HB2381

Addendum to

"the Frame Agreement between the Government of the Kingdom of Denmark and The Government of the Socialist Republic of Vietnam concerning terms and procedures, institutional arrangements and financial frames for granting of Danish tied aid credits (mixed credits) to the Socialist Republic of Vietnam"

signed on 8th August, 2002 by Mr. Mikael Hemniti Winther, Charge d'affairs Royal Danish Embassy and Mr. Vu Huy Hoang, Vice-Minister Ministry for Planning and Investment.

Introduction of an Untied Mixed Credit Facility in Vietnam

Danida's Mixed Credit Programme as described in the Frame Agreement under reference concerns tied aid credits.

As an integrated part of Danida's Mixed Credit Programme and as a supplement to the existing tied aid facility, an untied aid credit facility has been established.

The untied aid credit facility is based on the same underlying principles as the tied aid credit facility and will thus to a wide extend be subject to the same terms, procedures and institutional arrangement as the tied aid credit facility.

To the extent that untied aid credits in Vietnam are subject to other terms, procedures or institutional arrangements than tied aid credits, these are stated below with reference to the relevant paragraph in the Frame Agreement.

Ad 2. General Objectives

The untied aid credit facility is aimed at financing development projects in Vietnam.

Contractors from all OECD-member countries may receive support under the untied aid credit facility. There are no restrictions concerning the origin of capital goods and related services to be included by a contractor carrying out a project receiving untied aid credit support.

Ad 3. Financial Frame

Funds available for untied aid credits are additional to the funds made available for tied aid credit support. No specific amount has been allocated for untied aid credit support, but it should be noted that funds are limited. Funds will be allocated on a project-by-project basis

Tied aid credit support will always be the point of departure when considering support under the Mixed Credit Programme. Untied support for a specific project

may be considered if 1) less than 2-3 competitive Danish potential suppliers exist, or 2) the project is considered financially viable in OECD's terminology. Furthermore, projects that relate to other Danida activities in Vietnam will be given preference.

Untied aid credits are not to be financed under the existing Credit Line Agreement between the Ministry of Finance and Nordea Bank Denmark A/S.

Ad 4. Financial Terms

The subsidy required by the OECD when providing untied aid credit support is minimum 25%.

Irrespective the lower requirement from OECD, the financial terms for untied aid credits will normally be the same terms provided for tied aid credits, i.e. including a Danish Government grant element of minimum 35%.

Ad. 5. Projects eligible for financing.

Granting of untied aid credits are regulated by OECD's Consensus Agreement for Exports Credits.

However, since the aid credit is not tied to purchases in the donor country, OECD's restriction on "financial viability" does not apply. Thus financially viable projects for untied aid credit support, irrespective of contract amount, may according to the OECD be financed.

Even though the restriction on "financial viability" does not apply it is not the intension to provide untied financing for projects that can be financed on normal commercial terms.

Eligible projects for untied aid credit support are projects that create sustainable economic development, improve the general standard of living, improve internal as well as external environment and/or increase the production of renewable energy in Vietnam. Furthermore, projects that relate to other Danida activities in Vietnam will be given preference.

Ad. 6. Project Selection

Based on a positive indication regarding a projects eligibility for untied aid credit support and provided that the project has been given priority by the Government of Vietnam, Danida will normally provide technical assistance for project preparation (feasibility studies).

Decision on tied or untied aid credit support for a specific project will be made in consultation between MPI and Danida, however, the final decision rests solely with Danida and will be based on the criteria specified under ad. 3 above.

Ad. 7. Borrower/Lender

The lender in the untied aid credit arrangement will always be an acceptable Commercial Bank or Financial Institution with a representation in Denmark. The borrower in the untied credit agreement will be the Ministry of Finance of Vietnam.

Ad. 8. Lending and on-lending

Same terms and conditions as for tied aid credits.

Ad. 9. Procurement Rules and Commercial contracts

Danida will typically provide technical assistance during tendering of projects to receive untied aid credit support.

It is a requirement that commercial contracts to receive untied aid credit financing are based on international competitive bidding. Furthermore, the bidding shall include pre-qualification whereby it as a standard will be ensured that only bidders from OECD-member countries participate, that bidders are solid and that bidders have agreed with an acceptable Commercial Bank/Financial Institution with a representation in Denmark to act as lender in the untied aid credit arrangement.

