



# Sharing and Learning Event Near-East, North Africa and Europe

*FORUM ON FINANCIAL MANAGEMENT FOR PROJECTS*

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*Rome, Italy*

## Financial Agreement and General Conditions

# Adoption of the new approach

- The revised General Conditions were approved by IFAD's Executive Board in April 2009. The latest amendment was approved by the EB at the 111<sup>th</sup> session in April 2014.
- **The goal:** Make the Financing Agreement as short as possible by putting all of the standard provisions in the GCs, in order to standardize, simplify and improve enforceability.

# What's in the Financing Agreement?

## Basic terms of the financing e.g.:

- Amount.
- Terms.
- Lead Project/Programme Agency.
- Conditions precedent to withdrawal.
- Names of designated representatives.
- Project/Programme description.
- Financing categories.

# What isn't in the Financing Agreement?

- ***Anything which is in the General Conditions***

# No repetition

- Repeating provisions of the General Conditions in the Financing Agreement might cause uncertainty and give the impression that these provisions are negotiable.



# A quick look at the Financing Agreement

- **Introduction** – Sets out the Project/Programme name and parties (IFAD and the member State which receives the financing)
- **Preamble** – Used only in specific cases (e.g. cofinancing).
- **Section A** – Composition of the agreement

# The Financing Agreement - Continued

- Section B – Details of the Financing.
- Section C – Project/Programme.
- Section D – Supervision.
- Section E – Additional conditions for withdrawal, grounds for suspension, ratification, authority, and addresses.

# Schedules

- **Schedule 1** - Project/Programme Description and Implementation Arrangements.
- **Schedule 2** – Allocation Table.
- **Schedule 3** – Special Covenants.

*We will look more closely into this in our review of the General Conditions.*



# The General Conditions

- Article 1 – Application

The new GCs, as amended, apply to all Financing Agreements for Projects/Programmes approved by the Executive Board during and subsequent to its ninety-seventh session in September 2009.

All provisions of the GCs apply to all Financing Agreements, unless the agreement explicitly states that a particular provision doesn't apply.

Of course, it is unnecessary to specify provisions that are irrelevant – e.g. guarantee.

# Article 2 - Definitions

- We will review these as they come up.



# Article 3 – Cooperating Institution

- The presumption is that IFAD will “**administer the financing**” and directly “**supervise the Project**”.
- The CI is an **agent** of IFAD, appointed to carry out specific tasks and functions.

# Article 4 – Loan Account and Withdrawals

## 4.01 – Loan and Grant Accounts

These are accounts on the books of the Fund. The Loan and/or Grant are credited to these accounts when the FA enters into force.

The GCs use the term “**Borrower/Recipient**” unless only a Loan or only a Grant is involved.

# Section 4.02 - Withdrawals

- Withdrawals can be made from the date of entry into force until the Financing Closing Date, which is 6 months after the Project/Programme Completion Date.



# Withdrawals

- Withdrawals can be made of “amounts paid or **to be paid** for Eligible Expenditures”.

*We will discuss the definition of Eligible Expenditures later (Section 4.08).*

# Conditions of Withdrawal

- Standard condition – approval by the Fund of the first **AWPB**.
- Additional conditions – may be **general** (applicable to all categories and activities) or **specific** (applicable to particular categories).

# Start Up Costs

- Withdrawals to meet the costs of starting up the Project/Programme may be made from the date of entry into force of the Agreement, subject to any limitations provided in the Financing Agreement (Section 4.02(b)).
- This means that start up costs are eligible even before the AWPB has been approved and the other conditions have been fulfilled.



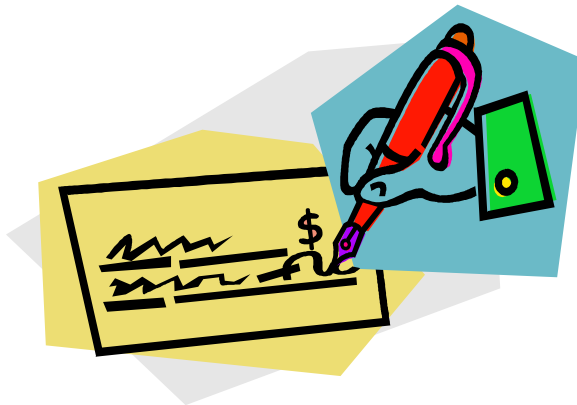
# Section 4.03 -Special Commitments

- Rarely used procedure where IFAD guarantees a Letter of Credit.
- The amount of the Special Commitment is blocked and unavailable for withdrawal.



# Applications for Withdrawal

- Section 4.04(a) – “in the form specified by the Fund, together with such documents and other evidence in support ... as the Fund may reasonably request”.



