ANNEX 4 (LATIN AMERICA INVESTMENT FACILITY 2009)

1. IDENTIFICATION

Title	Latin America Investment Facility 2009 (LAIF) DCI-LA/2009/021-734		
Total cost	**€10,850,000**		
Aid method / Management mode	Project approach – *Centralised management (direct & indirect), joint management, and partially decentralised management.*		
DAC-code	23010	Sector	Energy policy and administrative management
	41010		Environmental policy and administrative management
	21010		Transport policy and administrative management
	32130		SME development
	16050		Multisector aid for basic social services

Preliminary Remarks

In 2007, the European Union launched the Neighbourhood Investment Facility (NIF), for the countries covered by the European Neighbourhood Policy (ENP), a financing mechanism aiming at mixing non-refundable financial contributions from the European Commission and from voluntary contributions of the Member States and other donors with loans of multilateral and bilateral European Development Finance Institutions. A 'NIF General Framework' defining the objectives, scope, conditions of eligibility and governance architecture of the NIF for the ENP was acknowledged by the Permanent Representatives Committee (COREPER) in March 2008.

From June 2008 to June 2009, the NIF (ENP) Board approved 23 projects representing a total investment of €6.9 billion. The NIF contribution to these projects totalled €138 million (€117 million from the EU Budget, €21 million from voluntary contributions of the Member States), leveraging a total loan amount of €3.4 billion from the European Finance Institutions.

On the basis of the first results from the Neighbourhood Investment Facility, the European Commission is proposing to set up investment facilities targeting countries financed under the Development Cooperation Instrument (DCI) instrument initially in Central Asia and Latin America.

These facilities will be modelled after the NIF for the ENP and will have the same types of objectives, scope, eligibility conditions and governance architecture, as those defined in the NIF General Framework agreed on in

March 2008. Due to the fact that the abovementioned regions have different programming documents, it will be necessary to establish a separate facility for each region, each new facility being the subject of a separate financing decision by the Commission. However, in line with the simplification of the EU external aid instruments achieved since 2007, the new facilities will share as many general features, guiding principles and rules of procedures as possible, with particular regard to the decision-making process, the governing bodies as well as the financing mechanisms and implementation modalities of the actions financed.

The present financing decision concerns the initial funding of the investment facility to be set up for the Latin America region, hereinafter called the 'LAIF'.

The European Commission has taken note of Member States' wish to have the governance architecture of this facility re-examined if necessary in light of its experience in implementation when the next EU budget contribution is submitted to the DCI Committee.

2. RATIONALE

2.1. Sector context

In order to achieve the objectives of the DCI Regulation and the Regional Strategy between the EU and the Latin American countries (LAC), to reduce the social, economic and political barriers between the EU and the Latin American countries and to extend EU policy initiatives to the Latin America region, bilateral and regional financial assistance under the Strategy will promote essential reforms, capacity building and modernisation measures in the partner countries. Vital capital investments must be made to rehabilitate, modernise or build essential infrastructure needed for a low-carbon, efficient secure and safe production, transport and use of energy, and further on for safe transport of goods and people; for effective environmental protection, in particular to protect biodiversity and ensure the quality of water, air and soil, and to promote climate change adaptation and mitigation measures. In addition, capital is also needed for the provision of basic social services such as health and education; and to develop private sector, in particular small and medium enterprises (SMEs).

In this context, the European Commission plans to establish the Latin America Investment Facility (LAIF) through the DCI. The LAIF operations will support the implementation of the EU Regional Strategy for Latin America.

The LAIF will focus on energy, environment and transport investments and also will provide support to SME development and to social sector infrastructures including in the context of regional integration projects

The LAIF will operate by providing financial non-refundable contributions to support loans to partner countries from the European Investment Bank (EIB) and other European multilateral and national development finance institutions and will encourage the beneficiary governments and public institutions to carry out essential investments, which would otherwise be postponed due to lack of resources.

Decisions on LAIF financing will be based on specific criteria as defined by the LAIF Board (4.1.(3)). Additionality will be a pre-condition to any LAIF intervention. Moreover, the LAIF will not support any operation which could normally be financed without it by the market.

