

**THE CONSTITUTION OF
THE PRIVATE INFRASTRUCTURE DEVELOPMENT GROUP**

1. **Definitions**

In this Constitution the following words have the following meanings:-

"Commitment Period" means the period over which each Donor has committed to make a stated contribution to the PIDG Trust;

"Concept Development Costs" means the category of PIDG Administration Costs set out in Clause 9.5(d);

"Contribution" means a contribution made by a Donor to the PIDG Trust in accordance with the provisions of a Funding Instrument;

"Contributions Schedule" means the schedule of intended Donors' contributions as described in Clause 9.3;

"Credit Committee" means the credit committee of EAIF;

"DAC" means the Development Assistance Committee of the Organisation for Economic Co-operation and Development;

"Declaration of Trust" means the declaration of trust made under Mauritian law executed on 1st December 2001 on behalf of the Trustees to establish the PIDG Trust as validly amended from time to time;

"DFI" means Development Financial Institution;

"DFID" means the Secretary of State for International Development of the Government of the United Kingdom and Great Britain and Northern Ireland at the Department for International Development;

"Donors" means the founding members of PIDG, being DFID, the Swedish Government acting through the Swedish International Development Co-operation Agency, the Netherlands Minister for Development Co-operation and the Swiss State Secretary for Economic Affairs of the Government of the Confederation of Switzerland, together with any new members of PIDG having been accepted in accordance with

Clause 10 but excluding any Donors who cease to be members in accordance with Clause 10;

"EAIF" means the Emerging Africa Infrastructure Fund Limited;

"Enforcer" means any enforcer(s) of the PIDG Trust appointed from time to time in accordance with the provisions of the Declaration of Trust, which shall in the first instance be DFID;

"Funders' Arrangement" means an arrangement between Donors relating to a particular Investment;

"Funding Instrument" means an instrument by which a Donor may provide funding to the PIDG Trust as set out in Clause 9.1;

"General Administration Costs" means the costs of administering PIDG as described in Clause 9.5 and includes the Concept Development Costs but excludes the Project Development Costs;

"Governing Council" means the governing council of PIDG as described within Clause 11.1;

"Investment" means an investment made by the PIDG Trust pursuant to the Investment Plan.

"Investment Plan" means the investment plan of the PIDG Trust for the investment of the Trust Funds as defined in Clause 2.1 of the Declaration of Trust.

"Investment Policy", "Hedging Policy" and "Provisioning Policy" means the investment policy, hedging policy and provisioning policy adopted from time to time of EAIF;

"Investment Vehicle" means any company or other entity benefiting from an Investment.

"Lenders" means the Senior and Subordinated Lenders;

"Meeting Costs" has the meaning given in Clause 9.5(f);

"Memorandum of Understanding" means a memorandum of understanding to be entered into by each Donor in the form set out in Schedule 3;

"New Business Committee" means the new business committee of EAIF;

"PIDG" means the Private Infrastructure Development Group;

"PIDG Administration Budget" means the budget of General Administration Costs attached at Schedule 4 and issued by the Principal Trustee and approved by the Governing Council as amended from time to time;

"PIDG Trust" means the Private Infrastructure Development Group Trust;

"PIIAF" means the Public/Private Infrastructure Advisory Facility;

"Proceeds" means all dividends, interest and other monies received by the PIDG Trust in respect of any Investment and all other proceeds received in respect of such Investment (whether by way of redemption, bonus, preference, option, substitution, conversion or otherwise) and any monies received by the PIDG Trust from or in connection with any sale, expropriation, requisition or seizure, or similar action, with respect to such Investment;

"Project Development Costs" has the meaning given in Clause 9.11.

"Protector" means the protector(s) of the PIDG Trust appointed in accordance with Part 4, Clause 1 of the Declaration of Trust;

"PSP" means private sector participation;

"Secretariat" means the secretariat of PIDG from time to time to be appointed in accordance with the provisions of Clause 11.6;

"Senior Lenders" means the providers of senior credit and guarantee facilities to EAIF;

"SSA" means Sub-Saharan Africa;

"Subordinated Lenders" means the providers of subordinated credit and guarantee facilities to EAIF;

"Transaction Documents" means the documents entered into by EAIF or the PIDG Trust in relation to the business of EAIF or any other business or Investment Vehicle pursuant to the Investment Plan (but excluding any documents entered into with any Donor);

"Trustees" means the trustees of the PIDG Trust, that is, MC Trust Ltd, Minimax Trust Ltd and SG Hambros Trust Company Ltd or any other Trustee appointed in accordance with the Declaration of Trust from time to time;

"Trust Funds" means the funds of the PIDG Trust including the Donors' contributions and the proceeds of any investments of the PIDG Trust.

