

MEDIATION AND ARBITRATION CENTERS

(PROGRAM TO ESTABLISH CENTERS FOR TRAINING IN AND DISSEMINATION OF COMMERCIAL DISPUTE RESOLUTION ALTERNATIVES)

(TC-95-03-28-7-EC)

EXECUTIVE SUMMARY

- EXECUTING AGENCY:** The Chambers of Commerce of Quito and Guayaquil
- BENEFICIARIES:** The participants and direct beneficiaries will be: (a) the arbitration and conciliation centers [centros de arbitraje y conciliación] (CAC) of the Quito and Guayaquil chambers of commerce; and (b) the business owners affiliated with the chambers of commerce and similar associations, and other clients of the services to be provided under the program.
- OBJECTIVES:** The program's general goal is to establish a coordinated and properly structured commercial dispute resolution system in Ecuador that will gradually introduce swift and cost-effective commercial dispute resolution alternatives. The program's specific objectives are to: (a) help set up permanent training and dissemination centers at the Quito and Guayaquil chambers of commerce; (b) support the private sector's efforts to update the legislation and regulations on commercial arbitration and introduce mediation in Ecuador; and (c) evaluate, based on the results achieved with objectives (a) and (b), the progress made in the use of arbitration and mediation in the private sector and devise a medium-range development plan.
- DESCRIPTION:** The program has three components: (a) establishment of the training and dissemination centers at the Quito and Guayaquil chambers of commerce, where each will train some 200 participants, to which end a plan for disseminating commercial dispute resolution alternatives will be devised and put into practice, part of which will be a marketing strategy using workshops, seminars, audiovisuals, and the preparation of material; (b) support for the regulatory framework, to assist the two chambers of commerce in their efforts to modernize current legislation on commercial arbitration and mediation; and (c) strategic development, which includes a midterm evaluation of components (a) and (b) at month 16 of the program. Using the findings of that evaluation, a medium-range development plan will be put together and carried out over the next eight

months. It will include: (i) a program to strengthen the administrative and technical capacity of the CACs, focusing in particular on the case handling and tracking system, statistical system, and filing system, and (ii) a plan to continue the activities for at least another three years after the proposed program has been completed.

FINANCING:

Modality:

Grant:

MIF:	US\$ 720,000
Quito and Guayaquil chambers of commerce	<u>US\$ 327,618</u>
Total:	US\$1,047,618

**EXECUTION AND
DISBURSEMENT
PERIODS:**

24 months for program execution and 30 months for disbursement of the grant.

**EXCEPTIONS TO
BANK POLICY:**

The project team is recommending direct contracting of the Center of Arbitration and Conciliation (CAC) of the Bogota Chamber of Commerce, for up to US\$96,000, to carry out the training activities described in this document. This would enable the Bogota center to continue the technical support it has provided to the program's executing agencies in the area of mediation and commercial arbitration and would be consistent with the concept and design of the MIF-financed Bank program to strengthen commercial dispute resolution alternatives (ATN/MT-4910-CO).

**ENVIRONMENTAL
CLASSIFICATION:**

The Environment Committee, at its meeting of October 15, 1996, classified this as a Category II operation.

**SPECIAL
CONTRACTUAL
CONDITIONS:**

Prior to disbursement of the MIF funding, the executing agencies must: (i) submit evidence that a national program executing unit and local units in Guayaquil and Quito have been set up and their staff appointed; (ii) submit the agreement that the Quito and Guayaquil chambers of commerce will enter into to ensure proper coordination and execution of the program, which agreement must stipulate that the MIF contribution shall be divided equally between the two; (iii) have formed the program's advisory committee; (iv) have submitted a plan for each component and a timetable for program execution, which will include (a) a six-month schedule of activities, and (b) the final terms of reference for all consultants participating in the program and the counterpart specialists.

I. COUNTRY ELIGIBILITY

- 1.1 On September 7, 1994, the Donors Committee declared Ecuador eligible for financing under all facilities of the Multilateral Investment Fund (MIF).

II. BACKGROUND

A. National policy

- 2.1 Ecuador has been implementing structural reforms and modernization of the State to achieve macroeconomic stability, greater private-sector involvement in the development process, and more efficient management of the public sector. The 1993 passage of the State Modernization and Privatization Act put into place the legal framework needed to promote policies and legislation consistent with that law's objectives.
- 2.2 In the last two years, as part of the State modernization and reform process, considerable effort has been made to improve the performance of the legislative and judiciary branches, both bulwarks of democratic government. The Bank and the World Bank have both assisted these efforts, the IDB with its recent approval of a technical-cooperation program for modernization of the legislative branch and the World Bank with approval of a loan to strengthen the judicial system. The IDB is also in the process of preparing a technical-cooperation project to modernize the judiciary, consisting of three components: (i) legislative modernization; (ii) judiciary training; and (iii) administrative modernization of the judiciary.
- 2.3 Government authorities have underscored the need to deepen the judicial reforms and modernization in order to provide the general public – and the business sector in particular – with transparent alternative means to settle commercial disputes swiftly and fairly.

