



**COUNCIL OF
THE EUROPEAN UNION**

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STATEMENT OF THE COUNCIL'S REASONS

Subject: Position of the Council at first reading with the view to the adoption of a Decision of the European Parliament and of the Council granting an EU guarantee to the European Investment Bank against losses under loans and guarantees for projects outside the European Union
- Adopted by the Council on 20 September 2011

I. INTRODUCTION

The Commission adopted its proposal on 21 April 2010.

The European Parliament adopted its position at first reading at its plenary session on 17 February 2011. The European Parliament adopted 5 amendments; amendment 1, presented on behalf of the Committee on Budgets, covered changes made throughout the text.

On 20 September 2011 the Council adopted its position at first reading in accordance with Article 294(5) TFEU.

The Council position at first reading is the result of informal contacts carried out from February to June 2011 between the European Parliament, the Commission and the Council as foreseen by points 16 to 18 of the Joint declaration on practical arrangements for the co-decision procedure¹.

II. OBJECTIVE

The European Union provides a budgetary guarantee to the European Investment Bank (EIB) covering risks of a sovereign and political nature in connection with its loan and loan guarantee operations carried out outside the EU in support of EU external policy objectives.

The EIB external mandate for the period 2007-2011 was established by Decision No 633/2009/EC of the European Parliament and of the Council of 13 July 2009, which required the Commission to present a mid-term report on its application accompanied by a proposal for its amendment.

On the basis of findings of the mid-term review, the Commission proposal aims to ensure the continuation of the EU guarantee for EIB external financing for the remainder of the current financial perspectives 2007-2013 and introduces a number of new elements:

¹ OJ C 145, 30.6.2007, p. 5.

Activation of the EUR 2 billion "optional mandate", which was placed in reserve by Decision No 633/2009/EC, dedicated to projects which contribute to the fight against climate change across all regions covered by the decision.

Replacing the current system of regional objectives for operations under EU guarantee with horizontal high-level objectives covering all regions under the external mandate.

Development by the Commission, together with the EIB, and in consultation with the European External Action Service (EEAS), of operational guidelines setting out for each region practical measures for linking the general mandate objectives and their implementation.

Strengthening of the capacity of the EIB to support EU development objectives.

Activation of the EIB external mandate for 5 new countries.

III. ANALYSIS OF THE COUNCIL'S POSITION AT FIRST READING

1) Structural changes

The Council position at first reading introduces a new Annex III listing eligible regions and countries (cf. section 2 substantive changes / country eligibility).

Recitals (15), (16), (17), (18), (19) and (20) in the Commission proposal are considered non-essential and moved to a new Annex IV "regional policy framework", after appropriate redrafting.

2) Substantive changes

Key issues

1) Development orientation

The Council's first reading position integrates the European Parliament's emphasis on the EIB's indirect contribution to general guiding principles and policy objectives of the European Union, including the development of third countries, whilst preserving the EIB's distinctiveness as an investment bank.

The EIB is therefore invited to better frame the development impact of its external operations. With a view to the new requirements introduced, a gradual adjustment of EIB resources is to be ensured whilst opportunity to further enhance efficiency and effectiveness should be exploited. Enhanced cooperation with other International Finance Institutions (IFIs) and European bilateral finance institutions (EBFIs) is foreseen. The possibility envisaged by the Parliament to create a group of experts to study the development of an EU platform for cooperation and development is taken into account in a modified recital (but not in articles, cf. below). The Council position also follows the European Parliament approach emphasising the role of SMEs and the need to foster their access to financial services.

In that respect, the following amendments have been accepted

- Amendment 1:

Article 1(2); Article 7(3) - new paragraph; recital (2) - new

The following amendments have been partly accepted or accepted after redrafting.

- Amendment 1:

recital (1); recital (18); recital (19) - new; recital (21); recital (22); recital (26) - new; recital (31); recital (35); recital (36); recital (37) - new; recital (40) - new: integrates different redrafted parts of amendment 1; Article 1(1); Article 3(2) - new paragraph; Article 6(2); Article 6(5) - text redrafted and moved; Article 7(1); Article 7(2); Article 9(2)

- Amendment 3:

on micro-credit financing, redrafted and moved to new recital (40)

- Amendment 4:

Article 9(1)

- Amendment 5:

redrafted and moved to Article 1(1)

The following amendments have been rejected by the Council as the proposal to create working groups was considered as referring to a different legal basis and therefore should not be set by means of an article in the Decision:

- Amendment 1:

Amendment introducing an article on the EU platform for cooperation and development (the recital in the Commission proposal remained but was redrafted);

Amendment introducing an article on a working party on perspectives of the cooperation and development financing originating from the Union.

2) Mandate Ceilings

The Council position at first reading takes into account the European Parliament proposal to increase the mandate ceilings as compared to the Commission proposal in light of temporary and exceptional circumstances, and without pre-judging the ceilings under the next multi-annual financial framework.

On the one hand, the Council accepts the European Parliament amendment to increase by 1 billion Euros the sub-ceiling for Mediterranean countries in order to provide appropriate support to the region in the context of the unrest in the Southern Mediterranean in 2011.

On the other hand, the Council accepts partly the increase across all other regions proposed by the European Parliament, in particular in the light of the frontloading of EIB external lending activities in 2009 and 2010 in the context of the global economic crisis. Unlike the European Parliament, the Council position at first reading foresees however an equal increase of 4% across regions and sub-regions (excluding Mediterranean countries, cf. above).

The Council position at first reading also takes into account the European Parliament approach to flexibility, by accepting to give the governing bodies of the EIB the possibility to reallocate up to 10% (amendment 1 foresees 20%) of the regional ceilings within and between regions.

The following amendments have been partly accepted:

- Amendment 1:

Article 2(1); Annex I

Amendments rejected:

The text of the European Parliament amendment 1 introducing a new recital on the revision of ceilings is rejected on the ground that the extension of the mandate to a limited number of countries does not justify the substantial and exceptional increase in mandate ceilings foreseen in the Decision.

The text has therefore been adapted to provide an adequate justification for the increase in a new recital (12). A new recital (13) introduces the specific modalities associated with this exceptional increase. Article 2(2) is modified in line with the new flexibility introduced.

3) Technical regional operational guidelines

The European Parliament's position required the regional operational guidelines to be adopted by means of delegated acts.

Because of the technical nature of the guidelines, the Council's first reading position considers their adoption by delegated acts inappropriate and maintains the Commission proposal. This allows for a drafting of the guidelines by the Commission together with the EIB as envisaged by the Commission proposal, which would not be possible if the guidelines were to be adopted by means of delegated acts.

The text of the European Parliament amendment 1 in Article 6 and the addition of new articles on the exercise and revocation of the delegation and objections to delegated acts is therefore rejected. Recital (29) and Article 6(1) are redrafted. The word "technical" is added in front of each reference to the regional operational guidelines.

4) Country eligibility

In the Commission proposal, eligible countries are listed in Annex II, a number of which are marked with a "*". For these countries, eligibility for EIB financing under EU guarantee has to be decided in accordance with the ordinary legislative procedure.

A European Parliament amendment to Annex II introduce a "*" for Belarus, instead of a footnote specifying conditions for Belarus to become eligible in the Commission proposal.

The Council first reading position foresees a different approach to country eligibility: annex II lists potentially eligible regions and countries. This list of potentially eligible regions and countries is established in accordance with the ordinary legislative procedure. A new Annex III is introduced and lists eligible regions and countries, which shall include no countries other than those listed in Annex II. The Commission is empowered to adopt delegated acts concerning amendments to Annex III. This allows for a much faster update of the list of eligible countries in light of significant policy developments, based on the Commission's overall economic and political assessment.

The new recital on the list of eligible countries introduced by the European Parliament is redrafted (recital (9)). A new recital (10) and a new Article 5 and Annex III are introduced, Article 4 and Annex II are amended.

5) Climate change mandate

The Council's first reading position accepts the European Parliament's approach conferring to the Council the power to restrict the eligibility to receive EIB financing for climate-change mitigation under the EU guarantee for countries that are deemed not to have committed to meeting appropriate climate change-related targets. However, in the Council's first reading position, this should be done on a proposal from the Commission.

The following amendments are accepted or accepted after redrafting:

- Amendment 1

recital (15) - new; recital (16); Article 2(4); Article 2(5)

6) Reporting

The Council's first reading position follows the European Parliament approach calling for additional reporting requirements.

The following amendments are accepted totally, partly or after redrafting:

- Amendment 1:

Recital (14); Recital (27); Recital (38); Article 11

7) Other

Other parts of amendment 1 and 2 have been accepted partly, totally or after redrafting in the context of the informal negotiations between the European Parliament, the Council and the Commission:

Amendment 1:

Recital (23); recital (24) - new; Recital (25) - new; recital (28); recital (30); recital (32); recital (33) - new; Article 2(6): Article 3(1); Article 6(4) - new paragraph : text from Amendment 1 redrafted and moved; Article 10(5) - new paragraph; Article 12; Article 13(3) - new paragraph; Article 14; Article 15; Article (17)

Amendment 2:

Introduction of a new recital on the new financial framework - partly taken into account in new recital (40)

Some parts of amendment 1 were rejected in the negotiations, in particular a number of elements which were not considered directly linked to the Decision or judged too burdensome.

Amendment 1:

New recital on risk capital and special loans reflows from earlier operations;

New recital on a cost-benefit analysis to be carried out by the EIB to divide up all its external activities on a geographic basis;

New paragraph in article 6 introducing the obligation for the Commission to publish a reasoned opinion for each project it approves;

Change in Article 10(4).

IV. CONCLUSION

The Council's Position at first reading reflects the compromise reached in negotiations between the Council and the European Parliament, facilitated by the Commission.

This compromise was endorsed through the adoption of a political agreement by Coreper on 7 July 2011 and by the Council on 18 July 2011. The Chair of the Budgets Committee has sent a letter to the Chair of Coreper indicating that, should the Council transmit its position as attached to the letter of the Committee, he would recommend to the plenary that Parliament, in its second reading, accept the Council position without any amendments, subject to verification by the lawyer linguists of both institutions.