# Applications for Withdrawal

- Section 4.04(b) – evidence of authority and specimen signatures.
- This provides the legal basis for the forms and procedures set forth in the Letter to the Borrower/Recipient and the Loan Disbursement Handbook.

# Section 4.04(d) – Designated Account

- If the Borrower/Recipient requests a withdrawal from the Loan and/or Grant Accounts for amounts *to be paid thereafter* for Eligible Expenditures, the Fund may, before transferring such amount to the Borrower/Recipient, require that the Borrower/Recipient provide evidence satisfactory to the Fund showing that previous withdrawals have been properly spent for Eligible Expenditures. The Fund may place **reasonable limits** on the amount that the Borrower/Recipient may withdraw in advance or the overall balance of such advance withdrawals, and may require that such amounts be held in a **freely convertible currency** and/or be held in an **account designated for that purpose** in a bank acceptable to the Fund.

# Designated Account – Currency

- The *obligation to maintain the Designated Account in a freely-convertible currency* should be imposed only when a determination has been made that there is a ***danger*** that the national currency will undergo ***significant depreciation***.

# Designated Account - Limits

- Any *limits on the amount which may be withdrawn in advance* should only be imposed when a determination has been made that the Borrower/Recipient ***lacks the capacity to manage larger amounts.***

# The designated account is not a Special Account

- The general rule is that Borrower/Recipient can withdraw as much money in advance as needed for Project/Programme implementation determined by reference to the AWPB.
- The money is sent to any account they designate (Section 4.05).
- IFAD should only impose limits when it is justified by lack of capacity.

# Section 4.07 – Allocations and Reallocations

- Allocations to categories set forth in Schedule 2 of the FA.
- Percentages to be financed are set out in last column of the Allocation Table.
- “Net of Taxes”.
- Reallocations – the Fund may reallocate “by notice” to the Borrower/Recipient – no need for a formal amendment.



# Section 4.08 – Eligible Expenditures

- Reasonable cost of goods, works and services.
- Required for the Project/Programme.
- Covered by the AWPB.
- Procured in conformity with the IFAD Procurement Guidelines.
- During the Project/Programme Implementation Period (entry into force until Project/Programme Completion Date) except for winding up costs (valid until Financing Closing Date).

# Eligible Expenditures

- The requirement that expenditures be incurred in an IFAD Member State was removed by the EB in September 2010.

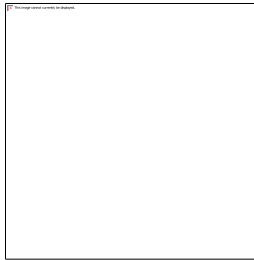


# Eligible Expenditures

- Expenditures must relate to a category which has not been depleted.
- IFAD may “from time to time” exclude certain types of expenditures from eligibility.
- Payments prohibited by a binding UN Security Council resolution are ineligible.
- Corrupt payments are not eligible.

# Corrupt payments

- “Coercive, collusive, corrupt or fraudulent practice” – terms defined in section 2.01.
- Also a cause for suspension – section 12.01(xxiv).
- Uniform terms used by all IFIs.
- Linked to IFAD’s Anticorruption Policy.



# Refund – Section 4.09

- If the Fund determines that any amount withdrawn from the Loan and/or Grant Accounts **was used to finance an expenditure other than an Eligible Expenditure** or **will not be needed thereafter** to finance Eligible Expenditures, the Borrower/Recipient shall promptly refund such amount to the Fund upon instruction by the Fund.

# Lending Terms

- Lending Terms are no longer provided in the GCs and are now found in the Policies and Criteria for IFAD Financing.
- Highly Concessional, [Hardened, Intermediate] Blend and Ordinary.
- Maturity period – starts from EB approval for Highly Concessional and Blend.
- Starts from fulfilment of general conditions precedent to withdrawal for Ordinary.

# Grace period

- During the grace period, interest and/or service charge shall accrue on the outstanding principal amount of the Loan and shall be payable semi-annually on the billing due dates, but no payments of principal shall be due (Section 5.01(d)).
- 10 years for Highly Concessional.
- 5 years for Blend.
- 3 years for Ordinary.

# Amortization schedule

- The amortization schedule for **Highly Concessional and Blend** terms loans can be calculated at the time of negotiations.
- **Ordinary** loan amortization is calculated when the maturity period starts.



# Currency Provisions – Article 6

- IFAD loans are denominated in the Denomination currency, which may also be in Special Drawing Rights (SDRs).
- Withdrawals and repayments are in other currencies.
- The Denomination Currency total is reduced/increased by the *equivalent* of the amounts withdrawn or repaid.
- **Loan Service Payment Currency** – all repayments should be in a single agreed currency.

