

# ACP-CE COUNCIL OF MINISTERS

## DECISION No 1/2009 OF THE ACP-EC COUNCIL OF MINISTERS

of 29 May 2009

### to adopt amendments to Annex II to the Partnership Agreement

(2009/497/EC)

THE ACP-EC COUNCIL OF MINISTERS,

Having regard to the Partnership Agreement between the members of the African, Caribbean and Pacific Group of States (hereinafter referred to as the ACP) of the one part, and the European Community and its Member States, of the other part, signed in Cotonou (Benin) on 23 June 2000 and revised in Luxembourg on 25 June 2005 (hereinafter referred to as the ACP-EC Partnership Agreement)<sup>(1)</sup>, and in particular Articles 15(3) and 100 thereof,

Having regard to the recommendation of the ACP-EC Development Finance Cooperation Committee,

Whereas:

- (1) In order to facilitate its own resources lending to the poorer ACP countries in the framework of heavily indebted poor countries (HIPC) and other internationally-agreed debt sustainability initiatives, the European Investment Bank (EIB) proposes to modify Annex II to the ACP-EC Partnership Agreement.
- (2) Policy coherence between EIB own resources lending and the HIPC initiative requires a greater flexibility, to satisfy internationally-agreed or similar HIPC conditions on debt sustainability and particularly in respect to interest rate subsidies.
- (3) Such provision already exists for resources managed by the EIB in the context of the Investment Facility, in accordance with Article 2 of Annex II to the ACP-EC Partnership Agreement.

(4) The objective of the new paragraphs in Article 1 of Annex II to the ACP-EC Partnership Agreement is to apply uniform conditions to both EIB own resources and the Investment Facilities.

(5) The objective of the new text for Articles 1, 2 and 4 of Annex II to the ACP-EC Partnership Agreement is to align EIB own resources and the Investment Facility provisions in the HIPC framework.

(6) It is therefore appropriate to amend Annex II to the ACP-EC Partnership Agreement accordingly,

HAS DECIDED AS FOLLOWS:

#### *Sole Article*

Annex II to the ACP-EC Partnership Agreement is hereby amended as follows:

1. in Article 1, the first subparagraph is numbered 1 and the following paragraphs 2, 3 and 4 shall be inserted:
  - '2. Funds for interest rate subsidies, as provided for under this Annex, will be made available from the interest subsidy allocation specified in Annex 1b paragraph 2(c).
  3. Interest subsidies may be capitalised or may be used in the form of grants. The amount of the interest rate subsidy, calculated in terms of its value at the times of disbursement of the loan, shall be charged against the interest subsidy allocation specified in Annex 1b, paragraph 2(c), and paid directly to the Bank. Up to 10 % of this allocation for interest rate subsidies may also be used to support project related technical assistance in ACP countries.

<sup>(1)</sup> OJ L 287, 28.10.2005, p. 4.

4. These terms and conditions are without prejudice to terms and conditions that may be imposed upon ACP countries subject to restrictive borrowing conditions under the heavily indebted poor countries ("HIPC") or other internationally agreed debt sustainability frameworks. Accordingly, where such frameworks require a reduction in the interest rate of a loan by more than 3 %, as permitted under Articles 2 and 4 of this Chapter, the Bank shall seek to reduce the average cost of funds through appropriate co-financing with other donors. Should this not be deemed possible, the interest rate of the Bank loan may be reduced by such amount as required to comply with the level arising from the HIPC initiative or any internationally-agreed debt sustainability framework.;
2. in Article 2, the text of paragraph 7 shall be replaced by the following text:
- '7. Ordinary loans in countries not subject to restrictive borrowing conditions under the HIPC or other internationally agreed debt sustainability frameworks may be extended on concessional terms and conditions in the following cases:
- (a) for infrastructure projects, that are a prerequisite for private sector development in the least developed countries, in post-conflict countries and in post-natural disaster countries. In such cases, the interest rate of the loan will be reduced by up to 3 %;
- (b) for projects which involve restructuring operations in the framework of privatisation or for projects with substantial and clearly demonstrable social or environmental benefits. In such cases, loans may be extended with an interest rate subsidy, the amount and form of which will be decided with respect to the particular characteristics of the project. However, the interest rate subsidy shall not be higher than 3 %.
- The final rate of loans falling under (a) or (b) shall, in any case, never be less than 50 % of the reference rate.;
3. in Article 4, the text of paragraph 2 shall be replaced by the following:
- '2. Loans from the Bank's own resources shall be granted under the following terms and conditions:
- (a) the reference rate of interest shall be the rate applied by the Bank for a loan with the same conditions as to currency and the repayment period on the day of signature of the contract or on the date of disbursement;
- (b) however, for countries which are not subject to restrictive borrowing conditions under the HIPC or other internationally agreed debt sustainability frameworks:
- (i) in principle, public sector projects shall be eligible for an interest rate subsidy of up to 3 %;
- (ii) private sector projects falling into the categories specified in Article 2(7)(b) shall be eligible for interest rates subsidies on the terms specified in that provision.
- The final interest rate shall, in any such case, never be less than 50 % of the reference rate.
- (c) the repayment period of loans made by the Bank from its own resources shall be determined on the basis of the economic and financial characteristics of the project. These loans shall normally comprise a grace period fixed by reference to the construction period of the project.;
- Done at Brussels, 29 May 2009.
- For the ACP-EC Council of Ministers*  
*The President*  
William HAOMAE