

NATIONAL NETWORK OF COMMERCIAL MEDIATION AND ARBITRATION CENTERS

(TC-98-12-06-8-AR)

EXECUTIVE SUMMARY

Executing agency:	Argentine Chamber of Commerce (Cámara Argentina de Comercio – CAC)
Beneficiaries:	The program's participants and direct beneficiaries will be arbitration and/or mediation centers comprising the proposed National Network and clients for their services, namely: (i) private investors and the business community; (ii) chambers of commerce; (iii) business and professional unions and associations; and (iv) eligible centers that join the Network.
Objectives:	<p>The program's general objective is to help make Argentina's business sector more competitive and economically efficient and to enhance the climate for private investment in the country. To that end, support will be provided to consolidate and harmonize alternative commercial dispute resolution approaches nationwide and ensure that the services these centers offer are efficient and of high caliber. Specific objectives are to (i) establish a National Network of Commercial Mediation and Arbitration Centers and (ii) strengthen the institutional capacity of Network centers.</p> <p>The expected outcome of the program is an institutionalized alternative dispute resolution system that will give private businesses ready access to an efficient, reliable, neutral avenue for settling commercial disputes. As well as improving the climate for business dealings within Argentina, the program will be a move toward the creation of regional dispute resolution mechanisms, particularly within MERCOSUR.</p>
Description:	The program would have four components: (i) establishment of a National Network of Commercial Mediation and Arbitration Centers; (ii) institutional strengthening of Network centers; (iii) training of neutral third parties (arbitrators and mediators) to work in the Network; and (iv) strategic publicity on the merits of institutionalized mediation and arbitration, and market penetration initiatives.

A Program Executing Unit (PEU) will be set up to assist the Argentine Chamber of Commerce in the program's technical components and its administration. The PEU will be in charge of liaison with the Bank, including the channeling of requests seeking the Bank's non-objection to proposed goods or services contracts envisaged in the program.

Because the program would help create a network of centers nationwide, two bodies would be established: a Monitoring and Coordination Committee (CCC) to help monitor and oversee the Network, and a Panel of Eminent Persons whose mandate would be to make certain that decisions rendered in Network centers meet high ethical standards.

Financing:	Modality:	Grant
	MIF	US\$1,000,000 (40%)
	Local counterpart:	<u>US\$1,508,000</u> (60%)
	Total:	US\$2,508,000

Terms:	Execution period:	36 months
	Disbursement period:	42 months

Exceptions to Bank policy: None.

Special contractual conditions: As conditions precedent to the first disbursement of the contribution, the CAC would have to demonstrate to the Bank's satisfaction that: (i) it has selected the PEU staff; (ii) it has submitted a work plan for year 1 of the program; (iii) it has put into effect the Operating Regulations for the Network, according to the draft agreed on with the Bank; (iv) the Monitoring and Coordination Committee (CCC) has been set up, area headquarters centers have been declared eligible, and contracts have been signed with centers joining the Network; and (v) the Panel of Eminent Persons for the Network has been set up.

I. COUNTRY AND PROGRAM ELIGIBILITY

- 1.1 The Donors Committee declared the Argentine Republic eligible for all forms of Multilateral Investment Fund (MIF) funding on November 30, 1993. The program proposed here is eligible for funding under the Technical Cooperation Facility (Facility I) because it will enhance efficiency in the business sector and help create an enabling environment for private investment, by furthering and entrenching the use of alternative dispute resolution methods. The program is consonant with other MIF-supported initiatives in this sector and is in line with the recommendations of the international assessment done in this area.

II. FRAME OF REFERENCE

- 2.1 One of the shortcomings in the administration of justice in Argentina, and in the country's legal system generally, is the overburdened and backlogged court system, which makes legal action an expensive process and discredits the judicial system and those who work in it. Overloaded courts ultimately take a toll on budgets of the community at large and the business community in particular, above all when firms need to settle a commercial dispute. When such legal costs are heavy, businesses end up being less competitive.
- 2.2 The surge in global trade has brought with it a steady increase in disputes, for which practical, expeditious avenues of resolution are needed. This has given birth to nonconfrontational approaches to dispute settlement, commonly termed 'alternative dispute resolution' methods. These approaches have become increasingly popular in Argentina since the passage of the 1995 National Mediation Act (law 24,573), which makes pre-judicial mediation mandatory. In the wake of that law some 200 mediator training centers were set up, along with mediation centers, most of them in the city of Buenos Aires. Little by little, however, those centers have ceased operating; the handful left today are involved solely in court-ordered mediation.
- 2.3 Experience in Buenos Aires in the four years since the Mediation Act came into force shows that the community has embraced the theory of mediation as an alternative way of resolving commercial disputes, but in practice that approach is being used only insofar as the law makes it mandatory. This compulsory mediation system has not developed as hoped, and the business community is unaware of the benefits of alternative dispute resolution procedures and thus does not use that avenue to settle differences *per se*, but rather as a first, mandatory step toward the courts. An important consideration here is that, in international legal theory, an intrinsic feature of the concept of mediation is that it be voluntary: the disputing parties must be willing to reach agreement and to assent to a settlement.
- 2.4 Arbitration in Argentina is governed by the Code of Civil Procedure and Argentine Commercial Code and by an assortment of provincial procedural laws, in keeping with the nation's federal configuration. Generally speaking, legislation on the books

