamber of Commerce of Bogota and to take such additional measures as may be pertinent for the execution of the plan of operations referred to in Document MIF/AT- with respect to a technical cooperation program for the strengthening of alternative methods of commercial dispute resolution.
2. That up to the amount of US\$1,220,000 is authorized for the purpose of this resolution, chargeable to resources of the Technical Cooperation Facility of the Multilateral Investment Fund.
3. That the above-mentioned sum is to be provided on a non-reimbursable basis.