Unless provided otherwise, reference to a Clause or a Schedule shall be to a clause or a schedule of this Constitution.

2. **Introduction**

2.1 PIDG is a multi-donor arrangement established and directed by the Donors. It aims to facilitate the provision of infrastructure needed to eliminate poverty in developing countries by encouraging private investment. Particular importance is attached to the provision of adequate and affordable services to the poorer sections of society.

2.2 PIDG provides a forum in which interested donors can co-ordinate activities and resolve practical questions of investment. Such a mechanism provides a strategic approach to developing financing for private infrastructure investment which complements work being undertaken by the PPIAF to improve the enabling environment. In doing so, it must have regard for accepted principles of ethics, social responsibility and environmental concern, and will be poverty-focused.

2.3 As an initial activity, PIDG has established the PIDG Trust as a vehicle for its activities. The PIDG Trust has established a special investment company, EAIF, for the principal purpose of providing long-term debt finance for infrastructure in SSA. EAIF leverages donor funds (in the form of equity and shareholder loans) with commercial debt from participating banks. These funds will be on-lent to infrastructure projects in SSA. The commercial lenders' risk is mitigated

because, in the event of a project default on a loan from EAIF, the commercial lenders would continue to be paid out in priority ahead of the donor funds.

3. **Background**

Many countries have now enacted legislation which provides for private ownership and finance and establishes a commercial environment conducive to private sector investment. Many countries have also pursued policies of privatisation of infrastructure assets.

4. **Objectives**

4.1 The overall objective of PIDG is to provide a strategic approach to developing financing for private infrastructure investment which complements work being undertaken by PPIAF and others. This will enable developing countries to make a strong and positive contribution to growth and poverty reduction.

4.2 Key specific objectives of PIDG will be to support private sector involvement in the financing, ownership, operation, rehabilitation, maintenance and/or management of an eligible infrastructure service.

4.3 The infrastructure services eligible for support include:-

- (a) electricity generation, transmission and distribution;
- (b) natural gas transmission and distribution;
- (c) water and sanitation;
- (d) solid waste;
- (e) telecommunications;
- (f) railways;
- (g) ports;
- (h) airports;
- (i) roads.

- 4.4 Countries eligible for PIDG support are those included in the following categories of the DAC List of Aid Recipients, as amended from time to time; Developing Countries and Territories (all five columns of the Part I table).

5. **Strategy**

Through the provision of Donor funds to the PIDG Trust, the initial principal activity of PIDG will be its participation in EAIF.

- 5.1 In order to maximise leverage and minimise costs, PIDG wishes to develop other activities using the PIDG Trust or other mechanisms. By way of example and without limitation, such activities might include developing other Investment Vehicles to promote infrastructure investment in Asia or to provide project related technical co-operation to assist in the preparation of proposals and in deal-closure or specific sector-related work. Some form of partial risk credit guarantee mechanism to encourage local financing may also be promoted.

6. **The PIDG Trust**

- 6.1 The PIDG Trust was established by the Declaration of Trust. The principal trustee of the PIDG Trust is SG Hambros Trust Company Ltd, a UK resident company; the other Trustees are Mauritian resident companies. The ultimate purpose of the PIDG Trust is the relief of poverty in developing countries through the facilitation of the provision of infrastructure needed to eliminate poverty in developing countries or as otherwise approved by the Protector in accordance with Clause 7.1.

- 6.2 In general, the PIDG Trust provides a vehicle for Donors to pool, co-ordinate and administer funds in relation to all PIDG activities.

The Trustees will implement additional activities by engaging investment and disbursement managers under service contracts with the PIDG Trust on terms and conditions agreed by the PIDG Trust.

Through the PIDG Trust, individual Donors or groups of Donors may focus upon areas of special concern or interest in a manner similar to that in which non-core funding is presently used by members of the Council of PPIAF.

The Trustees will apply Trust Funds in accordance with the Declaration of Trust and the Investment Plan.

6.3 In relation to EAIF, the role of the PIDG Trust is to :-

- (a) acquire all the issued share capital of EAIF, a company formed and registered in Mauritius, and to take all necessary steps to establish EAIF;
- (b) nominate, appoint and remove seven (7) of the twelve (12) Directors of EAIF;
- (c) monitor the investments of EAIF;
- (d) draw up the Investment Plan for the use of Trust funds from time to time and review it annually;
- (e) report to the Protector on the activities of EAIF.

