



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 19 March 2014

7392/14

**Interinstitutional File:
2013/0152 (COD)**

**CODEC 680
ECOFIN 230
RELEX 207
PE 141**

INFORMATION NOTE

from: General Secretariat
to: Permanent Representatives Committee/Council

Subject: Proposal for a Decision of the European Parliament and of the Council on granting an EU guarantee to the European Investment Bank against losses under financing operations supporting investment projects outside the Union
– Outcome of the European Parliament's first reading
(Strasbourg, 10 to 13 March 2014)

I. INTRODUCTION

The Rapporteur, Mr Ivailo KALFIN (S&D, BG), presented a report on the proposal for a Decision on behalf of the Committee on Budgets. The report contained 98 amendments (amendments 1 - 98) to the proposal.

Subsequently, in accordance with the provisions of Article 294 of the TFEU and the joint declaration on practical arrangements for the codecision procedure ¹, a number of informal contacts took place between the Council, the European Parliament and the Commission with a view to reaching an agreement on this dossier at first reading, thereby avoiding the need for second reading and conciliation.

In this context, the Committee presented one compromise amendment (amendment 99) to the proposal for a Regulation. This amendment had been agreed during the informal contacts referred to above and was consequently intended to replace the 98 amendments previously voted by the Committee.

In addition, the EFD group tabled one amendment (amendment 100).

II. VOTE

When it voted on 11 March 2014, the plenary adopted the compromise amendment (amendment 99) to the proposal for a Decision. No other amendments were adopted. The Commission's proposal as thus amended constitutes the Parliament's first-reading position which is contained in its legislative resolution as set out in the Annex hereto².

The Parliament's position reflects what had been previously agreed between the institutions. The Council should therefore be in a position to approve the Parliament's position.

The act would then be adopted in the wording which corresponds to the Parliament's position.

¹ OJ C 145, 30.6.2007, p.5

² The version of the Parliament's position in the legislative resolution has been marked up to indicate the changes made by the amendments to the Commission's proposal. Additions to the Commission's text are highlighted in *bold and italics*. The symbol "■" indicates deleted text.

EU guarantee to EIB against losses under financing operations supporting investment projects outside the Union *I**

European Parliament legislative resolution of 11 March 2014 on the proposal for a decision of the European Parliament and of the Council on granting an EU guarantee to the European Investment Bank against losses under financing operations supporting investment projects outside the Union (COM(2013)0293 – C7-0145/2013 – 2013/0152(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2013)0293),
 - having regard to Article 294(2) and Articles 209 and 212 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0145/2013),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the undertaking given by the Council representative by letter of 20 December 2013 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union, and the related statement attached to the Coreper minutes, notified to Parliament by letter of the same date,
 - having regard to Rule 55 of its Rules of Procedure,
 - having regard to the report of the Committee on Budgets and the opinions of the Committee on Foreign Affairs, the Committee on Development, the Committee on International Trade and the Committee on Economic and Monetary Affairs (A7-0392/2013),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

P7_TC1-COD(2013)0152

Position of the European Parliament adopted at first reading on 11 March 2014 with a view to the adoption of Decision No .../2014/EU of the European Parliament and of the Council granting an EU guarantee to the European Investment Bank against losses under financing operations supporting investment projects outside the Union

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 209 and 212 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Acting in accordance with the ordinary legislative procedure **■**¹,

¹ Position of the European Parliament of 11 March 2014.

Whereas **█**

- (1) In addition to its core mission of financing investment in the ***European Union, which remains its main task and objective***, the European Investment Bank (EIB) undertakes financing operations outside the Union in support of the Union's external policies. This allows the budget funds of the Union available to the external regions to be complemented by the financial strength of the EIB for the benefit of the targeted third countries. In undertaking such financing operations, the EIB ***indirectly*** contributes to the general principles and policy objectives of the Union, ***which include reducing poverty through inclusive growth and sustainable economy, environmental and social development and the prosperity of the Union in changing global economic circumstances***.
- (2) Article 209(3) of the Treaty on the Functioning of the European Union (TFEU), in conjunction with Article 208 thereof, provides that the EIB is to contribute, under the terms laid down in its Statute, to the implementation of the measures necessary to further the objectives of Union development cooperation policy.
- (3) With a view to supporting Union external action, and in order to enable the EIB to finance investments outside the Union without affecting the credit standing of the EIB, the majority of its operations outside the Union have benefited from an EU budgetary guarantee ('EU guarantee') administered by the Commission. ***This further supports EIB's creditworthiness towards the financial markets, which is of primary importance***.

- (4) The latest EU guarantee for EIB financing operations signed during the period from 1 February 2007 to 31 December 2013 was established by Decision No 1080/2011/EU of the European Parliament and of the Council¹. An EU guarantee for EIB financing operations outside the Union in support of Union policies should be established for the 2014-2020 multiannual financial framework.
- (5) *The Guarantee Fund for external actions ("Guarantee Fund"), established by Council Regulation (EC, Euratom) No 480/2009², provides a liquidity cushion for the Union budget against losses incurred on EIB financing operations and on macro-financial assistance and Euratom loans outside the Union.*
- (6) A list of countries potentially eligible for EIB financing under the EU guarantee should be established. It is also appropriate to establish a list of countries actually eligible for EIB financing under the EU guarantee.

¹ Decision No 1080/2011/EU of the European Parliament and of the Council of 25 October 2011 granting an EU guarantee to the European Investment Bank against losses under loans and loan guarantees for projects outside the Union and repealing Decision No 633/2009/EC (OJ L 280, 27.10.2011, p. 1).

² Council Regulation (EC, Euratom) No 480/2009 of 25 May 2009 establishing a Guarantee Fund for external actions (OJ L 145, 10.6.2009, p. 10).

- (7) ***Bhutan should be added to the list of countries actually eligible for EIB financing and Myanmar/Burma should be added to both lists following the recent developments which allowed the Union to open a new chapter in its relations with **Bhutan and Myanmar/Burma** in order to support the ongoing political and economic reforms in **both countries**.***
- (8) In order to reflect significant policy developments, the list of countries actually eligible for EIB financing operations under the EU guarantee should be reviewed as appropriate and the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of amendments to Annex III to this Decision. ***The Commission's amendments to Annex III should be based on an overall assessment including economic, social, environmental and political aspects, in particular those related to the democracy, human rights and fundamental freedoms.*** It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of ***all*** relevant documents to the European Parliament and to the Council.

