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# **Complaint and Consultation Mechanism for the Mining Industry and Mineral Value Chain**

**DRAFT**

**Procedure Document**

**November 2022**

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## Introduction

In recent years, the issue of responsible business conduct in the mining industry and mineral supply chain has received extensive attention from the international community. In our work to facilitate companies to improve supply chain transparency and enhance governance, promote responsible business practices in the mining industry, conduct due diligence evaluations on mineral supply chain, and organise stakeholder dialogues and consultations, we have noticed that many controversial and discriminatory issues related to communication with stakeholders as well as issues of unfair treatments have not been effectively communicated and properly solved.

In order to support all stakeholders to better handle environmental, social, and governance (ESG) disputes in the mining process and mineral supply chain, we have developed this “Complaint and Consultation Mechanism for the Mining Industry and Mineral Value Chain” (hereinafter referred to as “this Mechanism”). It is hoped that through better coordination and dispute handling, an important foundation would be laid for joint actions between upstream and downstream stakeholders working together to mitigate risks in the mineral supply chain.

The design and procedures of this Mechanism follow the United Nations Guiding Principles on Business and Human Rights, and take reference from the Organisation for Economic Co-operation and Development (OECD)’s Guidelines for Multinational Enterprises and its National Contact Point (NCP) case handling mechanism. Procedural design and practical experience of other major relevant international mechanisms are also incorporated, such as the Compliance Advisory Office (CAO) of the International Finance Corporation (IFC) and the Accountability Mechanism (AM) of the World Bank. In-depth conversations and interviews were also conducted with many social organizations and major mining companies with rich experience.

This Mechanism innovates in the following aspects:

### **(1) Diversified participants**

The participants of this Mechanism not only include individuals and communities, upstream and downstream enterprises in the mineral supply chain, standards institutions, and assessors, but also diversified stakeholders including the media, social organizations, the general public, etc.

### **(2) Multi-dimensional disputes**

This Mechanism is applicable to not only issues related to ESG issues involved in the mining process and the mineral supply chain, but also the disagreement over the assessment process and results. It is also applicable to the damage to other stakeholders caused by the misconduct of the upstream and downstream companies in the mineral supply chain.

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### **(3) Two-way Complaints**

Stakeholders can complain over issues of a company's supply chain due diligence management, and a company can also seek clarification and conversation over inappropriate perception and misunderstanding of its operations or its supply chain due diligence performance. Standards institutions and assessors can complaint over non-compliance of companies and companies can complaint over unjust assessment by standards institutions and assessors.

### **(4) Openess to standards**

The standard documents applicable to this Mechanism include the "Guidelines for Social Responsibility in Outbound Mining Investments", the "Chinese Due Diligence Guidelines for Mineral Supply Chain", the "Cobalt Refiner Supply Chain Due Diligence Standard", the "Artisanal and Small-Scale Mining (ASM) Cobalt ESG Management Framework" and other standard documents which are consistent with the above standards. This Mechanism also applies to disputes regarding other internationally recognized codes for responsible business conduct.

### **(5) Participatory consultation**

Based on the principle of being honest, voluntary, and equal, this Mechanism supports all stakeholders to build a platform for communication, consultation, and collaboration to mobilize internal and external professional resources, seek solutions and lay a good foundation for long-term effective communication between all parties.

## **Chapter 1 General Rules**

### **1. Aims and Objectives**

As an industry-level non-judicial complaint and consultation platform with industry coordination, expert support, and voluntary participation, this Mechanism aims to facilitate dispute resolution through effective communication, consultation and mediation between stakeholders in the mining industry and mineral supply chains.

The Mechanism is established and operated to achieve the following objectives:

- Actively building a neutral and professional consultation platform to facilitate stakeholders to use the procedure-based and systematic consultation mechanism to properly and efficiently resolve disputes and achieve a win-win outcome and a virtuous circle;
- Giving full play to the bridging and bonding role of industry associations to

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promote the effective operation of a consultation mechanism for the industry, create and promote model cases for consultation with stakeholders;

- Continuously strengthening the communication, coordination, and cooperation between stakeholders, conveying the demands and expectations of all parties, enhancing the practice of corporate due diligence, and building partnerships for a responsible, resilient, and sustainable mineral supply chain.