B. Commercial arbitration and conciliation

- 2.4 Ecuador's justice system has a backlog of unsettled cases, primarily because litigation in the national courts is a lengthy process. Out-of-court alternatives like negotiation, mediation, conciliation, and arbitration were introduced relatively recently, primarily through the activities of the Quito and Guayaquil chambers of commerce. The two chambers requested this MIF financing precisely in order to expand the use of dispute resolution alternatives, particularly commercial arbitration and mediation.

- 2.5 Commercial arbitration has been legally recognized in Ecuador since 1963. The basic regulations are set forth in the Commercial Arbitration Act of October 23, 1963. In 1974, the National Federation of Chambers of Commerce established other regulations that built upon the original arbitration act, giving the chambers of commerce (CCs) a more active role in promoting and practicing commercial arbitration. The Quito and Guayaquil CCs organized their conciliation and arbitration centers (CACs) to afford their members a means of conducting arbitration proceedings properly.
- 2.6 Although commercial arbitration was established under Ecuadoran law more than 30 years ago, its practice has been very limited. In 1992, the CCs launched a concerted campaign to have arbitration clauses gradually introduced into commercial contracts and transactions and to resolve disputes arising between contracting parties. The chambers of commerce have handled nearly 40 cases in the last three years, whereas fewer than 10 cases had been processed in the previous 30 years.
- 2.7 Ecuador's private sector has recognized that it needs to find ways to settle its disputes faster and at less expense. With increasing frequency, commercial arbitration clauses are being included in commercial transactions, enabling the private sector to settle disputes within an average of 15 months, far less than the average seven years that cases usually languish in the national courts. These positive results have bolstered the initiatives of the Quito and Guayaquil chambers of commerce, which have recently promoted commercial mediation as a faster and more accessible commercial dispute resolution alternative.
- 2.8 Until now, when parties to commercial disputes opted for mediation, they followed the rules for standard contractual settlements set forth in the Commercial Code. Measures are now being taken to recognize mediation as a dispute resolution alternative. This would ensure swift settlement of disputes with regard to commercial transactions involving small- and medium-sized businesses, which rarely resort to arbitration to settle their disputes. A comprehensive piece of legislation is therefore currently being drafted to update the system regulating commercial arbitration and to formally introduce other commercial dispute resolution alternatives. One component of the proposed program includes providing technical assistance and advisory services for these initiatives.
- 2.9 Consolidation of commercial dispute resolution alternatives will have important consequences for the administration of justice, as it will ease the backlog in the court system and provide the private sector with a means of settling disputes efficiently and at less expense. Accordingly, the program has been designed based on the considerations explained in this document.

III. THE PROGRAM

A. Objectives

- 3.1 The program's overall goal is to establish a coordinated and properly structured system for commercial dispute resolution in Ecuador that will gradually introduce swift and cost-efficient commercial dispute resolution alternatives.
- 3.2 The program's specific objectives are to:
- a. help establish permanent training and dissemination centers at the Quito and Guayaquil conciliation and arbitration centers (CACs);
 - b. train arbitrators, mediators, and administrative personnel associated with the CACs of the Quito and Guayaquil chambers of commerce, to improve their efficiency and technical expertise;
 - c. disseminate the use of commercial dispute resolution alternatives by adopting a strategic approach that: (i) engages the businesses and entrepreneurs directly associated with the CCs; and (ii) introduces the concept and advantages of commercial dispute resolution alternatives to the institutions and individuals who stand to gain by using them;
 - d. provide technical support for private-sector efforts to update the commercial arbitration regulations and introduce mediation in Ecuador;
 - e. build a consensus to win passage of the comprehensive legislation regulating, *inter alia*, commercial arbitration and mediation as commercial dispute resolution alternatives;
 - f. help upgrade the organizational and administrative capacity of the conciliation and arbitration centers (CACs) of the chambers of commerce (CC); and
 - g. based on the results achieved by the training and dissemination centers, evaluate the extent to which the private sector has embraced arbitration and mediation and devise a development plan to cover a period of at least three years after completion of the program.