today provides a basic framework in which arbitration can function in Argentina, but there is scope for modernizing its structure in line with recent trends in international law, particularly in the areas of independence of arbitration systems from the judicial branch, and the legal force and enforceability of arbitral awards.

- 2.5 Unlike mandatory pre-judicial mediation, institutional mediation and arbitration are little known or used in Argentina. Among the few institutional mediation and arbitration centers now in operation are those belonging to the Argentine Chamber of Commerce and the Mar del Plata Commodity Exchange. However, a number of institutions that have seen these out-of-court approaches taking root elsewhere in the world and understand what the local and international business and investor communities stand to gain from them now wish to start up institutional mediation and arbitration centers in Argentina.¹ Building and entrenching an institutionalized commercial mediation and arbitration system in the country could do a great deal to advance the business sector and boost private investment.²
- 2.6 The program proposed here would help instill a solid institutionalized mediation and arbitration system in Argentina. It also would prepare the terrain for harmonization and integration of out-of-court dispute resolution approaches in the region, notably within MERCOSUR. This latter benefit would be particularly significant because the MIF is providing backing for operations of this kind in the other MERCOSUR member countries; a similar effort in Argentina would mean consolidating its support in this sphere in the region.
- 2.7 Some novel features of the proposed program vis-à-vis other MIF-supported operations in this sector are: (i) the catalytic approach it would take to help set up a nationwide network of centers; (ii) an innovative system of continuing and distance training, to keep Network practitioners current as to the requisite skills and knowledge; (iii) it would encourage the sharing of experiences and outcomes by way of a Network webpage; and (iv) it includes a plan for annual competitions to spur innovative uses of alternative dispute resolution methods.

III. PROGRAM OBJECTIVES

- 3.1 The general objective of the program is to help make Argentina's business sector more competitive and economically efficient and to enhance the climate for private investment in the country. To that end, support will be provided to consolidate and

¹ What distinguishes institutionalized mediation and/or arbitration from their ad hoc counterparts is that the former operate within an institution, following prescribed rules and procedures. For the most part they are set up within an established organization, to serve its members' needs.

² According to the analysis done, for purposes of this program, of Argentina's legal framework governing mediation and arbitration, there is no legal impediment to the setup and operation of a network of mediation and arbitration centers. The legal framework assessment report is in the program's technical files.

harmonize alternative commercial dispute resolution approaches nationwide and ensure that the services provided are efficient and of high caliber. Specific objectives are to (i) establish a National Network of Commercial Mediation and Arbitration Centers and (ii) strengthen the institutional capacity of Network centers.

- 3.2 The outcome sought by the program is an institutionalized alternative dispute resolution system that will give private businesses ready access to a speedy, efficient, reliable, neutral system for settling commercial disputes. As well as improving the climate for business dealings within Argentina, the program will be a move toward the creation of regional dispute resolution mechanisms, particularly within MERCOSUR.

IV. PROGRAM DESCRIPTION

A. Components

- 4.1 Program activities in pursuit of the above objectives have been grouped into four components: (i) establishment of a National Network of Commercial Mediation and Arbitration Centers; (ii) institutional strengthening of Network centers; (iii) training of neutral third parties (arbitrators and mediators) to work in the Network; and (iv) strategic publicity on the merits of institutionalized mediation and arbitration, and market penetration initiatives.

1. Establishment of a National Network of Commercial Mediation and Arbitration Centers (US\$1.14 million)

- 4.2 **Purpose:** Create a network linking the country's best mediation and/or arbitration centers, with a uniform institutional and operational structure, to offer businesspeople and investors consistent, high-caliber alternative dispute resolution services.
- 4.3 **Expected outcome:** A network of 32 mediation and/or arbitration centers throughout Argentina, operating with uniform regulations, technologies, and organization structures, to firmly instill and harmonize the concept and practice of institutionalized mediation and arbitration.
- 4.4 **Specific tasks:** (i) set up the Network, with the configuration and functions set out in its Operating Regulations;³ (ii) produce uniform rules and regulations to guide the centers' mediation and arbitration work, that are concordant with MERCOSUR requirements (rules of procedure, appointment systems, administrative bodies); (iii) draft a code of ethics against which to assess the caliber of the services

³ Operating Regulations for the Network were devised as part of the Bank's support for the design of this operation (see paragraph 4.21).

performed by all Network actors, with basic guidelines for alternative dispute resolution services; (iv) set up an integrated information network, including a teleconferencing system and a webpage providing full information on the Network (structure, services, list of arbitrators and mediators) and an interactive query system; (v) develop arbitrator and mediator profiles to assure uniform selection criteria for Network service providers (expertise, experience, training); and (vi) conduct a strategic planning exercise with a five-year horizon (four workshops and one paper), to propose actions whereby arbitration and mediation legislation can be harmonized throughout Argentina and move toward MERCOSUR rules and requirements.

2. Institutional strengthening of Network centers (US\$89,250)

- 4.5 **Purpose:** Strengthen the institutional and technical capacity of Network mediation and/or arbitration centers, to assure uniform efficiency levels and standards of excellence in alternative commercial dispute resolution services, and equip the centers to effectively serve the needs of business, giving the business community ready access to the services of neutral third parties.
- 4.6 **Expected outcome:** 32 centers operating as part of the Network, with efficient regulations and operating procedures and uniform policies and standards of excellence.
- 4.7 **Specific tasks:** (i) provide support for the centers' administration and technical operations (organization manuals and administrative procedures to help them run smoothly); (ii) devise a cost structure that will assure the centers' long-range financial sustainability (cost, expenditure, and capital spending management strategy); (iii) purchase and apply specialized software to log and track cases, in order to: (a) make more efficient use of each center's physical plant and human resources, (b) standardize case management procedure throughout the country, and (c) give the Network a statistical database to track outcomes at each center; and (iv) develop, apply, and monitor performance indicators.

3. Training of neutral third parties (arbitrators and mediators) to work in the Network (US\$594,500)

- 4.8 **Purpose:** Equip the Network with arbitrators and mediators who have the technical and management expertise to deliver services to a standard of excellence.
- 4.9 **Expected outcomes:** 640 trained arbitrators and mediators in the Network, and a new decentralized continuing and distance training model. Using case-study methods, the model will help optimize the standard of quality of the Network's services over time. Included in the model are train-the-trainer courses for 32 trainers throughout Argentina, to upgrade the skills of all Network participants and keep them abreast of developments in this field.

- 4.10 **Specific tasks:** (i) select and prepare commercial mediation and arbitration case studies so that mediators and arbitrators delivering training will use techniques suited to a business clientele; (ii) develop a low-cost communications system using the intranet and teleconferencing to implement the distance learning program; such a system will allow students to interact with their instructor and role-play as arbitrators, mediators, complainants, and defendants, and thereby learn from each other; (iii) deliver a train-the-trainer (tutor) course, so tutors can provide continuing support in distance learning at all Network centers, reaching those far from Buenos Aires; (iv) deliver four training courses on arbitration and four on mediation; and (v) develop a program of annual competitions to spur innovation and creativity among mediators and arbitrators who are providing training.

4. Strategic publicity on the benefits of mediation and arbitration, and market penetration activities (US\$208,800)

- 4.11 **Purpose:** Publicize how institutionalized mediation and arbitration can improve business dealings and make for more efficient commerce when disputes can be settled more quickly and inexpensively, and encourage more of the business community to adopt this approach.
- 4.12 **Expected outcome:** 90 institutional agreements signed by Network centers, wherein local businesses agree to include in their contracts a clause in which the parties covenant to submit, in the event of a dispute, to the Network's commercial mediation and/or arbitration services.
- 4.13 **Specific tasks:** (i) conduct a market survey and devise a market penetration strategy to identify economic sectors to which Network promotional efforts should be targeted; (ii) hold 108 workshops and meetings with 1,620 business owners and justice system practitioners in order to: (a) publicize alternative dispute resolution methods and their benefits and the services available from Network centers and (b) encourage businesses to include a mediation/arbitration clause in contracts; and (iii) publicize the Network's services on its webpage.