## **2. Scope of Application**

### **2.1 Scope of applicants**

The following subjects affected during the due diligence management practices in the mining processes and mineral supply chains or concerned about companies' due diligence performance can apply to use this Mechanism:

- Individuals, communities, and other stakeholders: Individuals and communities who claim that their rights and interests have been or are likely to be adversely affected by a company's business operations and production activities which allegedly violate the applicable standard documents of this Mechanism; stakeholders who pay attention to the due diligence and responsible business conduct of a company, including but not limited to the media, social organizations and the general public;
- Upstream and downstream companies in the mineral supply chain (hereinafter referred to as "companies"): companies in mining, smelting, refining, processing, manufacturing, and branding who believe that the misconduct of other stakeholders has infringed or is likely to infringe upon their own legitimate rights and interests, disrupted or is likely to disrupt their normal business order, or impacted or is likely to impact their due status in the market;
- Standard Owners and Assessors: the standard owners that conduct second-party or third-party assessment, the institutions that initiate the assessment, the institutions entrusted with assessments, and the professionals who carry out the assessments according to the applicable standards of this Mechanism.

### **2.2 Scope of standards**

This Mechanism is applicable to disputes between parties over a company's compliance with the following standard documents (hereinafter referred to as "standard documents"):

- The "United Nations Guiding Principles on Business and Human Rights", the "ILO Tripartite Declaration of Principles Concerning Multinational Enterprises

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and Social Policy”, the “OECD Guidelines for Multinational Enterprises” and the “OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas” and other internationally recognized standard documents that are consistent with the above documents;

- The “Guidelines for Social Responsibility in Outbound Mining Investments”, the “Chinese Due Diligence Guidelines for Mineral Supply Chain”, the “Cobalt Refiner Supply Chain Due Diligence Standard”, the “Artisanal and Small-Scale Mining (ASM) Cobalt ESG Management Framework” and other standard documents which conform with the above standards.

### **2.3 Scope of disputes**

This Mechanism accepts applications for complaint and consultation from various applicants on the following disputes:

- Individuals and communities who believe a company’s conduct does not comply with the standard documents and directly or indirectly harms their legitimate rights and interests, and hope to seek solutions through dialogue and consultation;
- Non-governmental organisations who believe that the conduct of companies, standards owners, or assessors does not comply with the standard documents and incurs serious ESG risks, and hope to mitigate relevant risks through dialogue and communication;
- Companies who believe standards owners, assessors, and other stakeholders have incorrect perception and misunderstanding of their operations or supply chain due diligence performance, and hope to seek clarification and conversation to avoid damage to their legitimate rights and interests;
- Standards owners or assessors who hope to engage in dialogue and consultation with companies regarding their performance in complying with the requirements of the standard documents.

## **3. Principles**

The establishment and operation of this Mechanism follow the five principles of being “lawful and compliant, equal and voluntary, neutral and professional, inclusive and balanced, and transparent and open”.

## **Chapter 2 Functional Body and Supporting Resources**



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## 1. Functional Body

An Complaint Committee is set up as the functional body for the handling of complaints and consultation and operation of this Mechanism. A secretariat and a case management office are also established to manage daily operations and administrative issues.

The main functions of the Complaint Committee include, but are not limited to:

- managing the registration, acceptance, triage and other processes of applications;
- Designating and setting up a case handling working group and facilitating its functioning;
- establishing and maintaining support resources, coordinating and ensuring the provision of professional services to the consultation and the operation of this Mechanism;
- reviewing the objections raised by parties during the consultation and the implementation of solutions;
- monitoring the progress of the implementation of the solution reached through this Mechanism;
- enforcing information disclosure on individual cases, maintaining the case registration and management system, as well as carrying out case studies and operational analysis;
- updating regularly on effective communication methods between companies and stakeholders to promote long-term effective communication;
- establishing and strengthening coordination and knowledge sharing with relevant domestic and foreign consultation mechanisms.

## 2. Supporting Resources

In order to better support the operation of this Mechanism and provide professional opinions and solutions, this Mechanism selects global experts and institutions as supporting resources to this Mechanism. They will provide professional services and support during expert mediation, fact-finding and assessment and verification.