- (9) In order to cater for the potential evolution of the actual provisioning needs of the Guarantee Fund in accordance with Regulation (EC, Euratom) No 480/2009, the maximum ceiling of the EU guarantee should be broken down into a fixed ceiling of a maximum amount of EUR 27 000 000 000 and an optional additional amount of EUR 3 000 000 000. *The provisioning of the Guarantee Fund in the general budget of the Union (budget line 01 03 06) is made ex-post on the basis of the outturn figures for outstanding guaranteed external lending at the end of year n-2. In view of the proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1638/2006 laying down general provisions establishing a European Neighbourhood and Partnership Instrument, "reflows" deriving from Mediterranean risk capital and loan investments under operations concluded before 2007 using Union budget funds have been accumulated in a fiduciary account established for the Facility for Euro-Mediterranean Investment and Partnership (FEMIP). Part of these reflows should be used for the Guarantee Fund as an exceptional measure to ensure that the ceilings of EIB financing operations under this Decision are sustained at an appropriate level for the 2014-2020 period. The remaining funds should be returned to the general budget of the Union.*

- (10) *Issues to be considered for the activation, in whole or in part, of the optional additional amount should include: progress in the implementation of this Decision by the EIB, in particular the results of EIB operations based on information from, amongst others, the Results Measurement framework (REM), including the development impact; the provisioning needs of the Guarantee Fund taking into account past and future outstanding amounts on all activities covered by the Guarantee Fund; the macro-economic, financial and political situation of the eligible regions and countries at the time of the mid-term review.*
- (11) The amounts covered by the EU guarantee in each region should continue to represent ceilings for the EIB financing under the EU guarantee and not targets that the EIB is required to meet. The ceilings should be evaluated as part of the mid-term review of this Decision, *in particular in light of possible changes to the list of regions and countries actually eligible for EIB financing.*
- (12) *EIB financing operations should be consistent with the beneficiary country's own strategies. Against this background, in* order to enhance the coherence and the focus of the EIB external financing activity on supporting Union policies, and for the maximum benefit of beneficiaries, Decision No 1080/2011/EU *sets* out general objectives for EIB financing operations across all eligible regions and countries, i.e. local private sector development, in particular in support of small and medium-sized enterprises (SMEs), social and economic infrastructure and climate change mitigation and adaptation, building on the comparative strengths of the EIB in areas where it has a well-proven track record. These objectives should be maintained in this Decision *to further promote sustainable growth and job creation.*

- (13) Improving access to financing for SMEs, including SMEs from the Union investing in the regions covered by this Decision, can play an essential role in stimulating economic development and in combating unemployment. In order to effectively reach out to SMEs, the EIB *financing operations should be result-oriented. The EIB should, where possible, invest in research and innovation by SMEs as a means of supporting local development. The EIB* should cooperate with local financial intermediary institutions in the eligible countries, *which should be integrated into the local economy*, in particular to ensure that part of the financial benefits is passed on to their clients and *that added value is provided* compared to other sources of finance. *The EIB should also, as far as possible, increase the diversification of its financial partners in the countries in which it operates. During its due diligence, the EIB should assess if financing operations supporting SMEs via a financial intermediary are in line with the regional technical operational guidelines, the REM and the EIB standards. The EIB should establish a reporting mechanism to make sure that the funds dedicated to SMEs are used for their benefit. A consolidated report on SMEs financing under this Decision should be provided by the EIB as part of its contribution to the mid-term review.*

- (14) The coverage of the EU guarantee, which is limited to risks of a sovereign and political nature, is not sufficient in itself to ensure a meaningful EIB activity in support of micro-finance. Therefore such activity, where appropriate, should be carried out in connection with budgetary resources available under other instruments *and via intermediary institutions including at local level as a means to promote growth and contribute indirectly to reducing poverty in poorer countries.*
- (15) The EIB should continue to finance investment projects in the areas of social, environmental, and economic infrastructure, *including transport and energy*, and should consider increasing its activity in support of health and education infrastructure when there is clear added value in doing so.

- (16) *To reinforce the climate change dimension of the EU guarantee, an overall volume of operations target and a system allowing to ex-ante assess greenhouse gas emissions of projects supported under the EU guarantee should be introduced. EIB financing operations in support of climate change mitigation and adaptation should represent at least 25% of total EIB financing operations in order to further the promotion of the Union's climate goals on a global scale. The EIB should provide its technical expertise in cooperation with the Commission to support public and private counterparties benefitting from EIB financing operations in order to address the challenge of climate change and to make the best possible use of available financing. Concessional funding should be available for mitigation and adaptation projects. EIB financing operations should, where possible and appropriate, be complemented by funds from the general budget of the Union through the efficient and appropriate blending of grants and loans for climate change financing in the context of Union external assistance. In this regard, the Commission's annual report to the European Parliament and the Council should contain a detailed report on the financial instruments used for financing these projects, identifying the amounts of EIB financing operations and the corresponding amounts of grants.*

- (17) Within the areas covered by the general objectives, regional integration among countries, in particular economic integration between Pre-accession countries, Neighbourhood countries and the Union, should be an underlying objective for EIB financing operations. ***In that context***, the EIB should be able to support partner countries ***within areas covered by the general objectives*** through foreign direct investments by companies from the Union that ***promote economic integration with the Union and that*** contribute to promoting technology and knowledge transfer, ***provided*** that ***appropriate*** consideration has been ***given*** during the investment projects' due diligence to minimise the risks that EIB financing operations lead to negative repercussions on employment in the Union. The EIB should also be encouraged to support foreign direct investment in partner countries by companies from the Union at its own risk, ***taking into account the EIB's risk-bearing capacity***.
- (18) ***The EIB should regularly conduct ex post or mid-term evaluations of supported activities under this Decision with a view to assessing their relevance, performance and development effects and to identify aspects that could improve future activities. Such evaluations should contribute to accountability and analysis of sustainability.***

- (19) The practical measures for linking the general objectives of the EU guarantee and their implementation are to be set out in regional technical operational guidelines. Such guidelines should be consistent with the wider Union regional policy framework, ***including the differentiation principle in the European Neighbourhood Policy***. The regional technical operational guidelines should be reviewed ***following the adoption of this Decision*** and further updated following the ***mid-term*** review **■** in order to adapt to the developments in the Union external policies and priorities. ***The update of the regional operational technical guidelines should, among other considerations, take into account relevant developments in the eligible countries.***
- (20) In accordance with ***Protocol No 5 on the Statute of the European Investment Bank annexed to the Treaty on European Union (TEU) and the TFEU***, applications made directly to the EIB for EIB financing operations to be carried out under this Decision are to be submitted to the Commission for an opinion on the conformity with relevant ***Union*** legislation and policies. In the ***case of EIB financing operations falling under this Decision, where*** the Commission delivers a negative opinion on ***any such*** operation, ***that*** operation ***should*** not be covered by the EU guarantee.

- (21) While the EIB's strength remains its *distinctive model* as a *publicly owned* investment bank *whose remit is that of providing long-term lending so as to meet the policy goals set by its shareholders*, EIB financing operations should contribute to the general principles guiding Union external action, as referred to in Article 21 *TEU*, of **█** consolidating *and supporting* democracy and the rule of law, human rights and fundamental freedoms, and to the implementation of international *commitments and agreements, including* environmental agreements to which the Union is a party. In particular, *the EIB should contribute to economic, financial and technical cooperation with third countries in accordance with Article 212 TFEU. Furthermore, EIB actions should be in line with international law, including respect for the principles of the Charter of the United Nations. EIB actions should also be in line with the United Nations Economic Commission for Europe Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (Aarhus Convention) at relevant stages of the project cycle.* In relation to developing countries, EIB financing operations should foster their sustainable economic, social and environmental development, particularly in the most disadvantaged amongst them, their smooth and gradual integration into the world economy, **█** as well as compliance with objectives approved by the Union in the context of the United Nations and other *relevant* international organisations. While contributing to the implementation of the measures necessary to further the objectives of Union development cooperation policy in accordance with Article 209(3) *TFEU*, the EIB should strive to support indirectly the achievement of the United Nations' 2015 Millennium Development Goals, *and after 2015 the achievement of any new development targets which might modify or replace the* Millennium Development Goals, in all regions where it is active.

(22) The EIB activity under this Decision should support the *implementation* of the European Consensus on Development, *of the Agenda for Change* and *of* the principles of aid effectiveness outlined in the Paris Declaration of 2005, the Accra Agenda for Action of 2008 and the Busan Partnership Agreement of 2011. Furthermore, it should be coherent with the EU Strategic Framework and Action Plan on Human Rights and Democracy adopted by the Council on 25 June 2012 and international environmental agreements including biodiversity commitments. It should be implemented through a number of concrete measures, in particular by reinforcing the EIB's capacity to appraise environmental, social **■**, development aspects of investment projects, including human rights, *fundamental freedoms* and conflict-related risks, and by promoting local consultation with public authorities and civil society. In this context, the EIB should implement and further develop its *REM* which provides a detailed set of performance indicators measuring the economic, environmental, social, and development impact of its financing operations throughout the *EIB project cycle*. The implementation of the *REM* should be evaluated as part of the mid-term review of this Decision. When carrying out due diligence in respect of an investment project, the EIB should, where appropriate and in line with the Union's social and environmental principles *and international best practices, as well as Union law and the national law of the beneficiary country*, require the investment project promoter to carry out local consultations and disclose their results to the public *in order to take account of the impact of projects on the relevant stakeholders. The EIB should remain in communication with the project promoters and beneficiaries of the projects throughout the project programming process. Finance contracts signed during the period covered by this Decision for EIB financing operations* involving public counterparties should explicitly include the possibility to suspend disbursements in case of revocation of eligibility under this Decision of the country in which the investment project takes place.

(23) At all levels, from upstream strategic planning to downstream investment project development, it should be ensured that EIB financing operations comply with and support Union external policies and the general objectives set out in this Decision. With a view to increasing the coherence of Union external action, dialogue on policy and strategy should be further strengthened between the Commission and the EIB, including the European External Action Service (*EEAS*), ***while keeping the European Parliament and the Council duly informed. EIB offices outside the Union should whenever possible be located within Union delegations in order to foster such cooperation while sharing operating costs. The Memorandum of Understanding between the European Commission and the European Investment Bank in respect of cooperation and coordination in the regions covered by the External Mandate, which was revised in 2013*** enhancing cooperation and early mutual exchange of information between the Commission, ***the EEAS*** and the EIB at operational level, should continue to be applied. ***Cooperation in the framework of the Memorandum of Understanding should in particular include a regular review of the application of the differentiation principle in Neighbourhood countries.*** It is of particular importance to have an early ***and systematic*** exchange of views between the Commission and the EIB, including the EEAS, as appropriate, in the process of preparing ***relevant*** programming documents in order to maximise synergies between their activities. The cooperation in relation to the respect of human rights, ***fundamental freedoms*** and conflict prevention issues should also be reinforced. ***The EIB should be encouraged to cooperate with Union delegations during the EIB project cycle.***

(24) Union external relations should be supported by several instruments in particular by Regulation (EU) No .../2014 of the European Parliament and of the Council *¹. With a view to enhancing the coherence of overall Union support in the regions concerned, opportunities should be seized to combine EIB financing with Union budgetary resources when and as appropriate, in the form of financial instruments provided for in Title VIII of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council² and technical assistance for project preparation and implementation, through the Instrument for Pre-Accession Assistance II established by Regulation (EU) No .../2014 of the European Parliament and of the Council**³, the European Neighbourhood Instrument established by Regulation (EU) No .../2014 of the European Parliament and of the Council***⁴, the Development Cooperation Instrument established by Regulation (EU) No .../2014 of the European Parliament and of the Council****⁵, the Partnership Instrument for

* OJ: please insert number of Regulation set out in PE-CONS 130/13 [2011/0415(COD)] and complete text of related footnote.

¹ Regulation (EU) No .../2014 of the European Parliament and of the Council of ... laying down common rules and procedures for the implementation of the Union's instruments for financing external action (OJ L ...).

² Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298, 26.10.2012, p. 1).

** OJ: please insert number of Regulation set out in PE-CONS 123/13 [2011/0404(COD)] and complete text of related footnote.

³ Regulation (EU) No .../2014 of the European Parliament and of the Council of ... establishing an Instrument for Pre-accession Assistance (IPA II) (OJ L ...).

*** OJ: please insert number of Regulation set out in PE-CONS 126/13 [2011/0405(COD)] and complete text of related footnote.

⁴ Regulation (EU) No .../2014 of the European Parliament and of the Council of ... establishing a European Neighbourhood Instrument (OJ L ...).

**** OJ: please insert number of Regulation set out in PE-CONS 127/13 [2011/0406(COD)] and complete text of related footnote.

⁵ Regulation (EU) No .../2014 of the European Parliament and of the Council of ... establishing a financing instrument for development cooperation for the period 2014-2020 (OJ L ...).

cooperation with third countries established by Regulation (EU) No .../2014 of the European Parliament and of the Council^{**** 1}, the Instrument for the promotion of Democracy and Human Rights worldwide established by Regulation (EU) No .../2014 of the European Parliament and of the Council^{***** 2}, the Instrument contributing to stability and peace established by Regulation (EU) No .../2014 of the European Parliament and of the Council^{***** 3}, and the Instrument for Nuclear Safety Cooperation established by Council Regulation (EU) No .../2014^{+ 4}. Following Decision No 1080/2011/EU, the Commission established an EU Platform for Blending in External Cooperation with a view to optimising the functioning of mechanisms for the blending of grants and loans outside the Union *in particular in implementing the general budget of the Union and EIB loans respectively, and exchanging best practices on governance and on evaluation criteria at project level. The participation of the EIB and other financial institutions in blending mechanisms should be fully in line with the Union's external objectives, aid effectiveness and transparency.*

**** OJ: please insert number of Regulation set out in PE-CONS 128/13 [2011/0411(COD)] and complete text of related footnote.

¹ Regulation (EU) No .../2014 of the European Parliament and of the Council of ... establishing a Partnership Instrument for cooperation with third countries (OJ L ...).

***** OJ: please insert number of Regulation set out in PE-CONS 129/13 [2011/0412(COD)] and complete text of related footnote.

² Regulation (EU) No .../2014 of the European Parliament and of the Council of ... establishing a financing instrument for democracy and human rights worldwide (OJ L ...).

***** OJ: please insert number of Regulation set out in PE-CONS 110/13 [2011/0413(COD)] and complete text of related footnote.

³ Regulation (EU) No .../2014 of the European Parliament and of the Council of ... establishing an instrument contributing to stability and peace (OJ L ...).

⁺ OJ: please insert number of Regulation set out in doc. 16737/13 [2011/0414(CNS)] and complete text of related footnote.

⁴ Council Regulation (Euratom) No .../2014 of ... establishing an Instrument for Nuclear Safety Cooperation (OJ L ...).

(25) In its financing operations outside the Union that fall within the scope of this Decision, the EIB should endeavour further to enhance coordination and cooperation with European *and international financial institutions*, in particular those participating in the EU Platform for Blending in External Cooperation. This cooperation includes, where appropriate, cooperation on sector conditionality and mutual reliance on procedures, use of ■ co-financing and participation in global initiatives, such as those promoting aid coordination and effectiveness. Such coordination and cooperation should strive to minimise possible duplication of costs and unnecessary overlap. *Cooperation should be based on the principle of reciprocity. Reciprocal access by the EIB to financial instruments set up by other European and international financial institutions should be promoted, as appropriate. The tripartite memorandum of understanding* between the Commission, the EIB Group and the European Bank for Reconstruction and Development (EBRD) in respect of cooperation outside the Union, which allows the EIB Group and the EBRD to act in a complementary way by relying on their respective comparative advantages, was updated in 2012 to cover the extension of EBRD's geographical scope to the Mediterranean region and should continue to be applied. The principles set out in this Decision should also be applied when EIB financing is implemented through cooperation agreements with other European *and international financial institutions*.

