

SUOMEN SÄÄDÖSKOKOELMAN SOPIMUSSARJA

Julkaistu Helsingissä 13 päivänä lokakuuta 2022

60/2022

(Suomen säädöskokoelman n:o 849/2022)

Ulkoministeriön asetus investointituki kehitysmaille -rahoitusinstrumentilla rahoitettavista hankkeista Ghanan kanssa tehdystä puitesopimuksesta

Ulkoministeriön päätöksen mukaisesti säädetään ulkoasiainhallintolain (204/2000) 3 a §:n nojalla:

1 §

Suomen investointituki kehitysmaille -rahoitusinstrumentilla rahoitettavista hankkeista Suomen tasavallan hallituksen ja Ghanan tasavallan hallituksen välillä Helsingissä 19 päivänä syyskuuta 2022 tehty puitesopimus tulee voimaan 18 päivänä marraskuuta 2022 niin kuin siitä on sovittu.

2 §

Sopimuksen määräykset ovat asetuksena voimassa.

3 §

Tämä asetus tulee voimaan 18 päivänä marraskuuta 2022.

Helsingissä 11.10.2022

Kehitysyhteistyö- ja ulkomaankauppaministeri Ville Skinnari

Yksikönpäällikön sijainen Anu Hassinen

(Sopimus on saatavilla ulkoministeriön määräyskokoelmassa www.finlex.fi sekä ulkoministeriössä, joka myös antaa siitä tietoja suomeksi ja ruotsiksi)

FRAMEWORK AGREEMENT
BETWEEN
THE GOVERNMENT OF THE REPUBLIC OF FINLAND
AND
THE GOVERNMENT OF THE REPUBLIC OF GHANA
ON
PROJECTS FUNDED UNDER FINLAND'S PUBLIC SECTOR
INVESTMENT FACILITY (PIF) SCHEME

The Government of the Republic of Finland ("Finland"), represented by the Ministry for Foreign Affairs of Finland, and the Government of the Republic of Ghana ("Ghana"), represented by the Ministry of Finance (MoF), hereinafter referred to as 'the Parties',

Recognizing that the Public Sector Investment Facility ("PIF") Scheme is one of the instruments available to Finland in promoting development in developing countries. The purpose of PIF Scheme is to provide additional financing for projects acceptable to Finland in accordance with the OECD Arrangement on Guidelines for Officially Supported Export Credits ("the Projects"),

Taking note that Ghana is, in principle, as regards to the OECD Guidelines for Officially Supported Export Credits, eligible for financing under the PIF Scheme, and

Recalling that Ghana has expressed interest towards financial assistance in the form of concessional credits from Finland for several projects.

Have agreed, with respect to the Projects to be funded under the PIF Scheme in Ghana, as follows:

ARTICLE I
Scope and Objective

1. The Projects funded under the PIF Scheme are governed by the Finnish Act on Concessional Credits to Developing Countries (1114/2000 as may be amended from time to time), the Finnish Decree on Concessional Credits to Developing Countries (1253/2000 as may be amended from time to time) and other relevant Finnish Law as well as the administrative guidelines by the Ministry for Foreign Affairs of Finland based on Finnish Law.

2. The Parties understand that for each Project to be funded under the PIF Scheme, the Ministry of Finance of the Republic of Ghana (“Ministry of Finance” or “MoF”) will take out a concessional credit (“Concessional Credit”) from a commercial bank acceptable to Finnvera Plc (i.e. a commercial bank registered in the European Economic area). (“Commercial Bank”), and to that end sign a loan agreement (“Loan Agreement”) with the Commercial Bank in question. The Parties further understand that for a Project to be eligible for funding from the PIF Scheme, the Concessional Credit respective to such Project will have to be guaranteed by Finnvera Plc. and accepted by a decision of the Ministry for Foreign Affairs of Finland (“Concessional Credit Decision”). In addition, the Parties understand that for each Project, a Ghanaian project owner (“Project Owner”) will sign a commercial contract (“Commercial Contract”) with an exporter, a Finnish-registered company (“Exporter”) procured by the Project Owner in accordance with Article VI of this Agreement. The Parties further understand that for a Project to be eligible for funding under the PIF Scheme, at least 10% of the value of the respective Commercial Contract shall be allocated towards ensuring the sustainability of the Project by strengthening the capacity of the Project Owner e.g. through developing management processes, training staff as well as ensuring adequate maintenance and supply of spare parts.