### 2.1 Types of supporting resources

- **Expert network**

The expert network is composed of globally recognized and reputable experts in the industry, who have solid professional knowledge and rich practical experience. They perform the tasks of expert mediation and fact-finding in specific cases.

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Three sub-groups can be set up as needed: Regional Expert Group, Topical Expert Group, and Dispute Resolution Expert Group. Experts with comprehensive professional skills and rich practical experience can serve in multiple groups.

- **Fact-finding Institutions Resources**

Independent, qualified and reputable institutions worldwide (including but not limited to consulting companies, law firms, assessment companies, research institutions and non-governmental organizations) are selected as the institutional resources for fact-finding. They provide fact-finding services to parties in specific cases.

- **Assessment Institutions Resources**

Independent, qualified and reputable assessment institutions are selected to be the institutional resources for assessment. They provide assessment and verification services to parties in specific cases.

## **2.2 The establishment and maintenance of supporting resources**

- **The source of supporting resources**

The Complaint Committee selects candidates for the expert network, fact-finding institutions and assessment institutions globally as supporting resources to this Mechanism.

This Mechanism encourages experts and professional institutions around the world to self-recommend in writing, and welcomes all parties to recommend candidates and institutions in writing to the Complaint Committee.

- **Qualification and maintenance of supporting resources**

The Complaint Committee conducts qualification evaluation through stages of invitation, preliminary evaluation, public notice and selection before finally determining the list of expert network members, fact-finding institutions and assessment institutions.

The Complaint Committee regularly updates, maintains and publishes the list of expert network members, fact-finding institutions and assessment institutions.

## **2.3 Instructing experts and institutions**

In a specific case, based on the intentions of both parties, the Complaint Committee recommends experts, fact-finding institutions and assessment institutions, and with consensus of both parties, the Complaint Committee instructs them to provide relevant professional support and services.

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## **Chapter 3 The Submission and Acceptance of Applications**

### **1. Applicant and Respondent**

The party that applies for complaint and consultation (hereinafter referred to as the “application”) to the Complaint Committee is referred to as the “applicant”; the party which the application is aimed at is referred to as the “respondent”.

The applicant and the respondent apply, respond and participate in their own names in various stages of a consultation. The applicant and the respondent can participate in person, or authorize in writing 1 or 2 agents to participate on their behalf.

Both the applicant and the respondent can be one or more entities. Where there are more than 3 applicants or respondents, 1 to 2 representatives should be selected to participate in the consultation.

### **2. Submitting an Application**

Applicants should fill in the “Complaint and Consultation Application Form”. Applications should be made in writing to the Complaint Committee by email or post.

An application should include the following:

- the applicant’s full name, address or place of registration, contact details and other relevant information;
- the respondent’s full name, address or place of registration, contact details and other relevant information;
- facts, claims and reasons for a specific dispute
- basic evidence that can prove the existence of the dispute.

In order to qualify the parties in the process of application acceptance and review, and for convenient liaison and effective communication during consultation, this Mechanism does not accept anonymous applications.

### **3. Accepting an Application**

#### **3.1 Acceptance criteria**

- The dispute is applicable to this Mechanism;
- The contents and materials submitted are complete and sufficient to preliminarily prove the existence of a dispute;

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- The applicant has attempted to directly raise an objection or communicate with the respondent about the dispute, but fails to get a response, or the relevant communication process has completed but no satisfactory result has been achieved.

### **3.2 Pro forma review and acceptance**

The Complaint Committee shall conduct a pro forma review on whether the application meets the acceptance criteria within 10 working days from the date of receiving the application, and issue a written decision to the applicant to accept or reject the application.

During the pro forma review, the Complaint Committee may request the applicant to provide further evidence or information as appropriate.

If the application is rejected, the applicant may re-apply to the Complaint Committee on the same disputed matter.

## **Chapter 4 Complaint and Consultation Process**

### **Section 1 Procedure Activation and Case Triage**

#### **1. Procedure Activation**

Within 10 working days after accepting an application, the Complaint Committee shall issue a written “Invitation to Complaint and Consultation” to the respondent; the respondent shall notify the Complaint Committee in writing whether it accepts the invitation within 20 working days from the date of the delivery of the invitation.