- (26) The EIB should be encouraged to *continue to finance* operations outside the Union *also* at its own risk, including in support of Union economic interests, in countries and in favour of investment projects having a sufficient creditworthiness according to the assessment of the EIB and taking into account its own risk absorption capacity, *so that the use of the EU guarantee can be focused on countries and investment projects where the EU guarantee provides added value on the basis of EIB own assessment, including in terms of sustainable economic, social and environmental development.*
- (27) The EIB should expand the range of innovative financial instruments it offers, including by focusing more on developing guarantee instruments. Moreover, the EIB should actively seek to participate in risk sharing instruments and debt capital market financing of projects with stable and predictable cash flow generation. In particular, it should consider supporting debt capital market instruments issued or granted for the benefit of an investment project carried out in the eligible countries. In addition, the EIB should increase its provision of loans in local currencies and issue bonds in local markets, provided that beneficiary countries put in place the necessary structural reforms, in particular in the financial sector, as well as other measures to facilitate EIB activities. *In the diversification and expansion of capital market instruments, special care should be taken to ensure that such instruments do not lead to risky financial practices and indebtedness and therefore could threaten financial stability.*

- (28) *The Commission should report annually to the European Parliament and the Council. The report should assess EIB financing operations and their compliance with this Decision, their added value and contribution to the Union external policies, their quality, their development impact drawing on the EIB's REM and the financial benefits transferred to beneficiaries. The report should also include information on calls on the EU guarantee, on climate change and biodiversity financing under this Decision, on the follow-up of the functioning of the Memorandum of Understanding between the EIB and the European Ombudsman, and a description of the cooperation with the Commission and other European and international financial institutions, including co-financing. The report should be made public in order to allow relevant stakeholders, including civil society, to express their views.*

- (29) The EIB financing operations in support of Union external policies should continue to be conducted in accordance with the principles of sound banking practice. They should continue to be managed in accordance with the EIB's own rules and procedures, ***which should reflect those principles***, including appropriate control measures and compliance with the EIB's statement on social and environmental standards, as well as with the relevant rules and procedures concerning the Court of Auditors and the European Anti-Fraud Office (OLAF). In its financing operations the EIB should adequately implement its policies towards weakly regulated or non-cooperative jurisdictions ***identified as such by the Union, the United Nations, the Organisation for Economic Cooperation and Development or the Financial Action Task Force*** in order to contribute to the international fight against tax fraud, tax evasion and money-laundering. ***In the interests of transparency, the EIB should draw up, to the extent possible, in cooperation with the local financial intermediaries, a list of the final borrowers.***

- (30) The EIB should take appropriate measures ensuring that, when financing operations subject to the EU guarantee, the financial interests of the Union are protected by the application of preventive measures against fraud, corruption, **money laundering** and any other illegal activities and that OLAF is entitled to conduct on-the-spot checks and inspections in the premises of the beneficiaries. ***The EIB should, in line with its Policy on preventing and deterring prohibited conduct in European Investment Bank activities (the "EIB anti-fraud policy"), which was adopted in 2008 and revised in 2013, cooperate closely with the competent Union and Member States' authorities in order to strengthen the anti-money laundering and anti-terrorist financing measures in force and help improve their enforcement. In line with its Whistleblowing Policy, the EIB should also pay particular attention to information by whistleblowers regarding potential cases of fraud, corruption or other illegal activity, allowing for a proper follow-up, feedback and protection against retaliation.***
- (31) ***The EIB governing bodies should be encouraged to take the necessary measures to adapt the EIB activity to contribute to the Union's external policies in an effective manner, and to adequately meet the requirements set out in this Decision,***

HAVE ADOPTED THIS DECISION:

Article 1

EU guarantee

1. The Union shall grant the European Investment Bank (EIB) a budgetary guarantee for financing operations carried out outside the Union ("EU guarantee"). The EU guarantee shall be granted as a global guarantee in respect of payments due to the EIB, but not received by it, in connection with loans, loan guarantees, and debt capital market instruments granted for or issued for the benefit of EIB investment projects that are eligible in accordance with paragraph 2.
2. Eligible for the EU guarantee shall be the EIB loans, loan guarantees, and debt capital market instruments that are granted for or issued for the benefit of investment projects carried out in eligible countries in accordance with the EIB's own rules and procedures, ***including the EIB's statement on environmental and social principles and standards***, and in support of the relevant Union external policy objectives, where EIB financing has been granted in accordance with a signed agreement which has neither expired nor been cancelled ('EIB financing operations').
3. ***The EIB financing operations in support of Union external policies shall continue to be managed in accordance with the principles of sound banking practices.***

4. The EU guarantee shall be restricted to 65% of the aggregate amount disbursed and guaranteed under EIB financing operations, less amounts reimbursed, plus all related amounts.
5. The EU guarantee shall cover EIB financing operations signed during the period from 1 January 2014 to 31 December 2020.
6. If, on expiry of the period referred to in paragraph 5, the European Parliament and the Council have not adopted a decision granting a new EU guarantee to the EIB against losses under its financing operations outside the Union, that period shall be automatically extended *once* by six months.

Article 2

Ceilings for EIB financing operations under EU guarantee

1. The maximum ceiling of the EIB financing operations under EU guarantee throughout the period 2014-2020 shall not exceed EUR **30 000 000 000**. Amounts *initially earmarked for financing operations but subsequently* cancelled shall not count against the ceiling.

This maximum ceiling shall be broken down into:

- (a) a fixed ceiling of a maximum amount of EUR **27 000 000 000**;

- (b) an optional additional amount of EUR 3 000 000 000.

The *European Parliament and the Council shall decide in accordance with the ordinary legislative procedure on the* activation in whole or in part of the amount referred to in point (b) and its regional distribution ■ following the mid-term review *as set out* in Article 19.

2. The fixed ceiling referred to in point (a) of paragraph 1 shall be broken down into regional ceilings and sub-ceilings as laid down in Annex I. Within the regional ceilings, the EIB shall progressively ensure a balanced country distribution within the regions covered by the EU guarantee.

Article 3

General objectives and principles

1. The EU guarantee shall be granted only for EIB financing operations which *have added value on the basis of the EIB's own assessment, and* support any of the following general objectives:
- (a) local private sector development, in particular support to SMEs;
 - (b) development of social ■ and economic infrastructure, *including transport, energy, environmental infrastructure, and information and communication technology;*
 - (c) climate change mitigation and adaptation.