7. **Control and Supervision of the PIDG Trust**

Protector

7.1 To protect the interests of the Donors who have transferred funds to the PIDG Trust, the Declaration of Trust requires that, before taking certain actions, the Trustees must procure the consent of the Protector of the PIDG Trust. The key acts requiring Protector consent are summarised in Schedule 1.

7.2 Until such time as the Trustees, acting with the prior consent of the Secretariat, appoint one or more of the Donors to be the Protector, Trustees will be deemed to have received the consent of the Protector provided that they have received the consent of the Secretariat in accordance with Clause 7.4.

7.3 As soon as the Trustees, acting on the recommendation of PIDG and with the consent of the Secretariat, have appointed one or more Donors to act as Protector, the Secretariat will cease to perform the role of providing consents in accordance with Clause 7.4.

7.4 Except where Clause 7.8 applies, the Protector or, as the case may be, the Secretariat, will circulate to the Donors, for approval by unanimity, a proposal

summarising any act to which the PIDG Trust has asked the Protector or, as the case may be, the Secretariat, to consent except in relation to the appointment or removal of any of the Trustees and/or the Enforcer and/or the Protector, such proposal to be made by one or more of the Donors. Where a Donor raises an objection to a proposal not less than fifteen (15) day after its circulation, the proposal must be approved by unanimity except that the abstention (expressly made in writing) of a minority of Donors will not prejudice unanimity being deemed to have been reached.

- 7.5 Where Donors cannot reach a unanimous decision in relation to the Investment Plan, any Donor may submit to the Protector an investment plan relating to Proceeds of that Donor's Contribution(s) which will become an annex to the Investment Plan.
- 7.6 Where the PIDG Trust has appointed more than one Donor to act as Protector, these Protectors shall act by unanimity.
- 7.7 The Protector has access to the records of the PIDG Trust which he may use to facilitate an audit of the PIDG Trust.
- 7.8 All acts requiring Protector consent in respect of EAIF will require a decision of the EAIF funders made in accordance with the provision of the Funders' Arrangement relating to EAIF. All acts requiring Protector consent in respect of any other Investment will require a decision of the relevant Donors in accordance with the provisions of the Funders' Arrangement relating to that Investment.
- 7.9 Under Mauritian law an Enforcer must be appointed to enforce the provisions of the Declaration of Trust.
- 7.10 Under the Declaration of Trust, the Enforcer is required to consult with PIDG as often as reasonably required by PIDG.
- 7.11 DFID is the first Enforcer. The Enforcer may at any time appoint as an additional Enforcer any person or entity, such person or entity being fit under

Mauritian law to hold the office of Enforcer and having been nominated with the unanimous agreement of all Donors other than DFID.

8. **EAIF**

- 8.1 EAIF is a Mauritian company established to provide principally debt financing for the purpose of improving the provision of infrastructure in SSA in order to assist in the elimination of poverty.
- 8.2 The immediate and long term aim of EAIF is therefore to increase the volume of private capital flows into PSP infrastructure projects in SSA through an active partnership with the banking community.
- 8.3 EAIF will do so by being a dedicated entity focused specifically on SSA and on the provision of debt financing to private sector investors. Its unique feature will be a tiered financial structure in which grant subscribers create an "equity cushion" for official non-concessional debt providers (e.g. DFIs, development banks (the Subordinated Lenders) and commercial banks (the Senior Lenders)). EAIF will conduct its debt financing business in accordance with the Investment Policy.
- 8.4 EAIF provides an important opportunity for banking communities to substantially expand their lending to PSP infrastructure projects in the SSA and to learn about further market opportunities, without embracing excessive risk.
- 8.5 The PIDG Trust is the sole shareholder of EAIF.
- 8.6 The governance arrangements of EAIF, described in Schedule 2, ensure the appropriate checks and balances are in place so that the inherent conflict of interest in joint fund management and lending do not operate to the detriment of EAIF's equity providers. The governance arrangements are as pro-market as possible, ensuring that they are neither excessively burdensome nor overly bureaucratic.
- 8.7 The reporting obligations of the PIDG Trust-nominated Directors of EAIF to the PIDG Trust and PIDG are described in Schedule 2.

9. **Funding**

9.1 Donors may provide funding to the PIDG Trust by any of the following Funding Instruments:-

- (a) Conditional Loan Agreement;
- (b) Grant Arrangement; or
- (c) Guarantee Facility;

in the standard form agreed from time to time by the Donors and the PIDG Trust or any variation (reflecting the constraints or requirements of individual Donors) approved from time to time by the Donors and the PIDG Trust.

