



European Investment Bank

**REVISED RULES RELATING TO THE ESTABLISHMENT AND
ADMINISTRATION OF THE FEMIP TRUST FUND**

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WHEREAS

1. In March 2002, the Barcelona European Council decided to enhance the existing activities of the Bank in the Mediterranean Partner Countries through the creation of the Facility for Euro-Mediterranean Investment and Partnership (the "**FEMIP**"). The Council's overall objective was to *"stimulate private sector development in our Mediterranean Partner Countries, in order to facilitate a higher level of economic growth consistent with the growth of the labour force in the region."*
2. Following consultations with the Mediterranean Partner Countries, the European Council of 12th December 2003 endorsed the conclusions reached on 25th November 2003 by the ECOFIN Council to reinforce the FEMIP within the Bank, leading to the creation of a "reinforced FEMIP". In particular, the ECOFIN Council decided to strengthen the FEMIP operations with a number of features and instruments in support of private sector, including the establishment of a trust fund allowing donors to complement on a voluntary basis the Bank's own resources as well as the financial resources provided to the Bank by the European Community budget.
3. The Bank and a number of donor countries have entered into discussions to establish a trust fund (the "**FEMIP Trust Fund**") dedicated to the Mediterranean Partner Countries, directing resources to operations in certain priority sectors which can be enhanced through the provision of technical assistance or made financially viable via a risk capital operation.
4. By a decision dated 14th October 2004, the Bank's Board of Directors approved the Rules Relating to the Establishment and Administration of the FEMIP Trust Fund. By a subsequent decision dated 16 June 2011, pursuant to a unanimous decision of the Donors, the Bank's Board of Directors has approved these Revised Rules ("the FTF Rules").

ARTICLE 1

THE FEMIP TRUST FUND

1.01 General Purposes of the FEMIP Trust Fund (FTF)

The purpose of the FEMIP Trust Fund (FTF) is to accept and make use of funds provided by donors in order to foster private sector development in the Mediterranean Partner Countries.

Specific key objectives to achieve this goal include: (i) developing an enabling environment for private sector activity by fostering the creation of adequate capital and human "infrastructure" in the region; and (ii) fostering and diversifying the availability of financial instruments for the private sector.

The FEMIP Trust Fund is based on the following guiding principles:

- *Complementarity*: the FTF aims at filling gaps in the Bank mandates and providing complementary funds to the ENPI programme in the FEMIP region. Accordingly, the FTF aims at financing activities that cannot currently benefit from similar resources under existing Bank mandates in the FEMIP area. The FTF therefore complements and does not duplicate existing instruments.

- *Innovation*: FTF focuses on innovative proposals, which do not necessarily require large amounts of resources, but can provide high added value to the Mediterranean Partners Countries.
- *Catalytic Impact*: the FEMIP Trust Fund encourages catalytic opportunities by providing funding for activities that can contribute to subsequently mobilising resources, partners, or further technical assistance in supported areas.
- *Ownership and Feasibility*: the FEMIP Trust Fund is a demand-driven instrument. The Bank, acting as the administrator of the FTF, shall consult with Mediterranean Partner Countries as to priority areas of activity for the FTF. The FTF ensures that partner countries are closely involved throughout the life of supported operations.
- *Cost-Sharing*: final beneficiaries shall make an appropriate contribution to the operations financed under the FTF in accordance with modalities to be determined by the Donors and the Bank.
- *Flexibility*: to conform to the principles above, the FEMIP Trust Fund shall be a relatively flexible instrument, capable of responding efficiently to the changing needs of the Mediterranean Partner Countries, in accordance with the activities referred to in Section 3.01.

1.02 Commencement of Operations

The first meeting of the Donors (as defined in Section 2.02) to the FEMIP Trust Fund will be called by the Bank when Contribution Instruments representing Contributions for an amount at least equal to ten million euros (€ 10,000,000) have been signed by Donors and received by the Bank pursuant to Section 2.02 below.

ARTICLE 2

RESOURCES OF THE FEMIP TRUST FUND

2.01 Resources

The resources of the FEMIP Trust Fund shall consist of:

- (a) amounts accepted by the Bank for inclusion in the FEMIP Trust Fund pursuant to Sections 2.02 to 2.04;
 - (b) income generated by the activities of the FEMIP Trust Fund and any capital returned on completion of an operation;
- and
- (c) the interest accrued on the balance of the FEMIP Trust Fund Account.

