II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 8 April 2003

concerning the coverage of costs incurred by the European Investment Bank for the management of the Investment Facility of the Cotonou Agreement and the Overseas Association Decision

(2003/268/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to the Partnership Agreement between the members of the African, Caribbean and Pacific Group of States of the one part, and the European Community and its Member States, of the other part, signed in Cotonou on 23 June 2000 [1], hereafter referred to as the 'Cotonou Agreement',

Having regard to the Internal Agreement of 12 September 2000 between Representatives of the Governments of the Member States, meeting within the Council, on the Financing and Administration of Community Aid under the Financial Protocol to the Partnership Agreement between the African, Caribbean and Pacific States and the European Community and its Member States signed in Cotonou (Benin) on 23 June 2000 and the allocation of financial assistance for the Overseas Countries and Territories to which Part Four of the EC Treaty applies [2] and in particular Article 8(2) thereof,

Having regard to Council Decision 2001/822/EC of 27 November 2001 on the association of the overseas countries and territories with the European Community (Overseas Association Decision) [3],

Having regard to the proposal from the Commission drawn up in agreement with the European Investment Bank, hereafter referred to as 'Bank',

Whereas:

(1) There is at present no provision in the Cotonou Agreement and the Overseas Association Decision for meeting the costs incurred by the Bank for the management of the Investment Facility.

(2) The Bank is to apply all income generated from standard appraisal fees charged to clients of the Investment facility towards the coverage of its normal costs, with the exclusion of exceptional fees received to cover extraordinary expenses incurred,

HAS ADOPTED THIS DECISION:

Article 1

The provision for the fees charged by the Bank to manage the Investment Facility and the interest rate subsidies including the resources reserved for the Overseas Countries and Territories (hereafter referred to as the 'OCT', shall be equivalent to a maximum of 10 % over five years of EUR 2 200 million. The fees are intended to cover in full the cost of managing the Investment Facility, including the management of sums allocated to finance interest subsidies for operations in the ACP States and the OCT, during the five years of the First Financial Protocol of the Cotonou Agreement.

Article 2

To the extent that the remit of the Bank as defined in Annex II of the Cotonou Agreement and in the operational guidelines of the Investment Facility remains unchanged, the maximum fee specified under Article 1 shall constitute a ceiling.

Article 3

Every year, by 1 September at the latest, the Bank shall present to the Investment Facility Committee its cost estimates for the following year and the corresponding level of fees required. These data shall be included in the Investment Facility business plan approved by the Investment Facility Committee. Cost presentation for the first year shall depend on the date of entry into force of the Cotonou Agreement.

[1] OJ L 317, 15.12.2000, p. 3.
[2] OJ L 317, 15.12.2000, p. 355.
[3] OJ L 314, 30.11.2001, p. 1.

Article 4

Every year the Bank shall present the actual costs incurred during the previous year in the annual report of the Investment Facility to be approved by the Investment Facility Committee, as well as the amount of appraisal fees recovered from the clients of the Investment Facility during that same year. The draft annual report containing these figures shall be submitted to the Investment Facility Committee by 28 February at the latest and the final report by 30 June at the latest.

Article 5

Should the costs incurred by the Bank during a given year be lower or higher than presented in the corresponding business plan, the Bank shall request the Investment Facility Committee to decide on the necessary arrangements.

Article 6

The provisions for the fees referred to in Article 1 shall be met from the reflows to the Member States of debt service payments generated by risk capital operations and special loans undertaken under the successive ACP-EC Conventions. The amount owed by each Member State will be determined by the relative share of its contribution to the 9th European Development Fund. In the case of Member States, which are not yet recipient of sufficient reflows, the Bank will debit their accounts and charge an annual interest rate equivalent to the prevailing EONIA rate minus twelve and a half basis points.

Article 7

The Council, acting on a proposal from the Commission, drawn up in agreement with the Bank, shall decide on how to finance the Bank fees as agreed in Article 1, should the reflows of debt service payments be insufficient for this purpose.

Article 8

The Member States hereby authorise the Bank to deduct the fees directly from their accounts held within the Bank to which the reflows specified under Article 6 are credited. Fees shall be deducted on the first working day of each quarter and shall be remunerated at an annual rate equivalent to the prevailing EONIA rate minus twelve and a half basis points.

Article 9

This Decision shall come into force on the same date as the Internal Agreement. It shall apply for a period of five years unless superseded by other agreements.

Article 10

This Decision is addressed to the Member States.

Done at Luxembourg, 8 April 2003.

For the Council

The President

G. DRYS