- 1.1. If the respondent accepts the invitation, the Complaint Committee will, within 10 working days from the date of receiving the written reply, issue a “Notice of Activating the Complaint and Consultation Procedure” to both parties.

The complaint and consultation procedure is officially activated on the day when this notice is served on both parties.

While accepting the invitation, the respondent may provide the Complaint Committee with its preliminary written reply and supporting evidence, the absence of which shall not affect the activation of the procedure.

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- 1.2. If the respondent clearly informs the Complaint Committee in writing that they do not accept the invitation, the Complaint Committee shall issue a “Notice of Not Activating the Complaint and Consultation Procedure” to the applicant in writing within 10 working days from the date when the respondent rejects the invitation.

If the respondent fails to give a written reply within the prescribed time limit, the Complaint Committee shall issue once again a written “Invitation to Complaint and Consultation” to the respondent within 5 working days. If the respondent fails again to give a written reply within 10 working days from the date of serving the invitation, it shall be deemed that the respondent rejects the invitation. The Complaint Committee shall then issue a “Notice of Not Activating the Complaint and Consultation Procedure” to the applicant in writing within 10 working days.

## **2. Evaluation and Triage**

Within 15 working days upon serving the “Notice of Activating the Complaint and Consultation Procedure”, the Complaint Committee shall conduct a preliminary assessment on the type and nature of the dispute, the scope and content of the disputed facts, the complexity of the issues concerned, the difficulty of reaching an understanding and solution, etc. The assessment should be based on the applicant’s claim, the respondent’s preliminary reply, and the supporting materials provided by both parties, and lead to suggestions on the processing routes and available tools.

Under the advice and guidance of the Complaint Committee, the two parties agree on the case triage by choosing from three processing routes: bilateral dialogue, complaint mediation and expert mediation. The two parties also decide whether to immediately use available tools such as fact-finding, assessment and verification, etc.

## **Section 2 Processing Routes**

Depending on the type and nature of the dispute, the scope and content of the disputed facts, the complexity of issues concerned, the difficulty of finding a solution, this Mechanism provides three processing routes: bilateral dialogue, complaint mediation and expert mediation.

### **1. Bilateral Dialogue**

Bilateral dialogue is a way of handling complaints and consultations based on independent dialogue between the two parties.

Bilateral dialogue is generally suitable for cases that are relatively common and

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typical in the industry, with clear applicable standards and precedents to follow, and with no or little dispute over facts.

For such cases, this Mechanism encourages the parties to seek solution through friendly, equal, inclusive and thorough dialogue.

Based on the wishes of both parties, the Complaint Committee designates experts to give advice in terms of knowledge, technology, experience and supporting resources when necessary.

The duration of the bilateral dialogue is in principle 1 month.

## **2. Complaint Mediation**

Complaint mediation is a way of handling complaints and consultations by instructing professionals from this Mechanism to form an complaint mediation panel.

Complaint mediation is suitable for cases where the disputes are large in scope and involve complicated issues, and the two parties lack trust and communication.

For such cases, the complaint mediation panel relies on its in-depth understanding of rules and standards, as well as the experience of mediating typical disputes concerning responsible business conducts in the mining industry and mineral supply chain. The panel will mediate disputed matters through remote calls, face-to-face consultations, meetings with a particular focus, and written communication with the parties. The panel facilitates both parties to jointly formulate a consultation timetable, records the consultation process and key outcomes, and guides and supports both parties to reach an understanding or solution.

If the two parties have not decided on whether to use assessment and verification at the case triage, the complaint mediation panel can make a recommendation on whether to activate this tool based on the specific circumstances of the case.

The duration of the complaint mediation is in principle 3 months.

## **3. Expert Mediation**

Expert mediation is a way of handling complaints and consultations by using the members of the expert network to mediate.

Expert mediation is suitable for cases where the disputes are large in scope and serious in impact, with unclear applicable standards, involving complex issues and

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multiple stakeholders, and difficult to communicate.

For such cases, the Complaint Committee shall, upon consensus of both parties, appoints members from the expert network as mediators or to form an expert mediation panel.