# Article 7 – Project Implementation

- Section 7.01(a) – “in accordance with the provisions of the relevant Agreement, the AWPBs, and the Procurement Plan”.
- “in accordance with the policies, criteria and regulations relating to agricultural development financing laid down from time to time by the Governing Council and Executive Board of the Fund”.

# The AWPB – Section 7.01(b)

- “Annual Work Plan and Budget” or “AWPB” means the annual work plan and budget for carrying out a Project during a particular Project Year, which includes the **Procurement Plan**, as well as a detailed description of planned Project activities during the coming Project Year and the sources and uses of fund (section 2.01).

# AWPB Approval

- Lead Project Agency (LPA) **prepares** draft AWPB based on Project Party AWPBs.
- LPA **submits** draft AWPB to oversight body for review.
- LPA **submits** AWPB to IFAD for comments/acceptance.
- LPA **adopts** AWPB in the form accepted by IFAD.

# Project Parties

- “**Project Party**” means each entity responsible for the implementation of the Project or any part thereof. The term “Project Party” includes (but is not limited to) the Lead Project Agency and any entity designated as a Project Party in an Agreement.
- Borrower/Recipient agrees to make the financing (and its counterpart funds) available to the Project Parties to implement the Project.

# Procurement

- Procurement of goods, works and services financed by the Financing shall be carried out in accordance with the provisions of the Borrower/Recipient's procurement regulations, to the extent such are consistent with the **IFAD Procurement Guidelines**. Each Procurement Plan shall identify procedures which must be implemented by the Borrower/Recipient in order to ensure consistency with the IFAD Procurement Guidelines (Section 7.05(a)).

# Procurement Plan

- “Procurement Plan” means the Borrower/Recipient’s Procurement Plan covering the initial eighteen (18) month period of Project implementation, as the same shall be updated to cover succeeding twelve (12) month periods.

# Procurement Approach

- In relation to procurement, the General Conditions emphasize:
  - Use of the Borrower's/Recipient's procurement regulations, provided they are deemed to be consistent with IFAD's guidelines; and
  - The increased importance of the project procurement plan in identifying procurement procedures to be followed by the Borrower/Recipient to ensure consistency during implementation (Procurement Guidelines, paragraph 45).



# Key Personnel – Section 7.11

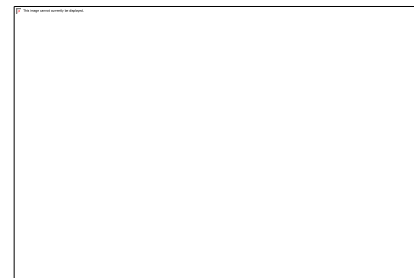
- The Borrower/Recipient or the Lead Project/Programme Agency shall appoint the Project/Programme Director and all other key Project/Programme personnel in the manner specified in the Agreement or otherwise approved by the Fund. All key Project/Programme personnel shall have qualifications and experience specified in the Agreement or otherwise approved by the Fund.

# Other Implementation Issues

- Maintenance.
- Insurance.
- Environmental factors.
- Obligations of project parties.
- Relending rates.

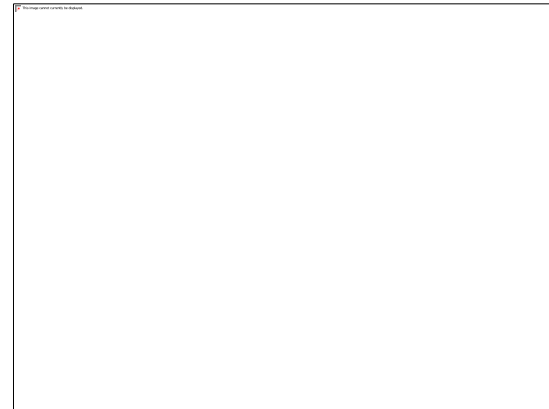
# Implementation Reporting

- Records kept for 10 years following Project/Programme completion date.
- M&E system.
- Progress Reports.
- Mid-term Review.
- Completion Report.



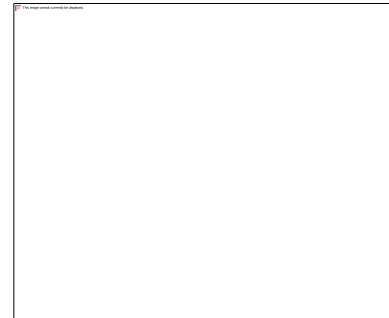
# Financial Reporting

- Records kept for 10 years following Loan and Grant closing date.
- Financial statements within 4 months of year end.
- Audit by independent auditors acceptable to IFAD.
- Audit to be submitted within 6 months of year end.