9.2 The PIDG Trust will apply such funds in accordance with the Funding Instrument and the Declaration of Trust.

9.3 In order to co-ordinate funding to the PIDG Trust, the Donors will agree an indicative schedule of amounts and timing of their intended contributions of funding and specifying the form of such contributions (i.e. conditional loan, grant or guarantee facility). The Contributions Schedule will be held by the Secretariat and will be amended from time to time as required by the Donors.

9.4 In addition to making Contributions, each Donor will contribute funds to the General Administration Costs in accordance with Clauses 9.6 and 9.7.

9.5 General Administration Costs shall include the following:-

- (a) Secretariat fees and reimbursable expenses;
- (b) Trustees' fees and reimbursable expenses and any fees and expenses properly due to the Protector and Enforcer under the Declaration of Trust;
- (c) ad hoc legal advice to PIDG;
- (d) costs incurred in the development of concept papers for potential PIDG projects ("**Concept Development Costs**")

- (e) all reasonable costs relating to hosting PIDG meetings, but excluding travel and accommodation costs of Donors' representatives ("**Meeting Costs**");
- (f) any shortfall in EAIF funds available for the payment of the fees of PIDG Trust-nominated Directors of EAIF; and
- (g) any other administration costs approved by PIDG from time to time.

9.6 Each Donor will contribute funds to be applied to the General Administration Costs by granting lump sums to the PIDG Trust to cover General Administration Costs of amounts determined in the PIDG Administration Budget as amended by the Trustees and approved by PIDG from time to time.

9.7 Until 30 June 2004, DFID will bear the:-

- (a) Secretariat fees and expenses;

Trustees' fees and expenses in accordance with DFID's Grant Arrangement relating to EAIF;

Meeting Costs; and

shortfall in funds available for the payment of the PIDG Trust nominated Directors of EAIF,

in accordance with the DFID Funding Instrument and up to the amount set forth in the PIDG Administration Budget, with the remainder of such costs to be born equally by the remaining Donors. The Concept Development Costs and, after 30 June 2004, all other General Administration Costs, will be born by all of the Donors in equal amounts, in accordance with Clause 9.6 above.

9.8 Any Proceeds not applied to either Trustees' costs or otherwise under the relevant Funding Instrument will be applied in accordance with the Investment Plan.

9.9 Any surplus in the PIDG Trust after Conditional Loans have been repaid will be recycled in the PIDG Trust, except that if not recommitted within two (2) years, the surplus funds will be returned to the Donors (at the Donor's option), until the Trust is wound up.

- 9.10 The relationship between Donors who have applied Contributions to the same Investment is determined by a Funders' Arrangement.
- 9.11 Acting on an ad hoc basis as agreed between the relevant Donors, such Donors shall transfer to the Trust funds in respect of costs, including consultants' fees and reimbursable expenses, incurred with the prior unanimous agreement of the relevant Donors in developing proposals for activities and projects to a stage at which PIDG may reasonably consider supporting them ("**Project Development Costs**");

10. **Membership of PIDG**

- 10.1 All official donors international financial institutions and other official agencies wishing to co-operate in the pursuit of PIDG's aims under the terms of this Constitution may apply for membership of PIDG.
- 10.2 Applications for membership must be in writing to the Secretariat. The Donors will aim to decide on all applications for membership at the next PIDG meeting held after the receipt of the application. New Donors will be admitted by unanimous decision of the Donors.
- 10.3 A Donor's membership of PIDG will run from the point at which it becomes a party to the Memorandum of Understanding.
- 10.4 The minimum commitment by way of a Contribution for each Donor is USD10 million over a period of four years.
- 10.5 Without prejudice to Clause 10.4, Donors may exceptionally and acting by unanimity accept as a member of PIDG a Donor undertaking to make a contribution with an aggregate value below USD10 million over a period of four years.
- 10.6 Each Donor will appoint a representative to PIDG. The representative, or alternate, will be an officer, director, employee or official of the Donor appointing him or her. Each Donor may change its representative to PIDG, or

appoint an alternate to PIDG, upon giving written notice to the other Donors and the Secretariat.

10.7 A Donor may cease to be a member of PIDG at the end of a Commitment Period by giving written notice to the other Donors and the Secretariat.

10.8 Where an organisation has ceased to be a member of PIDG, that former Donor will continue to contribute to the General Administration Costs until all Funding Instruments entered into between that former Donor and the PIDG Trust have been terminated. The amount of such contribution will be negotiated in good faith between that former Donor and PIDG.