Relying on profound professional knowledge and rich experience in mediating disputes, the expert mediator/panel conducts professional interpretation and analysis of the difficult issues involved in the dispute, and guides and coordinates both parties to formulate a case plan through equal and friendly communications. The experts will thoroughly analyse the case and guide the two parties to clarify the disputed matters, and conduct fact-finding to the wishes of both parties if necessary. The experts will also weigh various factors and provide professional opinions on solutions and action plans.

If the two parties have not decided on whether to use fact-finding or assessment and verification at the case triage, the expert mediator/panel can make a recommendation on whether to activate these tools based on the specific circumstances of the case.

The duration of the expert mediation is in principle 6 months.

#### **4. Change of Route**

During the mediation and consultation, both parties to the dispute may apply to the Complaint Committee for a route change.

Upon consulting both parties and communicating with the mediation panel or experts in charge, the Complaint Committee makes a decision on whether to switch routes.

### **Section 3 Available Tools**

#### **1. Fact-finding**

Fact-finding is only recommended to be activated in the route of expert mediation.

Under the guidance and advice of the expert mediator/panel, the two parties jointly select experts or fact-finding institutions from the network to form an investigation team to conduct factual investigations on specific matters in the dispute.

Through fact-finding, the two parties reach a consensus on the disputed matters, which provides a reference for the consultation.

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## **1.1 Scope and principles of fact-finding**

Fact-finding shall be limited to the disputed matters in the application, and the specific scope shall be determined by consensus between the two parties under the guidance of the expert mediator/panel and the investigation team.

Both parties enjoy the full right to state facts, express opinions and provide information during the fact-finding process.

The activation of fact-finding does not automatically suspend an ongoing expert mediation unless deemed necessary by the parties.

## **1.2 Method and duration of fact-finding**

The method of fact-finding shall be determined by the investigation team based on the specific circumstances and needs. The methods can include but not limited to written reviews, desktop researches, on-site investigations, interviews with relevant parties, investigation meetings or other methods that can help clarify the disputed facts. Both parties should support and actively cooperate with the investigation.

In principle, the fact-finding shall be completed within 3 months.

## **2. Assessment and Verification**

Assessment and verification can be activated in all processing routes of bilateral dialogue, complaint mediation and expert mediation.

Any party who deems it necessary to conduct assessment and verification on a specific matter can select an assessment institution from the supporting resources to provide assessment service, with clear applicable standards, boundaries, procedures and methods of assessment.

The assessment and verification is for and not limited to:

- assessing the scope and extent to which the interests of stakeholders involved in the application are damaged or affected;
- dealing with common and universal issues in the industry related to assessment standards, procedures, methods, and conclusions. For this, upstream and downstream companies in the supply chain, standards institutions, and assessors can all apply for assessment and verification. In principle, the number of applicants or respondents should not be less than 3.

In principle, the assessment and verification shall be completed within 3 months.



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## Section 4 Conclusion of Process

### 1. Solution

This Mechanism endeavours to facilitate both parties to reach an understanding and jointly sign a solution through processing routes of bilateral dialogue, complaint mediation and expert mediation, and available tools of fact-finding, assessment and verification.

This Mechanism recommends and encourages both parties to include the following in their solution:

- focus of dispute and their respective claims;
- major stakeholders concerned;
- the applicable standard documents, international guidelines and relevant laws and regulations;
- the main process of complaint and consultation, and the consensus reached by both parties on the disputed matters;
- obligors and contents of specific obligations (including but not limited to remedies and corrective measures);
- timeline for obligation performance and indicators of outcome;
- feedback plan on the implementation progress and expected outcome;
- scope, channels, methods and steps of information disclosure;
- methods, channels and plans for equal, effective and continuous communication between the parties on their disputes and broader issues;
- other elements that help to regulate conducts, improve performance and facilitate communication among various stakeholders.

Solutions must not violate laws and regulations or internationally recognized principles and standards. The Complaint Committee, mediation panel and expert mediator/panel shall review whether the consultation process and the content of the solution conform to the above standards, and give both parties directions and suggestions based on their professional knowledge and practical experience.