B. Organization and execution

1. Executing agency

- 4.14 The program's executing agency will be the Argentine Chamber of Commerce (CAC), a not-for-profit civil association established on November 7, 1924. Its mandate is to advance, foster, enhance the image of, and defend the interests of commerce, industry, and services in the Argentine Republic, observing the principles of a free marketplace and private enterprise. Among the CAC's members are Argentine and multinational firms and joint enterprises. It is a member and/or active participant in a number of international organizations. The CAC is the ideal executing agency for the program proposed here, given its good reputation and high

profile nationwide, as evidenced in the makeup of its Board of Directors, which includes representatives of a whole spectrum of regions, unions and trade associations, and organizations from throughout the country.⁴

- 4.15 The CAC offers services to its members through a number of specialized departments and in-house committees. In 1992, having observed the rapid spread of alternative approaches to dispute resolution, the CAC formed an in-house Advisory Committee on Arbitration and Mediation. It subsequently established a Mediation and Arbitration Center to offer those services to its membership, acting as an intermediary between the public court system and the private sector. Attesting to the CAC's reputation both at home and outside Argentina, and its experience in this sector, the organization is part of the National Committee of the Inter-American Commission for Commercial Arbitration.

C. Implementation and institutional arrangements for the program

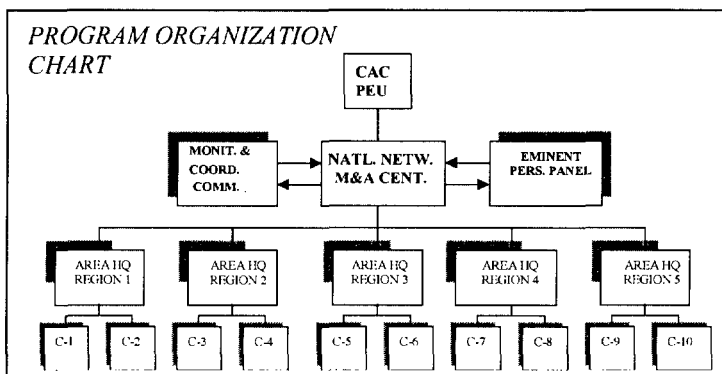
- 4.16 **Executing agency:** The CAC, as executing agency, will be responsible for the program's technical side and for its administration and finances. For that purpose and to organize, coordinate, and administer the Network of centers, it will set up an in-house Program Executing Unit.
- 4.17 **Program Executing Unit:** The following will be this unit's core functions: (i) direct all program activities; (ii) open and operate a bank account for the program; (iii) set up and maintain the program's accounting and financial records; (iv) prepare the initial program report and half-yearly status reports; (v) arrange procurement of goods and services as planned in the program; this will include securing the Bank's non-objection to proposed goods and services contracts; (vi) arrange for contracts to be signed with individual consultants whose services are to be funded by the program, and authorize payments as the consultants complete tasks in accordance with their terms of reference; (vii) arrange for the creation and subsequent replenishments of the revolving fund set up from the Bank's contribution, secure counterpart funds, administer funds, and prepare statements of account; (viii) review and approve consultants' final reports; (ix) prepare the program's financial statements for audit; (x) coordinate execution of the program components; and (xi) ensure that the rules and contract conditions agreed upon by the Bank and the CAC are observed in the program's execution. Making up the PEU's staff will be: (i) a general coordinator to head up the unit and monitor the technical elements of setting up the Network, who will handle

⁴ Among the CAC's members are provincial Chambers of Commerce, industry and regional federations and associations, foreign and binational Chambers of Commerce, and mixed business-owner/operator committees. The CAC itself belongs to or is active in such international organizations as the International Chamber of Commerce, the Inter-American Council on Trade and Production, the Inter-American Commission for Commercial Arbitration, the Ibero-American Association of Chambers of Commerce, Latin Chambers of Commerce of the United States, MERCOSUR's Economic and Social Consultative Forum, Americas Free Trade Association, and the Council of MERCOSUR Chambers of Commerce.

questions from participating centers; (ii) an accounting assistant to set up and maintain the program's accounting and financial records; and (iii) an administrative assistant. Terms of reference for these positions are in the program's technical files.