# Cooperation

- Visits, inspections.
- Audits initiated by the Fund.
- Evaluation.



# Taxation

- The general rule is that IFAD financing should not be used for taxes – AEI 7(1)(c).
- This is generally set out on Schedule 2 – percentage column – which states that amounts are “net of tax”.

# Suspension

- Section 12.01 – 26 reasons for suspension
- Key provisions:

“The Fund has determined that the Project has failed to fulfil, or is unlikely to fulfil in a timely manner, its purposes as stated in the Agreement”(12.01(a)(v)).

“The Fund determines that any amount of the Financing has been used to finance an expenditure other than an Eligible Expenditure.”(12.01(a)(xxi)).

# Suspension - continued

- “The Borrower/Recipient has defaulted in the performance of any Special Covenant set forth in the relevant Agreement” (Section 12.01(a)(xxiii)).  
“Coercive, collusive, corrupt or fraudulent practices in connection with the Project have come to the attention of the Fund”(Section 12.01(a)(xxiv)).  
“Procurement has not been or is not being carried out in accordance with the IFAD Procurement Guidelines”(Section 12.01(a)(xxv)).

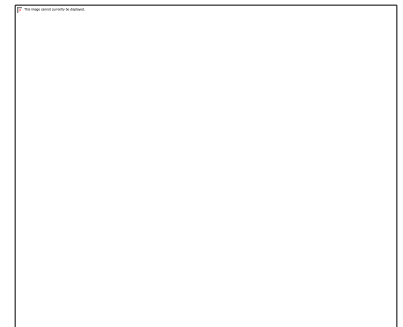


# Special Covenants

- **Schedule 3** of the Financing Agreement.
- Should be specific to the Project/Programme, quantifiable.
- Breach of a covenant allows IFAD to suspend.

# Cancellation

- Suspension for more than 30 days.
- Remainder of financing not needed for the Project/Programme.
- Recommendation of mid-term review.
- Others.

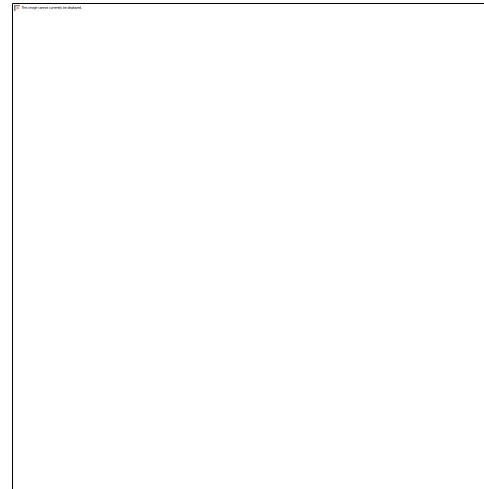


# Entry into Force – Article 13

- An Agreement or amendment thereto shall enter into force on the date when both the Fund and the Borrower/Recipient have signed it, unless the Agreement states that it is subject to ratification, in which case the Agreement shall enter into force on the date the Fund receives an instrument of ratification (Section 13.01).

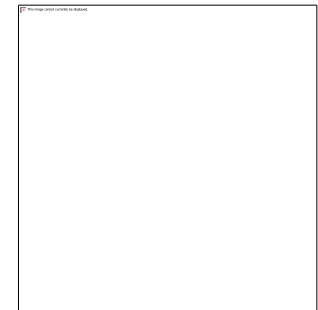
# Article 14

- Enforceability – Financing Agreement supersedes all national laws.
- Arbitration – Has never been used.
- The FA is governed by public international law (Section 14.05).



# Article 15 - Miscellaneous

- Communications – in writing – email is acceptable.
- Language – all communications in the language of the agreement.



# Miscellaneous

- Authority – representatives of the parties designated in Section E of the Financing Agreement.
- For IFAD this is the President – the President gives authority to the CPM and Loan Officer in the letter to the Borrower/Recipient.

# Legal Covenants Quiz

**In accordance with the IFAD General Conditions the Borrower has to retain the original records for a project:**

**A. Minimum 10 years after project completion.**

**B. Minimum 5 years after project completion.**

**C. Minimum 2 years after project completion.**

# Legal Covenants Quiz

## **Schedule 2 of the Financing Agreement shows (select all that apply)**

- A. The procurement plan for the project
- B. The project activities that can be financed by the loan / grant
- C. The amount and % of total eligible expenditure to be financed by IFAD loan or grant
- D. The total financing plan for the project