B. Program components

- 3.3 The program is organized into three components, which are described below:

1. Creation of two training and dissemination centers (CED), one in Quito and one in Guayaquil

- 3.4 Because dispute resolution alternatives are relatively unknown in Ecuador, the goal of this program is to develop administrative capacities at centers that can train mediators and arbitrators, expanding activities in the area of training and dissemination after ascertaining what the needs are. The program's support for such activities will gradually improve the Quito and Guayaquil CACs' capacity to offer services and boost demand for them.

a. Training

- 3.5 Recently, the CCs have focused on establishing the infrastructure needed to advise on and process and administer alternative dispute resolution procedures. The key feature of this component is the establishment of the two training and dissemination centers at the CACs of the Quito and Guayaquil chambers of commerce so that they can train attorneys, judges, and university students studying business administration, economics, and law, and also provide services to (i) the members of the two chambers of commerce, and (ii) the members of other professional and/or trade associations in the private sector, under long-term institutional arrangements between the centers and those associations. Fees will be charged for enrollment in the training sessions.
- 3.6 The proposed CEDs will be instrumental in: (i) providing a common source of advisory services, training, and information on commercial dispute resolution alternatives, and developing a strategy for introducing a broader cross-section of Ecuador's private sector to these alternatives; (ii) controlling regional coordination nationwide to expand the use of these alternatives based on an evaluation of the results of the program's first 16 months; (iii) identifying any additional services needed in the expansion process; and (iv) ensuring that the CCs have a targeted and coordinated dissemination strategy.
- 3.7 The training activities under this component include the following: (i) training at three levels, using the modules designed and introduced with the mediation and arbitration program financed under operation ATN/MT-4910-CO; and (ii) training in other commercial dispute resolution alternatives, such as negotiation, depending on the additional consulting services required. The content of the level one course will impart a basic idea of the types of commercial dispute resolution alternatives and their scope; the level two course will equip mediators, arbitrators, and secretaries with the tools they need to improve their performance; and the level three course will consist of institutional training in how to organize and manage centers that offer alternative commercial dispute resolution services. These courses will be for members of the chambers of commerce and other professional and/or trade associations (especially members of industrial associations);

working arbitrators and mediators; professionals associated with the activities of the chambers of commerce and similar institutions; and civil servants who deal with these and related issues. Under the program, (i) at each chamber of commerce, up to 200 people - the exact figure will depend upon confirmed actual demand - will receive training, which will be offered at the three levels (there will be five training cycles at each CC, and each cycle will consist of three levels) in arbitration and conciliation and in other alternatives such as commercial negotiation; (ii) two special workshops will be held at each CC for lawyers and university students studying law, business administration, and economics; and (iii) the Arbitration and Conciliation Center of the Bogota Chamber of Commerce will provide periodic technical support once the aforementioned courses have been completed.

- 3.8 The training activities called for under the program would be carried out over a period of 22 months from the first disbursement of Bank resources and will cost an estimated US\$363,280 equivalent.

b. Dissemination

- 3.9 The purpose of the dissemination component is basically to encourage business owners and institutions associated with the CCs and other professional and trade associations to start using commercial dispute resolution alternatives. A strategy will be developed to target specific professional and business sectors and will include workshops and working meetings, as well as the publication of articles in trade journals about what these alternatives can accomplish and the advantages they offer. The content of the workshops will be similar to the level one course given under the training component, providing an introduction to the various commercial dispute resolution alternatives.
- 3.10 For the promotional activities planned under this component: (i) consulting services will be hired to conduct a market analysis of the target population, which will then be used to design a strategy for dissemination through trade publications and the workshops described below; (ii) once the sectors and trades that the strategy will target have been identified, a maximum of five working meetings will be held in each of the major geographic regions within the areas of influence of the chambers of commerce. In all, some 50 meetings will be held, each attended by an average of 15 business owners, to promote the conciliation and arbitration centers run by the Quito and Guayaquil chambers of commerce and their institutional and technical capacity, through guided interaction to enable participants to appreciate the advantages of the services the centers offer and make use of them; and (iii) the Quito or Guayaquil CAC (as the case may be) will enter into institutional agreements with its members and other trade and business associations for negotiation of transactions and disputes and their mediation or arbitration, as appropriate.

- 3.11 The CCs will coordinate the workshops and working meetings to be held under the program and will use a practical commercial mediation manual that gives the user the tools needed to use commercial dispute resolution alternatives.
- 3.12 The dissemination activities will be carried out over a period of 22 months from the first disbursement of Bank resources and will cost an estimated US\$314,800 equivalent.