4.18 Structure of the

Network: To be able to encompass the entire country, the Network has been configured in three levels, with mediation and/or arbitration centers taking on different commitments: (i) the CAC, as the Network's headquarters, with direct



responsibility for its oversight, administration, technical elements, and coordination; (ii) the Network's area headquarters centers—seven, to begin with⁵—distributed throughout the country by virtue of their provincial representativity and regional economic importance; they will coordinate, motivate, and lend technical support to other centers in their area of influence, encouraging them to join the Network and offer service to the standards prescribed for Network operations; and (iii) mediation and arbitration centers distributed throughout the country, by virtue of their provincial representativity and regional economic importance,⁶ that have met the eligibility criteria to join the Network; they will provide mediation and/or arbitration services with the supervision and to the standards of quality devised for the Network.

- 4.19 **Monitoring and Coordination Committee (CCC):** The mandate of the CCC will be to coordinate, oversee, and monitor the Network's operation. It will be chaired by a CAC representative; each of the other seven members will represent one of the seven Network area-headquarters centers. Its terms of reference will be to: (i) ensure that the program is implemented as designed; (ii) approve and oversee the program's general work plan and performance of the PEU's general coordinator; (iii) ensure that participating centers honor their commitments and furnish resources for the program's implementation; (iv) evaluate and approve new centers applying

⁵ Commercial mediation and/or arbitration centers of Chambers of Commerce and trade associations that meet the criteria to be area headquarters centers. Two are in the province of Buenos Aires, one in Córdoba, one in Mendoza, one in Misiones, one in Río Negro, and one in Salta.

⁶ The Network will be made up of commercial mediation and/or arbitration centers belonging to Chambers of Commerce and to trade, business, and professional organizations that are representative on at least one of the following accounts: (i) direct participation by the business sector, being directly set up and administered by business owners/operators; (ii) institutional, representing activities or sectors of economic activity in Argentina; and (iii) regional, inasmuch as by virtue of their geographic location they represent, are familiar with, or speak for the interests of a specific region of the country.

to join the Network, and decide upon the removal from the Network of a center or area headquarters center that fails to honor its commitments or falls short of the prescribed service quality standards; and (v) foster the program's execution nationwide.

- 4.20 **Panel of Eminent Persons:** This body will be set up to lend greater transparency to Network decisions. It will assess the work done by Network centers, arbitrators and mediators to see if they are adhering to the rules, regulations, and code of ethics. Its members will work ad honorem and be publicly recognized for the singular responsibility entrusted to them.⁷ The Panel's terms of reference will be to: (i) advise the executing agency on applying the Code of Ethics to ensure that the Network operates properly; (ii) hear complaints from Network clients regarding the centers' operation or failure by Network arbitrators and mediators to discharge their duties; (iii) suggest to the program's CCC that a center, arbitrator, or mediator be removed from the Network when its conduct or performance so warrants; and (iv) award special distinctions to centers and individuals working with centers whose performance stands out above other practitioners.
- 4.21 **Operating arrangement:** A set of Network Operating Regulations has been devised to make certain the program will be executed as planned. These contain administrative and operating rules and procedures governing relations between the executing agency (CAC) and all centers taking part in the program, specifically: (i) a description of the program's organizational structure and Network executive and regulatory bodies, indicating their makeup and core functions; (ii) criteria that a mediation and/or arbitration center must satisfy to be able to join the Network; and (iii) obligations of participating centers vis-à-vis the executing agency. Also devised as part of these regulations is a standard form of contract that the executing agency would sign with a center that wished to join the Network. Copies of the Operating Regulations and model contract are in the program's technical files.
- 4.22 All the program activities will be carried through in accordance with terms of reference and specifications already worked out with the executing agency for each component. The program's technical files contain copies of the terms of reference.
- 4.23 Bank and MIF procedures will be adhered to in selecting and hiring consultants and in obtaining goods and materials for the program. The PEU will engage consultants and arrange procurement of goods (see paragraph 4.17(v)).

⁷ As per the CAC's proposal, the Committee would be made up of at least three but not more than five representatives of such prestigious academic and business organizations as the Argentine Chamber of Commerce, Argentine Rural League, Council of MERCOSUR Chambers of Commerce, Inter-American Commission for Commercial Arbitration (OAS), Economics Association, Ambrosio Gioja Institute of the Faculty of Law (UNBA), National Law Academy, and International Chamber of Commerce-Argentina.