2.02 Contributions

- (a) Any Member State of the European Union (EU), the European Commission, beneficiary countries and European Free Trade Association (EFTA) countries (a "Donor") may contribute funds (a "Contribution") to the FEMIP Trust Fund. Such funds shall be contributed by a Donor pursuant to a letter ("Contribution Instrument"), which shall be delivered to the Bank and shall specify the amount of the Contribution. The Contribution Instrument shall include the elements listed in Annex 1 hereto and may contain such other matters as may be required or permitted by these Rules. When the Assembly of Donors (as defined in Article 4 below) so decides, Contributions from other sources will be accepted.

- (b) Except as otherwise accepted by the Assembly of Donors, the minimum initial amount of a Contribution Instrument is one million euro (€1,000,000).
- (c) By signing a Contribution Instrument, the Donor shall be deemed to accept the application of these Rules to the funds contributed under such Contribution Instrument.
- (d) A Contribution can be provided at any time of the duration of the FEMIP Trust Fund. A Donor may also at any time decide an increase in the amount of its Contribution by delivering a further Contribution Instrument. The provisions of these Rules relating to Contributions shall apply equally to additional amounts so contributed.
- (e) Contributions from EU and EFTA countries as well as beneficiary countries and the European Commission are automatically accepted upon receipt of the Contribution Instrument and payment of the funds. Contributions from other interested countries are subject to unanimous approval by the Assembly of Donors and the Bank.

2.03 Payment of Contributions

Each Contribution shall be denominated in euro and shall be made available to the Bank in immediately available funds. Contributions shall be made (i) as a single installment, or (ii) in tranches as set out in the relevant Contribution Instrument.

2.04 Replenishment

When the level of resources left in the fund so requires, the Bank may request from any Member State of the European Union, the European Commission, beneficiary countries as well as other interested countries a Contribution Instrument as defined in section 2.02 or, as the case may be, a further Contribution by way of replenishment.

ARTICLE 3

OPERATIONS OF THE FEMIP TRUST FUND

3.01 Scope of Activity

The Bank will coordinate closely with the European Commission and other bilateral and multilateral agencies to avoid any duplication of efforts and overlapping activities and to ensure coherence and complementarity with EU external policies.

The operations of the FEMIP Trust Fund comprise three windows, namely the Technical Assistance window, the Private Sector Support window and the Democratic Transformation Support Window:

- (i) Technical Assistance Window

The FEMIP Trust Fund is used to finance upstream technical assistance activities not eligible for financing under other EIB instruments such as the ENPI-funded FEMIP Technical Assistance envelope. Activities which could fall under the scope of this window are policy, legal, regulatory and institutional reform, sector development strategies, capacity building, and training.

- (ii) Private Sector Support Window

Under this window, the FEMIP Trust Fund aims at increasing the scope and the range of financial instruments currently available to directly support private sector development in the Mediterranean Partner Countries. In particular the FEMIP Trust Fund focuses on increasing the Bank involvement in equity, quasi-equity and guarantee type operations, with special emphasis on complementing the ENPI-funded FEMIP Risk Capital envelope.

(iii) Democratic Transformation Support Window

This window is used for immediate democratic transformation and transition needs in Mediterranean Partner Countries and focuses on initiatives that can demonstrate catalytic economic effects. The support provided will be aligned with the EU policy objectives and will be complementary to the initiatives by the European Commission and the European External Action Service for the economic transition priorities agreed with the Mediterranean Partner Countries.

3.02 Approval of Operations

- (a) Potential operations shall first be submitted for approval to the Bank Management Committee. If approved by the Bank Management Committee, operations shall then be submitted for approval to the Assembly of Donors in accordance with Article 4 (operations approved by the Assembly of Donors shall be referred to as the “**Eligible Operations**”).
- (b) Operations cannot be eligible if available resources in the FTF after disbursements, existing commitments for projects, and administrative fees amount to less than the proposed amount for the operation.

ARTICLE 4

ASSEMBLY OF DONORS

4.01 Purpose

The Assembly of Donors serves as an advisory and decision-making body for the FTF, by providing guidance on the Fund’s strategy and orientations and by approving proposals.