2.2. Complementary actions

The Latin America Investment Facility will provide the Latin American countries with financing instruments which are currently unavailable.

2.3. Donor coordination

The Facility will enable joint European operations in line with the Paris Declaration principles, aiming at more coherence and better coordination between the donors and financing institutions' operations and in compliance with the new Financial Regulation. Under the LAIF, EU Member States will be welcomed to complement the EU efforts with their own bilateral funds. Thus, the LAIF would be able to finance larger operations and gain more EU visibility for each intervention. Large joint European operations will also enable the EU to exert greater influence on the beneficiary governments or their public bodies to carry out necessary reforms along with needed physical investments.

3. DESCRIPTION

3.1. Objectives

The LAIF's main purpose will be to promote additional investments and in infrastructures in the transport, energy, and environment sectors and to support social sector such as health and education, and private sector development in the Latin American countries. The Facility will support the growth of SMEs, by making available a range of financial instruments in Latin America.

The leverage effect of the LAIF should generate a multiplying factor of 4 to 5 times the amount of financial non-refundable contributions provided. The input of the financing institutions will increase the resources to be directed towards the Latin American beneficiary countries.

Operations financed by financial institutions pooling their loan resources in consortia with LAIF support will also allow an increase in risk and credit ceilings to the benefit of the Latin American countries and promote the financing of categories of investments which at present cannot be either by the market or by the development finance Institutions separately.

This financing decision concerns the 2009 EU contribution to such a Facility and establishes the content and categories of operations, the implementation and governance rules of the LAIF for the period 2009- 2013.

3.2. Expected results and main activities

Results:

The expected results of the LAIF would be increased investment in the following sectors contributing to:

(1) Better transport infrastructure, notably:

- Better (cleaner, faster, cheaper and safer) transport infrastructure within beneficiary countries and between them, providing better modal balance and promoting social cohesion;

- Cleaner, faster and cheaper movement of people and goods between and within the Latin American countries particularly on the sub-regional level.

(2) Improved energy infrastructure, notably:

- Improved energy transit interconnections between and within beneficiary countries, aiming to enhance energy security at national and regional level.

- Improved safety and security of energy infrastructure;

- Improved energy efficiency and energy savings;

  Increased production and use of renewable energy

(3) Increased protection of the environment, notably:

- Conservation of biodiversity, including the related monitoring infrastructure when needed;

- Introduction of integrated water management, including necessary related infrastructure;

- Reduction of air, soil and water pollution including monitoring infrastructure when needed;

- Promotion of low-carbon and cleaner production, including promotion of innovative and environmental friendly technologies;

- Promotion of climate change adaptation technologies, including necessary related infrastructure;

- Promotion of integrated waste management (household, municipal and industrial) including necessary related infrastructures.

(4) Improved social services and infrastructures, notably:

- Better access to health care and improved health services installations in urban and rural areas;

- Better education facilities, increased access to education in urban and rural areas;

– Improved vocational training facilities.

(5) Creation and growth of SMEs and improvement of the employment situations:

– Better access to financing for SMEs (availability of a larger range of financial products than what is currently available) at the different stages of enterprise creation, restructuring, modernisation etc;

– Creation of technological poles, enterprise incubators etc.

Indicators:

– Amount of additional funding mobilised;

– Amount of loans granted by multilateral and national Development Finance Institutions;

– Progress in the implementation of the DCI related thematic policies aspects in the Transport, Energy and Environment sector;

– Progress in the development in the Latin American countries of key energy infrastructures with positive implications for enhancing energy security at national and regional level

– Level of development of transport axes;

– Number of projects addressing climate change impacts and adaptation needs;

– Reduced level of air pollution and traffic congestion, particularly in large cities;

– Reduced level of water pollution in freshwater basins and marine habitats;

– Establishment and functioning of SMEs financing schemes and number of SMEs benefiting from such schemes;

– Improvement of employment ratios;

– Impact of the LAIF operations in the Social Sector (rate of women in work…).

Activities:

The types of operations to be financed under the LAIF are the following:

– Investment co-financing in public infrastructure projects;

– Loan guarantee cost financing;

- Interest rate subsidy;
- Technical assistance (financed as part of a specific investment operation or as a global envelope made available to eligible financial institutions);
- Risk capital operations (financed as part of a specific investment operation or as an envelope made available to eligible financial institutions).

3.3. Risks and assumptions

A stable political and security climate on the regional level in general and on the country level in particular is needed to promote and secure investments.

Partner countries must be ready to increase the level of investments on their own resources as well as through loans.

The pipelines of operations must be of sufficient quality and volume and supply sufficient additionality.

Strong commitment is needed from the beneficiaries.

3.4. Crosscutting Issues

Partner countries and eligible financial institutions will ensure that all EU-financed projects respect EU principles in terms of environmental, public procurement, state aid, and equal opportunities.

3.5. Stakeholders

The final beneficiaries of the Facility will be the Latin American countries foreseen the DCI Regulation (CE) Nº 1905/2006, either directly or indirectly through their central, regional and local administrations or semi-public institutions.

Other final beneficiaries will be the private sector and in particular SMEs for categories of operations dedicated to the private sector development.

Both multilateral and national European development finance institutions will be stakeholders of the Facility. They will be the only ones eligible as lead partners to propose lending operations that could benefit from a LAIF support.

Multilateral finance institutions such as the European Investment Bank or the Nordic Investment Bank (NIB), will be eligible. Eligibility of other multilateral finance institutions will be examined on a case by case basis.

National European development finance institutions (such as the Agence Française de Développement (AFD), the Kreditanstalt für Wiederaufbau (KfW), OeEB (Oesterreichische Entwicklungsbank AG), SIMEST (SOCIETÀ ITALIANA PER LE IMPRESE ALL'ESTERO), SOFID (Sociedade para o Financiamento do Desenvolvimento, Instituição Financeira de Crédito, SA) - already eligible under the NIF - and similar institutions belonging to other Member States) will be eligible.

4. IMPLEMENTATION ISSUES

4.1. Implementation method

The management modes used in relation to the LAIF financing decisions will comprise the following management modes:

(1) Categories of operations in relation with management modes

- For investment co-financing, partially decentralised management;
- For technical assistance, partially decentralised management when the Beneficiary country is the contracting authority, or joint management / indirect centralised management when the finance institution is the contracting authority on behalf of the Beneficiary country (depending on the type of the lead finance institution: EIB, NIB, AFD, KfW, OeEB, SIMEST, SOFID, etc);
- For risk capital operations, loan guarantee cost financing and interest rate subsidy, joint management / indirect centralised management (depending on the type of the lead finance institution).

  In case of any risk capital operation being made by the Commission's delegate on behalf of the Commission and within the execution of the programme, this operation shall be subject to an adequate reporting by the delegate.

(a) Direct Centralised Management

- Technical assistance studies relating to the definition, examination and diagnosis of the LAIF fields of intervention, strategy, needs from partner countries etc.;
- Audit, evaluation and administrative costs related to the LAIF management.

(b) Indirect Centralised Management

Only AFD and KfW are at present concerned by this management mode as they have successfully passed the assessment allowing delegating them budget implementation tasks of the Commission in the indirect centralised management mode, according to the requirements of Article 56 of the Financial Regulation (see Appendix I).

Before any other financing institution is entrusted with delegated tasks the authorising officer has to carry out a satisfactory ex-ante assessment to obtain evidence of the fulfilment of the criteria mentioned under art. 56 of the Financial Regulation (FR) and request the modification of the initial financing decision.

(c) Joint Management

Joint management will be used to delegate implementation of tasks to international organisations.

Only the European Investment Bank and the Nordic Investment Bank are concerned by this management mode.