10.9 PIDG may be dissolved by a unanimous decision of the Donors.

11. **Operation of PIDG**

11.1 Governing Council of PIDG

Decisions of PIDG shall be made by the Governing Council which shall consist of at least one duly authorised representative of each Donor. The Governing Council will be responsible for:-

- (a) the review and approval of activities proposed by a Donor to be funded and supported by PIDG and/or the PIDG Trust;
- (b) the review of the need for further Donors to join PIDG and co-ordination of efforts to promote PIDG and its activities to the donor and banking communities and to developing country governments;
- (c) the review and approval of templates for all promotional materials for PIDG that the members may propose to use, in advance of any such materials being used;
- (d) the election of one of the Donor representatives as Chairperson and another of the Donor representatives as Vice-Chairperson, each to serve for a term of one year, or up until the date of the second bi-annual meeting of their term, whichever is later;
- (e) the review and approval of any amendments to this Constitution;

- (f) the review and approval of any draft PIDG Administration Budget issued by the Principal Trustee;
- (g) the instruction of the Trustees to wind up the PIDG Trust in accordance with the procedures set out in the Declaration of Trust;
- (h) the instruction of the Protector to appoint or remove a Trustee or an Enforcer;
- (i) the instruction of the Secretariat to appoint or remove a Protector;
- (j) decisions in respect of all matters requiring Protector consent under the Declaration of Trust, save to the extent that such decisions relate to a particular Investment in which case the decision will be made by the Donors contributing to that particular Investment under a Funders' Arrangement in accordance with Clause 7.8; and
- (k) any other actions approved by the Governing Council from time to time.

11.2 Meetings

- (a) Physical meetings of the Governing Council will be held at least twice a year at such date, time and place as will be determined by consultation with all Donors.
- (b) Physical meetings of the Governing Council must be quorate. A physical meeting will be quorate if 75% of Donors are participating in accordance with Clause 11.3.
- (c) Any decision required or permitted to be taken at a meeting of the Governing Council may be taken without a meeting if a consent in writing, setting forth the decision to be so taken, has been circulated to all Donors and approved on a "no objections" basis, in one or more counterparts, by all Donors.

11.3 Participation in meetings

At any meeting of the Governing Council, including physical meetings, where no duly authorised representative of a Donor is able to attend in person, a

representative of that Donor may participate by means of such telephone or other communications facilities as permit all participants to hear each other.

11.4 Decision Making

Each Donor will have one vote at meetings of the Governing Council. Decisions of PIDG will be made by unanimity; provided, however, that a Donor may at any time abstain from voting. The abstention of one or more Donors from voting on any matter will not prejudice unanimity being deemed to have been reached on such matter provided that a majority of the Donors do not abstain. If any Donor votes against a matter put before PIDG for decision, such vote will result in an absence of unanimity on such matter.

11.5 Notices

The Secretariat will provide each Donor with written notice of a meeting of the Governing Council not less than thirty (30) days before the date of the meeting unless such notice has been waived by the intended recipient. Such notice will state the date, place, time and proposed agenda of the meeting. Donors will be invited to comment on the agenda proposed. A revised agenda will be provided to each Donor not less than fifteen (15) days before the date of the meeting.

Where a decision is taken at a meeting of the Governing Council on a matter which was not shown on the proposed agenda or any revised agenda provided under this Clause 11.5 and any Donor is absent from that meeting, that decision shall be circulated to absent Donors for approval in accordance with Clause 11.2(c).

11.6 Secretariat

The Governing Council will put in place arrangements for the appointment of a Secretariat. The Secretariat will be required to undertake the following duties:-

- (a) Managing arrangements between PIDG, the PIDG Trust and any PIDG activities, including:-
 - (i) consulting the Donors in relation to any activities and duties of Protector and giving consents on behalf of PIDG *qua* Protector

until the appointment of one or more of the Donors as Protector(s) in accordance with Clause 7.3;

- (ii) liaising with the Donors, the PIDG Trust and those implementing PIDG activities, including the PIDG Trust-nominated Directors;
 - (iii) if requested, assisting in the negotiation of terms of investment into PIDG, the PIDG Trust and PIDG activities by new Donors;
 - (iv) promoting and explaining PIDG and its activities to potential Donors;
 - (v) liaising with the Donors to prepare and periodically revise a Schedule of Contributions in accordance with Clause 9.3;
 - (vi) if requested, conducting tender exercises on behalf of PIDG or arranging for a third party to conduct them; and
 - (vii) if requested, liaising with Donors to agree how PIDG activities will be evaluated and co-ordinating such evaluation.
- (b) Undertaking various administrative duties relating to the operation of PIDG, including:-
- (i) co-ordinating with Donors to convene meetings of PIDG and co-ordinating, preparing and circulating agendas and minutes for such meetings (although hotel reservations and Donors' travel arrangements will be organised by Donors);
 - (ii) instituting reviews and reports as required by PIDG.
- (c) Issuing a quarterly report to the Donors, summarising progress against any action plan agreed by PIDG.

12. **Amendment Procedures**

This Constitution may only be amended by the unanimous decision of the Donors.

SCHEDULE 1

KEY ACTS REQUIRING PROTECTOR CONSENT

(a) **Authorisation and Issue of new Shares**

The Trustees may only exercise any rights to authorise and issue shares with Protector consent (Clause 12.1, Part 1, Declaration of Trust).

(b) **Sale of Shares**

The Trustees may only exercise any rights to sell pledge or transfer shares or otherwise encumber shares with Protector consent (Clause 12.1, Part 1, Declaration of Trust).

(c) **Appointment/Removal of Directors**

The Trustees may only exercise any rights to appoint or remove directors and members of any committee of the board of directors of any Investment Vehicle including, in relation to EAIIF, the new business committee or the credit committee with Protector consent (Clause 12.3, Part 1, Declaration of Trust).

(d) **Amendment of Constitutional Documents and other documents**

The Trustees may only exercise any rights to amendments to the constitutional documents or Investment Policy of any Investment Vehicle or any Transaction Document with Protector consent.

(e) **Winding-up**

The Trustees may only exercise any rights to wind up an Investment Vehicle with Protector consent (Clause 12.6, Part 1, Declaration of Trust).

(f) **Other Investments of Funds**

Subject to the provisions in the relevant Funding Instruments, the Trustees may invest, apply or otherwise use any Funds (including Proceeds) provided that in doing so the Trustees are acting with Protector consent and in accordance with: -

- (i) the Investment Plan
- (ii) the purposes of the PIDG Trust (i.e. principally the relief of poverty in Developing Countries through approved investments and otherwise);
- (iii) the Ethical Policies set out in the Declaration of Trust.

(g) **Appointment/Removal of Trustees**

The Protector has the power to appoint and remove the Trustees (Clause 5, Part 1, Declaration of Trust).

(h) **Variation of the Declaration of Trust**

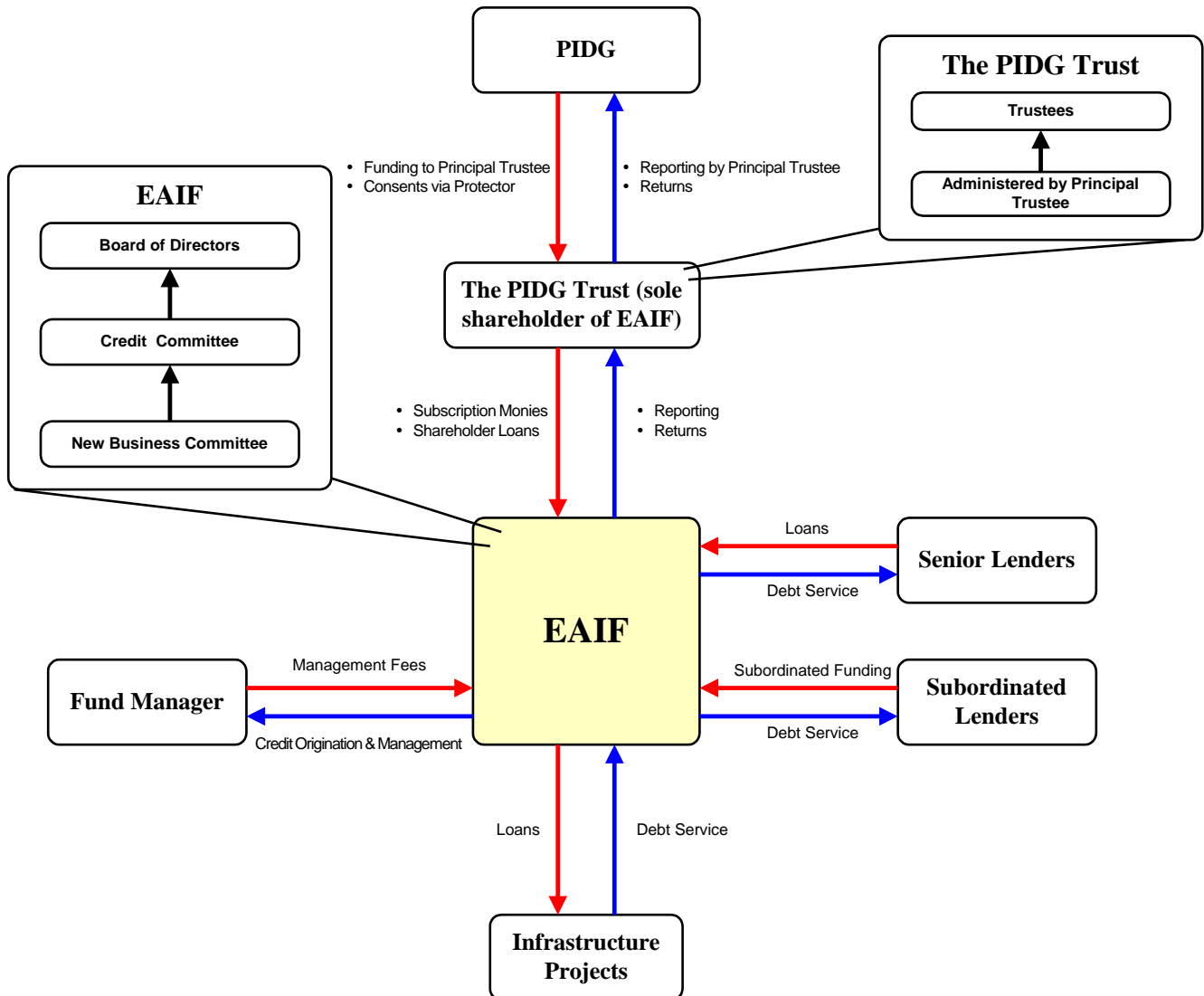
The Declaration of Trust may only be varied with Protector consent (Clause 10, Part 1, Declaration of Trust).