### 2. Conclusion of the process

The complaint and consultation process may be concluded when:

- the parties reach an understanding and jointly sign a solution;
- the parties reach an understanding and jointly decide that there is no need to sign a solution

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- the respondent refuses to reply, the attempt to directly contact the respondent fails within the relevant time limit, or the respondent refuses to accept the invitation for consultation;
  - If the two parties cannot reach an understanding despite efforts, the Complaint Committee proposes for the continued communication after the conclusion of the process, and provides them with other forms of support such as policy interpretation and consulting according to their wishes.

### **3. Case Closure Report**

When the process ends, the Complaint Committee will issue a written notice of ending the process and a case closure report to both parties.

The case closure report summarizes the basic information of the two parties, the disputed matters and focus, the complaint and consultation process, the facts found by both parties, and the way the process ends, etc. According to the specific circumstances of the case, the report includes obligations for stakeholders and measures to promote understanding and communication.

## **Chapter 5 Implementation of Solutions and Monitoring**

### **1. Implementation and Feedback of Solutions**

The party with a specific obligation in the solution is the “obligor”, and the counterpart to the obligation is the “obligee”.

Both the applicant and the respondent may become the obligor or/and the obligee in the solution.

The solution is reached on a voluntary and equal basis. Both parties should earnestly perform their obligations in good faith, and actively give feedback to the obligee and the Complaint Committee on the main steps and outcomes of the implementation of the solution, as well as any situation that affects the performance of obligations.

### **2. Enquiries and Monitoring**

If the obligee cannot get feedback from the obligor within a reasonable time, and attempts to communicate fail to achieve satisfactory results, the obligee may enquire the Complaint Committee about the progress of the implementation. The Complaint Committee may ask the obligor for information on progress, depending on the specific circumstances. The Complaint Committee will work to promote continuous and effective communication between the two parties and the practical implementation of the obligations set in the solution.

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Based on the specific agreement and actual circumstances of the solution, the Complaint Committee actively monitors the progress and effect of the implementation on a regular or irregular basis, and updates the case closure report accordingly.

## **Chapter 6 Safeguarding of Rights and Support**

### **1. Disclosure of Information**

#### **1.1 Disclosure of information on individual cases**

The Complaint Committee establishes a dedicated system to manage consultation cases. All cases are registered and relevant information is disclosed during the process of application acceptance, consultation, and the implementation and monitoring of solutions, based on the progress and the intention of both parties.

The disclosure of information on individual cases follow the principles of truthfulness, timeliness and cautiousness.

The information to disclose on individual cases includes: the region and industry of the dispute, the type of dispute, the category of participating parties, a summary of the focus of the dispute, processing status and result, summary of solution and implementation progress, etc.

#### **1.2 Information disclosure on the operation of the Mechanism**

The Complaint Committee establishes and maintains a case database for complaints and consultations, and conducts and publishes researches on typical cases handled by this Mechanism.

The Complaint Committee shall periodically conduct thematic, periodical and systematic analysis of the accepted cases and the operation of the Mechanism, and publish the results when appropriate.

### **2. Confidentiality**

#### **2.1 Application for confidentiality**

If any participant believes the disclosure of certain information may endanger personal safety or cause major business risks, she or her has the right to request confidentiality to the Complaint Committee at any time during the consultation process.

The confidentiality request should be clear on the following:

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- the specific content of the information requested to be kept confidential
  - whom should the information be kept confidential from, for example, from the respondent, from the experts or institutions participating in the consultation, or from any third party and the public, etc.;
  - the time period or processing stage of the confidentiality request;
  - the reason for requesting confidentiality.

## **2.2 Decision on confidentiality request**

The Complaint Committee shall make a decision within 3 working days from the date of receiving the confidentiality request on whether to adopt confidentiality measures, what to keep confidential, whom to keep it confidential from and for how long, based on the type and nature of the information and the specifics of the request.

After receiving the confidentiality request, before a decision is made, the relevant information will not be disclosed to whom the confidentiality request is aimed at.

The staff of this Mechanism, experts, fact-finding institutions and assessment institutions who have access to confidential information due to the need of case handling should only use relevant confidential information as necessary for case handling.

Throughout the consultation process and at any time after the conclusion of the process, no person or institution shall use and disclose information in violation of confidentiality measures, except with the consent of the requesting party.