2. Support for the regulatory framework

- 3.13 The Bank's assistance under this component could hasten passage of a comprehensive bill establishing the use of mediation, conciliation, and negotiation as commercial dispute resolution alternatives, and updating regulations on commercial arbitration. The Bank's technical support will be instrumental in building the core consensus needed among groups in the public and private sectors to institute a permanent regulatory framework flexible enough to ensure that commercial dispute resolution alternatives function properly in Ecuador.
- 3.14 The program will provide technical guidelines for updating current commercial arbitration procedures and will introduce commercial dispute resolution alternatives such as mediation. This component's specific objectives are to: (i) ensure passage of a comprehensive bill that establishes a proper, sustainable regulatory framework for alternative dispute resolution; and (ii) make certain that appropriate technical structures and formal agreements between institutions in the private sector are established to promote the use of commercial dispute resolution alternatives in Ecuador.
- 3.15 The following activities are included under this component: (i) a consultant will be hired to help with the technical aspects of the bill being proposed by the Quito and Guayaquil chambers of commerce and to provide advice on consensus-building for its passage; and (ii) two workshops will be held (one in Quito and one in Guayaquil) to which the various public and private sectors associated with the use of dispute resolution alternatives will be invited, with a view to consensus-building to ensure passage of the bill. The consultant hired for this component will have to make certain that the comprehensive bill provides a framework for regulating the various commercial dispute resolution alternatives, which must therefore not be limited to mediation and arbitration alone. Having a representative from the Supreme Court on the advisory committee described in paragraph 3.38 should facilitate the bill's passage.
- 3.16 The activities planned under this component will be carried out within the first six months of the program and cost an estimated US\$35,000.

3. Development of a medium-range strategy

- 3.17 Given the limited extent to which commercial dispute resolution alternatives are used in Ecuador, it would be unrealistic to expect their use to increase significantly during the life of this program, especially as it generally takes some time to generate demand for procedures of this type. For that reason, the project team felt that the program should include a second stage to further expand the use of the dispute resolution alternatives. The second stage would be based on the midterm evaluation and designed to support a targeted strategy to expand the use of mediation and arbitration in Ecuador. Having the Bank help design this second stage would ensure that the results achieved by the training and dissemination centers are internalized so that a master plan can be developed, to be carried out over a period of at least three years after completion of the program.
- 3.18 If commercial dispute resolution alternatives are to be used on a large scale, attitudes will have to change. Societies accustomed to using the courts to settle their disputes may be somewhat slow to assimilate the new way of thinking, and Ecuador is no exception. Therefore, the impact of a program such as the one proposed here will not become apparent until the medium or long term. Since alternative dispute resolution is still new in Ecuador, the project has proposed this component as a means to ensure that the CACs will be organizationally and administratively sustainable in the medium term, for at least three years after completion of the program.
- 3.19 As of the month 17 of the program, based on the evaluation of the results of the other program components (midterm evaluation), a medium-range development plan will be prepared and carried out over the next eight months. It will include: (i) a program for improving the CACs' administrative and technical capacity, with particular emphasis on the case management and tracking system, the statistical system, and the filing system; and (ii) planning in order that the activities can be continued for at least another three years after completion of the proposed program.
- 3.20 This component is divided into two main segments: (i) activities to improve the administrative and organizational setup of the Quito and Guayaquil CACs, which will include: (a) introduction of a case management and tracking system, using statistical tools, and (b) establishment of a filing system that can be readily expanded to accommodate the demand at those centers; and (ii) the design and development of a medium-range strategy, which will include: (a) a plan for the CACs' financial sustainability in the medium term, setting out alternatives according to actual demand; (b) a system for gradually introducing multipliers in the various dispute resolution alternatives (mediation, arbitration, negotiation) as actual demand increases; additional training may be required, which could be handled either by hiring experts or conducting specialized courses, depending on confirmed needs; and (c) establishment of

performance benchmarks at both conciliation and arbitration centers. The medium-term strategy will be introduced once the results of the midterm evaluation are in and will continue for the period indicated in paragraph 3.17 above.

- 3.21 Consultants will be hired to conduct the midterm evaluation and design the medium-range strategy. As part of that medium-range strategy, the consultants will design and introduce the case management, filing, and statistical systems. The activities called for under this component will be carried out in the last nine months of the program and would cost an estimated US\$90,100 equivalent.