EIB and NIB are currently subject to an external review in relation to Article 53d of the Financial Regulation. In anticipation of the results of this review the authorising officer deems that, based on the long-standing and problem free cooperation with these Organisations, joint management mode can be proposed and Standard Convention for International Organisation can be signed in accordance with the provisions laid down in Article 43 of the Implementing Rules to the Financial Regulation.

Before any other international organisation is entrusted with delegated tasks the authorising officer has to ensure that it applies accounting, audit, internal control and procurement procedures which offer guarantees equivalent to internationally accepted standards and request the modification of the initial financing decision.

<u>(d) Partially Decentralised Management</u>

Any project implemented under the decentralised management mode will be implemented with ex ante control through the signature of a financing agreement with the Beneficiary country concerned

The Commission (or the delegated finance institution) controls ex ante the contracting procedures for procurement contracts > 50.000 EUR and ex post for procurement contracts • 50.000 EUR. The Commission (or the delegated finance institution) controls ex ante the contracting procedures for all grant contracts.

In case of decentralisation of payments (only possible where the award procedures for the relevant contracts have been decentralised), through the programme estimates, payments are decentralised for contracts up to the ceilings indicated in the table below.

The Authorising Officer ensures that, by using the model of financing agreement for decentralised management, the segregation of duties between the authorising officer and the accounting officer or of the equivalent functions within the delegated entity will be effective, so that the decentralisation of the payments can be carried out for contracts up to the ceilings specified below.

Works	Supplies	Services	Grants
< 300.000 EUR	< 150.000 EUR (Budget)	< 200.000 EUR	• 100.000 EUR

(2) Forms of operations

All operations supporting directly a partner country or an institution of a partner country will take the form of a financing agreement signed with the correspondent partner country authorities.

All LAIF operations supporting an eligible finance institution will take the form of a contribution or delegation agreement with this finance institution.

All other operations relating to studies, audit, evaluation and administrative support will take the form of direct contracts between the Commission and the supplier.

(3) The LAIF board

To ensure overall coherence of the LAIF's operations, the European Commission will be assisted by a board ('LAIF board'). The Commission will preside over the LAIF Board, which will be composed of representatives of the European Commission, EU Member States and other donors. The board will assist the European Commission with setting the overall strategy and taking operational decisions. The board will be served by a Secretariat managed by the European Commission.

Strategy meetings of the board

The LAIF board will meet once or twice yearly to discuss strategic issues and define the overall orientations and priorities of the LAIF. Observers of each partner country and of each eligible finance institution will be able to attend these meetings.

At these meetings the board will define the strategy and sectoral priorities for the Facility.

The board will also verify the Facility's consistency and compatibility with the DCI, the Action Plans, the strategy papers and the national indicative programmes in force for the cooperation between the EU and the Latin American Countries.

It will also study and exchange information on the needs and situation in the various priority intervention sectors in the partner countries and examine the Facility's effectiveness and results based on the annual activity reports.

Operational meetings of the board

The LAIF board will meet at least four times yearly, and if necessary, more frequently, to deal with operational issues. Observers from each eligible finance institution will be able attend these meetings.

The board will examine the operational pipelines on the basis of projects presented by eligible finance institutions.

It will assist the European Commission to select individual operations presented by lead partners of financial institutions and to decide the type, composition and amount of LAIF contributions to each operation.

It will examine the studies, monitoring and/or evaluation reports.

It will adopt the annual accounts and financial reports to be approved by the European Commission.

It will issue any recommendations as to the operational follow-up.

Mode of decisions of the board on LAIF operations financed by the EU contribution

The LAIF board will normally operate through consensus.

In the exceptional case that a vote would need to be taken, the Member States' representatives on the board will follow the DCI Committee rules on voting, whereas the European Commission will have the right of veto.

(4) The Finance Institution Group (FIG)

The FIG is an informal technical group chaired by the European Commission, which will also act as Secretariat. It is composed of all eligible Finance Institutions.

The FIG will be convened in Brussels by the European Commission when needed and in any case before each Board meeting to prepare its deliberations.