## **3. Right to Raise Objections**

### **3.1 Applicable circumstances**

All participants have the right to raise an objection to the Complaint Committee at any time if they believe that a circumstance exists where the fair dealing of the application or the performance of obligations in the solution has been or is likely to be impaired in the procedures of application acceptance, complaint and consultation, and the implementation of solution.

The circumstances include, but are not limited to:

- one party violates the principle of good faith, abuses this Mechanism to avoid or delay performance of obligations, or seeks other interests unrelated to dispute resolution;
- when performing duties and providing services, the experts, fact-finding institutions, assessment institutions and staff of this Mechanism involved in the

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case handling show favouritism to and have partiality for a particular side, accept bribes, or have undue interest in the disputes which may affect their fair dealing;

- one party forges evidence or conceals major facts;
- the obligor violates the solution agreement in the performance of obligations.

### **3.2 Raising an Objection**

Objections should be made to the Complaint Committee in writing and the party that raises an objection shall provide evidence to support its claim.

### **3.3 Handling an Objection**

When the Complaint Committee receives an objection, it will conduct an internal investigation and evaluation according to the procedures, and make a decision within 30 days of receiving the objection.

If the objection stands or partially stands, the Complaint Committee shall take measures accordingly. These measures include, but are not limited to:

- rejecting applications made in bad faith;
- revoking the qualifications of experts, fact-finding institutions, assessment institutions or staff of this Mechanism who have misconduct or undue interests in the case;
- deeming invalid the handling and conclusion based on forged evidences and concealed facts, and re-deciding on disposal;
- reminding, advising, and supervising the obligee who violates the agreement of the solution and the principle of good faith, and facilitating the proper performance of the obligation.

## **4. Free from Retaliation, Prosecution and Threat**

All participants have the right to freely and fully express their views, provide evidence and respond to the disputes and claims without threat or coercion by any person or organization, nor shall they be subject to any form of retaliation or persecution because of a complaint, consultation, or objection.

## **5. Accessibility of this Mechanism**

### **5.1 Languages and localization**

The working languages of this Mechanism are Chinese and English.

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If it is indeed inconvenient for any participant to use Chinese or English and difficult to seek translation by themselves, the Complaint Committee will coordinate with the two parties to hire qualified agencies or translators to provide translation services for them.

## **5.2 Fees and financial support**

This Mechanism is not for profit. It aims to help stakeholders in the mining industry and mineral supply chain to facilitate effective communication and proper dispute resolution through communication, consultation and mediation.

Service providers can charge reasonable costs incurred for professional services such as expert mediation, fact-finding, assessment and verification provided by experts and institutions from the network, and translation services by agencies and translators. These fees shall be borne by both parties through negotiation, and shall be paid directly to the experts or institutions providing the services.

This mechanism actively explores diversified sources of funds, and encourages relevant government departments, development aid agencies, foundations, social organizations, non-profit organizations, enterprises or individuals to donate funds to ensure the daily operation of this Mechanism, to financially support disadvantaged groups participating in this Mechanism, and to better facilitate solutions and implementations.

## **5.3 Capacity building support**

The Complaint Committee uses its own professional strength and supporting resources from this Mechanism to provide policy consultation, give procedure explanations and professional advice, and run lectures and trainings, making it easy to understand and convenient to use this Mechanism for users and other stakeholders.

# **6. Withdrawal and Independence**

## **6.1 Withdrawal**

If any participant finds that the experts from the expert network, fact-finding institutions or assessment institutions instructed by the Complaint Committee have a conflict of interest in the dispute, or there are other circumstances that may affect the fair dealing of the application, the participant has the right to request the withdrawal of such experts or institutions at any time during the process. The request should be made in writing to the Complaint Committee, stating the reasons and basis.

After accepting the designation, if the experts or institutions find that they have a conflict of interest in the dispute, or there are other circumstances that may affect the fair dealing of the application, they should immediately submit a written withdrawal

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request to the Complaint Committee.

The Complaint Committee shall make a decision on the withdrawal request within 5 working days from the date of receiving the written application. No party is allowed to apply for reconsideration of the decision.