D. Size and readiness of the program

- 4.24 The program's size was determined by reference to the manifest demand of institutions wishing to join the Network. The executing agency is ready to begin as soon as the Donors Committee approves the operation and the conditions precedent to disbursement of the contribution have been satisfied (see paragraph 6.1). Seven institutions have been identified as Network area headquarters centers; two have been declared eligible in the course of the program analysis process (the centers run by the Bahía Blanca Commodity Exchange and the Salta Chamber of Commerce and Industry). The other five institutions would be evaluated by the executing agency by reference to the criteria set out in the program's Operating Regulations. Twenty-five centers that wish to join the Network have submitted letters of interest; they will need to be examined to see if they meet the eligibility requirements to be able to join once the program begins.

E. Program cost and funding

- 4.25 The program will cost an estimated US\$2,508,000. The MIF contribution would take the form of a grant equivalent to US\$1 million, defraying 40% of the total cost. The US\$1,508,000 balance (60% of the total) would be furnished by the CAC and Network centers; however, the CAC would be accountable to the Bank for availability of the local counterpart resources. The following table presents the consolidated budget; an itemized estimate is available in the program's technical files.

Program budget
(U.S. dollars)

Component	MIF	Local		Total
		CAC	Other centers	
1. Establishment of National Network of Commercial Mediation and Arbitration Centers	111,400	82,500	946,100	1,140,000
2. Institutional strengthening of participating centers	70,500	10,000	8,750	89,250
3. Training of arbitrators and mediators	352,000	13,300	229,200	594,500
4. Strategic publicity and market penetration	107,800	51,000	50,000	208,800
- Executing Unit	165,600	111,600	-	277,200
- Evaluations and audits	60,000	-	-	60,000
- Contingency	132,700	5,550	-	138,250
Total	1,000,000	273,950	1,234,050	2,508,000
Percentage	40	11	49	100

- 4.26 The MIF funds would defray part of the cost of: (i) consulting services; (ii) training for mediators and arbitrators; and (iii) equipment and publicity for the program.

F. Implementation and disbursement periods and revolving fund

- 4.27 The program would be implemented over 36 months, with a 42-month disbursement period, both counted from the date of signature of the technical-cooperation agreement with the Bank. These timeframes are in line with the program's size, the kind of activities planned, and the executing agency's capacity.
- 4.28 To ensure that the program has resources as and when needed, a revolving fund of up to US\$100,000 equivalent (10% of the MIF contribution) would be set up. The executing agency would open a separate account in the name of the program for this purpose.

**V. MONITORING AND EVALUATION OF OUTCOMES
AND PERFORMANCE**

A. Monitoring

- 5.1 The Program Executing Unit (PEU), on behalf of the CAC, would provide the Bank with the following reports so it can monitor the program closely:
- 5.2 **Initial report:** This report will contain the program's work plan for the year, describing planned year 1 activities and what they are expected to cost, and the objectives and targets being pursued.
- 5.3 **Status reports:** These will be presented 30 days after the end of each half-year. They will contain, inter alia: (i) an account of work accomplished and objectives attained, and tasks scheduled for the following six months, and (ii) financial information on the use of the MIF and local counterpart funds. Any deviations from the program timetable must be reported, with a description of remedial measures planned (where necessary) to ensure that the operation is carried through as designed.
- 5.4 **Financial statements:** Each year throughout the life of the program the Bank is to receive financial statements showing program expenditures from the contribution and from the local counterpart funds. The statements must have been audited by a firm of independent public accountants acceptable to the Bank. Their cost will be defrayed from the financing.

B. Evaluation

- 5.5 The Bank will hire individual consultants directly, using proceeds of the funding, to evaluate the program. The evaluation must take into account the performance and impact indicators identified in the program's logical framework, appended to this proposal as Annex I. The evaluation will consist of the following elements:

- 5.6 **Mid-term review:** This will be conducted when the program is 50% completed. It will look at: (i) progress made toward the program's objectives, by reference to the established performance and impact indicators; (ii) how the Network has developed, in terms of coverage (number of centers participating, cases handled, cases settled, geographic areas encompassed); (iii) performance of the Network's administrative and coordinating bodies; (iv) suitability of the program's components and activities for achieving its objectives; (v) the CAC's institutional capacity to coordinate the Network and recommendations for improvement, if any; (vi) performance of the continuing and distance training system and recommendations for improvement, if any; (vii) how effectively participating centers are managing costs with an eye to long-term financial sustainability; and (viii) recommendations on how the program's components or elements might need to be adjusted in order to attain its objectives.
- 5.7 **Final evaluation:** This evaluation will be conducted 90 days after the program ends, to assess: (i) how well the program met its specific objectives, with concrete examples of what the Network's operation has done to entrench the alternative dispute resolution system in Argentina, including a summary of CAC actions to coordinate the Network; (ii) performance of the continuing and distance training system; (iii) participating centers' success in managing costs with a view to financial sustainability; (iv) strengthening of the mediation and arbitration system in Argentina and tie-in with MERCOSUR; and (v) strengths and weaknesses in the program's design.

VI. SPECIAL CONTRACTUAL CONDITIONS

- 6.1 As conditions for the first disbursement of the MIF contribution, the CAC must demonstrate to the Bank's satisfaction that: (i) it has selected the Program Executing Unit's staff; (ii) it has submitted a work plan for year 1 of the program; (iii) it has put into effect the Network Operating Regulations, according to the draft agreed on with the Bank; (iv) the Coordination and Monitoring Committee has been set up, area headquarters centers have been declared eligible, and the respective contracts have been signed with centers that are joining the Network; and (v) the Panel of Eminent Persons for the Network has been assembled.

VII. VIABILITY, BENEFITS, AND RISKS OF THE PROGRAM

A. Viability

- 7.1 The mission and functions of mediation and arbitration centers were taken carefully into account in the program's design. The executive and officers of the executing agency's Mediation and Arbitration Center had active input into decisions on the content and scope of program activities, and participating centers were consulted.

This instills the sense of “ownership” needed to ensure that the program will be well received and successfully implemented.

- 7.2 Providing assurances of the centers’ institutional sustainability are the reputation and track record of the Argentine Chamber of Commerce (CAC) and its members, and, even more important, the strategic commitment and financial support of the CAC and the Network centers. As far as finances are concerned, the CAC and the centers have pledged to defray the centers’ operating costs until they are financially self-sustaining. There also are plans to charge fees for their services, to ensure long-run financial sustainability.

B. Benefits

- 7.3 The program’s main benefit will be to give the business community access to an interconnected Network of centers throughout the country that afford a standard of excellence in alternative dispute resolution. Business owners and operators can select any center to help settle a commercial dispute, and arbitrators and mediators can serve as neutral third parties in any center belonging to the Network.
- 7.4 Two highlights of the program’s design are the distance training model, with its use of case studies, and the emphasis on advanced training for the country’s current large pool of mediators. The most qualified of these will be selected and taught the special skills-set needed for mediating and arbitrating complex technical disputes.
- 7.5 As MERCOSUR and globalization have opened up economies and propelled regional integration moves, the volume of business transactions has climbed and so too has the number of commercial disputes. Institutionalized mediation and arbitration are a more efficient avenue for dispute settlement: they save businesses time and money and make commercial dealings more efficient and competitive, with the ensuing benefits for business growth and private-sector investment.

C. Risks

- 7.6 If the business community is not turning to alternative dispute resolution services it is because business operators are unaware of how these services can benefit them. Another consideration is that electing to use such services marks a cultural shift which, like any change, can be perceived as risky, and thus can meet with resistance or be sidestepped. The chief risk is that demand for the services of mediation and arbitration centers might not be strong enough to bring in the revenue they need to be financially sustainable. To address this concern, the program proposed here includes the crafting of a strategy to publicize the merits of these services and penetrate the market, educate the business and legal communities on the usefulness of arbitration and mediation services, and equip Network centers to provide these services efficiently and to a standard of excellence.

- 7.7 The fact that the centers selected will be part of respected, nonprofit organizations with solid track records in their respective sphere, that they represent specific economic interests and sectors, and that they offer mediation and arbitration as one service among many, also will attenuate the risk that the program might fall short of its objectives.