SCHEDULE 2

GOVERNANCE OF EAIF AND DIRECTORS' REPORTING OBLIGATIONS

(i) Governance of EAIF

Structure of EAIF



Board

EAIF has a board of twelve directors in total. Acting with Protector consent the PIDG Trust is entitled to nominate, remove and replace seven directors of which one will be the Chairperson of EAIF and two will be resident in Mauritius.

A simple majority of the Board can amend the Investment Policy, subject to the approval of both Lenders and the shareholders.

Credit Committee

EAIF has a Credit Committee whose responsibility will include making recommendations to the Board on whether EAIF should enter into any investments.

The Credit Committee will comprise seven members. Acting with Protector consent the PIDG Trust will be entitled to nominate, remove and replace by written notice to EAIF two members. The Senior Lenders and the Subordinated Lenders will each have the right at all times to nominate, remove and replace by written notice to EAIF two members. One member will be chosen unanimously by the remaining members of the Credit Committee.

New Business Committee

The New Business Committee will be responsible for reviewing and approving all potential investments to determine whether they qualify to undergo detailed due diligence and term sheet negotiations by the Fund Manager prior to presentation of such potential investments to the Credit Committee.

The New Business Committee will initially comprise of eight members. Acting with Protector consent the PIDG Trust may nominate, remove and replace two members. The Senior Lenders will be entitled to appoint by written notice to EAIF two members. The Subordinated Lenders will be entitled to appoint by written notice to EAIF three members. One member will be chosen unanimously by the remaining members of the New Business Committee.

(ii) Directors' Reporting Obligations

The reporting obligations of the PIDG Trust-nominated directors of EAIF are as follows:-

- (a) report to the Secretariat on any proposed changes to the Investment Policy, the Constitution of EAIF or any Transaction Documents relating to the business of EAIF;
- (b) provide to the Secretariat within forty-five (45) days after the end of each quarter for delivery to PIDG:-
 - (i) unaudited financial statements for such quarter in respect of EAIF;
 - (ii) any special report relating to the investments of EAIF in such form and detail as the Secretariat in consultation with the Trustees may require;
 - (iii) a statement from the Board confirming compliance with the Investment Policy or as the case may be detailing any non-compliance together with the action being taken to ensure compliance.
- (c) respond to questions from the Secretariat in consultation with the Trustees; and
- (d) at the Trustees' request, commission reports from suitably qualified, independent consultants at the PIDG Trust's cost to assess the development impact of projects financially supported by EAIF.

The PIDG Trust-nominated Directors must also prepare quarterly progress reports on EAIF to be submitted during the following quarter to the Secretariat for circulation to Donors. The form of the report may be varied by agreement with the Chairperson of PIDG.

SCHEDULE 3

FORM OF MEMORANDUM OF UNDERSTANDING

Private Infrastructure Development Group

Memorandum of Understanding

1. This Memorandum of Understanding ("**MOU**") dated 14th March 2003 is made between the Secretary of State for International Development at the Department of International Development ("**DFID**"), the Swiss State Secretariat for Economic Affairs of the Government of the Confederation of Switzerland ("**SECO**"), the Swedish International Development Cooperation Agency ("**Sida**") and the Netherlands Minister for Development Co-operation and any successor ("**the Netherlands Minister**") and any later signatory from time to time in accordance with the PIDG Constitution defined in paragraph 2 of this MOU.

2. This MOU records that:
 - (i) the Private Infrastructure Development Group ("**PIDG**") was established by letters of intent signed on behalf of each of DFID, SECO, Sida and the Netherlands Minister in December 2001 and January 2002;

 - (ii) the governance structure, operating policies and procedures of PIDG will be as set out in the constitution of PIDG as amended from time to time (the "**PIDG Constitution**"), the provisions of which are an integral part of and incorporated into this MOU.

3. PIDG aims to facilitate the provision of infrastructure needed to eliminate poverty in developing countries by encouraging long-term private investment. PIDG has established a special purpose trust in Mauritius, the Private Infrastructure Group Development Trust (the "**PIDG Trust**") as a vehicle for co-ordinating the application of PIDG members' funds. As an initial project of PIDG, a Mauritian investment company, the Emerging Africa Infrastructure Fund Limited ("**EAIIF**") has been established to increase the volume of private sector flows into infrastructure projects with private sector participation in sub-Saharan Africa. PIDG members have and will continue to

contribute funds to the PIDG Trust for the purpose of capitalising EAIF with the result that the PIDG Trust is its sole-shareholder. From time to time, acting through the PIDG Trust or as otherwise agreed by the PIDG_members, PIDG may establish other facilities or projects in pursuit of its aims as set out in this MOU.

4. The Netherlands Minister intends to contribute a minimum of USD20 million of funding to the PIDG Trust in accordance with the PIDG Constitution; SECO intends to contribute a minimum of USD10 million; Sida intends to contribute a minimum of USD40 million and DFID intends to contribute a minimum of USD100 million.
5. Against an initial commitment by DFID on behalf of PIDG to contribute USD100 million in subscription monies to EAIF, EAIF has secured a senior and subordinated loan facility of USD205 million from a consortium of commercial lenders led by Standard Bank London Limited.
6. Any additional funds to be applied to shares in EAIF, loan or other financial support by the PIDG Trust to EAIF shall only be made on the condition that, at the same time, an additional senior and subordinated loan facility with an aggregate value in the ratio of not less than 2:1 (additional loan facility to additional PIDG Trust contribution) is made available to EAIF.
7. With the assistance of Standard Infrastructure Fund Managers (Africa) Ltd, a special purpose fund management company, EAIF will apply loan monies and equity capital to provide long-term loans and other financial products to infrastructure projects in Sub-Saharan Africa in accordance with investment guidelines relating to economic, ethical, environmental, social development and pro-poor concerns.
8. This MOU may be modified at any time by mutual agreement of the parties.
9. For legal purposes, nothing in this MOU shall be construed as creating a joint venture, an agency relationship or a legal partnership between the parties.
10. This MOU may be signed in one or more counterparts and will enter into effect on the date of signing and will remain in effect until terminated by mutual agreement of the parties.

**Gavin McGillivray, Head, Private Sector Infrastructure/CDC
Department for and on behalf of the Secretary for
International Development at the Department for International
Development of the Government of the United Kingdom of Great Britain
and Northern Ireland**

**Roger Garman, Senior Advisor,
Financial Markets, for and on behalf of the Swedish International Development
Cooperation Agency**

**Mr. Claude Barras, Head
of Investment Promotion Division for and
on behalf of the Swiss State Secretariat for
Economic Affairs of the Government of
the Confederation of Switzerland**

**Bram Van Overbeeke, Director
Directorate for Sustainable Economic
Development for and on behalf of the
Netherlands Minister for Development
Co-operation**

SCHEDULE 4

PIDG ADMINISTRATION BUDGET

**THE CONSTITUTION OF
THE PRIVATE INFRASTRUCTURE DEVELOPMENT
GROUP**

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