The FIG prepares and gives a technical advice on the pipeline of operations which is established on the basis of the different lists of operations submitted by the Finance Institutions for an eventual financing from the Facility. The proposed pipeline is presented to the Board for approval at least once a year. Each individual operation included in the approved pipeline and ready to be presented to the Board by the lead corresponding Finance Institution, will be studied in detail by the FIG in order to deliver a technical advice to the Board.

When appropriate the FIG, on its own initiative or upon request of the Board, may give technical advice on any other matter related to the management or implementation of the Facility.

In order to ensure full transparency and avoid potential conflicts of interest, all requests of support from LAIF resources submitted to the FIG by eligible Finance Institutions will be sent to Board members by the European Commission's Secretariat before each Board meeting.

4.2. Procurement and grant award procedures

4.2.1. For **direct centralised management mode,** all LAIF contracts will be awarded and executed according to the applicable European Commission procedures and standard documents for the implementation of external actions.

4.2.2. For **joint management mode,** the procedures and rules (procurement and grants) of the following international organisations (EIB, NIB) are applicable in accordance with Articles 53d FR and 43(6) IR.

4.2.3. For **indirect centralised management mode**, internal procedures and procurement rules of the implementing partners (AFD and KfW) will be applicable in accordance with the provisions of Article 56.1 FR, these procedures have been assessed as equivalent to the international standards and can be accepted by the European Commission within the present financing decision.

4.2.4. For **partially decentralised management mode** (investment co-financing to public infrastructure projects), the European Commission will agree with the donors on the procurement rules to be used.

Taking into account that the contribution of the EU - brought through the delegated third country - to these infrastructure projects will be pooled with the funds of other donors and will represent a small fraction of the overall funding, the European Commission can agree to the following:

– (a) Procurement rules of AFD and KfW can be applicable as they have been assessed as equivalent to international standards under Article 56.1 FR ex-ante assessment;

– (b) Procurement rules of World Bank can be applicable as they have been assessed as equivalent to the international standards;

– (c) Procurement rules of EIB, NIB can also be applicable, as long as the European Commission has the evidence (on the basis of an assessment made by the relevant Authorising Officer) that they offer guarantees equivalent to internationally accepted standards.

In anticipation of the results of the external review in relation to Article 53(d) FR, the authorising officer proposes the application of the procurement rules of these international organisations, on the basis of his own evaluation and comparison, which allows him to deem that their procurement rules are in accordance with the provisions laid down in Article 56(2) of the Financial Regulation.

4.3. Budget and calendar

The contribution of the European Commission to the LAIF will be decided annually.

For the year 2009, the European Commission will allocate a budget of €10.85 million.

The 2009 European Commission contribution to the LAIF will be financed from the DCI Latin America budget line 19.09.01.

–

– The LAIF is established for the duration of the financial Instrument, i.e. until 31st December 2013 and may be extended further following Member States and European Commission decision.

–

In accordance with the DCI regulation and Financial Regulation, profits generated by the funds and arising from future LAIF operations will be reallocated for further LAIF operations.

4.4. Performance monitoring

An annual report on the implementation of the Facility will be presented to the DCI Committee.

Performance indicators of each operation will include an estimation of the economic and financial value of investments as well as an indication of the socio-economic and environmental impact achieved through these operations.

4.5. Evaluation and audit

The functioning of the LAIF will be subject to an independent evaluation contracted by the European Commission, in line with the mid-term review of the EU's external activities.

At the level of the individual operations, monitoring, evaluation and audit tasks will be under the responsibility of the lead eligible finance institution and will be organised according to the requirements of each project. Audits will be undertaken externally and in line with international standards.

Operations can be the subject of financial control by the European Commission (including by OLAF) as well as by the Court of Auditors.

4.6. Communication and visibility

The European Commission and its implementing partners will abide by the visibility rules for EU financing.

Appendix I: Appendix to the action fiche regarding the verification of the conditions for indirect centralised management provided for in art. 56 of the EC Regulation 1605/2002 (Financial Regulation) for a.) AFD and b.) KfW.

Appendix II: General Architecture of the LAIF Board and processes.