C. Program benefits and participants

- 3.22 The advantages of this program for the administration of justice in Ecuador are that: (i) it will gradually reduce the number of commercial disputes that need to be litigated in the courts; (ii) it will shorten the amount of time needed to process disputes; (iii) it will improve the efficiency and quality of court proceedings; and (iv) it will reduce the cost of settling commercial disputes. In addition, the program will introduce a system of commercial dispute resolution alternatives, by upgrading the service capability of the CACs of the Quito and Guayaquil chambers of commerce and gradually generating a level of actual demand in line with the country's business and commerce sector.
- 3.23 The program will benefit both the private and public sectors, since its components will have a positive impact on Ecuadoran business and society in general. The program's participants and direct beneficiaries will be: (i) the CACs of the Quito and Guayaquil chambers of commerce, and (ii) the other trade and professional associations in the private sector that find the activities conducted under the program attractive. The individuals and institutions that, because of their business or profession, are involved in the services planned under the program would also be beneficiaries.

D. Program cost and financing

- 3.24 The total cost of the program is estimated at US\$1,047,618, of which US\$720,000 is being requested in the form of nonreimbursable MIF funding. Each CC will contribute counterpart funding in the amount of US\$163,809.
- 3.25 The CCs will also provide logistical support for the program, which includes supplies, publications, bulletins, and promotional and other expenses needed for the program to accomplish its objectives.
- 3.26 The following is a summary of the estimated budget, which is itemized in Annex I.

ESTIMATED BUDGET US\$ EQUIVALENT				
Program component	MIF	Quito Chamber of Commerce	Guayaquil Chamber of Commerce	T O T A L
I. Training and dissemination center	479,262	99,409	99,409	678,080
(a) Training	272,180	45,550	45,550	363,280
(b) Dissemination	207,082	53,859	53,859	314,800
II. Support for the regulatory framework	23,000	6,000	6,000	35,000
III. Medium-term strategy	69,300	10,400	10,400	90,100
— Coordination	76,800	48,000	48,000	172,800
SUBTOTAL	648,362	163,809	163,809	975,980
— Contingencies	71,638			71,638
T O T A L	720,000	163,809	163,809	1,047,618

E. Disbursements

- 3.27 Before the MIF resources can be disbursed, the executing agencies are to submit the following: (i) evidence that the program executing unit, national technical executing unit, and local units in Quito and Guayaquil have been set up and their staff appointed; (ii) the agreement that the Quito and Guayaquil chambers of commerce will enter into to ensure proper coordination and execution of the program and stipulating that the two chambers of commerce agree to share the MIF grant equally; (iii) evidence that the program advisory committee has been set up; (iv) the plan for each component and the timetable for program execution, which will include (a) the six-month schedule of activities; (b) the final terms of reference for the consultants participating in the program and the counterpart specialists.
- 3.28 The program will be carried out over a period of 24 months and the disbursement period will be 30 months. Both periods will begin on the effective date of the agreement.
- 3.29 The proceeds of the MIF funding will be disbursed in accordance with Bank procedures and the MIF eligibility criteria. The Quito and Guayaquil chambers of commerce will administer the disbursements. At their written request, separate revolving funds will be established for the equivalent of 10% of the funding.

F. Procurement of goods and awarding of contracts for consulting services

- 3.30 During the life of the program, Bank procedures will be followed to procure goods and awards contracts for consulting services.
- 3.31 To set up the CEDs in Quito and Guayaquil, the technical services of the Conciliation and Arbitration Center of the Bogota Chamber of Commerce will be hired by direct contracting. The mediation and arbitration program that the Bank is currently conducting in Colombia is developing standardized training modules, some of which will be introduced in the CEDs 1/. Provided they follow Bank procedures, the Ecuadoran chambers of commerce may hire any other consulting services needed to complete the training activities satisfactorily.
- 3.32 The purpose of the Bogota Chamber of Commerce's direct participation is to make certain: (i) that the two Ecuadoran chambers of commerce internalize and continue the technical support that they are presently receiving from the Bogota Chamber of Commerce; (ii) that the program will better target the proposed objectives and executed in step with the Ecuadoran private sector's capacity to assimilate it; and (iii) that alternative commercial conflict resolution mechanisms and structures will be carried out in a harmonious manner.
- 3.33 Given the foregoing, an exception to the Bank policy is being requested for the selection and contracting of consulting services for up to US\$96,000. This request is consistent with the needs of the proposed program and with the concept and design of the program the Bank is conducting with MIF financing to strengthen commercial dispute resolution alternatives (ATN/MT-4910-CO).

G. Organization and execution

1. Executing agencies

- 3.34 The CCs will carry out the program through their respective local technical units, which are described in paragraph 3.36 and will be supported by the advisory committee. The Quito and Guayaquil chambers of commerce, through their respective conciliation and arbitration centers, will bear final responsibility for this operation.
- 3.35 The CCs have legal status under private law and are non-profit institutions that operate in accordance with the Chamber of Commerce Law and their own by-laws. They must also abide by the provisions of the civil and commercial codes. Among the objectives of both chambers of commerce is to have a civic impact that

1/ See paragraph 3.7 of the Project Memorandum.

further the development of their respective regions and the achievement of their socioeconomic and cultural objectives. Each chamber of commerce has a conciliation and arbitration center (CAC) that performs activities related to the use and dissemination of commercial dispute resolution alternatives.