NATIONAL NETWORK OF COMMERCIAL MEDIATION AND ARBITRATION CENTERS PROGRAM
LOGICAL FRAMEWORK

OBJECTIVES	INDICATORS	MEANS OF VERIFICATION	ASSUMPTIONS
<p>te and harmonize alternative ion methods (arbitration and creating a National Network l Mediation and Arbitration ill provide, reliable, efficient</p>	<ul style="list-style-type: none"> • A network of 32 mediation and/or arbitration centers is operating throughout Argentina. • The number of cases handled by the centers rises by the equivalent of 20% annually. • The centers' services are effective in at least 50% of cases submitted. 	<ul style="list-style-type: none"> • Status reports. • Copy of contracts the Argentine Chamber of Commerce (CAC) signs with centers joining the Network. • Reports evaluating quality standards attained and the centers' performance. 	<p>Prospective clients are to use institutionaliza- tion and arbitration disputes.</p>
<p>TS</p> <p>ent of the National Network of Mediation and Arbitration</p> <p>ising the Network are e basis of regulations, nd organization structures</p> <p>for the Network.</p>	<ul style="list-style-type: none"> • By month 3: seven area headquarters centers and 25 centers have joined the Network, covering the entire country. • At the start: The Network's Panel of Eminent Persons has been assembled. • At the start: The Network's Monitoring and Coordination Committee has been formed and is operating. • By month 4: Regulations and operating procedures common to all Network centers are in place. • By month 7: Code of Ethics is in force. • By month 4: Profiles for Network mediators and arbitrators have been devised. • By month 7: Integrated information network is in place. • By month 4: Strategic plan has been devised for the Network with a five-year horizon. • By month 12: A proposal is in place to harmonize mediation and arbitration legislation throughout Argentina. 	<ul style="list-style-type: none"> • Copy of Network membership contracts. • Records of proceedings of the Eminent Persons Panel and the Monitoring and Coordination Committee. • Access to the information network. • Consultants' reports. • Network strategic planning documents. • Proceedings and conclusions of the four forums on legislation and standards. • Status reports. • Mid-term and final evaluations of the program. 	<p>Business organization institutions are interes- committed to the Netw-</p> <p>All alternative dispute resolution policy stak- are prepared to take p- discussions.</p>

OBJECTIVES	INDICATORS	MEANS OF VERIFICATION	ASSUMPTIONS
<p>strengthening of Network</p> <p>Centers are operating with efficient and operating procedures and standards.</p>	<ul style="list-style-type: none"> • By month 8: Methods and Systems Manuals implemented in the 32 participating centers. • By month 8: Manual of Network Performance Indicators produced. • By month 8: Case management software (logging and follow-up) developed and implemented in all Network centers. • By month 7: Strategy devised to make the Centers financially sustainable. 	<ul style="list-style-type: none"> • Status reports. • Periodic performance reports from the centers. • Copy of manuals produced. • Fee structure devised and adopted for the centers' services. • Mid-term and final evaluations of the program. 	<p>Centers are committed to adopting Network methods, and procedures.</p>
<p>Training of Network arbitrators and mediators and technical and management training and distance training</p>	<ul style="list-style-type: none"> • By month 10: Selection and preparation of eight commercial arbitration and mediation case studies for the training. • By month 7: Intranet training system developed. • By month 10: Methodology Manual for the new training system. • Months 11-16: One train-the-trainer course (32 persons). • Four training courses for arbitrators (two per year) (320 persons). • Four training courses for mediators/conciliators (two per year) (320 persons). • Three competitions among trained arbitrators and mediators (one per year). 	<ul style="list-style-type: none"> • Case-study bank. • Course announcements. • Course enrollment lists. • Promotional brochures. • Status reports. • Participant evaluations. • Mid-term and final evaluation of the program. 	<p>Network centers are committed to training and educating candidates.</p> <p>Mediators and arbitrators are interested in taking training.</p>
<p>Publicity on the Network and its use and benefits of Network centers.</p>	<ul style="list-style-type: none"> • By month 9: Market survey by sector. • By month 36: 90 institutional agreements signed by Network centers with local businesses. • 108 workshops for 1,620 businesspeople and justice system practitioners (36 per year). • By month 7: Information on the centers is available on the Network webpage. • By month 6: Promotional materials (logo, press articles, folders, posters, etc.). 	<ul style="list-style-type: none"> • Copy of signed agreements. • Proceedings of workshops held. • Visit to Network webpage. • Consultants' reports. • Status reports. • Mid-term and final evaluation of the program. 	<p>Network centers are able to elicit interest on the part of business community in their respective regions.</p> <p>The business community is interested in finding approaches to dispute resolution.</p>

PROPOSED RESOLUTION

ARGENTINA. NONREIMBURSABLE TECHNICAL COOPERATION FOR A NATIONAL
NETWORK OF COMMERCIAL MEDIATION AND ARBITRATION CENTERS PROGRAM

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, on behalf of the Multilateral Investment Fund, to enter into such agreements as may be necessary with the Cámara Argentina de Comercio (CAC) and to adopt such other measures as may be pertinent for the execution of the plan of operations incorporated in the donors memorandum referred to in Document MIF/AT-____ with respect to a technical cooperation for a National Network of Commercial Mediation and Arbitration Centers Program.
2. That up to the amount of US\$1,000,000 is authorized for the purpose of this resolution, chargeable to the Technical Cooperation Facility of the Multilateral Investment Fund.
3. That the above mentioned sum is to be provided on a nonreimbursable basis.