## 6.2 Independence

The Complaint Committee coordinates and assists the work of the experts, fact-finding institutions and assessment institutions, but does not express positions or intervene in any other form.

All participating parties should actively cooperate with the experts and institutions instructed by the Complaint Committee without interfering with or sabotaging their work.

## 7. Disclaimer

All comments, opinions and factual conclusions expressed by the experts from the expert network, fact-finding institutions and assessment institutions instructed by the Complaint Committee for the complaint and consultation are only for reference to the parties in seeking solutions. They should not be deemed as judgments of right or wrong on either side.

Experts from the network, fact-finding and assessment institutions and staff of this Mechanism shall not be held liable to any form of legal or moral responsibility at any time in the future for any opinions and views expressed in the process of providing professional support, coordination and services to all parties.

## Annex 1: Key Terminologies

<b>Terminology</b>	<b>Definition</b>
Application	The formal written request to this Mechanism made by applicants including upstream and downstream companies in the mining industry and mineral supply chain, individuals and communities, other stakeholders (social organizations, the media, the public, etc.), standards institutions and assessors (assessment institutions or personnel), asking for consultation with the respondent on disputed matters applicable to this Mechanism, through processing routes and available tools provided by this Mechanism.
Invitation to	The formal written invitation to the respondent after the

consultation	<p>Complaint Committee accepts an application, to encourage and facilitate the respondent to participate in the consultation procedures under this Mechanism, consult on the disputed matters and seek solutions with the support and coordination of the professional strength of this Mechanism and external supporting resources.</p>
Bilateral dialogue	<p>One of the processing routes of this Mechanism basing on independent dialogue between the applicant and respondent. It is generally suitable for cases that are relatively common and typical in the industry, with clear applicable standards and precedents to follow, and with no or little dispute over facts. The duration is 1 month in principle.</p> <p>Under this route, this Mechanism encourages the parties to seek solution through friendly, equal, inclusive and thorough dialogue. The Complaint Committee designates experts to give support and advice when necessary.</p>
Complaint mediation	<p>One of the processing routes of this Mechanism by instructing professionals from this Mechanism to form an complaint mediation panel. It is suitable for cases where the disputes are large in scope and involve complicated issues, and the two parties lack trust and communication. The duration is 3 month in principle.</p> <p>Under this route, the complaint mediation panel relies on its experience and knowledge in the industry to mediate disputed matters through remote calls, face-to-face consultations, thematic meetings and written communication, and guides and supports both parties to reach an understanding or solution.</p>
Expert mediation	<p>One of the processing routes of this Mechanism by using the members of the expert network to mediate. It is suitable for cases where the disputes are large in scope and serious in impact, with unclear applicable standards, involving complex issues and multiple stakeholders, and difficult to communicate. The duration is 6 month in principle.</p> <p>Under this route, on the basis of fully soliciting opinions from both parties, the Complaint Committee instructs members from the expert network as mediators/panels to guide and coordinate the two parties through equal and friendly communication, formulate and implement a case handling plan, and reach an understanding and solution.</p>
Fact-finding	<p>One of the available tools of this Mechanism; to be completed within 3 months in principle.</p> <p>It can only be activated in the processing route of expert mediation. Under the guidance and advice of the expert mediator/panel, the two parties jointly select fact-finding institutions or experts to form an investigation team to conduct factual</p>



	investigations on specific matters in the dispute, which provide a reference for consultation.
Assessment and verification	<p>One of the available tools of this Mechanism; to be completed within 3 months in principle. It can be activated in all three processing routes (bilateral dialogue, complaint mediation, and expert mediation).</p> <p>Any party can select an assessment institution from the supporting resources to provide assessment service, assessing the scope and extent to which the interests of stakeholders are damaged or affected, and the common and universal issues in the industry related to assessments.</p>
Solution	<p>The action plan this Mechanism endeavours to facilitate both parties to jointly sign and perform, through processing routes of bilateral dialogue, complaint mediation and expert mediation, and available tools of fact-finding, assessment and verification, with the aim of solving the dispute and promoting long term effective communication between the two parties.</p>

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**Annex 2: “Flow Chart of the Complaint and Consultation Mechanism for the Mining Industry and Mineral Value Chain”**