2. ***Whilst preserving the EIB's distinct character as an investment bank***, EIB financing operations carried out under this Decision shall contribute to the general ***EU interest, in particular the*** principles guiding Union external action, as referred to in Article 21 TEU and shall contribute to the implementation of international environmental agreements to which the Union is a party. ***The EIB governing bodies are encouraged to take the necessary measures to adapt the EIB activity to contribute to the Union external policies in an effective manner, and to adequately meet the requirements set out in this Decision.***

3. Regional integration among countries, including ***in particular*** economic integration between Pre-accession countries, Neighbourhood countries and the Union, shall be an underlying objective for EIB financing operations within areas covered by the general objectives set out in paragraph 1. ***The EIB shall undertake financing operations in beneficiary countries within areas covered by the general objectives by supporting foreign direct investments that promote economic integration with the Union.***

4. In developing countries, as defined in the Organisation for Economic Cooperation and Development list of official development assistance recipients, ***the*** EIB financing operations shall contribute, ***in accordance with Articles 208 and 209 TFEU***, indirectly to the objectives of the Union ■ development cooperation ***policy, such as reducing poverty through inclusive growth and sustainable economy, environmental and social development.***

5. *To ensure that private sector investments have the greatest development impact, the EIB shall endeavour to strengthen the local private sector in beneficiary countries through support to local investment as provided for in point (a) of paragraph 1. EIB financing operations supporting the general objectives set out in paragraph 1 shall endeavour to also include support to investment projects by SMEs from the Union. In order to effectively monitor the use of funds for the benefit of the SMEs concerned, the EIB shall establish adequate contractual requirements with financial intermediaries, including standards for reporting to be provided by the beneficiaries.*

The EIB shall cooperate with financial intermediaries that can support the specific needs of SMEs in the countries of operation and that do not participate in EIB financing operations implemented in an eligible country through vehicles located in a foreign non-cooperative jurisdiction referred to in Article 13.

6. EIB financing operations supporting the general objective set out in point (b) of paragraph 1 shall support investment projects *predominantly* in the areas of transport, energy, *environmental infrastructure, information and communication technology, health and education. This includes production and integration of energy from renewable sources, energy systems transformation enabling a switch to lower carbon intensive technologies and fuels, sustainable energy security and energy infrastructure, including for gas production and transportation to Union energy market, as well as electrification of rural areas, environmental infrastructure such as water and sanitation and green infrastructure, telecommunications and broadband network infrastructure* .

7. EIB financing operations supporting the general objectives set out in point (c) of paragraph 1 shall support investment projects in climate change mitigation and adaptation which contribute to the overall objective of the United Nations Framework Convention on Climate Change, in particular by avoiding or reducing greenhouse gas emissions in the areas of renewable energy, energy efficiency and sustainable transport, or by increasing resilience to the adverse impacts of climate change on vulnerable countries, sectors and communities. ***The eligibility criteria for climate action projects are defined in the EIB climate change strategy which shall be updated before the end of 2015. To this end, an analysis of the carbon footprint ought to be included in the environmental assessment procedure to determine whether project proposals optimise energy-efficiency improvements.*** Over the period covered by this Decision, the volume of those operations shall represent at least 25% of total EIB financing operations.
8. In line with Union and international climate change objectives, before the end of **2015** the EIB, in cooperation with the Commission **█**, shall update its climate change strategy as regards EIB financing operations. ***This update shall inter alia integrate concrete actions to ensure that investment projects under this Decision are in line with Union's climate change objectives and to step up efforts to support renewable energy sources and energy efficiency.***

9. *The EU guarantee shall cover only EIB financing operations carried out in eligible countries that have concluded a framework agreement with the EIB establishing the legal conditions under which such operations are to be carried out.*

Article 4

Countries covered

1. The list of countries potentially eligible for EIB financing under EU guarantee is set out in Annex II. The list of countries eligible for EIB financing under EU guarantee is set out in Annex III and shall include no countries other than those listed in Annex II. *For countries not listed in Annex II, eligibility for EIB financing under the EU guarantee shall be decided on a case-by-case basis in accordance with the ordinary legislative procedure.*
2. The Commission shall be empowered to adopt delegated acts in accordance with Article 18 concerning amendments to Annex III. The Commission's decisions shall be based on an overall *assessment, including* economic, *social, environmental* and political **■** aspects, *in particular those* related to the democracy, human rights and fundamental freedoms as well as the relevant European Parliament resolutions and Council decisions and conclusions.
3. Delegated acts amending Annex III shall not affect the EU guarantee coverage of EIB financing operations signed before the entry into force of those delegated acts, subject to paragraph 4.
4. Disbursements on EIB financing operations benefiting from a Comprehensive Guarantee as referred to in Article 8(1) shall not be made in countries not listed in Annex III.

5. The EU guarantee shall not cover EIB financing operations in a specific country with which the agreement concerning such operations has been signed after that country's accession to the Union.

Article 5

Contribution of EIB financing operations to Union policies

1. The Commission shall update, together with the EIB, the existing regional technical operational guidelines for EIB financing operations within one year following the entry into force of this Decision.

The regional technical operational guidelines shall be consistent with the wider Union regional policy framework set out in Annex IV. In particular, the regional technical operational guidelines shall ensure that EIB financing under this Decision is complementary to corresponding Union assistance policies, programmes and instruments in the different regions.

In updating the regional technical operational guidelines, the Commission and the EIB shall take into account relevant European Parliament resolutions and Council decisions and conclusions. The *regional technical operational guidelines shall be consistent with the priorities contained in the national or regional programmes, where available, drawn up by the beneficiary countries, taking due account of any consultation with local civil society in the process of drawing up those programmes.*

The Commission shall transmit to the European Parliament and to the Council the updated regional technical operational guidelines, as soon as they are established.

Within the framework set out by the regional technical operational guidelines, the EIB shall define corresponding financing strategies and ensure their implementation.

EIB financing operations shall be consistent with the regional technical operational guidelines and the strategies of the beneficiary country.

The regional technical operational guidelines shall be reviewed following the mid-term review referred to in Article 19.

2. ***Within the framework of the procedure provided for in Article 19 of Protocol No 5, the Commission delivers an opinion on EIB financing operations. In the case of EIB financing operations falling under this Decision, where the Commission delivers an unfavourable opinion, that operation shall not be covered by the EU guarantee.***

Article 6

Cooperation with the Commission and the EEAS

1. The consistency of EIB external actions with Union external policy objectives shall be further strengthened, with a view to maximising synergies between EIB financing operations and Union budgetary resources, in particular through the updating of the regional technical operational guidelines referred to in Article 5, ***for which the EEAS shall be consulted on policy issues, as appropriate***, as well as through regular and systematic dialogue and early exchange of information on:
 - (a) strategic documents prepared by the Commission or the EEAS as appropriate, such as country and regional strategy papers, indicative programmes, action plans and pre-accession documents;
 - (b) the EIB's strategic planning documents, investment project pipelines ***and EIB annual reporting to the Commission***;
 - (c) other policy and operational aspects.
2. The cooperation shall be carried out on a region-by-region basis, including at Union delegation level, taking into consideration the EIB's role as well as the policies of the Union in each region.

Article 7

Cooperation with other European and international financial institutions

1. EIB financing operations shall be carried out, where appropriate, in cooperation with other European *multilateral and Member States' financial institutions* ("European financial institutions") and *international financial institutions, including regional development banks* ("international financial institutions") in order to maximise synergies, cooperation and efficiency, to develop jointly innovative financial instruments, to ensure prudent and reasonable sharing of risks and coherent investment project and sector conditionality, and in order to minimise possible duplication of costs and unnecessary overlap.
2. The cooperation referred to in paragraph 1 shall be facilitated by coordination between the Commission, the EIB and the *relevant* European and international financial institutions operating in the different regions, carried out where appropriate in the context of memoranda of understanding or other Union regional cooperation frameworks.

Article 8

Coverage and terms of the EU guarantee

1. For EIB financing operations, *except those consisting of debt capital market instruments*, entered into with a State, or guaranteed by a State, and for other EIB financing operations entered into with regional or local authorities, or public enterprises or institutions owned or controlled by a State, 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 EU guarantee shall cover all payments due to the EIB, but not received by it ("Comprehensive Guarantee").
2. For the purposes of paragraph 1, ■ Palestine is represented by the Palestinian Authority and Kosovo¹ is represented by the *Authorities* of Kosovo.

¹ This designation is without prejudice to positions on status, and is in line with the United Nations Security Council Resolution 1244(1999) and the International Court of Justice opinion on Kosovo's declaration of independence.

3. For EIB financing operations other than those referred to in paragraph 1 **I**, the EU guarantee shall cover all payments due to the EIB but not received by it, where the non-receipt has been caused by the realisation of one of the following political risks ("Political Risk Guarantee"):
- (a) non-transfer of currency;
 - (b) expropriation;
 - (c) war or civil disturbance;
 - (d) denial of justice upon breach of contract.
4. *For EIB financing operations consisting of debt capital market instruments, only the Political Risk Guarantee shall apply.*
5. *Financing agreements with individual promoters relating to EIB financing operations shall also include appropriate environmental and social provisions in accordance with the EIB's own rules and procedures.*
- I**

6. The Commission and the EIB shall set out in the *guarantee* agreement referred to in Article 14 a ***clear and transparent allocation policy*** allowing the EIB to identify, within its external activity, the operations to be financed under this Decision ***in order to ensure the most effective use*** of the *EU guarantee*. The ***allocation policy*** shall be based on the creditworthiness of EIB financing operations as assessed by the EIB, the ■ ceilings as defined in Annex I, the nature of the counterparty, whether a sovereign State or a sub-sovereign entity falling under paragraph 1 of this Article or a private entity, EIB risk absorption capacity and other relevant criteria, including added value of the *EU guarantee*. ***The European Parliament and the Council shall be informed on the allocation policy in accordance with Article 14.***
7. When the EU guarantee is called, the Union shall be subrogated to any relevant rights of the *EIB* in respect of any obligation in connection to its financing operations, in accordance with the guarantee agreement referred to in Article 14.

Article 9

EIB assessment and monitoring of investment projects

1. The EIB shall carry out thorough due diligence and, where appropriate, shall **require project promoters to carry out local public consultation**, in line with Union social and environmental principles, **with the relevant national and local stakeholders, as well as with civil society, at project planning stage and implementation stage on social, human rights, environmental, economic and** development-related aspects of investment projects covered by the EU guarantee, **and to provide information relevant for the assessment of the contribution to the fulfilment of Union external policy and strategic objectives.**

Where appropriate, this appraisal shall include an assessment of how the capacities of the beneficiaries of EIB financing can be reinforced throughout the project cycle with technical assistance. The EIB's own rules and procedures shall include the necessary provisions on assessment of environmental and social impact of investment projects and of aspects related to human rights and conflict prevention, to ensure that investment projects **supported under this Decision are** environmentally and socially sustainable.

2. In addition to the ex-ante assessment of development-related aspects, the EIB shall monitor the implementation of financing operations. In particular, it shall require the project promoters to carry out thorough monitoring during project implementation until completion, inter alia, on the *economic*, development, *social*, environmental and human rights impact of the investment project. The EIB shall verify *on a regular basis* the information provided by the project promoters *and make it publicly available if the project promoter agrees. Where possible, project completion reports related to EIB financing operations shall be published excluding confidential information.*
3. The EIB monitoring shall also *endeavour to* cover the implementation of intermediated operations and the performance of financial intermediaries in support of SMEs.
4. The EIB shall establish a comprehensive ■ system *to ex-ante assess* relative and absolute greenhouse gas emissions *related to* EIB financing operations where *those* emissions *meet* significant *thresholds, as defined in a relevant methodology included in the EIB climate change strategy, and where* data is available.
5. *The results of monitoring shall, where possible, be disclosed, subject to confidentiality requirements and the agreement of relevant parties.*

Article 10

External assigned revenue for the Guarantee Fund

Repayments and revenues for an amount of EUR 110 000 000, originating from operations concluded before 2007, including capital repayments, guarantees released, and repayments of the principal of loans, dividends, capital gains, guarantee fees and interest on loans and on amounts on fiduciary accounts, paid back to the fiduciary account established for the Facility for Euro-Mediterranean Investment and Partnership and attributable to the support from the general budget of the Union, shall constitute external assigned revenue in accordance with Article 21(4) of Regulation (EU, Euratom) No 966/2012 and shall be used for the Guarantee Fund.

Amounts exceeding EUR 110 000 000 which have been paid back to the fiduciary account established for the Facility for Euro-Mediterranean Investment and Partnership shall be entered in the general budget of the Union after deduction of management costs and fees.

Article 11

Annual reporting and accounting

1. The Commission shall report annually to the European Parliament and to the Council on EIB financing operations carried out under this Decision. The report shall ***be made public and*** include:
 - (a) an assessment of EIB financing operations at project, sector, country and regional levels ***and their compliance with this Decision;***

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- (b) an assessment of the added value **■**, the *estimated outputs, outcomes and* development impact of EIB financing operations at an aggregated basis, *drawing on the EIB's Results Measurement framework annual report. To that effect, the EIB shall use performance indicators in relation to development, environmental and social aspects, including human right aspects, of projects funded, taking into account the relevant indicators under the Paris Declaration of 2005 for Aid Effectiveness. Indicators for environmental aspects of projects shall include criteria for clean technology which are oriented in principle at energy efficiency and technologies for reducing emissions;*
- (c) *an assessment of the contribution of EIB financing operations* to the fulfilment of Union external policy and strategic objectives, taking into account the regional technical operational guidelines referred to in Article 5;
- (d) an assessment of the financial benefit transferred to beneficiaries of EIB financing operations on an aggregated basis;
- (e) an assessment of the quality of EIB financing operations, in particular, the extent to which the EIB has taken into account environmental and social sustainability in the due diligence and monitoring of the investment projects financed;

- (f) *detailed information on* calls on *the* EU guarantee;
- (g) information on the climate change and biodiversity financing volumes under this Decision, the impact on absolute and relative greenhouse gas *emissions* referred to in *Article 9(4)* on an aggregated basis as well as the number of projects assessed against the climate risk;
- (h) a description of the cooperation with the Commission and other European and international financial institutions, including co-financing. The report shall in particular include a breakdown of Union financial resources and resources of other European and international financial institutions used in combination with EIB financing, thus giving an overview of the overall investment supported by EIB financing operations carried out under this Decision. The report shall also mention the conclusion of new memoranda of understanding between the EIB and other European or international financial institutions having a bearing on EIB financing operations under this Decision;
- (i) information on the follow up of the functioning of the Memorandum of Understanding between the EIB and the European Ombudsman in so far as that Memorandum concerns EIB financing operations covered by this Decision.

2. For the purposes of the Commission's reporting referred to in paragraph 1, the EIB shall provide the Commission with yearly reports on EIB financing operations carried out under this Decision including all necessary elements allowing the Commission to report in accordance with paragraph 1. The EIB may also provide to the Commission additional information relevant for the European Parliament and the Council to have a comprehensive overview of EIB external activity.
3. The EIB shall provide the Commission with statistical, financial and accounting data on each EIB financing operation, as well as any additional information necessary to fulfil the Commission's reporting duties or requests by the Court of Auditors and an auditor's certificate on the outstanding amounts of the EIB financing operations. EIB shall also provide the Commission any other necessary documents in line with Regulation (EU, Euratom) No 966/2012.
4. For the purposes of the Commission's accounting and reporting of the risks covered by the EU guarantee, the EIB shall provide the Commission with the EIB's risk assessment and grading information concerning EIB financing operations.

5. The EIB shall provide the Commission, at least on a yearly basis, an indicative multiannual programme of the planned volume of signatures of EIB financing operations, so as to ensure compatibility of the EIB's forecast financing with the ceilings established in this Decision and for the Commission to ensure appropriate budgetary planning for provisioning the Guarantee Fund. The Commission shall take account of this forecast when preparing the draft general budget of the Union.
6. The EIB shall *on a regular basis* provide the European Parliament, the Council and the Commission with all its independent evaluation reports which assess the practical results achieved by the specific activities of the EIB under this Decision and other external mandates.
7. The EIB shall provide the information referred to in paragraphs 2 to 6 at its own expense. *The EIB shall also make publicly available the information referred to in paragraphs 2, 3 and 6, in general terms and excluding any confidential information.*

Article 12

Transparency and public disclosure of information

1. In accordance with its own transparency policy ***and Union principles on access to documents and information, and progressively with International Aid Transparency Initiative standards***, the EIB shall make publicly available on its website information relating to:
 - (a) all EIB financing operations carried out under this Decision, ***after the project approval stage***, in particular indicating whether an investment project is covered by the EU guarantee ***and how it contributes to the goals of the Union external action, noting in particular its economic, social and environmental impact***;
 - (b) unless confidentiality requirements apply, any memoranda of understanding between the EIB and other European or international financial institutions having a bearing on EIB financing operations under this Decision;
 - (c) ***where possible and appropriate, existing framework agreements between the EIB and a recipient country. When signing new agreements or amending existing ones, the EIB shall endeavour to make possible their disclosure***;
 - (d) ***the EIB's allocation policy***.
2. The Commission shall make publicly available on its website ***specific*** information relating to all cases of recoveries under the ***guarantee agreement referred to in Article 14, and the agreement laying down the detailed provisions and procedures relating to recovery of claims*** referred to in Article 15(2), unless confidentiality requirements apply.

Article 13

Non-cooperative jurisdictions

In its financing operations, the EIB shall not tolerate any activities carried out for illegal purposes, including money laundering, financing of terrorism, tax fraud and tax evasion, corruption, and fraud affecting the financial interests of the Union. In particular the EIB shall not participate in any financing operation implemented in an eligible country through a foreign *vehicle located in a* non-cooperative jurisdiction identified as such by the *Union, the United Nations, the Organisation for Economic Cooperation and Development or* the Financial Action Task Force **█** .

In its financing operations, the EIB shall apply the principles and standards set out in Union law on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing , including a requirement to take reasonable measures to identify the beneficial owners where applicable.

Article 14

Guarantee agreement

The Commission and the EIB shall sign a guarantee agreement laying down the detailed provisions and procedures relating to the EU guarantee as set out in Article 8, and shall inform the European Parliament and the Council accordingly.

Article 15

Recovery of payments made by the Commission

1. Where the Commission makes any payment under the EU guarantee, the EIB shall, in the name and on behalf of the Commission, pursue the recovery of claims for the amounts paid.
2. No later than the date of signature of the guarantee agreement referred to in Article 14, the Commission and the EIB shall sign a separate agreement laying down the detailed provisions and procedures relating to recovery of claims.

Article 16

Auditing by the Court of Auditors

The EU guarantee and the payments and recoveries under it attributable to the general budget of the Union shall be audited by the Court of Auditors.

Article 17
Anti-fraud measures

1. The EIB shall notify OLAF promptly and provide it with the necessary information when, at any stage of the preparation, implementation or closure of projects subject to the EU guarantee, it has grounds to suspect that there is a potential case of fraud, corruption, **money laundering** or other illegal activity that may affect the financial interests of the **Union**.

2. OLAF may carry out investigations, including on-the-spot checks and inspections, in accordance with the provisions and procedures laid down in Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council¹, Council Regulation (Euratom, EC) No 2185/96² and Council Regulation (EC, Euratom) No 2988/95³ in order to protect the financial interests of the Union, with a view to establishing whether there has been fraud, corruption, **money laundering** or any other illegal activity affecting the financial interests of the Union in connection with any financing operations. **OLAF may transmit to the competent authorities of the Member States concerned information obtained in the course of investigations.**

Where such illegal activities are proven, the EIB shall assist recovery efforts with respect to its financing operations and within its scope of responsibilities.

¹ Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.9.2013, p. 1).

² Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L 292, 15.11.1996, p. 2).

³ Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests (OJ L 312, 23.12.1995, p. 1).

3. *Financing agreements signed in relation to projects supported under this Decision shall include clauses allowing suspension of EIB financing operations and, if necessary, appropriate recovery measures in cases of fraud, corruption or other illegal activity. The decision whether to suspend or cancel the EIB financing shall be taken by the EIB after due consideration of all circumstances and risks.*
4. *The EIB shall continue to rely on its single point of contact for anti-corruption and anti-fraud for EIB staff and all stakeholders.*
5. *In its financing operations, the EIB shall implement its exclusion mechanism for debarment of counterparties involved in fraud and corruption which includes the exclusion criteria of the Union's Central Exclusion Database ensuring that rights of all parties are respected.*

Article 18

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The delegation of power referred to in Article 4 shall be conferred on the Commission for an indeterminate period of time from ...*.

* OJ: please insert date of entry into force of this Decision,

3. The delegation of power referred to in Article 4 may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
5. A delegated act adopted pursuant to Article 4 shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and to the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 19
Mid-term review

By 31 December **2016**, the Commission, *in cooperation with the EIB*, shall submit to the European Parliament and the Council a mid-term report evaluating the application of this Decision in the first years accompanied, where appropriate, by a proposal for its amendment. The mid-term report shall draw upon an *independent* external evaluation and contribution from the EIB.

The report shall include in particular :

- (a) *an assessment of the application of the allocation policy;*
- (b) *an assessment of EIB reporting and where appropriate recommendations on how to improve it;*
- (c) *an assessment of the REM, including performance indicators and criteria, and their contribution to the achievement of the objectives of this Decision;*
- (d) *a detailed account of the criteria considered for the recommendation concerning the potential activation in whole or in part of the optional additional amount.*

Article 20
Final reporting

By 31 December 2021, the Commission shall present to the European Parliament and to the Council a final report on the application of this Decision.

Article 21
Entry into force

This Decision shall enter into force on the third day following that of its publication in the *Official Journal of the European Union*.

■

Done at ...

For the European Parliament
The President

For the Council
The President

ANNEX I
REGIONAL CEILINGS

- A. Pre-accession countries: EUR **8 739 322 000**;
- B. Neighbourhood and Partnership countries: EUR **14 437 225 000**, broken down into the following indicative sub-ceilings:
- (i) Mediterranean countries: EUR **9 606 200 000**;
 - (ii) Eastern Europe, Southern Caucasus and Russia: EUR **4 831 025 000**;
- C. Asia and Latin America: EUR **3 407 295 000**, broken down into the following indicative sub-ceilings:
- (i) Latin America: EUR **2 288 870 000**;
 - (ii) Asia: EUR **936 356 000**;
 - (iii) Central Asia: EUR **182 069 000**;
- D. South Africa: EUR **416 158 000**.

Within the overall fixed ceiling, the EIB *governing bodies may decide, after consulting* the Commission **■**, to reallocate an amount of up to 20 % of the sub-regional ceilings within regions and up to 10 % of the regional ceilings between regions.