2. Technical executing unit (TEU)

- 3.36 A national technical executing unit (TEU) will be set up to carry out the program and will bear technical, administrative, and financial responsibility for it. The national TEU will be backed up by two local units, one in Quito and the other in Guayaquil, which will constitute the local counterpart staff. Each local executing unit will consist of the director of the respective chamber of commerce or a representative of the director, one training specialist and one administrative specialist. The national TEU will consist of: (i) the program's general advisor, who will assist each local unit; (ii) the director of the respective chamber of commerce or a representative of the director; (iii) the program's academic advisor; and (iv) the program administrator. The national TEU and each local unit will be assisted by the consulting firms and individual consultants participating in the program.
- 3.37 The **general advisor**, working in coordination with either the director of each chamber of commerce or the director's representative, will be in charge of carrying out the day-to-day work programs and will coordinate with the program's consulting firms and consultants. The general advisor is also to serve as secretary of the advisory committee (CAS). The individual consultants and the local technical counterpart group will report directly to the general advisor, who in turn will report to the directors of the CACs of the Quito and Guayaquil chambers of commerce.

3. Advisory committee (CAS)

- 3.38 This committee will assist the executing agency with advisory services on the operation's activities. The membership and characteristics of this committee will be as follows: (i) one representative for each CC; the chief justice or a representative of the Supreme Court; the president or a representative of the National Bar Association, and the program coordinator, who will serve as the committee secretary; (ii) Functions: advise on: (a) technical and administrative matters in program execution; (b) the organization and design of the initial plan and detailed work programs and revisions thereto, including the guidelines and recommendations from consulting firms and individual consultants; (c) periodic evaluation of the activities' progress; (d) any problems identified in the accomplishment of the goals set, and the preparation of concrete recommendations to help coordinate

activities; (iii) Meetings: the advisory committee (CAS) will meet every two months.

- 3.39 At the advisory committee's first meeting, the Quito and Guayaquil chambers of commerce will present to the committee, for its suggestions, the plan and timetable for program execution, prepared in advance by the national TEU. This plan and timetable will then be submitted to the national TEU for approval.

H. Program continuity

- 3.40 The program's objectives extend beyond its temporal limits. Development of a medium-range strategy has been included as a program activity to ensure that the partial results achieved will be studied and used as a basic means of ensuring that the program's objectives will eventually be achieved. The strategy will cover a period of at least three years after program completion.

I. Financial reports

- 3.41 Within 90 days after the end of each year during the life of the program, and then within 90 days after disbursement in full, the executing agencies will submit a consolidated financial report to the Bank on the use of the Bank funding and the counterpart contribution. The financial reports are to be certified by a firm of independent auditors to the Bank's satisfaction.

IV. FEASIBILITY AND RISKS

A. Feasibility

- 4.1 The program's feasibility is assured because the CCs are committed to active dissemination of the benefits to be obtained and because the Bogota Chamber of Commerce's participation in certain training activities will ensure their technical calibre.
- 4.2 The promotional activities will gradually build up actual demand during the program execution period and during implementation of the proposed medium-range strategy. The activities will give different segments of the private sector an opportunity to take part, fostering measures that will eventually create a sustainable market.

B. Risks

- 4.3 One factor that could slow the introduction of the regulatory framework needed to ensure that the dispute resolution alternatives are fully functional is the fact that it is not clear which government institution has jurisdiction to set policies to

standardize and organize activities in this area nationwide. The regulatory framework would be an opportunity to stipulate which agency has jurisdiction. However, because the use of commercial dispute resolution alternatives is a recent development in Ecuador, and while a regulatory framework would better define the operating structure, it would make no appreciable contribution toward the other objectives planned under the program. But a regulatory framework in combination with the planned medium-range strategy will help establish dispute resolution alternatives in Ecuador.

- 4.4 Another potential problem for the program would be if the demand eventually generated does not match the installed capacity that the CACs of the Quito and Guayaquil chambers of commerce are to develop. Their capacity will grow as the dispute resolution alternatives gain wider acceptance, according to confirmed demand. Any risk will be minimized by active participation of the CCs and proper execution of the dissemination activities.
- 4.5 Finally, lack of continuity would jeopardize the results achieved during the program. Therefore, one activity under the program will be to develop and introduce a medium-range strategy that is consistent with the objectives set under this program. That strategy will be implemented over a period of at least three years after program completion.