4.02 Membership and Rules of Procedure

- (a) Each Donor who has signed and sent a Contribution Instrument to the Bank shall have the right to be represented in the Assembly of Donors and to participate in its meetings, provided that only Donors who have, at the date of the meeting of the Assembly, paid part or all of their Contribution may vote.
- (b) Rules relating to the organisation of meetings, quorum and vote are governed by the Rules of Procedure (the “**Rules of Procedure**”) of the Assembly of Donors.
- (c) The Assembly of Donors approves the Rules of Procedure. The Rules of Procedure shall be in line with the FTF Rules. In the event of there being a conflict between the FTF Rules and the Rules of Procedure, the FTF Rules shall prevail.
- (d) The Rules of Procedure, and any modification unless otherwise decided by the Donors, are approved with their unanimous consent.

4.03 Responsibilities

The Assembly of Donors shall:

- (i) determine the principal orientations and strategies of the activities financed or to be financed with the resources of the FEMIP Trust Fund;
- (ii) authorise the use of FEMIP Trust Fund resources for operations submitted to it by the Bank, in accordance with the provisions of Section 3.02, provided that the Assembly of Donors may delegate to the Bank Management Committee approval of certain operations;
- (iii) review the effectiveness of the activities financed with the resources of the FEMIP Trust Fund;
- (iv) approve the annual Financial Statements together with a report on the activities financed with the resources of the FEMIP Trust Fund (the “**Annual Report**”);
- (v) ensure that the appropriate visibility is given to the activities financed by the FEMIP Trust Fund, taking into account the needs of the various Donors;
- (vi) authorise Contributions from donors other than those mentioned in section 2.02 (a);
- (vii) approve or reject proposed amendments to the FTF Rules, in accordance with Article 9;
- (viii) approve and revise its Rules of Procedure in accordance with Section 4.02;

and

- (ix) decide the termination of the FEMIP Trust Fund, in accordance with Article 8.

ARTICLE 5

ADMINISTRATION AND MANAGEMENT OF THE FEMIP TRUST FUND

5.01 Administration of the FEMIP Trust Fund

The FEMIP Trust Fund and its resources are managed and administered by the Bank acting on behalf of the Donors and in accordance with the provisions of these Rules. The Bank shall apply the same internal policies as are applied when making an investment and such other guidelines which may be adopted by the Assembly of Donors in accordance with these Rules.

The Bank shall fulfill its role by:

- (i) making available the Bank staff and other experts with the skills and competence required to administer the FEMIP Trust Fund;
- (ii) preparing and administering Eligible Operations, including entering into agreements with beneficiaries, where appropriate, and otherwise operating the FEMIP Trust Fund in accordance with the provisions of these Rules;
- (iii) liaising to the extent necessary to fulfill its managerial role, with Donors and other relevant partners;

- (iv) preparing the Annual Report for review and approval by the Assembly of Donors;
- (v) preparing the meetings of the Assembly of Donors and serving as secretariat of such meetings;
- (vi) drawing up an indicative programme of activities for the FEMIP Trust Fund for submission to the Assembly of Donors;
- (vii) submitting to the Assembly of Donors all agreed reports and technical documentation, including the Annual Report. Such reports will provide a comprehensive overview of the implementation of the FEMIP Trust Fund's programme.
- (viii) ensuring that in its publications, in its communications with recipient countries and entities and the media, appropriate visibility is given to the FEMIP Trust Fund and its Donors; and
- (ix) carrying out such other functions as may be necessary for the efficient administration of the FEMIP Trust Fund, except for functions which pertain to the competence of the Assembly of Donors and have not been delegated to the Bank.

5.02 Standard of care

The Bank will exercise the same amount of care and diligence as for its own resources. Procurement of goods, works and services financed from the resources of the FEMIP Trust Fund will be administered in accordance with the Bank's procurement policy for its operations. The Bank's transparency policy shall apply to the FEMIP Trust Fund and its operations.

The Bank may adopt such internal operating procedures, compatible with these Rules, as shall be considered necessary or appropriate for the efficient administration of the FEMIP Trust Fund.

5.03 Administrative Fee

For the administrative and operational support and financial management of the FEMIP Trust Fund, the Bank shall receive from the FEMIP Trust Fund a fixed fee of 4 % of the total amount of the Contributions made available to the FEMIP Trust Fund for such activities. Such fee shall be payable out of the amount of the Contributions at the time the Contribution is actually paid in.

ARTICLE 6

ACCOUNTING AND REPORTING

6.01 Accounts

- (a) The Bank shall open a separate account in its books, called "FEMIP Trust Fund Account" for the receipt of the Contributions and the disbursement of the monies to the Eligible Operations. The Bank shall maintain the accounts of the FEMIP Trust Fund in euro in accordance with IFRS accounting principles. The Bank will invest unused FTF resources and transmit the

proceeds to the FTF. The details of how such unused funds shall be invested shall be set out in a side letter provided by the Bank to the Donors.

(b) The financial year of the FEMIP Trust Fund is the calendar year.

6.02 Approval of Financial Statements

Once they have been audited in accordance with Section 7.01 below, the FEMIP Trust Fund's Financial Statements shall be submitted to the Assembly of Donors for review and approval.

6.03 Valuation of Currencies

Whenever it shall be necessary for purposes of preparation or presentation of Financial Statements to determine the value of any currency in terms of another currency or of the unit of account of the Bank, the valuation shall be made by the Bank, using the same principles as the Bank applies for its ordinary operations.

6.04 Information and Reporting

The Bank shall provide each Donor with:

- the Annual Report, describing the operations of the FEMIP Trust Fund;
- yearly audited Financial Statements;
- operation completion reports;
- general policy documents related to the FEMIP Trust Fund.

In the context of each review of the FEMIP mandate (and for the first time in December 2006), the Bank shall provide the Donors with an evaluation report analysing the impact of operations financed by the FEMIP Trust Fund in the Mediterranean Partner Countries.

ARTICLE 7

AUDIT AND CONTROL

7.01 Audit

Financial transactions and Financial Statements with respect to the FEMIP Trust Fund shall be subject to external auditing. The costs of such audit shall be borne by the FEMIP Trust Fund.

7.02 Control

The FEMIP Trust Fund shall be managed in accordance with the Bank's usual criteria and procedures, including appropriate control measures.

ARTICLE 8

DURATION OF THE FEMIP TRUST FUND

8.01 Termination of the Fund

- (a) The FEMIP Trust Fund shall remain in force so long as there remain funds, commitments or investments with respect to the FEMIP Trust Fund.
- (b) Notwithstanding paragraph (a) above, the FEMIP Trust Fund may be terminated at any time by a decision of the Assembly of Donors taken with the unanimous consent of Donors and, if appropriate, in consultation with the EIB's Board of Directors.

8.02 Disposal of Resources on Termination of the Fund

Upon a decision of the Assembly of Donors in view of the termination of the FEMIP Trust Fund, the following provisions shall apply with respect to the resources of the FEMIP Trust Fund:

- (a) The Bank shall forthwith cease all activities relating to such resources, except those incidental to the orderly realisation, conservation and preservation of such resources and the settlement of the direct or contingent obligations to which they may be subject.
- (b) The Bank shall establish appropriate Financial Statements, which shall be subject to the audit procedure referred to in Section 7.01 above. These audited Financial Statements shall then be submitted to the Assembly of Donors for approval in accordance with Section 6.02 above.
- (c) The Bank shall discuss with Donors as to possible uses of the funds available and not yet committed at the time of termination, with a view to integrate such funds into the Bank's FEMIP activities.

ARTICLE 9**AMENDMENTS**

These Rules may be amended upon proposal made by the Bank to its Board of Directors pursuant to a unanimous decision of the Donors.

ARTICLE 10**DISPUTE RESOLUTION**

The parties shall endeavour to settle amicably any dispute or complaint relating to the interpretation or fulfillment of these Rules, including its existence, validity and termination. For the purposes of any dispute hereunder the parties hereby submit to the jurisdiction of the Court of Justice of the European Union.

ANNEX 1 – ELEMENTS TO BE INCLUDED IN THE CONTRIBUTION INSTRUMENT

- (i) Name of contributing country/entity (incl. name of the contact person)
- (ii) Total amount of the Contribution
- (iii) Payment modalities (number of installments, timing)
- (iv) Confirmation that the Contribution will be governed by the terms and conditions of the rules relating to the establishment and administration of the FEMIP Trust Fund and that the activities under the FEMIP Trust Fund are subject to the same regime as that applicable to the activities of the Bank carried out in accordance with its Statute, as regards the regime applied through the Protocol on the Privileges and Immunities of the European Communities of 8th April, 1965.

N.B: effective contributions are to be transferred to the following bank account:

Account n° DE 6250 0700 1009 3819 4800
With Deutsche Bank in Frankfurt/Main
BIC code: DEUTDEFF
In favour of European Investment Bank
BIC code: BEILLULL

For ease of reference, please indicate: "Contribution from (...) to the FEMIP Trust Fund".