ANNEX II

POTENTIALLY ELIGIBLE REGIONS AND COUNTRIES

A. Pre-accession countries

1. Candidates

Iceland, former Yugoslav Republic of Macedonia, Montenegro, Serbia, Turkey

2. Potential candidates

Albania, Bosnia and Herzegovina, Kosovo

B. Neighbourhood and Partnership countries

1. Mediterranean countries

Algeria, Egypt, Israel, Jordan, Lebanon, Libya, Morocco, Palestine, Syria, Tunisia

2. Eastern Europe, Southern Caucasus and Russia

Eastern Europe: Belarus, Republic of Moldova, Ukraine

Southern Caucasus: Armenia, Azerbaijan, Georgia

Russia

C. Asia and Latin America

1. Latin America

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

2. Asia

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

3. Central Asia

Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, Uzbekistan

D. South Africa

South Africa

ANNEX III

ELIGIBLE REGIONS AND COUNTRIES

A. Pre-accession countries

1. Candidates

Iceland, former Yugoslav Republic of Macedonia, Montenegro, Serbia, Turkey

2. Potential candidates

Albania, Bosnia and Herzegovina, Kosovo

B. Neighbourhood and Partnership countries

1. Mediterranean countries

Algeria, Egypt, Israel, Jordan, Lebanon, Libya, Morocco, Palestine, Tunisia

2. Eastern Europe, Southern Caucasus and Russia

Eastern Europe: Republic of Moldova, Ukraine

Southern Caucasus: Armenia, Azerbaijan, Georgia

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

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

3. Central Asia

Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, Uzbekistan

D. South Africa

South Africa

ANNEX IV

REGIONAL POLICY FRAMEWORK

EIB activity in partners participating in the pre-accession process takes place in the framework established in the Accession and European Partnerships which set out the priorities for candidates and potential candidates with a view to making progress in moving closer to the Union, and which provide a framework for Union assistance. The Stabilisation and Association Process is the Union policy framework for the Western Balkans. It is based on progressive partnership, in which the Union offers trade concessions, economic and financial assistance and contractual relationships through Stabilisation and Association Agreements. Pre-accession financial assistance helps the candidates and potential candidates prepare for the obligations and challenges of membership of the Union. This assistance supports the reform process, including preparations for eventual membership. It focuses on institution-building, alignment with the *acquis* of the Union, preparation for Union policies and instruments and promotion of measures to achieve economic convergence.

EIB activity in Neighbourhood countries takes place in the framework of the new European Neighbourhood Policy set out in the Joint Communication entitled "A new response to a changing Neighbourhood ", adopted by the High Representative of the Union for Foreign Affairs and Security Policy and the Commission on 25 May 2011, and the Council conclusions adopted on 20 June 2011, which calls notably for greater support to partners committed to building democratic societies and undertaking reforms, in line with the "more for more" and "mutual accountability" principles, and provides the strategic policy framework for the Union relations with the neighbours. In the framework of this cooperation, EIB financing under this Decision will also be targeted at policies promoting inclusive growth and job creation contributing to social stability in line with an incentive-based approach supporting Union external policy objectives, including in relation to migration issues.

In order to achieve these objectives the Union and its partners implement jointly agreed bilateral action plans defining a set of priorities including on political and security issues, trade and economic matters, environmental and social concerns and integration of transport and energy networks.

The Union for the Mediterranean, the Eastern Partnership, the Black Sea Synergy, the Union Strategy for the Danube Region and the Union Strategy for the Baltic Sea Region are multilateral and regional initiatives aimed at fostering cooperation between the Union and the respective group of Neighbourhood partner countries facing common challenges and/or sharing a common geographical environment. The Union for the Mediterranean aims to relaunch the Euro-Mediterranean integration process by supporting mutual economic, social and environmental development on both sides of the Mediterranean and supports improved socio-economic development, solidarity, regional integration, sustainable development and knowledge building, underlining the need to increase financial cooperation to support regional and trans-national projects. The Union for the Mediterranean supports, in particular, the creation of maritime and land highways, the de-pollution of the Mediterranean, the Mediterranean solar energy plan, the Mediterranean Business Development Initiative, civil protection initiatives and the Euro-Mediterranean university.

The Eastern Partnership aims to create the necessary conditions to accelerate political association and further economic integration between the Union and Eastern partner countries. The Eastern Partnership will provide additional impetus to the economic and social and regional development of the partner countries. It will facilitate good governance, including in the financial sector, promote regional development and social cohesion and help to reduce partner countries' socioeconomic disparities.

The Union Strategy for the Baltic Sea Region supports a sustainable environment and optimal economic and social development in the Baltic Sea region. The Union Strategy for the Danube Region supports, in particular, the development of transport, energy connections and security, sustainable environment and socio-economic development in the Danube region. The Eastern Partnership aims to create the necessary conditions to accelerate political association and further economic integration between the Union and Eastern partner countries. Russia and the Union have a wide-ranging strategic partnership, distinct from the European Neighbourhood Policy and expressed through the Common Spaces and Roadmaps. These are complemented at multilateral level by the Northern Dimension which provides a framework for cooperation between the Union, Russia, Norway and Iceland (Belarus, Canada and the United States are observers to the Northern Dimension).

EIB activity in Latin America takes place in the framework of the Union, Latin America and the Caribbean Strategic Partnership. As highlighted in the 30 September 2009 Commission Communication from the Commission to the European Parliament and the Council entitled "The European Union and Latin America: Global Players in Partnership", the Union's priorities in the field of cooperation towards Latin America are the promotion of regional integration and the eradication of poverty and social inequality in order to promote sustainable economic and social development. These policy objectives will be fostered taking into account the different level of development of Latin American countries. Bilateral dialogue and cooperation will be pursued in areas of common interest for both regions, including environment, climate change, disaster risk reduction and energy, science, research, higher education, technology and innovation.

In Asia, the Union is deepening its strategic partnerships with China and India and negotiations are progressing on new partnership and free trade agreements with South-East Asian countries. At the same time, development cooperation remains high on the Union's agenda with Asia; the Union development strategy for the Asian region aims at eradicating poverty by supporting broad-based sustainable economic growth, promoting a conducive environment and conditions for trade and integration within the region, enhancing governance, increasing political and social stability, and supporting the achievement of the 2015 Millennium Development Goals. Policies are being put in place jointly to address common challenges, such as climate change, sustainable development, security and stability, governance and human rights, as well as the prevention of, and response to, natural and humanitarian disasters.

The Union Strategy for a new partnership with Central Asia adopted by the European Council of 21-22 June 2007 has strengthened regional and bilateral dialogue and Union cooperation with Central Asian countries on major issues facing the region, such as poverty reduction, sustainable development and stability. The implementation of the strategy has brought about important advances in the fields of human rights, the rule of law, good governance and democracy, education, economic development, trade and investment, energy and transport and environmental policies.

EIB activity in South Africa takes place in the framework of the Joint EU Country Strategy Paper for South Africa. The main focal areas identified in that Strategy Paper are employment creation and capacity development for service delivery and social cohesion. EIB activities in South Africa have taken place in high complementarity with the Union development cooperation programme, namely through the EIB focus on private sector support and investments in expansion of infrastructure and social services (housing, electric power, drinking water purification and municipal infrastructure). The mid-term review of the EU Country Strategy Paper for South Africa conducted in 2009-2010 has proposed the strengthening of actions in the area of climate-change through activities supporting the creation of green jobs. For the period 2014-2020, EIB activity is expected to support in a complementary fashion Union external cooperation policies, programmes and instruments by continuing to focus on key EU-South Africa priorities in order to promote equitable and sustainable economic growth, contribute to employment creation and capacity development, and support the sustainable provision and equitable access to basic infrastructure and services.