V. FULFILLMENT OF THE PROGRAM ELIGIBILITY CRITERIA

A. General eligibility criteria for the program

- 5.1 The MIF financing to carry out the program to strengthen commercial dispute resolution alternatives in Ecuador is fully consistent with the MIF's overall objective, which is to increase private sector investment and participation in order to spur growth and socioeconomic development. It will also reduce the costs that court litigation of commercial disputes entails.

B. Project eligibility criteria for the facility

- 5.2 The proposed program is also consistent with the project eligibility criteria for Facility I financing, under Article III, Section 2, of the Agreement Establishing the Multilateral Investment Fund. The program activities are geared to promoting private-sector participation in the settlement of commercial disputes, making access to the administration of justice easier by using out-of-court alternatives. Similar programs are being conducted with MIF support in Colombia, Peru, and Uruguay, and programs in Costa Rica, El Salvador, Honduras, and Panama are being prepared.

VI. COMPATIBILITY WITH THE BANK'S COUNTRY PROGRAM

- 6.1 The proposed program is consistent with the Bank's strategy for Ecuador, whose objectives include activities to support (i) the promotion of economic reforms to create an environment conducive to investment, and (ii) modernization of the State.

VII. EVALUATION

- 7.1 To make certain that the program is properly monitored and evaluated, the following will be submitted:

A. Semiannual reports

- 7.2 Within 30 days after the end of each six-month period, the executing agencies will submit a combined summary of the activities conducted during that period, which will include: (i) information on the activities carried out; and (ii) the degree to which the operation's objectives have been accomplished, especially the progress made in the program's planned activities. Any difficulties encountered and the adjustments and shifts in direction being proposed to correct those problems will also be reported. A forecast of the activities slated for the next six months will be included.

B. Midterm evaluation

- 7.3 In month 16 of the program, the consultants hired to conduct the midterm evaluation and design the medium-range strategy mentioned earlier, the executing agencies, and the Bank will together evaluate the status of the program activities, according to criteria agreed upon with the Bank. In addition, the executing agencies, with the cooperation of the CAS and the Bank staff assigned to the program, will establish the basic guidelines for designing the medium-range strategy to be implemented after program completion. The midterm evaluation will take the following variables, among others, into account, in designing the aforementioned medium-range strategy: (i) the CACs' level of technical and administrative organization; (ii) the number of cases processed and a comparison with the centers' capacity; (iii) local and national promotion and awareness of dispute resolution alternatives; (iv) the degree of dissemination and awareness of the system of dispute resolution alternatives; (v) the scope and results of the dissemination component; (vi) the impact of the program activities; (vii) the number of cases pending settlement via alternative methods; (viii) case processing time; and (ix) specific proposals that will help properly implement the medium-range strategy discussed in paragraph 3.17.

ESTIMATED BUDGET BY COMPONENT
(in US\$ equivalents)

COMPONENT	MIF	CCQ	GCC	TOTAL
TRAINING AND DISSEMINATION CENTERS	479,262	99,409	99,409	678,080
(a) Training				
of modules		6,500	6,500	13,000
Per diem	36,456	7,812	7,812	52,080
Travel for courses	19,500			19,500
Travel for followup	11,700			11,700
Honoraria	89,524	3,238	3,238	96,000
Workshops, \$5,000 x 2	10,000			10,000
Academic advisor, 14 mo. x 2,500	35,000			35,000
Workshop coordinator, 4 mo. x 500	2,000			2,000
Premises and expenses for courses, 30 x 2,000	30,000	15,000	15,000	60,000
Premises and expenses for workshops, 4 x 1,500		3,000	3,000	6,000
Premises and expenses for followup sessions, 15 x 2,000	10,000	10,000	10,000	30,000
Costs of support materials	28,000			28,000
/Training	272,180	45,550	45,550	363,280
(b) Promotion				
Consulting firm fees, 8 mo. x 3,300	26,400			26,400
Overhead, 100% fees	26,400			26,400

COMPONENT	MIF	CCQ	GCC	TOTAL
Marketing expert, 3 mo. x 4,000	12,000			12,000
Promotional working meetings				
Materials, 50 x 15 x 200	117,282	16,359	16,359	150,000
Premises and expenses for meetings, 50 x 500	25,000	25,000	25,000	75,000
Meeting moderators, expenses 50 x 500		12,500	12,500	25,000
Dissemination	207,082	53,859	53,859	314,800
SUPPORT FOR THE REGULATORY FRAMEWORK	23,000	6,000	6,000	35,000
Consultant, 2 mo. x 4,000	8,000			8,000
Consensus-building workshops, 2 x 1,500		1,500	1,500	3,000
Workshops, 2 x 100 x 90	9,000	4,500	4,500	18,000
Consultant, consensus-building activities				
3 mo. x 2,000	6,000			6,000
MIDTERM EVALUATION AND DEVELOPMENT OF MEDIUM-RANGE STRATEGY	69,300	10,400	10,400	90,100
International transportation	1,950			1,950
Domestic travel 4 x 250		500	500	1000
Per diem 155 x 110 days	17,050			17,050
Honoraria, 310 x 55 x 2 (chambers of commerce)	34,100			34,100
management, 2,500 x 2 (chambers of commerce)	2,200	1,400	1,400	5,000
Production of filing system, 2,500 x 2 (chambers of commerce)	2,200	1,400	1,400	5,000

COMPONENT	MIF	CCQ	GCC	TOTAL
duction of statistical system, 3,000 x 2 (chambers of merce)	2,800	1,600	1,600	6,000
of implementing the case management, filing and ics systems	9,000	5,500	5,500	20,000
COORDINATION	76,800	48,000	48,000	172,800
General advisor, 24 mo. x 3,200	76,800			76,800
stant administrator, 24 mo. x 1,500		18,000	18,000	36,000
chnical executing unit, Quito		30,000		30,000
chnical executing unit, Guayaquil			30,000	30,000
TOTAL	648,362	163,809	163,809	975,980
ngencies	71,638			71,638
TOTAL	720,000	163,809	163,809	1,047,647
centage	68.6	15.7	15.7	100

MEDIATION AND ARBITRATION CENTERS

PERFORMANCE BENCHMARKS

OBJECTIVES	INDICATORS	MEANS OF VERIFICATION	ASSUMPTIONS
to gradually reduce the time in the court system, the time it takes to settle commercial disputes; the efficiency and the quality of the settlements; and the time and expense of settling commercial disputes.	Between 8 and 12 cases of mediation and arbitration settled each month in Quito and 4 per month in Guayaquil.	Judicial statistics and information on cases handled and settled by the CCs.	Active participation in the program on the part of the business sector. Proper implementation, timely dissemination of strategies and gradual training of the individuals involved.
to set up a system to settle commercial disputes that increasingly relies on swift and effective mechanisms for commercial dispute resolution.	Two functioning centers for training in and dissemination of the use of alternative methods of settling commercial dispute (CEDs), one in Quito and the other in Guayaquil. Stronger conciliation and arbitration centers in Quito and Guayaquil.	Semiannual reports and proper implementation of medium-range strategies.	The CACs' institutional capacity gradually increased.
of two training and arbitration centers (CEDs), one in Quito and the other in Guayaquil, to promote the use of commercial dispute resolution alternatives.	Training of up to 200 people at each chamber of commerce; 2 workshops at each for attorneys and university students studying related disciplines; 50 working meetings, each attended by a group of 15 entrepreneurs. Publication of articles promoting the advantages of these methods.	Progress report and the last semiannual report.	Motivated participants who are committed to the program.

OBJECTIVES	INDICATORS	MEANS OF VERIFICATION	ASSUMPTIONS
For the regulatory framework	Consultant hired to provide technical assistance in drafting the bill for passage of a law to serve as a regulatory framework for the various commercial dispute resolution alternatives and to provide advice on building the national consensus needed for its passage; two workshops (one in Quito and the other in Guayaquil) to bring together the public and private sectors to build the consensus needed to ensure its passage.	Progress reports and midterm evaluation	Coordination between the public and private sectors to promote mediation and arbitration activities.
Development of a medium-range strategy for definitive settlement of the commercial dispute resolution alternatives.	A case management and tracking system and a readily-expandable filing system in place. A medium-range strategy designed and developed, which will include: (a) a plan for keeping the arbitration and conciliation centers financially sustainable in the medium term; (b) a plan for gradually introducing multipliers into the various dispute resolution alternatives; and (c) establishment of performance benchmarks at both conciliation and arbitration centers.	Midterm evaluation and the final semiannual report.	The CCs' medium-range commitment to carry on the project activities.

PROPOSED RESOLUTION

ECUADOR. MEDIATION AND ARBITRATION CENTERS
(NON REIMBURSABLE TECHNICAL COOPERATION FOR ESTABLISHING TRAINING AND
PROMOTION CENTERS 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 Chambers of Commerce of Quito and Guayaquil 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 establishing training and promotion centers of alternative methods of commercial dispute resolution.

2. That up to the amount of US\$720,000 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.