It is a requirement that commercial contracts follow generally accepted international standards such as FIDIC. Furthermore, contracts must comply with the specific requirements of Danida, cf. the General Conditions for Approval of Commercial Contracts financed under the Mixed Credit Programme (Nov. 2000).

Ad. 10. Export Credit Guarantee

Same terms and conditions as for tied aid credits.

Ad. 11. Annual Agreements

Matters relating to untied aid credits will be discussed alongside tied aid credits.

Ad. 12. Liabilities

Same terms and conditions as for tied aid credits.

Ad. 13. Taxes and Duties

Same terms and conditions as for tied aid credits.

Ad. 14. Evaluation and auditing

Same terms and conditions as for tied aid credits.

Ad. 15. Disputes

Same terms and conditions as for tied aid credits.

Ad. 16. Fraudulent Practices

Same terms and conditions as for tied aid credits.

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Even though the basic rules and guidelines concerning the untied aid credit facility have been established, detailed terms and conditions will have to be developed during the first years of operation. Thus, this addendum only provides an overall guidance on the new untied facility, but it shall be noted that adjustments and detailing will be made as lessons are learned. Adjustment and detailing will be implemented through written agreements between the two parties.

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With reference to the above stated particular general terms and procedures concerning the untied aid credit facility and on behalf of the Government of the Kingdom of Denmark and the Socialist Republic of Vietnam respectively, the undersigned agree to include the possibility of providing untied aid credit support for projects in Vietnam.

Signed in Hanoi on 15 April, 2003 in two copies in the English language.

For the Government of the
Socialist Republic of Vietnam

Phan Quang Trung
Vice - Minister
Ministry of Planning and
Investment

For the Government of the
Kingdom of Denmark

Mikael Hemniti Winther
Charge d'affairs a.i
Royal Danish Embassy
Hanoi

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For the Government of the
Socialist Republic of Vietnam

Phan Quang Trung
Vice - Minister
Ministry of Planning and
Investment

For the Government of the
Kingdom of Denmark

Mikael Hemniti Winther
Charge d'affairs a.i
Royal Danish Embassy
Hanoi

BỘ KẾ HOẠCH VÀ ĐẦU TƯ

Số: 2534 BKH/KTĐN
V/v: Chuyển Bản Thoả thuận ký với Đan Mạch để lưu chiểu

CỘNG HOÀ XÃ HỘI CHỦ NGHĨA VIỆT NAM
Độc lập - Tự do - Hạnh phúc

Hà Nội, ngày 29 tháng 4 năm 2003

BỘ NGOẠI GIAO
Đến số 8721
Ngày 2 5 2003
Chuyển

Kính gửi: Bộ Ngoại giao

Được sự uỷ quyền của Thủ tướng Chính phủ công văn số 365/CP-QHQT ngày 12/4/2003 lãnh đạo Bộ Kế hoạch và Đầu tư đã thay mặt Chính phủ Việt Nam ký Thoả thuận bổ sung phần tín dụng không ràng buộc cho Hiệp định khung giữa Chính phủ Cộng hoà Xã hội Chủ nghĩa Việt Nam và Chính phủ Vương quốc Đan Mạch về các thủ tục và điều khoản chung, các thể chế và khung tài chính cho tín dụng có ràng buộc (tín dụng hỗn hợp) của Đan Mạch dành cho nước Cộng hoà Xã hội Chủ nghĩa Việt Nam đã ký ngày 8 tháng 8 năm 2002

Bộ Kế hoạch và Đầu tư xin chuyển tới quý Bộ bản gốc của Thoả thuận đã ký nói trên để lưu chiểu và sao gửi cho các cơ quan có liên quan để tổ chức thực hiện.

Bộ Kế hoạch và Đầu tư mong nhận được sự hợp tác của quý Bộ.

TL. BỘ TRƯỞNG
BỘ KẾ HOẠCH VÀ ĐẦU TƯ
Chánh Văn phòng

Lê Đình Ân

Nơi nhận:
- Như trên
- Lưu VP, KTĐN

Số: 8731/LPQT
Ngày nhận: 05 MAY 2003
Người xử lý: Tô 3 (C Nga gọi điện đề nghị nộp bản gốc !!)
Hạn xử lý: