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COMMISSION OF THE EUROPEAN COMMUNITIES

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2008/0268 (COD)

Proposal for a

DECISION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

**granting a Community guarantee to the European Investment Bank against losses under
loans and loan guarantees for projects outside the Community**

(2009/[•]/EC)

(presented by the Commission)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

- **Grounds for and objectives of the proposal**

This proposal for a Decision of the European Parliament and of the Council deals with the renewal of the Community budget guarantee to the European Investment Bank (EIB) for financing operations from its own resources in various non-member countries. The previous EIB mandates, i.e. the general external lending mandate (Council Decision 2008/580/EC) and the separate mandate for projects in Russia, Ukraine, Republic of Moldova and Belarus (Council Decision 2005/48/EC) expired in 2007. On 19 December 2006, the Council adopted Decision 2006/1016/EC granting a Community guarantee to the European Investment Bank against losses under loans and loan guarantees for projects outside the Community (OJ L 414, 30.12.2006, p. 95). The Decision was based on Article 181a of the Treaty establishing the European Community. The European Parliament brought an action for annulment of Council Decision 2006/1016/EC before the Court of Justice of the European Communities, since it was of the opinion that this Decision should have been adopted on the basis of Articles 179 and 181a of the EC Treaty, instead of Article 181a alone. The Court of Justice rendered its judgment on 6 November 2008 in case C-155/07 (Parliament v Council) giving justice to the Parliament and annulling Decision 2006/1016/EC but maintaining its effects for 12 months in order for it to be replaced by a Decision adopted on the basis of the dual legal basis (Articles 179 and 181a together) in accordance with a co-decision procedure.

The purpose of this proposal is to provide the EIB with a Community guarantee having the same characteristics than the guarantee provided in the annulled Decision, and to incorporate the guarantee currently in Council Decision 2008/847/EC of 4 November 2008 on the eligibility of central Asian countries under Decision 2006/1016/EC granting a Community guarantee to the European Investment Bank against losses under loans and loan guarantees for projects outside Community (OJ L 301, 12.11.2008, p. 13).

- **General context**

The EIB's activities outside the EU have traditionally made up around 10-15 % of its total activities (EUR 6.4 billion in 2007, of which EUR 3.7 billion under Community guarantee). The main regions of its current activity are pre-accession and Mediterranean countries, though it also undertakes substantial operations in Asia, Latin America and South Africa, and is progressively expanding its operations in Russia, Eastern Europe and Southern Caucasus. EIB Activities in ACP countries are carried out under the Cotonou Agreement with European Development Fund resources or with EIB resources with a guarantee from Member States, and are not covered by the proposal.

The EIB traditionally undertakes operations outside the EU in support of EU external relations policies based on formal mandates from the EU; successive mandates have widened the geographical scope of EIB's activity. The financing operations provided for in such Decisions are recognised by non-EU partner countries as visible support from the EU. Furthermore, the Community guarantee prevents such operations, which often bear a significantly higher level of risk than the EIB's operations within the EU,

from affecting the credit standing of the Bank, and allows the EIB to maintain attractive lending rates outside the EU.

Most recent figures on EIB operations under Community guarantee can be found in the Report from the Commission to the European Parliament and the Council on borrowing and lending activities of the European Communities in 2007 (COM(2008)590 final) and in the Commission Staff Working Document annexed to it (SEC(2008)2504). Another report of relevance is the Report to the budgetary authority on guarantees covered by the general budget - Situation at 31 December 2007 (COM(2008)451 final) and the Commission Staff Working Paper annexed to it (SEC(2008)2249). Reference is also made to the Report COM (2006)323 and the two Commission Staff Working Papers (SEC (2006)790 and SEC (2006)789) that were presented to the European Parliament and the Council in connection with the Commission proposal (COM (2006)324 final) that lead to the adoption of the annulled Decision.

EIB's operations in third countries represent a crucial complement to limited EU budget funds to increase the effectiveness and the visibility of the EU's external action. While the Community budgetary external assistance is focused on lower income countries and support to the social sectors, EIB operations are of particular relevance in middle-income countries and in infrastructure, financial and commercial sectors.

Considering that the EIB has originally been set up and structured financially to operate within the EU, the mandates under Community guarantee cover represent the key tools which allow the EIB to carry out operations outside the EU, by providing the necessary political and financial backing by the Community for countries and projects which would not normally fit within the EIB's standard guidelines and criteria.

- **Existing provisions in the area of the proposal**

The proposed Decision would continue the provision of a Community guarantee to EIB external lending in the place of but completely in line with the annulled Council Decision 2006/1016/EC and Council Decision 2008/847/EC.

- **Consistency with other policies and objectives of the Union**

EIB external operations, and notably those covered by the current proposal, will complement the activities carried out under the external assistance instruments, i.e. Pre-Accession, European Neighbourhood and Partnership, Development Cooperation and Economic Cooperation as well as the Instrument for Stability.

EIB operations will fully support EU external action, as determined in the various policy papers mentioned in the proposed legal act or as eventually laid out in future EU policy documents. The linkage of EIB external activity with EU policies will be strengthened via reinforced cooperation between the Commission and the EIB. This will begin with an enhanced association in the planning process, notably in the context of action plans or pre-accession documents and country or regional strategy papers, and during upstream identification and implementation of projects. Strengthening cooperation in this fashion will help ensure that the policy driven character of the new EC instruments is likewise reflected in the implementation of the mandate.

The extent of this cooperation will progress on a regionally differentiated basis, taking into consideration the EIB's importance in the region but also the scope for linkage with EU policies, within the framework of the Pre-Accession, European

Neighbourhood and Partnership, and Development Cooperation and Economic Cooperation strategies.

Furthermore, the Commission envisages early consultation by the EIB on individual projects. An EIB Financing Operation will not be included under the cover of the Community guarantee in case the Commission delivers a negative opinion on such operation within the framework of the procedure provided for in Article 21 of the Statute of the EIB.

The EIB would endeavour to further enhance co-ordination and co-operation with International Financial Institutions, such as the EBRD or the World Bank, and with European bilateral institutions, where relevant, on the basis of Memoranda of Understanding covering the different regions under the mandate.

In the framework of the mandate, enhanced reporting procedures will be put in place to ensure that consistency with the external policies and objectives of the Union, as well as cooperation with other IFIs, are adequately monitored. These procedures are in line with those foreseen under the annulled Decision 2006/1016/EC.

2. CONSULTATION OF INTERESTED PARTIES AND IMPACT ASSESSMENT

• Consultation of interested parties

Consultation methods, main sectors targeted and general profile of respondents

The EIB has been consulted.

Summary of responses and how they have been taken into account

The EIB's views are reflected in the current proposal.

• Collection and use of expertise

Scientific/expertise domains concerned

Financial and economic expertise.

Methodology used

Not applicable.

Main organisations/experts consulted

EIB.

Summary of advice received and used

The views of the EIB are reflected in the current proposal.

Means used to make the expert advice publicly available

Not applicable.

• Impact assessment

The third countries to be covered by EIB operations under Community guarantee

generally have a greater risk profile than EU countries, mainly because of macro-economic, financial and/or political instability, as reflected in the external credit ratings of such countries. The EIB operates on sound banking principles and its Statute is restrictive in terms of the risks it can take. Therefore, without a guarantee from the Community covering political and sovereign risks, the EIB could normally assume the relevant risks only in investment grade countries.

A Community guarantee for extra-EU projects provides the EIB with the security required to allow it to finance projects contributing to Community external relations policies without affecting the EIB's AAA credit rating.

An alternative option examined in the framework of the proposal leading to the adoption of the annulled Decision 2006/1016/EC was not to provide a Community guarantee. However, this would have led to a non-entry in - or a withdrawal of the EIB from a number of countries and a significant increase in funding costs for projects located in other countries. This was deemed not to be politically desirable, considering the need to have balanced EU intervention across the various countries in the different regions. Furthermore, the increase of financing costs for project promoters in acceptable countries would have rendered EIB operations less attractive, thus diminishing the EIB's leverage to impose EU policy conditions (e.g. procurement, environment, etc.). The same reasoning would also apply if the Community were to charge the guarantee to the EIB, as this would also ultimately increase the cost for promoters.

Exactly in line with the provisions of the annulled Decision, the current proposal strikes a proportionate balance between the need to leave the EIB operational freedom to pursue financing activities according to its own modalities, whilst supporting EU external relation policies, and to ensure that the Community's guarantee is limited, both in terms of exposure to risk and the nature of the projects which it will cover. Furthermore, the involvement of the Commission as responsible for the Community guarantee ensures a strong political backing to the financing provided by the EIB. A major effect of such backing is to significantly increase the probability of recovery of defaulted amounts thanks to the joint pressure exercised by the EIB and the Commission on defaulting borrowers. This is witnessed by the fact that the only cases where the EIB called on the guarantee in the past (ex-Yugoslavia and Argentina) have been eventually paid back.

3. LEGAL ELEMENTS OF THE PROPOSAL

- **Summary of the proposed action**

The action will provide a guarantee to the EIB for extra-EU operations, up to certain ceilings established within the proposal covering operations signed during the period 2007-2013. A mid-term review of the mandate will be carried out in 2010, which will allow, where necessary, for a refocusing of the priorities and for a possible release of the optional mandate, as set out in the legal basis.

- **Legal basis**

The legislative proposal will be based on Articles 179 and 181a of the Treaty in accordance with the judgment of the Court of Justice.

- **Subsidiarity principle**

The proposal falls under the exclusive competence of the Community. The subsidiarity principle therefore does not apply.

- **Proportionality principle**

The proposal complies with the proportionality principle for the following reasons:

EIB financing operations shall continue to be managed in accordance with the EIB's own rules and procedures.

The Community guarantee has proved to be an efficient and inexpensive means of covering the political and sovereign risks relating to EIB external operations. Since 1994, a Community Guarantee Fund for External Action is in place to provide a liquidity cushion for the Community budget against defaults on guaranteed operations. The renewal of a Community guarantee will allow the existing efficient and economically sound practice to continue.

The Commission and the EIB will sign an agreement on the provisions and procedures for granting the Community guarantee. In order to streamline the preparation and appraisal of projects, the EIB will further enhance coordination and cooperation with other IFIs and with European bilateral institutions where relevant.

- **Choice of instruments**

Proposed instruments: other.

Other means would not be adequate for the following reasons:

A Decision of the European Parliament and of the Council is required to establish a guarantee at Community level.

4. BUDGETARY IMPLICATION

The financial statement included in the legislative proposal summarises the relevant budgetary implications. These implications stem from the need to set aside provisions for the Community guarantee in the Guarantee Fund for External Action over the period of the Financial Framework 2007-2013.

5. ADDITIONAL INFORMATION

- **Repeal of existing legislation**

The adoption of the proposal will lead to the repeal of existing legislation.

- **Review/revision/sunset clause**

The proposal includes a review clause.

The proposal includes a revision clause.

The proposal includes a sunset clause.

- **Detailed explanation of the proposal**

Article 1 mentions that the Community guarantee will cover EIB Financing Operations up to a global amount of EUR 27 800 million, including an optional mandate EUR 2 000 million, over the period 2007-2013. The guarantee shall be restricted to 65% of the aggregate amounts of credits disbursed and guarantees provided under EIB Financing Operations, less amounts reimbursed, plus all related sums. The overall ceiling shall be broken down by region with the following binding regional ceilings:

a) Pre-accession countries: EUR 8 700 million

b) Neighbourhood and Partnership countries: EUR 12 400 million. This is broken down into two indicative sub-ceilings, i.e. Mediterranean: EUR 8 700 million, and Eastern Europe, Southern Caucasus and Russia: EUR 3 700 million.

c) Asia and Latin America: EUR 3 800 million, broken down into two indicative sub-ceilings, i.e. Latin America: EUR 2 800 million and Asia (including Central Asia): EUR 1 000 million.

d) Republic of South Africa: EUR 900 million.

e) Optional Mandate: EUR 2 000 million.

Article 2 deals with the list of countries concerned by the legal act and their eligibility. The detailed list of countries concerned is provided in Annex 1 of the proposed Decision.

Article 3 details the requirements relating to the linkage of EIB external activities with EU policies, through reinforced cooperation between the Commission and the EIB and enhanced reporting. Furthermore, an EIB Financing Operation will not be included under the cover of the Community guarantee in case the Commission delivers a negative opinion on such operation within the framework of the procedure provided for in Article 21 of the Statute of the EIB.

Article 4 details the modalities of the enhanced cooperation with other IFIs.

Article 5 clarifies the nature of the Community guarantee which will cover risks of a political or sovereign nature for financing operations entered into by the EIB.

Article 6 includes enhanced reporting and accounting information requirements for both the EIB and the Commission.

Article 7 specifies the responsibility of the EIB to pursue possible recovery claims on behalf of the Commission and makes reference to an agreement to be concluded between the Commission and the EIB laying down the detailed provisions and procedures.

Article 8 mentions that the detailed provisions and procedures relating to the Community guarantee shall be laid down in a guarantee agreement between the Commission and the EIB.

Article 9 mentions that the Commission will present to the European Parliament and the Council a mid-term report on the application of the proposed Decision by 30 June 2010, accompanied, as appropriate, by a proposal for its amendment, drawing upon an external evaluation whose terms of reference are specified in Annex II of the proposed

Decision.

Article 10 provides for the coverage under the proposed Decision of the EIB Financing Operations signed under the annulled Decision. In accordance with the judgment of the Court of Justice, the Community guarantee shall remain in place intact for them, despite the annulment of Council Decision 2006/1016/EC.

The 'Recitals' section includes, amongst other things, the political background to the proposal and the detailed scope of EIB operations in the different regions.

(Explanatory memorandum validated - 13 218 characters - complying with DGT norm.)

Proposal for a

DECISION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of [•]

granting a Community guarantee to the European Investment Bank against losses under loans and loan guarantees for projects outside the Community

(2009/[•]/EC)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 179 and 181a thereof,

Having regard to the proposal from the Commission,

Acting in accordance with the procedure laid down in Article 251 of the Treaty,

Whereas:

- (1) Since 1963, the European Investment Bank (the 'EIB') has undertaken operations outside the European Community (the 'Community') in support of the Community's external policies.
- (2) Most of those operations have been carried out upon request by the Council and have benefited from a Community budgetary guarantee administered by the Commission. Most recently, the Community guarantee was established for the period 2000-2007 by Council Decision 2008/580/EC of 23 June 2008 granting a Community guarantee against losses under loans for projects outside the Community (South-eastern neighbours, Mediterranean countries, Latin America and Asia and the Republic of South Africa)¹ and by Decisions 2001/777/EC² and 2005/48/EC³ for regionally specific lending actions.
- (3) With a view to supporting the Community's external action without affecting the EIB's credit standing, the EIB should be offered a Community budgetary guarantee for operations carried out outside the Community. The EIB should be encouraged to increase its operations outside the Community without recourse to the Community guarantee, particularly in the pre-accession countries and the Mediterranean as well as in investment grade countries in other regions, while the nature of the coverage of the Community guarantee should be clarified as covering risks of a political or sovereign nature.
- (4) The Community guarantee should cover losses under loans and loan guarantees for EIB eligible investment projects carried out in countries covered by the Instrument for

¹ OJ L 186, 15.7.2008, p. 30 (codified version).

² OJ L 292, 9.11.2001, p. 41.

³ OJ L 21, 25.1.2005, p. 11.

Pre-Accession Assistance⁴ (the 'IPA'), the European Neighbourhood and Partnership Instrument⁵ (the 'ENPI') and the Development Cooperation Instrument⁶ (the 'DCI'), where the loan financing or guarantee has been granted according to a signed agreement which has neither expired nor been cancelled ('EIB Financing Operations').

- (5) The amounts covered by the Community guarantee under this Decision should represent ceilings for financing by the EIB under the Community guarantee. They should not form targets that the EIB should necessarily meet.
- (6) The Community's external relations policies have been revised and broadened in recent years. This has notably been the case for the Pre-Accession Strategy, for the European Neighbourhood Policy, for the renewed partnerships with Latin America and South-East Asia and for the EU's Strategic Partnerships with Russia, Central Asia, China and India.
- (7) From 2007, the Community's external relations have also been supported by the new financial instruments, i.e. the IPA, the ENPI, the DCI and by the Instrument for Stability⁷.
- (8) EIB Financing Operations should be consistent with and support the Community's external policies including specific regional objectives. By ensuring overall coherence with Community actions, EIB financing should be complementary to corresponding Community assistance policies, programs and instruments in the different regions. Moreover, the protection of the environment and energy security of the Member States should form part of the EIB's financing objectives in all eligible regions. EIB Financing Operations should take place in countries complying with appropriate conditionality consistent with Community high level agreements on political and macro-economic aspects.
- (9) The policy dialogue between the Commission and the EIB, as well as strategic planning and coherence between EIB and Commission financing should be strengthened. The link between EIB activities outside the Community and Community policies should be strengthened via enhanced cooperation between the EIB and the Commission at central, as well as at field level. Such strengthened coordination should include, *inter alia*, early mutual consultation with respect to policy matters, preparation of papers of mutual significance and project pipelines. Of particular importance will be early consultation on strategic programming documents prepared by the Commission or by the EIB, to maximise synergies between EIB and Commission activities and measure progress towards the fulfilment of relevant Community policy objectives.
- (10) With regard to pre-accession countries, EIB financing in those countries should reflect the priorities established in the Accession and European Partnerships, in the Stabilisation and Association agreements and in negotiations with the Community. The focus of Community action in the Western Balkans should continue to shift progressively from reconstruction to pre-accession support. In this context, the EIB

⁴ Council Regulation (EC) No 1085/2006 of 17 July 2006 (OJ L 210, 31.7.2006, p. 82).

⁵ Regulation (EC) No 1638/2006 of the European Parliament and of the Council of 24 October 2006 (OJ L 310, 9.11.2006, p. 1).

⁶ Regulation (EC) No 1905/2006 of the European Parliament and of the Council of 18 December 2006 (OJ L 378, 27.12.2006, p. 41).

⁷ Regulation (EC) No 1717/2006 of the European Parliament and of the Council of 15 November 2006 (OJ L 327, 24.11.2006, p. 1).

activity should, in addition, also seek to encourage the institution building aspect, where relevant, in cooperation with other International Financial Institutions ('IFIs') active in the region. Over the period 2007-2013, financing to candidate countries (Croatia, Turkey and the former Yugoslav Republic of Macedonia) should increasingly take place under the Pre-Accession Facility made available by the EIB, which should be extended over time to cover the potential candidate countries in the Western Balkans in line with the progress of their accession process.

- (11) With regard to countries covered by the ENPI, the EIB should continue and consolidate its activities in the Mediterranean region, enhancing its focus on private sector development. In this respect, cooperation by partner countries to facilitate private sector development and encourage structural reform, in particular financial sector reform, is needed, as well as other measures to facilitate EIB activities, in particular to ensure that the EIB can issue bonds in local markets. As regards Eastern Europe, Southern Caucasus and Russia, the EIB should enhance its activities in the countries concerned in line with appropriate conditionality consistent with Community high level agreements with the country in question on political and macro-economic aspects. In this region, the EIB should finance projects of significant interest to the Community in transport, energy, telecommunications and environmental infrastructure. Priority should be given to projects on extended major Trans European Network axes, projects with cross-border implications for one or more Member States and major projects favouring regional integration through increased connectivity. In the environmental sector, the EIB should in Russia give particular priority to projects within the framework of the Northern Dimension Environmental Partnership. In the energy sector, strategic energy supply and energy transport projects are of particular importance. EIB Financing Operations in this region should be carried out in close cooperation with the European Bank for Reconstruction and Development ('the EBRD'), in particular according to the terms set out in a tripartite Memorandum of Understanding between the Commission, the EIB and the EBRD.
- (12) EIB financing in the Asian and Latin American countries will be progressively aligned with the EU cooperation strategy in those regions and be complementary to instruments financed by Community budgetary resources. The EIB should endeavour to progressively expand its activities across a larger number of countries in those regions, including in the less prosperous countries. In support of Community objectives, EIB financing in the Asian and Latin American countries should focus on environmental sustainability (including climate change mitigation) and energy security projects, as well as the continued support of EU presence in Asia and Latin America through Foreign Direct Investment, and the transfer of technology and know how. Taking into account cost-efficiency, the EIB should be able to work also directly with local companies, in particular in the field of environmental sustainability and energy security. The mid-term review will re-examine the objectives of the EIB financing in Asia and Latin America.
- (13) In Central Asia, the EIB should focus on major energy supply and energy transport projects which also serve Community energy interests and are consistent with and support the Community policy objectives of diversification of energy sources and the Kyoto requirements, and of enhancement of environmental protection. EIB financing in Central Asia should be carried out in close cooperation with the EBRD, in particular according to the terms set out in a tripartite Memorandum of Understanding between the Commission, the EIB and the EBRD.

- (14) To complement the EIB activities under the Cotonou Agreement for the ACP countries, in South Africa the EIB should focus on infrastructure projects of public interest (including municipal infrastructure, power and water supply) and private sector support, including SMEs. The implementation of the provisions on economic cooperation under the EU-South Africa Trade and Development Cooperation Agreement will further promote EIB activities in this region.
- (15) With a view to enhancing the coherence of overall Community support in the regions concerned, opportunities should be sought to combine EIB financing with Community budgetary resources as appropriate, in the form of grant support, risk capital and interest rate subsidies, alongside technical assistance for project preparation, implementation or enhancement of the legal and regulatory framework, through the IPA, the ENPI, the Instrument for Stability and, for South Africa, the DCI.
- (16) The EIB already closely cooperates with IFIs and with European bilateral institutions. This cooperation is guided by regionally-specific Memoranda of Understanding, which should be approved by the governing bodies of the EIB. In its financing operations outside the Community falling within the scope of this Decision, the EIB should endeavour to further enhance coordination and cooperation with IFIs and with European bilateral institutions where relevant, including, where appropriate, cooperation on sector conditionality, increased use of cofinancing and participation with other IFIs in global initiatives, such as those promoting aid coordination and efficiency.
- (17) Reporting by the EIB and the Commission on EIB Financing Operations should be strengthened. On the basis of the information received from the EIB, the Commission should report, on an annual basis, to the European Parliament and the Council on the EIB Financing Operations carried out under this Decision. The report should, in particular, include a section on value-added in line with Community policies, and a section on cooperation with the Commission, other IFIs and bilateral donors, including on cofinancing.
- (18) The Community guarantee established by this Decision should cover EIB Financing Operations signed during a period beginning on 1 February 2007 and ending on 31 December 2013. In order to be able to take stock of the developments during the first half of that period, the EIB and the Commission should prepare a mid-term review of the Decision. This review should in particular include an external evaluation whose terms of reference are specified in Annex II.
- (19) EIB Financing Operations should continue to be managed in accordance with the EIB's own rules and procedures, including appropriate control measures, as well as with the relevant rules and procedures concerning the Court of Auditors and OLAF.
- (20) The Guarantee Fund for External Action (the 'Guarantee Fund'), established by Council Regulation (EC, Euratom) No 2728/94 of 31 October 1994, should continue to provide a liquidity cushion for the Community budget against losses on EIB Financing Operations⁸.
- (21) The EIB should prepare, in consultation with the Commission, an indicative multi-annual programme of the volume of signatures of EIB Financing Operations, so as to ensure an appropriate budgetary plan for provisioning the Guarantee Fund. The

⁸ OJ L 293, 12.11.1994, p. 1.

Commission should take account of this plan in its regular budget programming transmitted to the budgetary authority.

- (22) By its judgment of 6 November 2008 in Case C-155/07 (*Parliament v Council*), the Court of Justice of the European Communities annulled Council Decision 2006/1016/EC of 19 December 2006 granting a Community guarantee to the European Investment Bank against losses under loans and loan guarantees for projects outside the Community⁹. Decision 2006/1016/EC had been extended to five central Asian countries (namely Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan) by Council Decision 2008/847/EC of 4 November 2008 on the eligibility of central Asian countries under Decision 2006/1016/EC granting a Community guarantee to the European Investment Bank against losses under loans and loan guarantees for projects outside the Community¹⁰.
- (23) The Court, however, ordered that the effects of Decision 2006/1016/EC be maintained for EIB financing arrangements entered into before the entry into force, within a period of 12 months from the date of delivery of the said judgment, of a new decision adopted on the appropriate legal basis, namely Articles 179 EC and 181a EC together.
- (24) A new Decision of the European Parliament and of the Council should therefore be adopted in order to provide for a continuous unchanged guarantee of the relevant EIB Financing Operations outside the Community,

HAVE DECIDED AS FOLLOWS:

Article 1

Guarantee and ceilings

1. The Community shall grant the European Investment Bank (the 'EIB') a global guarantee (the 'Community guarantee') in respect of payments not received by the EIB, but due to it, in respect of loans and loan guarantees for EIB eligible investment projects carried out in countries covered by this Decision, where the loan financing or guarantee has been granted according to a signed agreement which has neither expired nor been cancelled ('EIB Financing Operations') and has been granted in accordance with the EIB's own rules and procedures and in support of the relevant external policy objectives of the Community.
2. The Community guarantee shall be restricted to 65 % of the aggregate amount of credits disbursed and guarantees provided under EIB Financing Operations, less amounts reimbursed, plus all related sums.
3. The maximum ceiling of the EIB Financing Operations throughout the period referred to in paragraph 6, less amounts cancelled, shall not exceed EUR 27 800 million. This maximum ceiling shall be broken down into two parts:
 - (a) a basic ceiling of a fixed maximum amount of EUR 25 800 million, including its regional distribution defined in paragraph 4, to cover the entire period referred to in paragraph 6;
 - (b) an optional mandate of EUR 2 000 million. The activation in whole or in part of this optional amount and its regional distribution will be decided by the European Parliament and the Council in accordance with the procedure laid down in Article

⁹ OJ L 414, 30.12.2006, p. 95.

¹⁰ OJ L 301, 12.11.2008, p. 13.

251 of the Treaty. The decision will be based on the outcome of the mid-term review set out in Article 9.

4. The basic ceiling referred to in paragraph 3(a) shall be broken down into the following binding regional ceilings:

- (a) Pre-Accession countries: EUR 8 700 million;
- (b) Neighbourhood and Partnership countries: EUR 12 400 million;

broken down into the following indicative sub-ceilings:

- (i) Mediterranean: EUR 8 700 million;
- (ii) Eastern Europe, Southern Caucasus and Russia: EUR 3 700 million;
- (c) Asia and Latin America: EUR 3 800 million;

broken down into the following indicative sub-ceilings:

- (i) Latin America: EUR 2 800 million;
- (ii) Asia (including Central Asia): EUR 1 000 million;
- (d) Republic of South Africa: EUR 900 million.

5. Within the regional ceilings, the governing bodies of the EIB may decide to reallocate an amount of up to 10 % of the regional ceiling between sub-ceilings.

6. The Community guarantee shall cover EIB Financing Operations signed during the period beginning on 1 February 2007 and ending on 31 December 2013. EIB Financing Operations signed under Council Decision 2006/1016/EC and under Council Decision 2008/847/EC shall continue to benefit from the Community guarantee under this Decision.

7. If, on expiry of the period referred to in paragraph 6, the European Parliament and the Council have not adopted a decision granting a new Community Guarantee to the EIB for its Financing Operations outside the Community, that period shall be automatically extended by six months.

Article 2

Countries covered

1. The list of countries eligible or potentially eligible for EIB financing under Community guarantee is laid down in Annex I.

2. For countries listed in Annex I and marked with ‘*’ and for other countries not listed in Annex I, the eligibility of such country for EIB financing under Community guarantee shall be decided by the European Parliament and the Council on a case by case basis in accordance with the procedure laid down in Article 251 of the Treaty.

3. The Community guarantee shall only cover EIB Financing Operations carried out in countries having concluded a framework agreement with the EIB establishing the legal conditions under which such EIB Financing Operations are to be carried out.

4. In the event of serious concerns over the political or economic situation in a specific country, the European Parliament and the Council may decide to suspend new EIB financing under Community guarantee in that country in accordance with the procedure laid down in Article 251 of the Treaty.

5. The Community guarantee shall not cover EIB Financing Operations in a specific country when the agreement concerning such EIB Financing Operations has been signed after that country's accession to the EU.

Article 3

Consistency with policies of the Community

1. The consistency of EIB external actions with the external policy objectives of the Community shall be strengthened with a view to maximising synergies of EIB financing and budgetary resources of the European Union, notably through regular and systematic dialogue and early consultation on:

- (a) strategic documents prepared by the Commission, such as country and regional strategy papers, action plans and pre-accession documents;
- (b) the EIB's strategic planning documents and project pipelines;
- (c) other policy and operational aspects.

2. The cooperation shall be carried out on a regionally differentiated basis, taking into consideration the EIB's role as well as the policies of the Community in each region.

3. An EIB Financing Operation will not be included under the cover of the Community guarantee in case the Commission delivers a negative opinion on such operation within the framework of the procedure provided for in Article 21 of the Statutes of the EIB.

4. The consistency of EIB Financing Operations with the external policy objectives of the Community shall be monitored in accordance with Article 6.

Article 4

Cooperation with other International Financial Institutions

1. EIB Financing Operations shall increasingly be carried out, where appropriate, in cooperation between and/or by means of cofinancing by the EIB and other International Financial Institutions (the 'IFIs'), or European bilateral institutions, in order to maximise synergies, cooperation and efficiency and to ensure reasonable sharing of risks and coherent project and sector conditionality.

2. This cooperation shall be facilitated by coordination, carried out notably in the context of Memoranda of Understanding, where appropriate, between the Commission, the EIB and the main IFIs and European bilateral institutions operating in the different regions.

3. The cooperation with IFIs and other donors shall be assessed at the mid-term review set out in Article 9.

Article 5

Coverage and terms of the Community Guarantee

1. For EIB Financing Operations entered into with a State, or guaranteed by a State, and for other EIB Financing Operations entered into with regional or local authorities or government-owned and/or government-controlled public enterprises or institutions, where such other EIB Financing Operations have an appropriate EIB credit risk assessment taking into account the credit risk situation of the country concerned, the Community guarantee shall cover all payments not received by the EIB, but due to it (the 'Comprehensive Guarantee').

For the purposes of this Article and Article 6(4), the notion of State includes the West Bank and Gaza Strip, as represented by the Palestinian Authority, and Kosovo, as represented by the UN Interim Administration Mission.

2. For EIB Financing Operations other than those indicated in paragraph 1, the Community guarantee shall cover all payments not received by the EIB, but due to it, where the non-receipt has been caused by the realisation of one of the following political risks (the ‘Political Risk Guarantee’):

- (a) non-transfer of currency;
- (b) expropriation;
- (c) war or civil disturbance;
- (d) denial of justice upon breach of contract.

Article 6

Reporting and accounting

1. The Commission shall report annually to the European Parliament and the Council on the EIB Financing Operations carried out under this Decision. The report shall include an assessment of impact and effectiveness of EIB Financing Operations at project, sector, country and regional level as well as the contribution of the EIB Financing Operations to the fulfilment of the external policy objectives of the Community, taking into account the operational objectives of the EIB. It shall also include an assessment of the extent of cooperation between the EIB and the Commission and between the EIB and other IFIs and bilateral donors.

2. For the purposes of paragraph 1, the EIB shall provide the Commission with yearly reports of EIB Financing Operations carried out under this Decision and of the fulfilment of the external policy objectives of the Community, including cooperation with other IFIs.

3. The EIB shall provide the Commission with statistical, financial and accounting data on each of the EIB Financing Operations as necessary to fulfil its reporting duties or requests by the European Court of Auditors as well as with an auditor’s certificate on the outstanding amounts of the EIB Financing Operations.

4. For the purposes of the Commission’s accounting and reporting of the risks covered by the Comprehensive Guarantee, the EIB shall provide the Commission with the EIB’s risk assessment and grading information concerning EIB Financing Operations with borrowers or guaranteed obligors other than States.

5. The EIB shall provide the information referred to in paragraphs 2, 3 and 4 at its own expense.

Article 7

Recovery of payments made by the Commission

1. If the Commission makes any payment under the Community guarantee, the EIB shall, in the name and on behalf of the Commission, pursue the recovery of claims for the amounts paid.

2. The EIB and the Commission shall enter into an agreement laying down the detailed provisions and procedures relating to recovery of claims no later than the date of conclusion of the agreement referred to in Article 8.

Article 8

Guarantee agreement

The EIB and the Commission shall enter into a guarantee agreement laying down the detailed provisions and procedures relating to the Community guarantee.

Article 9

Review of the Decision

1. The Commission shall present to the European Parliament and the Council a mid-term report on the application of this Decision by 30 June 2010, accompanied, as appropriate, by a proposal for its amendment, drawing upon an external evaluation whose terms of reference are specified in Annex II of this Decision.

2. The Commission shall present a final report on the application of this Decision by 31 July 2013.

Article 10

Final provisions

Decision 2008/847/EC is repealed.

Article 11

Application

This Decision shall take effect on the third day following its publication in the *Official Journal of the European Union*.

Done at Brussels, [•] 2009.

For the European Parliament
The President
[•]

For the Council
The President
[•]

ANNEX I

REGIONS AND COUNTRIES COVERED BY ARTICLES 1 AND 2

A. PRE-ACCESSION COUNTRIES

1. Candidate countries

Croatia, Turkey, the former Yugoslav Republic of Macedonia.

2. Potential candidate countries

Albania, Bosnia and Herzegovina, Montenegro, Serbia, Kosovo under United Nations Security Council Resolution 1244 (1999).

B. NEIGHBOURHOOD AND PARTNERSHIP COUNTRIES

1. Mediterranean

Algeria, Egypt, the West Bank and the Gaza Strip, Israel, Jordan, Lebanon, Libya (*), Morocco, Syria, Tunisia.

2. Eastern Europe, Southern Caucasus and Russia

Eastern Europe: Republic of Moldova, Ukraine, Belarus (*)

Southern Caucasus: Armenia, Azerbaijan, Georgia;

Russia: Russia.

C. ASIA AND LATIN AMERICA

1. Latin America

Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Uruguay, Venezuela.

2. Asia

Asia (without Central Asia):

Afghanistan (*), Bangladesh, Bhutan (*), Brunei, Cambodia (*), China (including Hong Kong and Macao Special Administrative Regions), India, Indonesia, Iraq (*), South Korea, Laos, Malaysia, Maldives, Mongolia, Nepal, Pakistan, the Philippines, Singapore, Sri Lanka, Taiwan (*), Thailand, Vietnam, Yemen.

Central Asia:

Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, Uzbekistan.

D. SOUTH AFRICA

South Africa.

ANNEX II

MID-TERM REVIEW AND TERMS OF REFERENCE FOR THE EVALUATION OF THE EIB'S EXTERNAL MANDATE

Mid-term review

A substantive mid-term review of EIB external financing will be conducted by 2010. This review will draw on an independent external evaluation, which will also be transmitted to the European Parliament and the Council. The review will provide the basis for the decision of the European Parliament and the Council, as to whether and to what extent to release any optional mandate to top up the guarantee foreseen in this Decision, for the period following 2010, as to whether to make other amendments to the mandate, and as to how to ensure maximum value-added and efficiency in the EIB's operations. The Commission will present the mid-term review to the European Parliament and to the Council by 30 June 2010, as the basis for any proposal for the amendment of the mandate.

The framework of the evaluation

It will include:

- a. an evaluation of the EIB's external financing activities. Parts of the evaluation will be conducted in cooperation with the EIB's and the Commission's evaluation departments;
- b. an assessment of the wider impact of the EIB's external lending on interaction with other IFIs and other sources of finance.

The evaluation will be supervised and managed by a steering committee comprising several 'wise persons' appointed by the EIB Board of Governors, an EIB and a Commission representative. The steering committee will be chaired by one such 'wise person'.

The steering committee will be supported by the EIB's and the Commission's evaluation departments and by external experts. These external experts will be selected through a tender process managed by the Commission. The steering committee will be consulted on the terms of reference and on the criteria for the selection of the external experts. The costs of external experts will then be borne by the Commission and will be covered by the budget line dedicated to the provisioning of the Guarantee Fund.

The final evaluation report will be submitted by the steering committee, and will draw clear conclusions, based on the information gathered, to inform the decision of the mid-term review as to whether to release the optional tranche for the remainder of the mandate and as to the regional distribution of any additional financing.

The scope of the evaluation

The evaluation will cover the previous mandates (2000-2006) and the first years of the 2007-2013 mandate, up to the end of 2009. It will examine project financing volumes and disbursements by country as well as technical assistance and risk capital operations. Considering the effects at project, sector, regional and country level, the evaluation will base its conclusions on:

- a. the in-depth evaluation of the relevance, performance (effectiveness, efficiency and sustainability) of EIB operations against their specific regional objectives as originally set within the relevant Community external policies as well as of their

value-added (to be conducted in association with the EIB's evaluation unit and Commission services);

- b. the assessment of consistency with the relevant Community external policies and strategies and of the additionality and value-added of EIB operations in the first years of the 2007-2013 mandate in the framework of the specific regional objectives in the 2007-2013 mandate and of the corresponding performance indicators to be set by the EIB (to be conducted in association with the EIB's evaluation unit and Commission services).

In these assessments, value-added of EIB operations will be measured against three elements: support of Community policy objectives, the quality of the projects themselves and alternative sources of financing.

- a. analysis of the financial needs of the beneficiaries, their absorption capacity and the availability of other sources of private or public financing for the relevant investments;
- b. the assessment of the cooperation and coherence of actions between EIB and the Commission;
- c. the assessment of the cooperation and synergies between the EIB and international and bilateral finance institutions and agencies.

LEGISLATIVE FINANCIAL STATEMENT

1. NAME OF THE PROPOSAL:

Proposal for a Decision of the European Parliament and the Council granting a Community guarantee to the European Investment Bank against losses under loans and loan guarantees for projects outside the Community.

2. ABM / ABB FRAMEWORK

Policy Area(s) concerned and associated Activity/Activities:

Policy area : Economic and Financial Affairs

ABB activity : Financial Operations and Instruments

3. BUDGET LINES

3.1. Budget lines (operational lines and related technical and administrative assistance lines (ex- B..A lines)) including headings:

01 04 01 14	Payments to the Guarantee Fund in respect of new operations
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3.2. Duration of the action and of the financial impact:

EIB loans and loan guarantees under Community guarantee cover ("EIB Financing Operations") can be signed by the EIB from 2007 to 2013. The total duration of the action and of its financial impact will be determined, however, by the maturity of the signed EIB Financing Operations.

3.3. Budgetary characteristics:

Budget line	Type of expenditure		New	EFTA contribution	Contributions from applicant countries	Heading in Financial Framework
01 04 01 14	Com p	Non- diff ¹¹	NO	NO	NO	4

4. SUMMARY OF RESOURCES

4.1. Financial Resources

4.1.1. Summary of commitment appropriations (CA) and payment appropriations (PA)

The following table summarizes the estimated budgetary resources needed for funding the Guarantee Fund, calculated in line with Council Regulation (EC, Euratom) N° 2728/94 establishing a Guarantee Fund for external actions¹² and based

¹¹ Non-differentiated appropriations hereafter referred to as NDA.

¹² The last amendment of Council Regulation (EC, Euratom) N° 2728/94 was adopted by the Council on 30 January 2007 (Council Regulation (EC, Euratom) N° 89/2007).

on the proposed EIB lending mandate of EUR 27.8 billion between 2007 and 2013, of which EUR 2 billion for the optional mandate.

The figures for the calculations of the “normal” provisioning are detailed in Table 8.1.

- • For 2007: no provisioning took place. A lumpsum reimbursement of EUR 254 million from the Guarantee Fund to the General Budget took place following the accession of Bulgaria and Romania, in line with Council Regulation N° 2273/2004.
- For 2008: a surplus of EUR 125.75 million was transferred in 2008 as “revenues”.
- For 2009: the calculations are based on the target amount as of 31.12.2007 and a provisioning amount of EUR 91.60 million was inserted in the PDB 2009 together with an amount of EUR 0.5 million for the external evaluation under the mid-term review of the EIB external mandate.
- For the years 2010-2013, calculations are based on the estimations of volume of EIB signatures and disbursements under the new mandate. Estimations have been made based on EIB information and are subject to variation driven by project progress.

The envelope of EUR 1.4 billion has been set aside in the financial programming of Heading 4 with a flat profile of EUR 200 million per year. Although the total programmed amount of EUR 1.4 billion shall be maintained as the "maximum budgetary needs", the profile might be adjusted during the programming period to take into account negative developments such as accumulation of defaults¹³ and adverse assets valuation¹⁴, in order to cope with extreme situations as shown in the total “Maximum budgetary needs” (see table below).

EUR Million	2007	2008	2009 (**)	2010	2011	2012	2013	Total
<i>Budgetary revenues</i>	0	125.8	0	0	0	0	0	125.8
Budgetary needs for normal provisioning	0	0	91.6	158	159	114	121	643.6
Possible adjustments in the market valuation of the assets of the Guarantee Fund (*)	0	0	0	36	42	48	53	179
Potential impact of possible calls	0	0	0	100	100	100	100	400
Maximum budgetary needs (**)	0	0	91.6	294	301	262	274	1222.6

¹³ EUR 100 million/year stem from the activation of the guarantee in case of major defaults (see "smoothing mechanism" in COM(2005) 130 of 5.4.2005).

¹⁴ In order to evaluate implications for the provisioning of possible fluctuations in the asset valuation of the Guarantee Fund, the following assumptions have been made:

- a portfolio duration of 3.3 years;
- 1% increase in interest rates per year;
- A Guarantee Fund assets' evolution resulting from the estimated 'normal provisioning'.

There are no implications for 2007 and 2008 due to the transition period.

* These figures are estimated on the total amount of the Guarantee Fund.

** In 2009, an additional amount of EUR 0.5 million will be drawn from the Guarantee Fund for the external evaluation under the mid-term review.

The following budgetary table takes into account the estimated maximum budgetary resources needed to provision the Guarantee Fund. It should be stressed, however, that the amounts indicated will not necessarily correspond to the amounts to be budgeted each year: the exact budgetary amounts (classified as Compulsory Expenditure) in year n+1 will be determined based on the figures at 31st December of year n-1 based on the outstanding amount of the loans covered by the Guarantee Fund, the corresponding target amount (i.e. 9% of the outstanding loans), the defaults which have occurred during the year, and the valuation of the assets of the Fund. The 'maximum budgetary needs' must thus be considered as a worst case scenario which could exceptionally take place in given years.

It should be noted that the Guarantee Fund also covers Macro-financial Assistance and Euratom loans which fall outside the scope of the proposed Decision. Therefore, while the above table takes into account existing signed operations under these two activities, it does not include possible additional budgetary needs for new operations under these activities.

EUR million (1 decimal place)

Expenditure type	Section no.		2007	2008	2009	2010	2011	2012-13	Total
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Operational expenditure¹⁵

Commitment Appropriations (CA)	8.1.	a	0.0	0.0	92.1	294.0	301.0	536.0	1223.1
Payment Appropriations (PA)		b	0.0	0.0	92.1	294.0	301.0	536.0	1223.1

Administrative expenditure within reference amount¹⁶

Technical & administrative assistance (NDA)	8.2.4.	c	-	-	-	-	-	-	-
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TOTAL REFERENCE AMOUNT

Commitment Appropriations		a+c	0.0	0.0	92.1	294.0	301.0	536.0	1223.1
Payment Appropriations		b+c	0.0	0.0	92.1	294.0	301.0	536.0	1223.1

Administrative expenditure not included in reference amount¹⁷

Human resources and associated expenditure (NDA)	8.2.5.	d	0.9	0.9	0.9	0.9	0.9	1.7	6.2
Administrative costs, other than human resources and associated costs, not included in reference amount (NDA)	8.2.6.	e	-	-	-	-	-	-	-

Total indicative financial cost of intervention

TOTAL CA including cost of Human Resources		a+c+d+e	0.9	0.9	93.0	294.9	301.9	537.7	1229.3
TOTAL PA including cost of Human Resources		b+c+d+e	0.9	0.9	93.0	294.9	301.9	537.7	1229.3

¹⁵ Expenditure that does not fall under Chapter xx 01 of the Title xx concerned. The table includes for 2009 the amount of EUR 0.5 million to be drawn from the Guarantee Fund for the external evaluation under the mid-term review.

¹⁶ Expenditure within article xx 01 04 of Title xx.

¹⁷ Expenditure within chapter xx 01 other than articles xx 01 04 or xx 01 05.

Co-financing details

No co-financing is foreseen.

4.1.2. *Compatibility with Financial Programming*

- Proposal is compatible with existing financial programming.
- Proposal will entail reprogramming of the relevant heading in the Financial Framework.
- Proposal may require application of the provisions of the Interinstitutional Agreement¹⁸ (i.e. flexibility instrument or revision of the Financial Framework).

4.1.3. *Financial impact on Revenue*

- Proposal has no financial implications on revenue
- Proposal has financial impact – the effect on revenue is as follows:

4.2. **Human Resources FTE (including officials, temporary and external staff) – see detail under point 8.2.1.**

Annual requirements	2007	2008	2009	2010	2011	2012-2013
Total number of human resources	7	7	7	7	7	14

5. CHARACTERISTICS AND OBJECTIVES

5.1. **Need to be met in the short or long term**

As detailed in the Explanatory Memorandum, Council Decision 2006/1016/EC was annulled by the Court of Justice on 6 November 2008. The effects of the annulled decision are maintained for EIB Financing Operations signed before the entry into force, within a period ending on 6 November 2009, of a new decision adopted on the appropriate legal basis, namely Articles 179 EC and 181a of the EC Treaty. Therefore, there is a need to propose a new Decision if the Community is to continue to offer a guarantee for EIB external financing operations in furtherance of EU policy objectives.

5.2. **Value-added of Community involvement and coherence of the proposal with other financial instruments and possible synergy**

EIB Financing Operations outside the EU represent a highly visible and effective tool in support of EU's external action. The main benefits of EIB intervention in such countries include the passing on to project promoters of expertise and the application of EU environmental and procurement standards to the projects financed. In addition to the above benefits, the EIB passes on in full the financial advantages resulting from the Community guarantee and the attractive funding costs of the EIB to final beneficiaries in the form of competitive interest rates.

¹⁸ See points 19 and 24 of the Interinstitutional agreement.

The mandate under Community guarantee cover provides for the necessary political and financial backing by the Community for countries and projects which would not normally fit within EIB's standard guidelines and criteria.

EIB Financing Operations will complement the activities carried out under the new external assistance instruments. In order to further increase support for EU external policies in each specific region, the linkage between EIB priorities and EU policies will be strengthened. This will be achieved through a stronger framework for dialogue and cooperation between the EIB and the Commission in the definition of regional policies, country strategies, and at a project level. EIB Financing Operations may be usefully combined with EU budget resources in the form of grant support, risk capital and interest rate subsidies alongside technical assistance for project preparation and implementation or enhancement of the legal and regulatory framework.

5.3. Objectives, expected results and related indicators of the proposal in the context of the ABM framework

The main objective of the proposal is to further the contribution of the EIB to the fulfilment of EU policy objectives, through the financing of investment projects. The objectives to be sought by EIB Financing Operations under the mandate will vary across the different regions and are detailed in the proposed legal act. Encouraging cooperation with other International Financial Institutions (IFIs) is also an important objective of the proposed Decision.

The attainment of objectives will primarily be measured by the volume of EIB Financing Operations by regions and by sector, as well as by the volume of EIB Financing Operations co-financed with other IFIs and/or Commission programmes.

5.4. Method of Implementation (indicative)

- Centralised Management***
 - directly by the Commission
 - indirectly by delegation to:
 - executive Agencies
 - bodies set up by the Communities as referred to in art. 185 of the Financial Regulation
 - national public-sector bodies/bodies with public-service mission
- Shared or decentralised management***
 - with Member states
 - with Third countries
- Joint management with international organisations (please specify)***

Relevant comments:

In line with existing provisions, the proposal foresees that the EIB is mandated by the European Parliament and the Council to finance investment projects in accordance with its own rules and procedures. The Commission is responsible for managing the Community guarantee. The EIB and the Commission shall enter into an agreement laying down the detailed provisions and procedures relating to the implementation of this Decision.

6. MONITORING AND EVALUATION

6.1. Monitoring system

EIB Financing Operations under Community guarantee will be managed by the EIB in accordance with the EIB's own rules and procedures, including appropriate audit, control and monitoring measures. As foreseen in the EIB Statute, the Audit Committee of the EIB, which is supported by external auditors, is responsible for verifying that the operations of the EIB have been conducted and its books kept in a proper manner. The EIB accounts are approved annually by its Board of Governors.

Furthermore, the EIB Board of Directors, where the Commission is represented by a Director and an alternate Director, approves each EIB Financing Operation and monitors that the EIB is managed in accordance with its Statute and with the general directives laid down by the Board of Governors.

The existing tripartite agreement between the Commission, the Court of Auditors and the EIB of October 2003 details the rules under which the Court of Auditors is to carry out its audits on the EIB Financing Operations under Community guarantee.

As per Article 6 of the proposal, the Commission shall report to the European Parliament and the Council each year on the EIB Financing Operations carried out under this Decision, drawing upon yearly reports prepared by the EIB, providing information on financing granted in the different regions or sectors and on cooperation with other IFIs.

Furthermore, the EIB shall provide the Commission with statistical, financial and accounting data on each of the EIB Financing Operations as necessary to fulfil its reporting duties or requests by the European Court of Auditors as well as an auditor's certificate on the outstanding amounts of the EIB Financing Operations.

6.2. Evaluation

6.2.1. Ex-ante evaluation

An assessment of the existing Community Guarantee to EIB extra-EU operations can be found in the Report from the Commission to the European Parliament and the Council on borrowing and lending activities of the European Communities in 2007 (COM(2008)590 final) and in the Commission Staff Working Document annexed to it (SEC(2008)2504). Another report of relevance is the Report to the budgetary authority on guarantees covered by the general budget – Situation at 31 December 2007 (COM(2008)451 final) and the Commission Staff Working Paper annexed to it (SEC(2008)2249). Reference is also made to the Report COM (2006)323 and the two Commission Staff Working Papers (SEC (2006)790 and SEC (2006)789) that were presented to the European Parliament and the Council in connection with the Commission proposal (COM (2006)324 final) that lead to the adoption of the annulled Decision.

6.2.2. Measures taken following an intermediate/ex-post evaluation (lessons learned from similar experiences in the past)

The purpose of the legislative proposal is to provide the EIB with a Community guarantee having the same characteristics than the guarantee provided in the annulled Decision 2006/1016/EC and to incorporate the guarantee currently in Decision 2008/847/EC.

6.2.3. *Terms and frequency of future evaluation*

A mid-term review of the mandate will be carried out in 2010, which will allow, where necessary, for a refocusing of the priorities and for a possible release of the optional mandate, as set out in the proposed legal basis. In this framework, an external evaluation will be carried out in 2009. The Commission will prepare a final report on the EIB mandate by 31 July 2013

7. ANTI-FRAUD MEASURES

The EIB has the main responsibility for the adoption of fraud prevention measures, notably through the application to the financed operations of the "EIB's Policy on preventing and deterring Corruption, Fraud, Collusion, Coercion, Money Laundering and the Financing of Terrorism in European Investment Bank activities" as adopted in April 2008.

The EIB's rules and procedures include, among the detailed arrangements to fight against fraud and corruption, the competence of OLAF to carry out internal investigations. In particular, in July 2004, the EIB Board of Governors has approved a decision "concerning the terms and conditions for internal investigations in relation to the prevention of fraud, corruption and any illegal activity detrimental to the Communities' financial interests".

8. DETAILS OF RESOURCES

8.1. Objectives of the proposal in terms of their financial cost

(EUR million)

(Headings of Objectives, actions and outputs should be provided)	Type of output	2007		2008		2009 (**)		2010		2011		2012		2013	
		EIB Financing	Total cost	No. outputs	Total cost	No. outputs	Total cost	No. outputs	Total cost	No. outputs	Total cost	No. outputs	Total cost	No. outputs	Total cost
Indicative volume of signed EIB Financing Operations (new mandate) Total = EUR 27,800 million		1,898		4,079		4,278		4,103		4,132		4,747		4,563	
Outstanding amount based on estimated disbursements and amortizations of EIB operations (Old and new mandates)		11,854		14,240		16,349		18,108		20,000		22,724		25,763	
Outstanding amount based on estimated disbursements and amortizations of other operations (MFA+ Euratom) *		573		588		522		484		455		378		301	
Total outstanding amount based on estimated disbursements and amortizations		12,427		14,828		16,871		18,592		20,455		23,101		26,064	
Target amount @ 9%		1,118		1,335		1,518		1,673		1,841		2,079		2,346	
Budgetary revenues			0		125.8		0		0		0		0		0
Normal provisioning needs			0		0		91.6		158		159		114		121
Maximum budgetary needs Total = EUR 1223 million			0		0		91.6		294		301		262		274

* It does not include new possible MFA and Euratom loans.

** In 2009, an additional amount of EUR 0.5 million will be drawn from the Guarantee Fund for the external evaluation under the mid-term review.

8.2. Administrative Expenditure

8.2.1. Number and type of human resources

Types of post		Staff to be assigned to management of the action using existing and/or additional resources (number of posts/FTEs)					
		2007	2008	2009	2010	2011	2012-13
Officials or temporary staff ¹⁹ (XX 01 01)	A*/AD	4	4	4	4	4	8
	B*, C*/AST	3	3	3	3	3	6
Staff financed ²⁰ by art. XX 01 02							
Other staff ²¹ financed by art. XX 01 04/05							
TOTAL		7	7	7	7	7	14

8.2.2. Description of tasks deriving from the action

The main tasks arising from the management of the Community guarantee are the following:

- Preparation of legislative proposals and guarantee agreements;
- Management of the approval procedure;
- Administration of the annual budgetary procedure;
- Annual reporting to the Council and Parliament;
- Handling of calls;
- Monitoring of the management of the Guarantee Fund;
- Accounting;
- Relations with the Court of Auditors, Parliament and Council.

8.2.3. Sources of human resources (statutory)

- Posts currently allocated to the management of the programme to be replaced or extended
- Posts pre-allocated within the APS/PDB exercise for year 2009
- Posts to be requested in the next APS/PDB procedure
- Posts to be redeployed using existing resources within the managing service (internal redeployment)
- Posts required for year n although not foreseen in the APS/PDB exercise of the year in question

¹⁹ Cost of which is NOT covered by the reference amount.

²⁰ Cost of which is NOT covered by the reference amount.

²¹ Cost of which is included within the reference amount.

The needs for human and administrative resources shall be covered within the allocation granted to the managing service in the framework of the annual allocation procedure.

8.2.4. *Other Administrative expenditure included in reference amount (XX 01 04/05 – Expenditure on administrative management)*

EUR million (to 3 decimal places)

Budget line (number and heading)	2007	2008	2009	2010	2011	2012- 2013	TOTAL
1 Technical and administrative assistance (including related staff costs)							
Executive agencies ²²							
Other technical and administrative assistance							
- <i>intra muros</i>							
- <i>extra muros</i>							
Total Technical and administrative assistance	-	-	-	-	-	-	-

8.2.5. *Financial cost of human resources and associated costs not included in the reference amount*

EUR million (to 3 decimal places)

Type of human resources	2007	2008	2009	2010	2011	2012- 2013
Officials and temporary staff (XX 01 01)	0.854	0.854	0.854	0.854	0.854	1.708
Staff financed by Art XX 01 02 (auxiliary, END, contract staff, etc.) (specify budget line)	-	-	-	-	-	-
Total cost of Human Resources and associated costs (NOT in reference amount)	0.854	0.854	0.854	0.854	0.854	1.708

²² Reference should be made to the specific legislative financial statement for the Executive Agency(ies) concerned.

8.2.6. Other administrative expenditure not included in reference amount

EUR million (to 3 decimal places)

	2007	2008	2009	2010	2011	2012-2013	TOTAL
XX 01 02 11 01 – Missions							
XX 01 02 11 02 – Meetings & Conferences							
XX 01 02 11 03 – Committees ²³							
XX 01 02 11 04 – Studies & consultations							
XX 01 02 11 05 - Information systems							
2 Total Other Management Expenditure (XX 01 02 11)							
3 Other expenditure of an administrative nature (specify including reference to budget line)							
Total Administrative expenditure, other than human resources and associated costs (NOT included in reference amount)	-	-	-	-	-	-	-

²³ Specify the type of committee and the group to which it belongs.