NOTE FOR INFORMATION

Direct contributions to the LAIF from Member States

In order to increase the volume of financing available to our partner countries, Member States are expected to contribute to the LAIF.

The Action Fiche only relates to the EU budget contribution to the LAIF.

However, in order to understand the global scope of the instrument, some explanations about the way the Member States contributions could be organised are given in this note for information.

Member States contributions could be delivered following three main alternative channels:

- They could give their contributions to the EU budget following the provisions governing assigned revenues, the Commission managing their contributions to the LAIF as for the EU budget contribution,
- They could finance in parallel specific LAIF operations (parallel co-financing),
- They could contribute to a Trust Fund[1] created and managed by (a) financing agent(s) which could be (a) LAIF eligible finance institution(s). This agent could be for instance the EIB alone, and/or another bank, etc…depending on Member States decisions.

If and when Member States decide to contribute directly to LAIF operations, specific agreements will have, on due time, to be signed between the parties in order to establish the systems of implementation and governance of their contributions.

[1] If such a Trust Fund is established and, following the decision of several Member States to contribute to this fund, part of the EU contribution might be disbursed into this Trust Fund as from 2010. If so, the Commission decision to this effect will be taken when deciding on the 2010 EU budget contribution to the LAIF.

APPENDIX I: APPENDIX TO THE ACTION FICHE

REGARDING THE VERIFICATION OF THE CONDITIONS FOR INDIRECT CENTRALISED MANAGEMENT PROVIDED FOR IN ART. 56 OF THE EC REGULATION 1605/2002 (FINANCIAL REGULATION)

The Financial Regulation (FR) (Council Regulation No. 1605/2002) and its implementation rules (Commission Regulation No. 2342/2002) are applicable to Budget Lines 19.08 01 01 and 19.08 01 03.

AFD and KfW are Member States finance institutions eligible to participate in the NIF. In this context, they may be entrusted with management tasks of EU funds.

An assessment made by AIDCO G/2 (cf. Ernst & Young's final report dated 28/04/2008 for AFD and Moore Stephens' final report dated 22/04/2008 for KfW) confirmed that the criteria envisaged by Article 56.1 of the Financial regulation are fulfilled:

Summary table

Article 56.1 FR criterion	**AFD Comment**	**KfW Comment**
(a) Transparent procurement and grant-award procedures, which are non-discriminatory and exclude any conflict of interests and which are in accordance with the relevant FR provisions	Criterion fulfilled	Criterion fulfilled
(b) An effective and efficient internal control system for the management of operations, which includes effective segregation of the duties of authorising officer and accounting officer or of the equivalent functions	Criterion fulfilled	Criterion fulfilled
(c) An accounting system that enables the correct use of EU funds to be verified and the use of funds to be reflected in EU accounts.	Criterion fulfilled	Criterion fulfilled
(d) An independent external audit exercised by a national institution for independent external auditing	Criterion fulfilled	Criterion fulfilled
(e) Adequate annual ex post publication of beneficiaries of funds deriving from theEU budget.	Criterion fulfilled	Criterion fulfilled
Prevention of irregularities and fraud and	Adequate clauses will	Adequate clauses will

recovery of funds if necessary	be included in the Agreement with the delegatee	be included in the Agreement with the delegatee
The European Commission will ensure supervision, evaluation and control of the implementation of the tasks entrusted	Adequate clauses will be included in the Agreement with the delegatee	Adequate clauses will be included in the Agreement with the delegatee

Conclusion: In his notes of 20/05/2008 for AFD and of 23/04/2008 for KfW, Mr Richelle, Director General of AIDCO confirmed that the conditions placed by Article 56 of the FR are currently being met.

On this basis, the Director AIDCO/B proposes that one of the applicable implementation methods for the Latin America Investment Facility (LAIF) 2009 be indirect centralised management and submits it to the European Commission for decision.

Date:

Signature: Alexandra CAS GRANJE,

Director AIDCO/B

Authorising officer subdelegated on BUDGET

APPENDIX II: GENERAL ARCHITECTURE OF THE LAIF BOARD AND PROCESSES.