3. Each Project shall be implemented in accordance with the Commercial Contract, as well as, the Loan Agreement of the Project. The Competent Authorities defined in Article III of this Agreement shall, based on this Agreement, through exchange of letters agree on the Projects to be covered under this Agreement. For each Project the letters shall specify the Commercial Contract after it has been signed by the Project Owner and the Exporter, as well as, the Loan Agreement after it has been signed by the Commercial Bank and the Ministry of Finance.

4. The overall objective of the Projects is to improve the social and economic conditions of the people of Ghana.

ARTICLE II

Principles of Co-operation

1. Respect for human rights, democratic principles, good governance and the rule of law shall form the basis for the co-operation between Finland and Ghana and constitute the essential elements of this Agreement.

2. The Projects shall be implemented in accordance with the principles of transparency and open dialogue.

ARTICLE III

Competent Authorities and Implementing Agency

1. The Ministry for Foreign Affairs of Finland (“MFA”) represented in Ghana by the Embassy of Finland in Abuja, Nigeria and the Ministry of Finance of Ghana (“MoF”) shall be the Competent Authorities in matters relating to this Agreement.

2. The responsibility for the implementation of the Projects lies with the Project Owner [and the [implementing agency] of Ghana in accordance with Ghanaian regulations on Official Development Assistance (ODA) utilization and management]; the overall coordination and management of Finland's support lies with the Ministry of Finance.

ARTICLE IV
Financing by Finland

1. The contribution of Finland for the implementation of each Project under the PIF Scheme is divided between interest payments on the Concessional Credit, and a Grant Portion of the Commercial Contract. The Finnish contribution for each Project shall be specified in the letter of exchange between the Competent Authorities relating to that Project.

2. The interest payments on the Concessional Credit shall be settled by Finland directly with the Commercial Bank.

3. The payment of the Grant Portion of the Commercial Contract amount shall be based on payment requests from [MoF] to the Commercial Bank. Upon receiving a payment request from [MoF], the Commercial Bank will make a payment to the Exporter pro rata with the relevant Concessional Credit .

ARTICLE V
Financing by Ghana

1. Ghana shall cover the repayments of the capital of each of the Concessional Credits made available to Ghana by the Commercial Banks. The capital of the Concessional Credit for each Project shall be specified in the letter of exchange between the Competent Authorities relating to that Project.

2. All financial and other resources required for the implementation of the Project exceeding the Finnish contribution shall be provided by Ghana.

ARTICLE VI
Procurements of Exporters

1. As Finland is a member of the OECD, the Projects must adhere to the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (1999).

2. Procurement of the Exporter for each Project shall be carried out by Ghana based on Ghanaian procurement legislation. Ghana shall provide Finland with access to all records and documents concerning the procurements.

3. Finland and Ghana may request a multilateral agency of which both are members to facilitate the procurement process e.g., supporting the drafting of tender documents, taking part in the evaluation process.

4. Ghana shall ensure that no illegal or corrupt practices relate to the procurement processes nor to the use of the Concessional Credits or the Finnish contribution. No offer, gift, payment or benefit of any kind, which would or could be construed as an illegal or corrupt practice, shall be accepted, either directly or indirectly, as an inducement or reward for the award or execution of procurement contracts financed by the Concessional Credits.

5. All procurements shall be made in accordance with generally accepted principles of, and good, procurement practices. Invitations to tender as well as procurement contracts shall, respectively, include a clause on the possibility of the tender being rejected and the contract being cancelled, in case of any illegal or corrupt practices being connected with the award or execution of the contract. Furthermore, the damage or loss caused to the buyer shall, in case of the cancellation of the contract, be compensated by the supplier.

ARTICLE VII Information

1. The Parties shall:

(a) promptly inform each other of any event or situation which might affect the implementation of a project or the Projects; and

(b) ensure that all relevant authorities and organisations are informed of this Agreement and the Projects as and when they are identified.

2. The Parties shall in accordance with their respective relevant legislation have the right to disseminate information about the Projects, including this Agreement, to the general public and other interested parties.

3. Any publication or other material produced in connection with a Project or the Projects shall mention that the Projects are being or have been implemented with the financial contribution of Finland and within the framework of the Finnish development co-operation.

ARTICLE VIII Monitoring and Reporting

1. The responsibility to monitor that Ghanaian authorities implementing the Projects fulfil the provisions of this Agreement and in particular the Scope and Objectives of the Projects as set out in Article I of this Agreement lies with [MoF].

2. The implementation of a Project shall be reported in the manner specified in the

Commercial Contract and the Loan Agreement of the Project. In addition, Ghana shall for each Project provide Finland with a report on the progress of implementation every six months during the implementation phase, and with a final report at the end of the implementation phase. The reports shall be prepared in accordance with mutually agreed principles.

3. Finland will monitor that the general provisions for Concessional Credits are met taking into consideration the OECD Arrangement on Guidelines for Officially Supported Export Credits.

4. Finland will monitor that the Concessional Credit is used for the purpose established in the Concessional Credit Decision.

ARTICLE IX Auditing

Ghana shall permit the representatives of Finland to carry out any inspection or audit in respect of the implementation of the Projects. Such an inspection or audit may also be initiated by Ghana.

ARTICLE X Consultations

1. The Parties shall be available to each other for mutual consultations in order to:

- (a) follow up the co-operation; and
- (b) assess the attainment of the objectives of co-operation as well as the objectives and purposes of the Projects.

2. The Parties shall provide each other with all necessary information for the purposes of the consultations.

ARTICLE XI Sanctions

1. If Ghana fails to abide by or violates the conditions of the Loan Agreement, the Commercial Bank shall be required to notify the MFA and Finnvera Plc. immediately. The Commercial Bank and Finnvera Plc. have the right to decide, after consulting the MFA, on measures to be taken.

2. The MFA has the right to cancel the Concessional Credit Decision or make amendments to the Concessional Credit Decision, if Ghana fails to use the Concessional

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Credit for the purposes established in the Concessional Credit Decision or, in case significant changes have occurred in the conditions relating to the Concessional Credit. Such conditions may include but are not limited to violation of the principles of cooperation as established in Article II of this Agreement or in case illegal or corrupt practices relate to the use of the Concessional Credit.

ARTICLE XII
Liability

Finland shall not accept any responsibility or liability for any claims, debts, demands, damage or loss with respect to Ghana or any third party, as a result of the implementation of this Agreement

ARTICLE XIII
Special Provisions

1. Other obligations of Ghana shall be specified in the Commercial Contract and the Loan Agreement of each Project.
2. This Agreement does not create any obligations for the Commercial Bank or the Exporter.
3. The Parties shall have the right to carry out an evaluation during the implementation of and after the completion of the Projects.

ARTICLE XIV
Amendments

1. Should either Party consider it desirable to amend any provision of this Agreement, it may request consultations with the other Party through its Competent Authority. Any amendment, to be effective, shall be agreed upon in writing between the Competent Authorities and shall be annexed to this Agreement.

ARTICLE XV
Entry Into Force, Termination and Settlement of Disputes

1. This Agreement shall enter into force on the 60th day after its signature and remain in force unless terminated by either Party by giving a notice in writing to that effect three months prior to the termination. The termination shall not affect the binding nature of the Commercial Contracts and the Loan Agreements of each Project, which shall continue to be in force according to their own terms and conditions.
2. Any dispute arising from the implementation or interpretation of this Agreement

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shall be settled amicably by negotiations between the Competent Authorities.

In witness whereof, the undersigned, being duly authorized by their respective Governments, have signed this Agreement.

Done in two originals in the English language in HELSINKI ~~199~~ on 19.9. 2022.

On behalf of the Government
of the Republic of Finland



PASI HELLMAN
ALIVALTIOSIHTTEERI

On behalf of the Government
of Republic of Ghana



HON. KEN OFORI-ATTA
MINISTER OF FINANCE